

CHARTER OF THE CITY OF FAIRBORN, OHIO

EDITOR'S NOTE: A Charter was first adopted by the electors of the Village of Osborn at the general election held in November 1946, effective January 1, 1948. In the November 1948 election, the Village of Osborn voted to annex the Village of Fairfield and to change the name of the Village to Fairborn, effective January 1, 1950. The Village of Fairborn became a City on August 20, 1951. The Charter set forth below was adopted by the electorate on November 2, 1971. Dates appearing in parentheses following a section indicate that the section was amended or adopted on the date given.

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**THE CHARTER
OF THE
CITY OF FAIRBORN, OHIO**

We, the people of the City of Fairborn, Ohio, in order to obtain the benefits of local self-government, and otherwise to promote our common welfare, do adopt the following as the Charter of our City.

**ARTICLE I
POWERS OF THE CITY**

SECTION 1.01 INCORPORATION

The inhabitants of the City of Fairborn, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the City of Fairborn, Ohio.

SECTION 1.02 FORM OF GOVERNMENT

The municipal government provided by this Charter shall be known as “Council-Manager Government”. Pursuant to its provisions and subject only to the limitation imposed by the State Constitution and by this Charter, all powers of the City shall be vested in an elective Council hereinafter referred to as the “Council”, which shall enact local legislation, adopt budgets, determine policies, and appoint the City Manager, who shall execute the laws and administer the government of the City. The City shall have all powers possible for a City to have under the Constitution and laws of this State as fully and completely as though they were specifically enumerated in this Charter. Such powers shall be exercised in the manner provided in this Charter, or if not provided herein, in the manner provided by ordinance, or if not provided herein or by ordinance, then in the manner provided by State law.

SECTION 1.03 CONSTRUCTION

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

SECTION 1.04 INTERGOVERNMENTAL RELATIONS

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

**ARTICLE II
CITY COUNCIL**

SECTION 2.01 COMPOSITION, ELIGIBILITY, ELECTION AND TERMS

(a) **Number of Councilmen.** Commencing of the first Monday of December 1973, there shall be a City Council consisting of six Councilmen and the Mayor elected by the

qualified electors of the City at large, but until such date the City Council shall consist of five Councilmen.

- (b) **Eligibility.** Only qualified electors of the City who can fulfill the requirements of Section 7.02 for nominations shall be eligible to hold the office of Councilman.
- (c) **Election and Terms of Councilmen.** The regular election of Councilmen shall be held on the first Tuesday after the first Monday of November 1973, and in each odd numbered year thereafter in the manner provided in Article VII. At the first regular election under this Charter, four Councilmen shall be elected; the three candidates receiving the first, second and third largest number of votes shall serve for terms of four years, and the candidate receiving the fourth largest number of votes shall serve for a term of two years. The two Councilmen serving an unexpired term shall continue their terms for a period of two years. Commencing at the next regular election and at all subsequent regular elections, three Councilmen shall be elected to serve a four-year term. The terms of Councilmen shall begin on the first Monday in December after their election. Members of Council shall continue to serve in office until their successors are elected and qualified.

SECTION 2.02 MAYOR

- (a) **Election and Term of Mayor.** At each regular election commencing in November 1973, a Mayor shall be elected for a term of two years. The Mayor shall be a member of the Council, having equal voting privileges with other Councilmen. In addition, he shall preside at meetings of the Council, shall be recognized as head of the City government for all ceremonial purposes and by the Governor for the purposes of military law. The Mayor shall use the title of "Mayor" in the execution of all legal and ceremonial documents, but this shall not be construed as conferring upon him veto power or the administrative duties of a Mayor under the general laws of this State. The Council shall elect from among its members a Deputy Mayor who shall act as Mayor during the absence or disability of the Mayor and if a vacancy occurs shall become Mayor for the remainder of the unexpired term.
- (b) **Eligibility for Mayor.** Anyone eligible for nominations for Councilman shall also be eligible for nominations for Mayor. A person may not, however, accept the nomination for Mayor and also the nomination for Councilman, nor may he be a candidate for both offices at the same time. In addition, any Councilman whose term is unexpired shall be eligible for nomination for Mayor. Any such Councilman who shall be elected to the position of Mayor shall resign his unexpired term as Councilman when his election as Mayor is certified. The effective date of said resignation shall be the first Monday in December after the election. The vacancy created by such resignation shall be filled for the remainder of the unexpired term by the newly constituted Council.
- (c) **Fee of Mayor.** The fees taxed and collected by the Mayor shall be paid into the City Treasury and credited to the fund out of which the salary of the Mayor shall be payable.
- (d) **Bond of Mayor.** The Mayor shall give bond in an amount fixed by the Council. The premium of such bond shall be paid by the City.

