

CHARTER OF THE CITY OF BAY VILLAGE

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EDITOR'S NOTE: The Charter herein was adopted originally at a special election on April 12, 1949. Sections with a date at the end thereof indicate those provisions were subsequently amended, enacted or repealed on the date given.

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THE CITY OF BAY VILLAGE

PREAMBLE

We, the people of the Village of Bay in the County of Cuyahoga and State of Ohio, in order to secure for ourselves the benefits of municipal home rule and exercise all the powers of local self government, do adopt this Charter of our Municipality:

ARTICLE I

THE POWER OF THE MUNICIPALITY

SECTION 1.1 POWERS.

The Municipality shall have all powers of local self-government and home rule and all powers possible for a municipal corporation to have under the Constitution of the State of Ohio.

SECTION 1.1(A) NAME.

This Municipality, regardless of its classification under the Constitution of the State of Ohio or the general laws of Ohio, shall be known as City of Bay Village.
(Ord. 62-158; approved by voters 11-6-62.)

SECTION 1.2 MANNER OF EXERCISE.

The powers of this Municipality shall be exercised in the manner prescribed in this Charter, or, to the extent that the manner is not prescribed herein, in such manner as the Council may prescribe. The powers of the Municipality may also be exercised, except as a contrary intent or implication appears in this Charter or in the enactments of the Council, in such manner as may now or may hereafter be provided by the general laws of Ohio.

ARTICLE II

THE COUNCIL

SECTION 2.1 NUMBER AND TERM.

The legislative powers of the Municipality, except as otherwise provided by this Charter and by the Constitution of the State of Ohio, shall be vested in a Council of seven (7) members, one of whom shall be elected by the people as President of Council. The President of Council shall assume office on the first day of January following his election and serve for a term of four (4) years or until his successor is elected and qualified. Two (2) members of Council shall be elected at large, one in each odd-numbered year as currently established, shall assume office on

the first day of January following their election, and serve for a term of four (4) years, or until their successors are elected and qualified. Four (4) members of Council shall be elected, one from each of four (4) wards, shall assume office on the first day of January following their election, and serve for a term of two (2) years, or until their successors are elected and qualified. All candidates seeking election shall, in their petitions for nomination, designate the office sought and the term thereof.

The Council shall during the calendar year 1970 divide the City in four (4) wards. The fixed boundaries of each ward shall be the shore of Lake Erie on the North and the corporate boundary of the Municipality on the South, and every year following the United States decennial census, the Council shall determine if a change in the easterly and westerly boundaries of each ward is deemed necessary in order to equalize population as nearly as possible. (Ord. 89-22; approved by voters 5-2-89.)

SECTION 2.2 QUALIFICATIONS.

Each member of the Council, including the President of Council, shall have been for at least one year prior to his or her election or appointment and during his or her term of office shall continue to be a resident of the municipality and a qualified elector thereof. A member of City Council shall not hold any other public office, be an employee of the City of Bay Village, the Bay Village Board of Education (Bay Village City Schools), or the County of Cuyahoga, except as otherwise provided in this Charter or ordinance and that of Notary Public or membership in the State Militia or Reserve Corps of the United States.

(Ord. 02-95; Approved by voters 11-5-02)

SECTION 2.2 (A) WARD RESIDENCY REQUIREMENTS.

Effective upon passage of this amendment, each candidate for election or appointment as a ward Councilman and the Councilman so elected or appointed must have been a resident of the ward in which he is elected or appointed for at least ninety (90) days prior to such election or appointment and shall continue to be a resident of that ward during his term of office.

(Ord. 82-63; approved by voters 11-2-82.)

SECTION 2.3 REMOVAL.

The Council shall be the judge of the election and qualifications of its own members. It may expel or remove any member for gross misconduct, or malfeasance or nonfeasance in or disqualification for office, or for the conviction while in office of a crime involving moral turpitude, or for a violation of his oath of office, or persistent failure to abide by the rules of the Council, or the absence without justifiable excuse from three consecutive regular meetings of the Council; provided, however, that such expulsion shall not take place without the concurrence of two-thirds (2/3) of the total number of Councilmen provided for in this Charter nor until the accused member shall have been notified in writing of the charge against him at least ten days in advance of any hearing upon such charge, and he or his counsel has been given an opportunity to be heard, present evidence or examine any witness appearing in support of such charge.

(Ord. 62-158; approved by voters 11-6-62.)

SECTION 2.4 VACANCIES.

Any vacancy in Council shall be filled by appointment by a majority vote of the remaining members of Council. If the vacancy be not so filled within thirty (30) days, the Mayor shall fill it by appointment within thirty (30) days of expiration of Council's time period for appointment. Such appointee shall hold office for the unexpired term of the member in whose office the vacancy occurs or until a successor is elected and qualified. A successor shall be elected at the next regular municipal election provided that:

- (1) Such election occurs more than two (2) years prior to the expiration of the unexpired term; and
- (2) The vacancy occurs more than seventy-five (75) days prior to such election. (Ord. 2-96; Approved by voters 11-5-02)

SECTION 2.5 SALARIES.

The Council shall have the power to fix the salaries of its members, and that of all other officers and employees of the Municipality whether elected, appointed or chosen, and to establish bond for the faithful discharge of the duties of each such officer or employee, but the salary for any elected office for any term shall not be diminished, except with the consent of the officer involved, or increased during such term of office. Such salary for an elected office shall be established at least seventy-five (75) days before the regular municipal election at which such office is to be filled. The Council may authorize any person to make such travel as Council deems to be in the public interest and may provide that the expense of such travel be paid by the Municipality. (Ord. 62-158; approved by voters 11-6-62.)

SECTION 2.6 PRESIDENT OF COUNCIL - DUTIES.

The President of Council shall have all the powers, duties, functions, obligations and rights of any other member of Council, and, in addition thereto, he shall preside at all meetings of Council, and when the Mayor is absent from the Municipality or unable for any cause to perform his duties, the President of Council shall become the acting Mayor and, during such periods, shall have the same powers and perform the same duties as the Mayor.

SECTION 2.7 SUCCESSOR TO THE MAYOR.

(EDITOR'S NOTE: This section was deleted when Section 3.9 was approved by the voters on May 8, 1973.)

SECTION 2.8 VACANCY IN OFFICE OF PRESIDENT OF COUNCIL.

Any vacancy in the office of President of Council, whether occurring by death, disqualification, removal or resignation, or by succession to the office of Mayor, shall be filled by procedure established for vacancies in Council. Council may select or the Mayor appoint one of its members to become President of Council.

(Ord. 82-62; approved by voters 11-2-82.)

SECTION 2.9 EMPLOYEES OF COUNCIL.

The Council shall choose such officers and employees of its own body as it shall deem necessary. It shall choose a Clerk who may be an elected or appointed officer or employee of the Municipality. The Clerk shall keep the journal of the Council and its records and perform such other duties as may be required by ordinance or resolution. All officers and employees, including the Clerk, chosen by Council, shall serve during the pleasure of Council.

SECTION 2.10 MEETINGS.