The following replaced in 1989

SECTION 2.03 CONSECUTIVE TERMS

In no case shall a Councilman be elected to serve longer than eight consecutive years as either Councilman or Mayor or a combination of the two offices; provided, however, that the time served in filling a vacancy or unexpired term shall not be considered as part of the eight years.

SECTION 2.04 COMPENSATION AND EXPENSES

The Council may determine the annual salary of Councilmen and Mayor by ordinance, but no ordinance increasing or decreasing such salary shall become effective until the date of commencement of the terms of Councilmen elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. For each absence from regular meetings of the Council, unless authorized by an affirmative vote of a majority of the members thereof, there shall be deducted a sum equal to two percent of such annual salary. Councilmen shall receive their actual and necessary expenses incurred in the performance of their duties of office. The Mayor shall receive such additional compensation to that received as Councilman as the Council shall be ordinance determine, upon the affirmative vote of three-fourths of the members thereof, exclusive of his own.

SECTION 2.05 GENERAL POWERS AND DUTIES

All powers of the City shall be vested in the Council, except as otherwise provided by the Ohio Constitution of this Charter.

SECTION 2.06 PROHIBITIONS

- (a) **Holding Other Office.** Except where authorized by law, no Councilman shall hold any other public office, employment with this City, or serve as a voting member of any board, commission, or committee appointed by the Council during the term for which he was elected to the Council, and no former Councilman shall hold any compensated appointive office or employment with this City until one year after the expiration of the term for which he was elected to the Council.
- (b) **Appointments and Removals.** Neither the Council nor any of its members shall in any manner direct or request the appointment or removal of any City administrative officers or employees whom the Manger or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.
- (c) **Interference with Administration.** Except for the purpose of inquiries and investigations under Section 2.10, the Council or its members shall deal with City 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 or make requests of any such officer or employee, either publicly or privately.

The following replaced in 1989

SECTION 2.07 VACANCIES: FORFEITURE OF OFFICE: FILLING OF VACANCIES: RECALL.

- (a) **Vacancies.** The office of Councilman shall become vacant upon his death, resignation, removal from office in any manner authorized by law or forfeiture of his office.
- (b) **Forfeiture of Office.** A Councilman shall forfeit his office if he (1) lacks at any time during her term of office any qualification of the office prescribed by this Charter, (2) violates any express prohibition of this Charter, (3) is convicted of a crime involving moral turpitude, or (4) fails to attend three consecutive regular meetings of the Council without being excused by Council.
- (c) **Filling of Vacancies.** Except as otherwise provided in this Charter, a vacancy in the Council shall be filled for the remainder of the unexpired term, if any, at the next regular municipal election following not less than 60 days upon the occurrence of the vacancy, but the Council by a majority vote of all its remaining members shall within 30 days following the occurrence of the vacancy appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the vacancy remains unfilled after 30 days following the occurrence of the vacancy, the Council shall call a special election to fill the vacancy, to be held not sooner than 90 days and not later than 120 days following the occurrence of the vacancy and to be otherwise governed by the provision of Article VII.
- (d) **Recall.** Any member of Council may be removed from office before the expiration of his term by the qualified voters of the City. The procedure for such recall shall be that provided by the laws of the State of Ohio. (Amended 11-8-88)

SECTION 2.08 JUDGE OF QUALIFICATIONS

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

SECTION 2.09 CITY CLERK

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, keep the journal of its proceedings, and perform such other duties as are assigned by him by this Charter or by the Council.

SECTION 2.10 INVESTIGATIONS

The Council may make investigations into the affairs of the City and the conduct of any City department, division, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor and punishable by a fine of not more than \$50.00, or by imprisonment for not more than 30 days, or both.

The Following Replaced in 1989

SECTION 2.11 INDEPENDENT AUDIT

The Council may provide for an independent annual audit of all City accounts and may provide for such more frequent audits, as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years.

SECTION 2.12 PROCEDURE

- (a) **Meetings**. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor or a majority of the members of Council upon no less than twelve hours written notice to each member served personally or left at his usual place of residence. All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session, limited to its own membership and persons required by Council to attend, any matter which would tend to defame or prejudice the character or reputation of any person, partnership or corporation, or jeopardize the bargaining position of the City, provided, that the general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.
- (b) **Rules and Journal**. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.
- (c) **Voting**. Voting, except on procedural motions, shall be by roll call and the yeas and nays shall be recorded in the journal. A majority of the members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section 2.07 shall be valid or binding unless adopted by the affirmative vote of a majority of the members present.