At 8:00 p.m. on the first regular business day following January 1 following a regular municipal election, the Council shall meet at the Municipal Building of the Municipality for the purpose of organization. Thereafter, the Council shall meet at such times as may be prescribed by its rules, regulations, ordinances or by-laws, except that it shall hold regular meetings at least twice during each calendar month. Notwithstanding the foregoing, the Council may, by vote of 2/3 of the number of members of Council provided for in this Charter, dispense with any one or more of the regular meetings in the months of July and August. All meetings of the Council shall be held in compliance with State statute.

(Ord. 2-97; Approved by voters 11-5-02)

SECTION 2.11 SPECIAL MEETINGS.

Special meetings may be held in accordance with and as provided for by rules, regulations or by-laws adopted by the Council, but in the absence of such provision, by a vote of the Council taken at any regular or special meeting of the Council, or shall be called by the Clerk upon the written request of the Mayor, President of Council, or three members of the Council. Any such vote or request shall state the subject or subjects to be considered at the meeting and no other subject or subjects shall be considered. At least twenty-four (24) hours' notice in writing of such special meeting called by the Mayor, President of the Council, or three (3) members of Council must be given to each member of Council and the Mayor by service personally upon him or left at his usual place of residence.

(Ord. 62-158; approved by voters 11-6-62.)

SECTION 2.12 QUORUM.

A majority of the total number of Councilmen provided for in this Charter shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance or resolution. The Council shall adopt its own rules, regulations and/or by-laws.

(Ord. 62-158; approved by voters 11-6-62.)

SECTION 2.13 PROCEDURE.

All legislative action shall be by ordinance or resolution except when otherwise required by the Constitution or laws of the State of Ohio. The Council shall keep a journal of its proceedings which shall be a public record. At the desire of any member the yeas and nays shall be entered upon the journal, and on the passage of every ordinance or resolution the vote shall be

taken by yeas and nays and entered upon the journal; and no ordinance or resolution shall be passed without the concurrence of a majority of the total members of Council provided for by this Charter. Every ordinance or resolution shall be read on three different days unless two-thirds (2/3) of the total members of Council provided for by this Charter dispense with the rule. Ordinances or resolutions shall be deemed to have been read if the title is fully read, provided however, at the request of two or more members of Council the full text of the ordinance or resolution shall be read. No ordinance or resolution shall contain more than one subject which shall be clearly expressed in its title, and no ordinance or resolution shall be revived or amended unless the new ordinance or resolution contains the entire ordinance or resolution revived, or the section or sections so amended, and the section or sections so amended shall be repealed. Council may adopt codification ordinances, codifying, revising and rearranging the ordinances or any portion thereof. All ordinances, resolutions, statements, orders, proclamations, notices and reports required by law, by this Charter, or by ordinance, to be published or posted, shall be posted in not less than three of the most public places in the Municipality, one of which may be electronic media, as determined by Council for a period of not less than fifteen days prior to the taking effect thereof, or in the case of ordinances or resolutions taking effect immediately upon their passage and approval by the Mayor, for a period of not less than fifteen days after they become effective, or in such other manner as Council may hereinafter determine by ordinance, resolution or order.

(Ord. 2-98; Approved by voters 11-5-02)

SECTION 2.14 EFFECTIVE DATE OF ORDINANCES OR RESOLUTIONS.

Unless otherwise specifically provided in this Charter, all ordinances and resolutions shall become effective forty (40) days after their passage by Council unless a later effective date is set forth in the ordinance or resolution, or an earlier date is established, provided said ordinance or resolution is adopted as an emergency measure in the manner herein provided, and provided further, all resolutions to initiate any public improvement shall become effective immediately upon their passage and approval by the Mayor.

(Ord. 62-158; approved by voters 11-6-62.)

SECTION 2.15 EMERGENCY ORDINANCES OR RESOLUTIONS.

An emergency measure is an ordinance or a resolution to take effect at the time indicated therein, for the immediate preservation of the public peace, property, health or safety. Ordinances appropriating money may be passed as emergency measures but no measure making a grant, renewal or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be so passed. Emergency ordinances and resolutions upon a yea or nay vote must receive the affirmative vote of two-thirds (2/3) of the total number of Councilmen provided for in this Charter and the reasons for the necessity of declaring said ordinance or resolution to be an emergency measure shall be set forth in one section of the ordinance or resolution, which section shall be passed only on a yea or nay vote upon a separate roll call thereon.

(Ord. 62-158; approved by voters 11-6-62.)

SECTION 2.16 GENDER NEUTRAL LEGISLATION.

All legislation shall henceforth contain gender neutral language.
(Ord. 92-67; approved by voters 11-3-92.)

ARTICLE III

THE MAYOR

SECTION 3.1 TERM.

The Mayor shall be elected for a term of four (4) years, assume office on the first day of January following his election, and serve until his successor is elected and qualified.

(Ord. 68-97; approved by voters 11-5-68.)

SECTION 3.2 QUALIFICATIONS.

The Mayor shall have been for at least three (3) years immediately prior to his or her election both a resident of the Municipality and a qualified elector thereof and shall continue as both a resident and qualified elector of the Municipality during his or her term of office. The residency requirements may be waived in an emergency of temporary duration not exceeding six (6) months by a two-thirds vote of the total members of Council provided for in this Charter.

The Mayor shall be a full-time employee of the Municipality, and shall not hold any other elective or appointive public office for compensation, or other full-time employment, public or private, except that of Notary Public, member of the National Guard or Reserve Forces of the United States, or as otherwise provided in this Charter. The Mayor shall be permitted to serve on part-time appointive boards or commissions with compensation subject to the approval of Council.

(Ord. 02-99; Approved by voters 11-5-02)

SECTION 3.3 REMOVAL.

The Council may remove the Mayor for gross misconduct, malfeasance, misfeasance and nonfeasance in or disqualification for office, or for the conviction while in office of a crime involving moral turpitude, or for a violation of his oath of office, provided however that such removal shall not take place without the concurrence of two-thirds (2/3) of the total number of Councilmen provided for in this Charter nor until the Mayor shall have been notified in writing of the charge against him at least ten (10) days in advance of any hearing upon such charge, and he or his counsel has been given an opportunity to be heard, present evidence, or examine any witnesses appearing in support of such charge.

(Ord. 62-158; approved by voters 11-6-62.)

SECTION 3.4 JUDICIAL POWERS.

The Mayor shall have all the judicial powers granted by this Charter, the ordinances of

the Municipality and the general laws of Ohio to mayors of municipalities of the class of this Municipality.

SECTION 3.5 LEGISLATIVE POWERS.

The Mayor shall be entitled to a seat in the Council. He shall not have a vote in the Council, but shall have the right to introduce ordinances and resolutions and to take part in the discussion of all matters coming before the Council.

SECTION 3.6 VETO.