SECTION 2.13 ACTION REQUIRING AN ORDINANCE

In addition to other acts required by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

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

- (8) Adopt with or without amendment ordinances proposed under the initiative power; and
- (9) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article VIII with respect to repeal of ordinances reconsidered under the referendum power.

Acts other than those referred to in the preceding sentence may be done either by ordinance, resolution, or motion as determined by Council rules.

SECTION 2.14 ORDINANCES IN GENERAL

- (a) **Form.** Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be “The Council of the City of Fairborn hereby ordains . . .”. Any ordinance which repeals or amends an existing ordinance or part of the City code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.
- (b) **Procedure.** An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each Council member and to the Manager, shall file copies in the office of the City Clerk in such number and in such other public places as the Council may designate, and shall publish the ordinance together with a notice setting out the time and place of a public hearing thereon and for its consideration by the Council. No ordinance, unless it is declared an emergency measure, shall be passed until it has been read on three separate days, the first and second reading of which may be by title only, and if such measure is typed and a copy thereof placed on the desk of each member, the third reading may be by title only. The rule requiring every ordinance to be read on three separate days may be suspended by the affirmative vote of three-fourths of the members elected or appointed to Council, taken by “yeas” and “nays” on each ordinance and entered on the journal. The public hearing shall follow the publication by at least five days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the ordinance with or without amendment or reject it but, if it is amended as to any matter of substance, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required in the case of a newly introduced ordinance or the rules are suspended as herein provided. As soon as practicable after adoption of any ordinance, the Clerk shall have it published again together with a notice of its adoption.
- (c) **Effective Date.** Except as otherwise provided in this Charter, every adopted ordinance and resolution having the force and effect of law shall become effective at the expiration of 30 days after adoption or at any later date specified therein.
- (d) **“Publish” Defined.** As used in this section, the word “publish” means to print in one or more newspapers of general circulation in the City: (1) the ordinance or brief summary thereof, and (2) the places where copies of it have been filed and the times when they are available for public inspection. (Amended 11-8-88)

The previous replaced in 1989

SECTION 2.15 EMERGENCY ORDINANCES

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 5.07 (b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance shall not require a public hearing or public notice thereof. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of two-thirds of the Council members shall be required for adoption. After its adoption the ordinance shall be published and made available as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance, except one made pursuant to subsection 5.07 (b), shall automatically stand repealed as of the 180th day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

SECTION 2.16 CODES OF TECHNICAL REGULATIONS

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

- (1) The requirements of Section 2.14 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and
- (2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to subsection 2.17 (a).

Copies of any adopted code of technical regulations shall be made available to the City Clerk for distribution or for purchase at a reasonable price.

SECTION 2.17 ORDINANCES AND RESOLUTIONS: AUTHENTICATION, RECORDING, CODIFICATION AND AVAILABILITY

- (a) **Authentication and Recording.** The City Clerk shall authenticate by his signature and record in full in a properly indexed book kept for that purpose all ordinances and resolutions adopted by the Council.
- (b) **Codification.** Within three years after adoption of this Charter and at least every ten years thereafter, the Council shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto. This compilation shall be known and cited to City officers placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

- (c) **Availability of Ordinances and Resolutions.** The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be made available promptly following its adoption, and these ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council.

ARTICLE III CITY MANAGER

SECTION 3.01 APPOINTMENT; QUALIFICATIONS; COMPENSATION

The Council shall appoint a City Manager for an indefinite term and shall fix his compensation. The Manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the City or State at the time of his appointment but may reside outside the City while in office only with the approval of the Council.

SECTION 3.02 REMOVAL

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

- (1) The Council shall adopt by affirmative vote of a majority of all 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 45 days. A copy of the resolution shall be delivered promptly to the Manager.
- (2) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen days nor later than thirty days after the request is filed. The Manager may file with the Council a written reply not later than five days before the hearing.
- (3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The Manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the Council in suspending or removing the Manager shall not be subject to review by any court or agency.

SECTION 3.03 ACTING CITY MANAGER

By letter filed with the City Clerk, the Manager shall designate, subject to approval of the Council, a qualified City administrative officer as acting City Manager to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and in such event, or in the event the Manager shall fail to make such designation, it may appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

SECTION 3.04 POWERS AND DUTIES OF THE CITY MANAGER

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

- (1) He shall appoint and, when he deems it necessary for the good of the service, discipline, suspend or remove any or all City employees and appointive administrative officers provided for, by or under this Charter, except as otherwise provided by this Charter or personnel rules and regulations adopted pursuant to this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, division or agency. However, he shall have the exclusive right to appoint, discipline, suspend or remove employees of the City in the classified service. The tenure of all City employees and appointive administrative officers in the service of the City shall be during good behavior and efficient service and no such officer or employee shall be disciplined, suspended or removed except for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, misuse or abuse of City material, property or equipment, neglect of duty, violation of personnel rules and regulations or any other acts of misfeasance, malfeasance, or nonfeasance in the performance of his duty.
- (2) He shall direct and supervise the administration of all departments, divisions and agencies of the City, except as otherwise provided by this Charter.
- (3) He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.
- (4) He shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.
- (5) He shall prepare and submit the annual budget and capital program to the Council.
- (6) He shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.
- (7) He shall make such other reports as the Council may require concerning the operations of City departments, divisions, and agencies subject to his direction and supervision.
- (8) He shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City, as he deems desirable.
- (9) He shall have supervision of the preparation and certification of all special assessments for public improvements; and the mailing of notices of such assessments to property owners and all other duties connected therewith; the collection of such assessments as are payable directly to the City and the preparation and certification of all unpaid assessments to the County and shall pay the same into the City Treasury in the manner provided by ordinance.
- (10) He shall perform such other duties as are specified in this Charter or may be required by the Council.

**ARTICLE IV
ADMINISTRATIVE DEPARTMENTS**

SECTION 4.01 GENERAL PROVISIONS

- (a) **Creation, Change and Abolishment of Departments.** The Council by ordinance may create, change and abolish City departments, divisions or agencies and may prescribe the function of each.
- (b) **Direction by Manager.** All departments, divisions and agencies under the direction and supervision of the Manager shall be administrated by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of Council, the Manager may have as the head of one or more such departments, divisions or agencies or may appoint one person as the head of two or more of them.
- (c) **Official Bonds.** The Director of Finance and such other officers or employees as the Council may by general ordinance require to do so, shall give bond in such amount and with such surety as may be approved by the Council. The premiums of such bonds shall be paid by the City.
- (d) **Fees.** All fees received by any office or employee shall belong to the City government and shall be paid daily to the Department of Finance.

SECTION 4.02 PERSONNEL SYSTEM

- (a) **Merit Principle.** All appointments, promotions and pay plan step increases of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.
- (b) **Personnel Advisory Board.** There shall be a Personnel Advisory Board consisting of three members appointed by the Council for terms of three years from among the qualified electors of the City. Members of the Personnel Advisory Board shall hold no other City office. The City Manager shall provide necessary staff assistance for the Personnel Advisory Board.

The following replaced in 1996

- (c) **Classification.** The Civil Service of the City shall be divided into two classes: the unclassified and the classified service.
 - 1. The unclassified service shall include:
 - (a) All officers elected by popular vote or persons appointed to fill vacancies in such offices;
 - (b) The members of all boards and commissions;
 - (c) Court Clerks, bailiffs, and such officers and employees of the Municipal Court as it is found impracticable to determine their fitness by competitive examination in accordance with the provisions of the Personnel Rules and Regulations;
 - (d) The City Manager, Assistant City Manager, Solicitor, Clerk of Council, heads of departments, divisions and agencies and their principal assistants;
 - (e) Unskilled and semi-skilled laborers as it is found impracticable to determine their fitness by competitive examination in accordance with the provisions of the Personnel Rules and Regulations;
 - (f) Employees retained on a temporary and/or part-time basis.

2. The classified service shall comprise all positions not specifically included by this Charter in the unclassified service. There shall be in the classified service two classes to be known as the competitive and noncompetitive classes:
 - (a) The competitive class shall include all positions and employees for which it is practicable to determine the merit and fitness by competitive examination.
 - (b) The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character, as may be determined by the provisions of the Personnel Rules and Regulations.

(d) **Personnel Rules and Regulations.** The City Manager shall prepare personnel rules and regulations and shall refer such proposed rules and regulations to the Personnel Advisory Board, which shall report to the Manager its recommendations thereon. When approved by the Manager, the rules and regulations shall be proposed to the Council, and the Council may by ordinance adopt them with or without amendment. These rules shall provide for but not be limited to:

1. The classification of all City positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification or regrading of any position whenever warranted by changed circumstances;
2. A pay plan for all City positions;
3. Methods for determining the merit and fitness of candidates for appointment or promotion and the procedures for the certification and appointment of candidates from eligibility lists for appointment, promotion or reinstatement;
4. The policies and procedures regulating reduction in force and removal of employees;
5. The hours of work, attendance regulations and provisions for sick and vacation leave;
6. The policies and procedures governing persons holding provisional appointments;
7. The policies and procedures governing relationships with employee organizations;
8. Policies regarding in-service training programs;
9. Grievance procedures, including procedures for the hearing of grievances by the Personnel Advisory Board;
10. Other practices and procedures necessary to the administration of the City personnel system.