Any ordinance or resolution passed by the Council shall be signed by the President or other presiding officer and presented to the Mayor by the Clerk. If the Mayor approves such ordinance or resolution, he shall sign it within ten (10) days after its passage or adoption by the Council, but if he does not approve it, he shall return it to the Council with his objections within said ten (10) days by delivery to the Clerk, which objections shall be entered in full on the journal of the Council. The Mayor may approve or disapprove the whole or any item of an ordinance appropriating money, but otherwise his approval or disapproval shall be addressed to the entire ordinance or resolution. If the Mayor does not sign or veto an ordinance or resolution after its passage or adoption within the time specified, it shall take effect in the same manner as if he had signed it. When the Mayor has disapproved an ordinance or resolution or item of it, as herein provided, the Council shall, not later than the next regular meeting, proceed to reconsider it, and if on reconsideration the ordinance, resolution or item is approved by vote of two-thirds (2/3) of the total number of Councilmen provided for in this Charter, it shall then take effect as if it had received the signature of the Mayor. In all such cases the votes shall be taken by yeas and nays and entered upon the journal.

(Ord. 62-158; approved by voters 11-6-62.)

SECTION 3.7 EXECUTIVE POWERS.

The Mayor shall be the chief executive officer of the Municipality. He shall supervise the administration of the affairs of the Municipality and shall exercise control over all departments and divisions. He shall be the chief conservator of the peace and shall see that all laws and ordinances are enforced therein. He shall recommend to the Council such measures as he deems necessary or expedient. He shall see that all terms and conditions imposed in favor of the Municipality or its inhabitants in any franchise or contract to which this Municipality is a party are faithfully kept and performed. The Mayor shall execute, on behalf of the Municipality, all contracts, conveyances, evidences of indebtedness and all other instruments to which the Municipality is a party. He shall have the custody of the seal of the Municipality and shall affix it to all of the above mentioned documents, but the absence of the seal shall not affect the validity of any such document. The Mayor shall be recognized as the official and ceremonial head of the government by the Governor for military purposes and by the courts for the purpose of serving civil processes.

SECTION 3.8 TEMPORARY ABSENCE OR DISABILITY OF THE MAYOR.

If the President of Council elects not to serve as Mayor during the temporary absence of the Mayor, the Mayor shall designate a director of a municipal department who shall, in addition to his other duties, perform the duties of the Mayor when the Mayor is temporarily absent from the Municipality or unable for any cause to perform his duties. At the same time, the Mayor shall establish a line of succession among the directors of departments to assure the presence of an Acting Mayor in the event that the person designated under this section is unable to assume the duties of the Mayor. The person who shall become Acting Mayor shall have the same powers and perform the same duties as the Mayor.

(Ord. 73-14; approved by voters 5-8-73.)

SECTION 3.9 SUCCESSOR TO THE MAYOR.

In case of the death, disqualification, absence or disability for more than six (6) consecutive months, removal or resignation of the Mayor, the President of Council shall become the Mayor and serve until a successor is elected. If the President of Council refuses to accept the position of Mayor, the Council shall, by vote of a majority, appoint a successor to the Mayor. Under such circumstances, the office of Mayor shall be filled at the next regular municipal election for the unexpired term. (Ord. 82-62; approved by voters 11-2-82.)

ARTICLE IV

ADMINISTRATIVE OFFICERS AND DEPARTMENTS

SECTION 4.1 GENERAL PROVISIONS.

A Department of Law, a Department of Finance, a Department of Public Safety, and a Department of Public Service and Properties are hereby established by this Charter, and the Council shall provide by ordinance for the organization thereof. The Council may establish by ordinance new departments or divisions thereof. With the exception of the Department of Law and the Department of Finance, the Council may combine or abolish existing departments and divisions as it may deem necessary and may authorize one person to be the head of two or more departments or divisions. The Mayor may act as the head of the Department of Public Safety and/or the Department of Public Service and Properties.

SECTION 4.2 DIRECTORS OF DEPARTMENTS.

The head of each department shall be a director, appointed by the Mayor, and who shall serve at the pleasure of the Mayor. No appointment as a head of a department shall be effective except with the concurrence of a majority of the total number of Councilmen provided for in this Charter. Upon the expiration of the term of the office of the Mayor, due to lapse of time, the person filling the next succeeding term of the office of the Mayor, shall, at the first meeting of Council after he has assumed office, submit to Council, as if an original appointment the names of all department heads. Should a majority of the total number of Councilmen provided for in this Charter fail to approve any or all of the names so submitted within thirty (30) days after said first meeting of Council, the positions occupied by the persons who were not so approved shall

become vacant at the expiration of said thirty (30) days, and such persons shall be automatically discharged from said position. The Director of Law shall be duly admitted to the practice of law in the State of Ohio.

(Ord. 82-67; approved by voters 11-2-82.)

SECTION 4.3 DUTIES OF THE DIRECTOR OF LAW.

The Director of Law, or his representative, shall serve the Mayor, the administrative officers and departments, Council, officers and boards of the Municipality as legal counsel and attorney, and shall represent the Municipality in all proceedings in court or before any administrative body. He shall act as the prosecuting attorney before the Mayor or upon any appeal from the decision of the Mayor. He shall perform all other duties now or hereafter imposed upon solicitors in cities by the laws of the State unless otherwise provided by ordinance of the Council, and perform such other duties as the Council or the Mayor may impose upon him consistent with his office. (Ord. 62-158; approved by voters 11-6-62.)

SECTION 4.4 DUTIES OF THE DIRECTOR OF FINANCE.

The Director of Finance shall be the chief fiscal officer and shall be the collector and custodian and shall disburse all of the moneys of the Municipality. He shall supervise the keeping of all financial accounts of the Municipality and of the several departments and officers thereof. It shall be his duty to keep an accurate account of all taxes and assessments, all moneys due the Municipality, all receipts and disbursements by the Municipality, all the assets and liabilities of the Municipality, and all appropriations made by the Council.

He shall examine and approve, if in proper form, and if an appropriation has been duly made, payrolls, bills and other claims; prepare and sign all warrants and checks. He shall be responsible for the preparation and submission of appropriation measures and shall assist the Mayor and the Council in the preparation of estimates, budgets and other financial matters, and at all times keep the Mayor and Council fully advised as to the financial conditions and needs of the Municipality. He shall perform all other duties now or hereafter imposed on city auditors or treasurers by the laws of the State of Ohio. He shall perform such other duties as the Mayor or Council may impose upon him consistent with his office.

Within the Department of Finance, there is established the position of Assistant Director of Finance, appointed by the Mayor, and who shall perform such duties as are delegated by the Director of Finance. In case of the death, disqualification, resignation, removal or incapacity of the Director of Finance, the Assistant Director of Finance shall perform the duties of the Director of Finance until a successor is appointed.

The present Auditor shall serve in the position of Director of Finance with all the powers and responsibilities of such office and he shall not serve at the pleasure of the Mayor until January 1, 1974.

The present Article V - Auditor, shall be deleted if Section 4.4, Duties of Director of Finance, is approved by a majority of the voters. Any reference to Auditor and/or Treasurer in this Charter shall be deemed to refer to the Director of Finance.

(Ord. 73-21; approved by voters 5-8-73.)

SECTION 4.5 DUTIES OF THE DIRECTOR OF PUBLIC SAFETY.