(d) **Prevailing Law.** This Charter section and the Personnel Rules and Regulations adopted by Council shall supersede any State civil service statute with which they may conflict. (Amended 11-7-95)

SECTION 4.03 CITY SOLICITOR

The City manager shall appoint a City Solicitor who shall hold office at the pleasure of the City Manager. The Solicitor shall act as the legal advisor to, and attorney and counsel for, the municipality and its officers in matters relating to their official duties. He shall prepare all contracts, bonds, and other instruments in writing in which the municipality is concerned and shall endorse on each his approval of the form and correctness thereof, and no contract with such municipality shall take effect until his approval as to legality and form is endorsed thereon. He shall be the prosecutor in any police or municipal court and shall perform such other duties as may be required by him by the City manager, or as may be required by the general laws of the

State applicable to municipalities and not inconsistent with this Charter or with any ordinance or resolution that may be passed by the Council.

SECTION 4.04 OATH OF OFFICE

Every officer and employee of the City shall, before entering upon the duties of his position, take and subscribe to the following oath or affirmation to be filed and kept in the office of the City Clerk.

“I solemnly swear (or affirm) that I will support the Constitution of and will obey the laws of the United States and of the State of Ohio, that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Fairborn, and will faithfully discharge the duties of the position of”

ARTICLE V FINANCIAL PROCEDURES

SECTION 5.01 BUDGET PROCEDURES

The procedure provided in this Article shall be in addition to that budget procedure required by the applicable laws of the State of Ohio.

SECTION 5.02 SUBMISSION OF BUDGET AND BUDGET MESSAGE

Each year the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message at the time and in the manner prescribed by the law of the State of Ohio.

*Previous replaced 1996
Following Replaced 1989*

SECTION 5.03 BUDGET MESSAGE

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

SECTION 5.04 BUDGET FORMAT

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (1) Proposed expenditures for current operations during the ensuring fiscal year, detailed by divisions, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;
- (2) Proposed capital expenditures during the ensuring fiscal year, detailed by divisions, department and agencies when practicable, and the proposed method of financing each such capital expenditure; and
- (3) Anticipated net surplus or deficit for the ensuing fiscal year of each fund of the City and the proposed method of its disposition; subsidiary budgets for each such fund giving detailed income and expenditure information shall be included in the budget.

The budget shall be a balanced budget with the total of proposed expenditure not exceeding the total of estimated income and available cash balances.

SECTION 5.05 CAPITAL PROGRAM

- (a) **Submission to Council.** The Manager shall prepare and submit to the Council a five-year capital program at least three months prior to the final date for submission of the budget.
- (b) **Contents.** The capital program shall include:
 1. A clear general summary of its contents;
 2. A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuring, with appropriate supporting information as to the necessity for such improvements;
 3. Cost estimates, method of financing and recommendation of time schedules for each such improvement; and
 4. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.
- (c) **Notice and Hearing.** The Council shall publish in one or more newspapers of general circulation in the City a notice stating:
 1. The times and places where copies of the capital program are available for inspection by the public, and
 2. The time and place, not less than two weeks after such publication, for a public hearing on the capital program.
- (d) **Adoption.** The Council by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the date of submission of the budget.
- (e) **Revision and Extension.** The adopted capital program may be revised and extended each year with regard to capital improvements which are still pending or in process of construction or acquisition.

SECTION 5.06 COUNCIL ACTION ON BUDGET

- (a) **Notice and Hearing.** The Council shall publish in one or more newspapers or general circulation in the City a notice stating:
 1. The times and places where copies of the budget are available for inspection by the public, and
 2. The time and place, not less than ten days after such publication, for a public hearing on the budget.
- (b) **Amendment Before Adoption.** After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service, provided that no amendment to the

budget shall increase the authorized expenditure to an amount greater than the total of estimated income and beginning cash balances.

- (c) **Adoption of Budget; Appropriation and Tax Levy Legislation.** The Council shall adopt the budget and the necessary appropriation and tax levy legislation in accordance with the timetable and requirements of the Uniform Tax Levy and Budget Statutes of the State of Ohio.
- (d) **Ten Mill Limitation.** If a majority of the electors voting on any levy for any purpose, at an election held for the purpose of a levy of tax outside of the ten mill limitation, vote in favor thereof, the taxing authority of the City of Fairborn may levy a tax within said City at the additional rate outside of the ten mill limitation during the period for the purpose stated in the resolution, authorizing such election, or at any less rate, or for any of said years or purposes.
- (e) **General Taxing Limitations.** Upon adoption of this amendment and except as provided in Section 5.06(c) and 5.06(d), the Council shall have no power to levy any tax without a majority vote of the electors voting on such levy at a general, primary, or special election. Such tax levy question, issue, or proposition shall be authorized by ordinance, stating the purpose, rate, and number of years of said tax.

For special benefits conferred upon property by any municipal work, service or improvement, the Council shall have power to provide by ordinance to levy and collect taxes in the form of special assessments as provided in the General Laws of the State of Ohio. (Amended 11-8-88)

SECTION 5.07 AMENDMENTS AFTER ADOPTION

- (a) **Supplemental Appropriations.** If during the fiscal year, the Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

Previous replaced 1989

- (b) **Emergency Appropriations.** To meet an emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 2.15. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- (c) **Reduction of Appropriations.** If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council, without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.
- (d) **Transfer of Appropriations.** At any time during the fiscal year, the Manager may transfer part or all of any unencumbered appropriation balance among programs with a department, division, or agency; and, upon written request by the Manager, the Council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, division, agency, or fund to another.

- (e) **Limitations; Effective Date.** No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

SECTION 5.08 LAPSE OF APPROPRIATIONS

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

SECTION 5.09 ADMINISTRATION OF BUDGET

- (a) **Work Programs and Allotments.** At such time as the Manager shall specify, each department, division or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to Section 5.07.
- (b) **Payments and Obligations Prohibited.** No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payments so made illegal; such action shall be cause for removal of any officer or employee who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

SECTION 5.10 PURCHASES AND CONTRACTS

- (a) **Competitive Bidding.** Before the City Manager makes any purchase of or contract for supplies, materials or equipment costing in excess of one thousand dollars (\$1,000.00), or such higher amount as may be determined by ordinance, he shall take competitive bids under such rules and regulations and with such exceptions as the Council shall prescribe by ordinance.
- (b) **Emergency Purchase and Expenditures.** In case of emergency, purchases and expenditures may be made without competition if the Council authorizes a purchase or expenditure by resolution. In such cases, a copy of the order issued shall be filed with the City Clerk, together with a certificate by the City Manager, stating the facts

of the emergency. A copy of his certificate shall also be attached to and filed with the voucher covering payment for supplies, equipment and services.

- (c) **Contracts for City Improvements.** Any City improvement, except emergency purchases and expenditures provided for in Section 5.10(b), costing in excess of one thousand dollars (\$1,000.00), or such higher amount as may be determined by ordinance, shall be executed by contract except where such improvement is authorized by the Council to be executed directly by a City department in conformity with detailed plans, specifications, and estimates. All such contracts shall be awarded to the lowest and best bidder after such public notice and competition as may be prescribed by ordinance, provided the City Manager shall have the power to reject all bids and advertise again. Alterations in any contract may be made when authorized by the Council upon the written recommendation of the City Manager.
- (d) **Accounting Control of Purchases.** All purchases made and contracts executed by the City Manager shall be pursuant to a written requisition from the head of the division, department or agency whose appropriation will be charged, and no contract or order shall be issued to any vendor unless and until the Director of Finance certifies that there is to the credit of such division, department, or agency a sufficient unencumbered appropriations balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

The following replaced in 1981.

- (e) **No Contract Executed Until Bond or Note Ordinance Effective.** No contract shall be executed for the acquisition of any property or the construction of any improvement or betterment to be financed by the issuance of bonds until the ordinance authorizing the issuance of such bonds, or notes in anticipation of the issuance of such bonds, shall have taken effect and any contract executed before such day shall be unenforceable in any court of law.

SECTION 5.11 PUBLIC RECORDS

All records and accounts of every division, department, or agency of the City, shall be open to inspection at all reasonable times and under reasonable regulations established by the City Manager, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

ARTICLE VI PLANNING

SECTION 6.01 CITY PLANNING BOARD

There shall be a City Planning Board consisting of seven members appointed by the Council for terms of three years on a rotating basis from among the qualified electors of the City. Members of the Board shall hold no other City office. The Board may make recommendations to the City Manager and the City Council on all matters affecting the physical growth and development of the City, shall be consulted on the comprehensive plan and the implementation or amendment thereof as provided in Sections 6.02 and 6.03, and shall exercise all other responsibilities as may be provided by this Charter or by ordinance.

SECTION 6.02 COMPREHENSIVE PLAN

- (a) **Content.** The Council shall adopt, and may from time to time modify, a comprehensive plan setting forth in graphic and textual form policies to govern the future physical growth and development of the City. Such plan may cover the entire City and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas, which together cover the entire City and all of its functions and services.
- (b) **Adoption.** Upon receipt from the City Manager of a proposed comprehensive plan or proposed amendment of the plan, the Council shall refer such proposal to the City Planning Board, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Board, the Council shall hold a public hearing on the proposed comprehensive plan or amendment thereof and shall thereafter adopt it by resolution with or without amendment.
- (c) **Effect.** The comprehensive plan shall serve as a guide to all future Council action concerning land use and development regulations, urban redevelopment programs and expenditures for capital improvements.