The Director of Public Safety shall be the head of the Division of Police, Division of Fire, Division of Building Engineering and Inspection, and the Division of Health. He shall make all necessary rules and regulations for the government of this department and the several divisions thereof, and he shall be charged with the duty of enforcing all police, fire, health, safety and sanitary regulations that may be prescribed by ordinances or rules of the Municipality or the general laws of the State of Ohio.

(Ord. 82-67; approved by voters 11-2-82)

SECTION 4.6 POWERS OF DIRECTOR OF PUBLIC SERVICE AND PROPERTIES.

The Director of Public Service and Properties shall have charge of all public works, improvements, and construction thereof, and of all engineering and inspection in connection therewith. He shall be charged with the construction, improvement, repair and maintenance of streets, sidewalks, alleys, lanes, bridges, wharves, docks, and breakwalls; of water mains, pumps, systems, pipes, purification and filtration plants, and the water distribution system, of sewers, sewage system, drains, ditches, culverts, streams, water courses and harbors; of all public buildings, parks, playgrounds, cemeteries and other public places belonging to the Municipality or dedicated to public use. He shall manage and control cemeteries, market houses, sewage treatment plants, waterworks and all public utilities of the Municipality supported in whole or in part by taxation, and shall enforce all the obligations of privately-owned or operated public utilities enforceable by the Municipality. He shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for public work; the cleaning, re-surfacing, repairing, sprinkling and lighting of streets and public places; the collection and disposal of waste; and the preservation of all property belonging to the Municipality and pertaining to the functions thereof.

ARTICLE V

AUDITOR

(EDITOR'S NOTE: This article was deleted when Section 4.4 was approved by the voters on May 8, 1973. All references to Auditor and/or Treasurer were changed to Director of Finance.)

ARTICLE VI

CIVIL SERVICE COMMISSION

SECTION 6.1 MEMBERSHIP.

The Civil Service Commission shall consist of three electors of the Municipality not

holding other municipal office or appointment, to be appointed by the Mayor, with the concurrence of a majority of the total number of Councilmen provided for in this Charter, for terms of six years each, commencing on January 25th of such year, except that one of the three electors first appointed shall be designated by the Mayor to serve for a term of two years and one for a term of four years. A vacancy occurring during the term of any member of the Commission shall be filled for the unexpired term in the manner authorized for an original appointment. (Ord. 62-158; approved by voters 11-6-62.)

SECTION 6.2 OFFICERS.

The Commission shall designate one of its members as Chairman and may appoint a Secretary who need not be a member of the Commission and may hold other municipal office or appointment.

SECTION 6.3 CLASSIFICATION OF SERVICE.

The civil service of the Municipality is hereby divided into unclassified and classified service. The unclassified service shall include:

- (a) All officers elected by the people;
- (b) All directors of departments, and assistants to the directors;
- (c) All officers and employees appointed by the Council, and a secretarial assistant to the Mayor;
- (d) All members of boards or commissions appointed by the Mayor;
- (e) Provisional employees whose employment without extension by the Commission shall not exceed one hundred and twenty (120) days;
- (f) Any office or position requiring peculiar or exceptional qualification;
- (g) Persons who shall have served the Municipality with fidelity for at least one year next preceding the taking effect of this Charter so long as remaining in the same or a similar position;
- (h) Unskilled labor.

Notice of any provisional appointment shall be given in writing by the appointing authority to the Secretary of the Commission within five (5) days after such appointment is made.

The classified service shall be comprised of the Chief of the Division of Police and the Chief of the Division of Fire and all other positions not specifically included within the unclassified service.

All original appointments shall be for a probationary period of one (1) year, except for the Divisions of Fire and Police which shall be for two (2) years. All promotional appointments shall be for a probationary period of four (4) months. During the probationary period for original appointees, the employee may be dismissed, removed or reduced without restriction by the appointing authority. At the end of the probationary period for promotional appointees, the appointing authority shall transmit to the Civil Service Commission a record of the promoted employee's service, and if such service is unsatisfactory the promoted employee may, with the approval of the Civil Service Commission, be reduced to the position previously held by such employee without restriction, but reduction or dismissal may be made during the promoted

employee's probationary period as is otherwise provided by law.
(Ord. 82-65; approved by voters 11-2-82.)

SECTION 6.4 DUTIES.

The Commission shall provide by rule for ascertainment of merit and fitness as the basis for appointment and promotions in the classified service of the Municipality, as required by the Constitution of the State of Ohio and for appeals from the action of the Mayor in any case of transfer, reduction or removal, and the action of the Commission on any such appeal shall be final. The Commission shall keep a record of its proceedings and examinations, which shall be open to public inspection and shall, in all matters not in conflict with this Charter, conduct its affairs in accordance with the provisions of the general law.

SECTION 6.5 REMOVAL.

The Mayor may at any time suspend any Commissioner for inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office, incapacity or incompetency, provided however that such suspension shall not be effective without the concurrence of two-thirds (2/3) of the total number of Councilmen provided for in this Charter, or until such Commissioner shall have been notified in writing of the charge against him at least ten (10) days in advance of any hearing upon such charge, and he or his counsel has been given an opportunity to be heard, present evidence, or examine any witness appearing in support of such charge.
(Ord. 62-158; approved by voters 11-6-62.)

SECTION 6.6 FUNDS.

A sufficient sum shall be appropriated by the Council each year to carry out the civil service provisions of this Charter.

ARTICLE VII

PLANNING COMMISSION

SECTION 7.1 MEMBERSHIP.

The Planning Commission shall consist of the Mayor or a person appointed by him to act in his stead as his deputy, one (1) member of Council to be selected by the Council for such term as it shall determine, and five (5) electors of the Municipality not holding other municipal office or appointment. The present members of the Planning Commission other than the Mayor and Councilman shall continue to serve until the expiration of their respective terms. Their successors shall be appointed by the Mayor for a term of five (5) years with the concurrence of a majority of the total number of Councilmen provided for by this Charter. The term of one member of the Planning Commission appointed pursuant to this amendment shall expire on August 18, 1963, and the term of the other member appointed pursuant to this amendment shall expire on August 18, 1965. A vacancy occurring during the term of any member of the Planning Commission shall be filled for the unexpired term in the manner authorized for an original

appointment.

(Ord. 62-158; approved by voters 11-6-62.)

SECTION 7.2 POWERS AND DUTIES OF THE PLANNING COMMISSION.

It shall be the function and duty of the Planning Commission to act as the Platting Commissioner of the Municipality and as such it shall have control of planning and shall provide regulations governing the platting of all lands within the Municipality or within three miles thereof, so as to secure the harmonious development and to provide for the coordination of streets with other streets and with the official municipal plan and to provide for open spaces for traffic, utilities, access of fire fighting apparatus, recreation, light and air, and for the avoidance of congestion of population. It shall make such regulations as it deems necessary as to the manner in which streets and other public ways shall be graded and improved; the manner in which and the extent to which water, sewer and other utility mains, piping or other facilities shall be installed, or establish any other conditions precedent to the approval of a proposed plat. The Commission shall make plans and maps of the whole or any portion of the Municipality and of any land outside the Municipality which, in the opinion of the Commission, bears a relation to the planning of the Municipality, and to make changes in, additions to, and estimates of such plans or maps when it deems the same advisable. It shall have such powers as may be conferred on it by ordinance of the Council concerning the plan, design, location, removal, re-location and alteration of any public building or structure or those located on public streets or property, the location, relocation, widening, extension and vacation of streets, parkways, playgrounds and other public places, the zoning and re-zoning of the Municipality for any lawful purpose and such other powers as now or may hereafter be conferred upon it by ordinance of the Council or the general laws of Ohio.