The previous replaced in 1989.

SECTION 6.03 IMPLEMENTATION OF THE COMPREHENSIVE PLAN

- (a) **Land Use and Development Regulations.** The Council may by ordinance adopt land use and development regulations, including but not limited to an official map and zoning and subdivision regulations.
- (b) **Urban Redevelopment.** The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (2) the achievement of the most appropriate use of land.
- (c) **Council Action.** Before acting on any proposed ordinance concerning land use and development regulations, urban redevelopment or expenditures for capital improvements, where such ordinance refers to a matter covered by the comprehensive plan, the Council shall refer the proposal to the City Planning Board, which shall within a time specified by the Council and prior to the public hearing on the proposed ordinance report its recommendations thereon. Upon adopting any such ordinance, the Council shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event that the ordinance is not in accord with the comprehensive plan, the plan shall be amended by resolution in accordance with such findings and report.

SECTION 6.04 BOARD OF APPEALS

The Council shall by ordinance establish a Board of Appeals consisting of five members and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions pertaining to use of land, petitions for variances in the case of peculiar and unusual circumstances, which would prevent the reasonable use of land and such other matters as may be required by the Council or by law.

ARTICLE VII NOMINATIONS AND ELECTIONS

SECTION 7.01 CITY ELECTIONS

- (a) **Regular Elections.** The regular election for the positions of Mayor and Councilmen shall be held on the first Tuesday after the first Monday in November in the odd numbered years.
- (b) **Qualified Electors.** All citizens qualified by the Constitution and laws of the State of Ohio to vote in the City and who satisfy the requirements for registration prescribed by law shall be qualified electors of the City within the meaning of this Charter.
- (c) **Conduct of Elections.** Except as otherwise provided by this Charter, the provisions of the general election laws of the State of Ohio shall apply to elections held pursuant to this Charter (Amended 11-6-79).

The following replaced in 1989

SECTION 7.02 NOMINATIONS

- (a) **Petitions.** Candidates for Mayor and City Council shall be nominated by petition. Any person who has been a qualified elector of the City for two years prior to the date of the next regular municipal election, or longer may be nominated for the Mayor or City Council by a petition signed by at least 100 electors. The signatures to a nominating petition need not all be affixed to one paper, but to each separate paper of a petition there shall be attached an affidavit executed by its circulator stating the number of signers of the paper, that each signature on it was affixed in his presence and that he believes each signature to be the genuine signature of the person whose name it purports to be. Each signer shall indicate next to his signature the date of his signing and the place of his residence.

No elector shall sign more petitions for Mayor or Council than there are positions to be filled. If an elector signs more petitions than herein permitted, his signature shall be void except as to the first filed of the petitions signed by him for the positions to be filled. All signatures shall be affixed in ink or indelible pencil.

- (b) **Filing and Acceptance.** All nominating petitions shall be filed with the election authorities not earlier than 120 days nor less than 60 days before the regular election to be held pursuant to this Charter. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination and a declaration that the candidate will serve if elected.
- (c) **Form of Petition.** Nominating petitions shall be of the type designated by the election authorities. (Amended 11-6-79)

SECTION 7.03 COUNCIL BALLOTS

- (a) **Names on Ballots.** The first name or initial, middle name or initial and family name of all candidates nominated for Mayor or City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol under the heading "Mayor" or "City Council". If two or more candidates have the same family name, their residence shall be printed with their names on the ballot.

- (b) **Rotation.** The names of all candidates for an office shall be arranged in a group under the title of that office, and shall be so alternated that each name shall appear, insofar as may be reasonably possible, substantially an equal number of times at the beginning, at the end, and in each intermediate place, if any, of the group in which such name belongs. (Amended 11-6-79)

SECTION 7.04 WITNESSES AND CHALLENGERS

A regularly nominated candidate shall be entitled to appoint persons to represent him as witnesses and challengers as provided by the general election laws of the State of Ohio. (Amended 11-6-79)

SECTION 7.05 DETERMINATION OF ELECTION RESULTS

- (a) **Number of Votes.** Each elector shall be entitled to vote for as many candidates for Mayor and City Council as there are persons to be elected.
- (b) **Regular Election.** At any regular municipal election held under the provisions of this Charter, the candidates for the office of Mayor and Councilman in number equal to the vacancies to be filled, who shall have received the greatest number of votes cast, shall be declared elected. A tie between two or more candidates for the office of Mayor or Councilman shall be decided by lot under the direction of the election authorities as provided by General Election Laws of the State of Ohio (Amended 11-6-79).