SECTION 7.3 FUNDS.

A sufficient sum shall be appropriated by the Council each year to carry out the planning provisions of this Chapter.

SECTION 7.4 MANDATORY REFERRAL.

No public building, street, boulevard, parkway, park, playground, harbor, dock, wharf, bridge, tunnel, publicly or privately owned utility or part thereof shall be constructed or authorized to be constructed in the Municipality, nor shall any street, avenue, parkway, boulevard or alley be opened for any purpose whatsoever, nor shall any street, avenue, parkway, boulevard or alley be widened, narrowed, relocated, vacated, or its use changed, or any ordinance referring to zoning or other regulations controlling the use or development of land, be adopted unless and until it shall have been submitted to the Planning Commission for report and recommendation. Any matter so referred to the Planning Commission shall be acted upon by it within sixty (60) days from the date of referral unless a longer time be allowed by Council. If the Planning Commission shall fail to act within the time allotted, it shall be deemed to have approved such matter. Any provision or any resolution, ordinance or order disapproved by formal action of the Planning Commission shall require a two-thirds (2/3) vote of the total number of Councilmen

provided for in this Charter for adoption or authorization. If any plan, design or other proposal concerning the character, extent, location or use of any public improvement or public property or change thereof within the territorial limits of the Municipality does not, under the law or Charter provision covering same, fall within the province of the Council or other official or agency of the Municipality, then the submission to the Planning Commission shall be by the State, County, district, school, Township or other official body, board, or commission having jurisdiction over such public improvement or property in accordance with the provisions of the general laws of the State of Ohio. The Planning Commission's disapproval may be overruled at any time after seven (7) days' written notice by the excepting body to the Planning Commission stating the reasons for such exception. Such overruling disapproval must be adopted by at least two-thirds (2/3) of such excepting body.

SECTION 7.5 ZONING ORDINANCES.

Council shall pass such zoning ordinances and regulations as it deems necessary in the premises, and create a Board of Zoning Appeals, at least three (3) members of which shall be public members who are not members of the Planning Commission, and such members shall be appointed by the Mayor with the concurrence of a majority of the total number of Councilmen provided for in this Charter. (Ord. 62-158; approved by voters 11-6-62.)

SECTION 7.6 VOTER APPROVAL OF ZONING CHANGES.

1. (a) An ordinance or resolution, effecting a change in the zoning classification or district of any property within the City of Bay Village shall not become effective, after the passage, thereof, until Council submits such ordinance or resolution to the electorate at a regularly scheduled election, occurring more than 60 days after the passage of the resolution or ordinance, and such ordinance or resolution is approved by a majority of the electors voting thereon, in this Municipality and in each ward in which the change is applicable to property in the ward.
- (b) An ordinance, or resolution, effecting a change in the uses permitted in any zoning use classification or district of the City of Bay Village, shall not become effective after the passage thereof, until Council submits such ordinance or resolution to the electorate at a regularly scheduled election, occurring more than 60 days after the passage of the resolution or ordinance and such ordinance or resolution is approved by a majority of the electors voting thereon, in this Municipality and in each ward in which the change is applicable to property in the ward.
2. All ordinances, resolutions, proclamations, motions and Charter provisions inconsistent with this amendment are hereby repealed.
3. This amendment shall be severable and if any section, sub-section, part, word or application thereof is held invalid for any reason, such holding shall not invalidate or affect the

force and effect of any other section, sub-section, part, word or application thereof.
(Ord. 74-12; approved by voters 5-7-74.)

ARTICLE VIII

DEPARTMENT OF PARKS AND RECREATION

SECTION 8.1 ESTABLISHED.

There is hereby established a Department of Parks and Recreation and the Council shall provide by ordinance for the organization, responsibilities and duties thereof.

(Ord. 67-118; approved by voters 11-7-67.)

ARTICLE IX

FINANCES

SECTION 9.1 ANNUAL ESTIMATE.

The fiscal year of this Municipality shall, unless Council by proper action shall adopt a different date, be the same as that established from time to time for cities by the general law of Ohio. Not less than forty-five (45) days before the end of each fiscal year, the Mayor, with the assistance of the Director of Finance, shall prepare and submit to the Council an estimate of the revenues and expenditures of the Municipality for the next succeeding fiscal year. This estimate shall be compiled from information which shall be furnished by the head of each department, division, board or commission in such form and detail as the Mayor may reasonably require. The estimate shall give the following information:

- (a) An estimate of the anticipated revenue from each source during the next succeeding fiscal year, with a comparative statement of the amount received from such source during the preceding one or two years and the current year plus an estimate of such amounts for the remainder of the current year, which estimates he shall receive from the Director of Finance.
- (b) An estimate of the expense of conducting each department and activity of the Municipality for the next succeeding fiscal year, together with comparative statements as provided in the next preceding paragraph, with reasons for increases or decreases.
- (c) The amount of the total and net debt of the Municipality, together with a schedule of maturities of outstanding bonds and notes, which he shall receive from the Director of Finance.
- (d) An estimate of the value of supplies and materials on hand at the date of preparation of the estimate.
- (e) A statement of the unencumbered balance in each bond and improvement fund, which he shall receive from the Director of Finance.

SECTION 9.2 APPROPRIATION ORDINANCE.

The Director of Finance shall furnish to the Council, with the estimate above mentioned, an ordinance making appropriations for the expenditures of the Municipality during the year covered by said estimate. The Council shall adopt such ordinance in its original form or with such revision as it may find proper within such time as is fixed by general law, or not more than one hundred eighty (180) days after the beginning of the fiscal year covered by said ordinance, in case no such time is fixed. Such appropriation ordinance shall be in such form and detail as may be required by the general laws of Ohio, and may be amended or supplemented by the Council after its passage, but appropriations shall not be made in excess of the estimated revenues of the Municipality. The Council may make preliminary appropriation for current expenses sufficient in amount to meet the current needs until the annual appropriation ordinance has been enacted and is in effect. The passage of any ordinance authorizing the issue or sale of bonds or notes of the Municipality shall constitute an appropriation of the proceeds thereof to the purposes for which said bonds or notes are issued.

SECTION 9.3 TRANSFERS AND BALANCES.

The Council may transfer any part of an unencumbered balance of an appropriation of any fund, to any purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer of moneys to be made between items appropriated to the same office or department, except as follows:

- (a) No transfer shall be made from any bond or note fund, except that the unexpended balance of such fund no longer needed for the purpose for which said fund was created shall be transferred to the fund from which said bonds or notes are to be paid.
- (b) No transfer shall be made of moneys raised or appropriated for the payment of any bond or note of the Municipality, until all indebtedness, interest and other obligations which can lawfully be paid from such moneys have been paid.

At the close of each fiscal year the unencumbered balance of each appropriation, except appropriations to bond or note funds or any other trust or special fund which the Council by law or this Charter shall be authorized to create, shall revert to the fund from which it was appropriated, and shall be subject to future appropriation

SECTION 9.4 PAYMENT OF CLAIMS.

No money shall be drawn from the Treasury nor shall any obligation for the expenditure of money be incurred, except pursuant to appropriations made by the Council. No warrant for the payment of any claim shall be issued until such claim shall have been approved in writing by the head of the department or commission for which the obligation was incurred. Each head of a department and his surety shall be liable to the Municipality for all loss and damage sustained by the Municipality by reason of the unfaithful approval of any claim against the Municipality in his department. The Director of Finance shall have power to require evidence that the amount of the claim is justly due and is in conformity to law and ordinance, and for that purpose he may summon before him any officer, agent or employee of any department of this Municipality, and

examine him upon oath or affirmation relative thereto.

SECTION 9.5 CUSTODY AND DEPOSIT OF FUNDS.

The Council shall by ordinance provide for the custody of all funds of the Municipality and for the deposit of funds in a bank or banks. All funds received on behalf of the Municipality by any officer, employee, or agent thereof, shall be promptly paid over to the Director of Finance and by him promptly placed in a depository bank, but the Council may authorize such sums as it deems proper to be kept in cash for the daily operation of any department or office.

The Director of Finance may invest moneys of the Municipality in bonds or notes of this Municipality, or any other investment permitted by law in such manner as is now or hereafter authorized by general law for such investment by treasurers of cities.

SECTION 9.6 CERTIFICATION OF EXPENDITURES.

No contract, agreement or other obligation involving the expenditures of moneys shall be entered into, nor shall any ordinance, resolution or order for the expenditure of moneys be passed or issued by the Council, or be authorized by any officer of the Municipality, unless the Director of Finance shall have first certified in writing to the Council, or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure is in the Treasury to the credit of the fund from which it is to be drawn and not appropriated for any other purpose. The provisions of this section shall not be construed to prevent the making of contracts for a period extending beyond a single fiscal year when such contracts are otherwise authorized by this Charter or by general law. All moneys actually in the Treasury to the credit of the fund from which they are to be drawn, and all moneys applicable to the payment of the obligation or appropriation involved, that are anticipated to come into the Treasury before the maturity of such contract, agreement or obligation, from taxes, assessments, license fees, or from sales of service, products, or by-products of any municipal undertaking, and moneys to be derived from lawfully authorized bonds or notes, shall, for the purpose of such certificate, be deemed to be in the Treasury to the credit of the appropriate fund, and shall be subject to such certification.

SECTION 9.7 PUBLIC BIDDING.

The Council may authorize, in specific cases, expenditures of the funds of the Municipality in amounts exceeding that provided by State statute without public bidding for the acquisition of real estate, for the discharge of non-contractual claims against the Municipality, for personal services, for the joint use of facilities or exercise of powers with other political subdivisions or governmental bodies, for the product or services of public utilities (including those municipally operated), or in the case of a real and present emergency affecting the public peace, health, safety and welfare, but no other expenditures of more than that provided by State statute shall be made except pursuant to contract made with the lowest and best bidder after public advertising and receipt of bids in the manner provided by ordinance.

(Ord. 79-109; approved by voters 11-6-79.)

SECTION 9.8 PUBLIC IMPROVEMENTS.

Public improvements of all kinds may be made by the appropriate department either by the direct employment of the necessary labor and purchase of supplies and materials in the manner herein provided with a separate account as to each improvement so made, or by contract let as provided in the next preceding section either for a closed price or upon a unit basis.

ARTICLE X

TAXATION

SECTION 10.1 LIMITATION ON RATE OF TAXATION.

For the purpose of paying the current operating expenses of the Municipality and for the purpose of paying any other expense which may lawfully be included within the general levy for the general fund of the Municipality, including the purposes of police and fire pensions, the Council, without a vote of the people, shall have the power to levy on the property in the Municipality listed and assessed for taxation, a tax not to exceed 9 mills on the dollar of assessed valuation, the provision to be effective as an amendment on January 1, 1961.

(Ord. 60-64; approved by voters 11-8-60.)

SECTION 10.1(A) LEVY FOR PARKS AND RECREATION.

For purposes of paying towards the expense of the Department of Parks and Recreation, the Council, without a vote of the people, shall have the power to levy on the property of the Municipality listed and assessed for taxation, a tax not to exceed one-half mill on the dollar of assessed valuation. This provision shall be in addition to the limitation provided in present Section 10.1 of the Charter. This provision shall be effective on January 1, 1975.

(Ord. 72-144; approved by voters 11-7-72.)

SECTION 10.1(B) CREATION OF A PARAMEDIC UNIT; LIMITATION ON RATE OF TAXATION.

There is established within the Department of Public Safety an emergency Paramedic Unit, and Council shall provide for its organization by ordinance. For purposes of paying toward the capital and operating expenses of the Unit, the Council, without a vote of the people, shall have the power to levy on the property of the Municipality listed and assessed for taxation, a tax not to exceed two and one-half mills on the dollar of assessed valuation beginning with the 1986 tax year. This provision shall be in addition to the limitation provided in present Section 10.1 and present subsection 10.1(A) of the Charter.

(Ord. 86-11; approved by voters 5-6-86)

SECTION 10.2 SUBMISSION OF EXTRA LEVY TO VOTE.

The Council may, at any time at least seventy-five (75) days prior to a November or special election, declare by resolution, adopted by a vote of two-thirds (2/3) of the total number

of Councilmen provided for in this Charter, that the amount of taxes which may be raised within the limitation of Section 10.1 of this Charter will be insufficient to provide an adequate amount for the necessary requirements of the Municipality, and that it is necessary to levy a tax in excess of such limitations in addition to the levies authorized and limited by Section 10.1 of this Charter, for any municipal purpose or purposes specified in such resolution, and permitted by law. Such resolution shall be confined to a single purpose and specify the amount of increase in rate which it is necessary to levy, the purpose thereof, and the number of years in which such increase shall be in effect which may or may not include a levy on the duplicate for the current year and the date of any proposed election. The number of years shall be any number not exceeding five (5) except that when the additional rate is for the payment of debt charges the increased rate shall be for the life of the indebtedness. Such resolution shall be effective upon its adoption and shall be certified within (5) days thereafter to the election authorities described in Article XI, Section 11.1 of this Charter, which shall place such question upon the ballot at the next succeeding November election or at the specified proposed election. If a majority of those voting thereon for an extra levy at a November election, or if sixty per cent (60%) voting thereon in the case of a special election cast their ballots for the approval of such additional levy, the Council shall immediately make such levy or such part thereof as it finds necessary, pursuant to such approval, and certify the same to the County Auditor to be placed on the tax list and collected as other taxes. The authority of the Council to submit additional levies to a vote of the people under authority of the Constitution or the laws of this State shall not be deemed impaired or abridged by reason of any provision in this Charter except as to the requirement of the percentage of the voters necessary to approve the passage of the issue.