SECTION 7.06 BALLOTS FOR ORDINANCE AND CHARTER AMENDMENTS

An ordinance or Charter amendment to be voted on by the electors of the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear, in the following order, the words "Yes" and "No" and to the left of each a square in which the voter may cast his vote.

A majority of valid votes cast will determine whether the (ordinance) (amendment) is declared passed or defeated. (Amended 11-6-79)

SECTION 7.07 VOTING MACHINES

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law. (Amended 11-6-79)

ARTICLE VIII INITIATIVE AND REFERENDUM

SECTION 8.01 STATE LAWS TO APPLY

The provisions for the Initiative and Referendum in municipal corporations, now in force or hereafter enacted, as prescribed by the laws of the State of Ohio, shall govern. (Amended 1-8-88).

Previous replaced in 1989

The following replaced in 1989

**ARTICLE IX
GENERAL PROVISIONS**

SECTION 9.01 PERSONAL FINANCIAL INTEREST

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

SECTION 9.02 PROHIBITIONS

(a) Activities Prohibited

- (1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, sex, political or religious opinions or affiliations.
 - (2) No person shall willfully make any false statement, certificate, mark rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
 - (3) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.
 - (4) No person shall orally, by letter or otherwise solicit or assist in soliciting any assessment, subscription or contribution for any political purpose whatever from any person holding any compensated appointive City position.
 - (5) No person who holds any compensated appointive City position shall make, solicit or receive any contribution to the campaign funds of any candidate for the office of Mayor or Councilman or take any part in the management, affairs or political campaign of any such candidate, but he may exercise his rights as a citizen to express his opinions to cast his votes.
- (b) Penalties.** Any person who by himself or with others willfully violates any of the provisions of the above paragraph in subsection (a) shall be guilty of a misdemeanor and upon conviction thereof shall be ineligible for a period of five years thereafter to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit his office or position.

Previous replaced in 1989

SECTION 9.03 CHARTER AMENDMENT

Amendments to this Charter may be framed and submitted to the electors of the City by a Charter Commission in the manner provided by the Ohio Constitution for framing and submitting a new charter. Amendments may also be proposed and submitted by ordinance passed by a vote of two-thirds majority of the members of the City Council, or by a petition signed by not less than ten per centum of the qualified electors of the City, setting forth any proposed amendment; and filed with the City Clerk in accordance with the provisions of Article VIII of this Charter, whereupon the Council shall forthwith provide by ordinance for submitting such proposed amendment to a vote of the electors. Any ordinance for submitting a Charter amendment to the electors, shall provide that such amendment be submitted at the next regular municipal election if one shall occur not less than sixty nor more than one hundred twenty (120) days after the passage of the ordinance; otherwise it shall provide for the submission of the amendment at a special election to be called and held within the time aforesaid. Not less than thirty days prior to such election, the City Clerk shall cause to be published in one or more newspapers of general circulation in the City the complete text of the proposed amendment. If a proposed amendment be approved by a majority of the electors voting thereon, it shall become a part of the Charter at the time fixed thereon.

SECTION 9.04 SEPARABILITY

If any section or part of a section of this Charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section of this Charter, unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held unconstitutional or invalid.

Previous replaced in 1989

Following replaced in 1989

ARTICLE X TRANSITIONAL PROVISIONS

SECTION 10.01 OFFICERS AND EMPLOYEES

- (a) **Rights and Privileges Preserved.** Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.
- (b) **Continuance of Office or Employment.** Except as specifically provided by this Charter, if at the time this Charter takes full effect a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.
- (c) **Personnel System.** An employee holding a City position at the time this Charter takes full effect, who was serving in the same or a comparable position at the time of its adoption, shall not be subject to the competitive tests as a condition of continuance in the same position, but in all other respects shall be subject to the personnel system provided for in Section 4.02.

SECTION 10.02 DEPARTMENTS, DIVISIONS, AND AGENCIES

- (a) **Transfer of Powers**. If a City department, division or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, division or agency designated in this Charter or, if the Charter makes no provision, designated by the City Council.
- (b) **Property and Records**. All property, records and equipment of any department, division, or agency existing when this Charter is adopted shall be transferred to the department, division or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, divisions, or agencies designated by the Council in accordance with this Charter.

SECTION 10.03 PENDING MATTERS

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

Previous replaced 1989

Following Replaced 1989

SECTION 10.04 STATE AND MUNICIPAL LAWS

In General. All city ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Ohio permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

SECTION 10.05 EFFECTIVE DATE

This Charter, as amended, shall be in effect for all purposes from the time of its approval by the electors of the City.

Previous replaced 1989