(Ord. 62-158; approved by voters 11-6-62.)

SECTION 10.3 AMENDMENT RELATING TO LIMITATION ON RATES OF TAXATION.

No amendment to the limitation of the rate of taxation that may be assessed by action of the Council without the vote of the people under the provisions of Section 10.1 hereof shall be effective unless and until it receives a majority vote of those voting at any November election or an affirmative vote of sixty per cent (60%) of those voting thereon at any special election wherein the issue of amendment to Section 10.1 of this Charter is to be considered by the voters.

SECTION 10.4 OTHER TAXES.

The Council shall have the power to levy such other taxes as may be lawful in accordance with the provisions of the Constitution and the laws of the State of Ohio.

ARTICLE XI

NOMINATIONS AND ELECTIONS

SECTION 11.1 MUNICIPAL ELECTIONS.

Regular municipal elections shall be held on the first Tuesday after the first Monday in

November in the odd numbered years. Primary elections, if necessary, shall be held on the second (2nd) Tuesday in September prior to the general election date in the odd numbered years. All municipal elections shall be conducted by the election authorities prescribed by the general laws of the State unless the Council shall otherwise ordain, and the provisions of the general election laws of the State shall apply to all such elections unless the Council or this Charter shall otherwise provide. (Ord. 11-44; approved by voters 11-8-11)

SECTION 11.2 NOMINATION.

Any qualified person may be placed in nomination for any elective office created by this Charter or by Council by:

- (a) A petition or petitions, in the case of a candidate for ward Councilman, signed by the registered voters of the Municipality residing in such ward in a number not less than three per cent (3%) of the vote cast at the last regular municipal election in such ward.
- (b) A petition or petitions, in the case of a candidate for any elective office other than ward Councilman (including, without limitation, a candidate for Mayor, for President of Council, or for Councilman at large) signed by the registered voters of the Municipality in a number not less than three per cent (3%) of the vote cast at the last regular municipal election in all of the precincts comprising the Municipality.

Such petition or petitions when filed must be accompanied by the written acceptance of the nominee. Each signer of a petition shall sign his name and after his name shall designate his residence. A registered voter may sign as many nominating petitions for different candidates for a particular elective office as there are elective positions to be filled in that office at the election for which the petition is filed.

(Ord. 73-13; approved by voters 5-8-73.)

SECTION 11.3 NONPARTISAN BALLOTS/PRIMARY ELECTIONS.

Commencing with the year 2009, primary elections shall be held for the selection of candidates for the offices of Mayor, President of Council, Council-At-Large, and Ward Councilperson. The two candidates receiving the greatest number of votes for a particular elective office in the Primary Election shall be selected for the election in the Regular Municipal Election. In the event that no more than two candidates file petitions for the aforesaid offices, then there shall be no primary election for these offices, and these candidates shall be designated candidates for the Regular Municipal Election. The ballots used in the elections shall be without party mark or designation of any sort. The names of all candidates shall be placed upon the same ballot and shall be rotated in the manner provided by the general laws of Ohio.

(Ord. 07-78; approved by voters 11-7-07.)

SECTION 11.4 RUN-OFF ELECTION FOR MAYOR.

(EDITOR'S NOTE: Charter Section 11.4 was repealed by the electors on November 6, 1979, pursuant to Ordinance 79-81.)

SECTION 11.5 VALIDITY OF BALLOTS.

The election authorities counting the ballots shall not invalidate or reject any ballot for any technical error which does not make it impossible to determine the voter's choice therefrom so long as the marking of the ballot complies with the general law or laws of the State of Ohio and the intention of the voter can be ascertained with reasonable certainty, and to the extent that such intent can be determined, the ballot shall be valid and shall be counted.

(Ord. 62-158; approved by voters 11-6-62.)

SECTION 11.6 QUALIFICATIONS OF ELECTORS.

Any person may vote as an elector in any municipal election only if such person is a bona fide resident of the Municipality and has registered as a voter with the election authorities in the manner and within the time prescribed by the laws of the State of Ohio.

(Ord. 82-66; approved by voters 11-2-82.)

ARTICLE XII

INITIATIVE, REFERENDUM AND RECALL

SECTION 12.1 INITIATIVE.

The electors of the Municipality shall have power to propose any ordinance or resolution, except an ordinance for the appropriation of money, and to adopt or reject the same at the polls, such power being known as the initiative. An initiated ordinance or resolution shall be submitted to the Clerk of the Council by petition signed by at least that number of electors which equals ten per cent (10%) of the electors voting at the last preceding November election. When so submitted, the Clerk shall forthwith determine the sufficiency of the petition and if found sufficient, the Council shall at once have the proposed ordinance or resolution read and referred to an appropriate committee which may be a committee of the whole. Provision shall be made for public hearings on the proposed ordinance or resolution not later than thirty (30) days after the date on which such ordinance or resolution was submitted to the Clerk. The Council shall, within forty (40) days after such ordinance or resolution is submitted, take final action thereon, either enacting, amending or rejecting the proposed ordinance or resolution. If the Council fails or refuses to pass such proposed ordinance or resolution or passes it in some form different from that set forth in the petition therefor, the petitioners may require that it be submitted to a vote of the electors either in its original form or in the amended form by filing with the Clerk, within ten (10) days after final action on such ordinance or resolution of Council a supplemental petition signed by that number of additional registered electors which, when taken together with those who signed the original petition, will total at least that number which equals twenty per cent (20%) of the electors voting at the last preceding November election, and if said supplemental petition is signed by such number of additional registered electors, the date of the election may be fixed therein, not less than seventy-five (75) days from the time of filing such supplemental petition. The Council shall thereupon provide for submitting such ordinance or resolution to the

vote of the electors at the date so fixed, or at the next general election in any year occurring more than seventy-five (75) days from the filing of such supplemental petition, if no date be so fixed therein. (Ord. 82-66; approved by voters 11-2-82.)

SECTION 12.2 REFERENDUM.

The electors of the Municipality shall have the power to approve or reject at the polls any ordinance or resolution passed by the Council except as hereinafter provided. Within forty (40) days after the final passage by Council of an ordinance or resolution, a petition signed by at least that number of electors which equals ten per cent (10%) of the electors voting at the last preceding November election, may be filed with the Clerk of Council, requesting that such ordinance or resolution be either repealed or submitted to a vote of the electors. If said petition is signed by that number of electors which equals twenty per cent (20%) or more of such electors, the date of the election may be fixed therein, which shall be not less than seventy-five (75) days from the time of filing thereof. When said petition is filed, the Clerk shall first ascertain the sufficiency of the petition, and if found sufficient the Council shall thereupon, within thirty (30) days of the filing of such petition, reconsider such ordinance or resolution. If, upon such reconsideration, the ordinance or resolution is not repealed, the Council shall submit it to a vote of the electors on the date fixed in the petition, or if no date be so fixed, at the first general election in any year occurring more than seventy-five (75) days after the filing of such petition. No such ordinance or resolution shall go into effect until approved by a majority of those voting thereon. Ordinances providing for a tax levy or for improvements petitioned for by the owners of a majority of the feet front of the property benefited and to be specially assessed therefor, and appropriation ordinances limited to the subject of appropriations shall not be subject to referendum, but all other ordinances including emergency ordinances, shall be subject to referendum, provided, however, whenever the legislative authority is required to pass more than one ordinance, resolution or other measure to initiate, make or complete the legislation necessary to make, finance and assess the cost of any public improvement, only the first resolution, ordinance or other measure shall be subject to referendum, and any subsequent resolutions, ordinances or other measures relating to said improvement and the financing thereof shall not be subject to referendum. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder, but such measure shall be deemed sufficient authority for payment, in accordance with the ordinance, of any expense incurred previous to the referendum vote thereon, (Ord. 82-66; approved by voters 11-2-82.)

SECTION 12.3 RECALL.

The electors shall have the power to remove from office by recall election any elective officer of the Municipality. After an elective officer has served for six (6) months of his term a petition demanding his removal may be filed with the Clerk of Council. Except as hereinafter provided, such petition shall comply with the provisions of Section 12.4 of this article, and shall be signed by at least that number of electors which equals twenty-five percent (25%) of the

electors voting at the last preceding November election. In the case of a Ward Councilman, such petition shall comply with the provisions of Section 12.4, Petitions, and shall be signed by at least that number of electors residing in the ward of the Ward Councilman which equals twenty-five percent (25%) of the qualified electors voting in that ward at the last preceding November election. Within ten (10) days after filing such petition, the Clerk shall determine the sufficiency thereof. If the Clerk shall find the petition insufficient, he shall promptly certify the particulars in which the petition is defective, and deliver a copy of his certificate to the person who filed the petition with him, and such person shall be allowed twenty (20) days from the delivery of such copy of certificate in which to make the petition sufficient. If the Clerk shall find the petition sufficient, he shall promptly so certify to the Council and to the officer whose removal is sought, and if the officer does not resign within five (5) days thereafter, the Council shall thereupon fix a day for holding a recall election, not less than thirty (30) nor more than forty (40) days from the date of the Clerk's certificate of sufficiency. At such recall election the question shall be placed on the ballot "Shall (naming the officer) be allowed to continue as (name of office) ?" with provision on the ballot for voting affirmatively and negatively on such question. If a majority of the votes cast at such election are voted affirmatively such officer shall remain in office. If a majority of the votes cast are voted negatively such officer shall be considered as removed and such office shall be declared vacant. Such vacancy shall be filled as in this Charter provided. The officer removed by such recall election shall not be eligible for appointment to the vacancy created by such recall election. (Ord. 82-64; approved by voters 11-2-82.)

SECTION 12.4 PETITIONS.

An initiative, referendum or recall petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain in the case of the initiative or referendum, a full and correct copy of the title and text of the proposed or referred ordinance or resolution, and in the case of the recall, the name and office of the person whose removal is sought and a statement in not more than two hundred (200) words of the grounds for the removal.

ARTICLE XIII

MISCELLANEOUS

SECTION 13.1 FRANCHISES.

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 this 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. Such grant may be amended or renewed in the manner and subject to the provisions established by this Charter for original grants. Such grant, amendment or renewal shall be for such period of time as

the Council may determine, but it shall not be perpetual or exclusive.

No consent of the owner 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 such reconstruction, relocation or discontinuance of appliances, plant or equipment used in such streets or public grounds as shall, in the opinion of the Council, be necessary in the public interest.

SECTION 13.2 PENSION AND RELIEF FUNDS.

The Council shall provide by ordinance for the establishment and maintenance of police and fire relief and retirement funds and of other pension, relief and retirement funds provided for by the general laws of the State of Ohio.

SECTION 13.3 DISQUALIFICATION.

No Councilman, Mayor, Director of Finance or any other officer, employee or appointee to any board or commission of the Municipality shall directly or indirectly be financially interested in any contract, job, work or service with or for the Municipality, nor in the profits or emoluments thereof, nor in the expenditure of any money on the part of the Municipality other than in his fixed compensation and expenses; and any contract with the Municipality in which any officer or employee is or becomes financially interested may be declared void by the Council. Such interest shall disqualify any such officer or employee from holding office in addition to the other penalties provided by law.

SECTION 13.4 INVESTIGATIONS.

The Council or any committee thereof or any board appointed by the Council for such purposes shall have the power at any time to consider the affairs of any department or the conduct of any officer or employee to be investigated; and for such purpose shall have power to compel the attendance of witnesses and the production of books, papers and other evidence; and for that purpose may issue subpoenas or attachments which shall be signed by the President of Council or chairman of the committee or board making the investigation and shall be served by any officer authorized by law to serve such process. The authority making such investigation shall also have power to consider the testimony to be given under oath which shall be administered by some officer authorized by general law to administer oaths; and shall also have the power to punish as for contempt any person refusing to testify to any fact within his knowledge, or to produce any books or papers under his control relating to the matter under investigation.

SECTION 13.5 AMENDMENTS.

The Council may, by vote of at least two thirds (2/3) of the total number of Councilmen provided for by this Charter, submit to the electors of the Municipality amendments to this

Charter, and upon petitions signed by ten per cent (10%) of the registered electors of this Municipality setting forth any proposed amendment, such proposed amendment shall be so submitted by the Council. The submission of any proposed amendment to the electors shall be governed by the requirements of the Constitution of Ohio, and, to such extent as said Constitution shall fail to provide therefor, the Council shall determine the manner for such submission. If any such amendment is approved by a majority of the electors voting thereon, it shall become a part of this Charter, except that if two or more inconsistent amendments on the same subject are submitted at the same election, only the one of such amendments receiving the largest affirmative vote, not less than a majority, shall become a part of this Charter, subject however to the provisions of Article X, Section 10.3.

(Ord. 62-158; approved by voters 11-6-62.)

SECTION 13.6 PERIODIC REVIEW.

Beginning in 2002, and similarly, each ten (10) years thereafter, the Mayor shall appoint a commission of nine (9) qualified electors, whose appointment shall be confirmed by Council, and at least five (5) of whom shall hold no other office or appointment in the City. Said nine (9) electors shall serve as a Charter Review Commission and, within six (6) calendar months after confirmation of such appointments, shall recommend to Council such alterations, revisions, and amendments, if any, to this Charter as in the judgment of a majority of said Commission are desirable. The Council shall forthwith submit to the electors any such proposed alterations, revisions, or amendments to the Charter to be voted on at the next regular November election. Each said Charter Review Commission shall cease to function on the day of the next November election following its appointment. The members of the Commission shall serve without compensation. Meetings of the Charter Review Commission shall be open to the public.

(Ord. 02-100; Approved by voters 11-5-02)

SECTION 13.7 GENDER NEUTRAL STATEMENT.

Whenever the male gender is used in this Charter, it shall include the female gender.

(Ord. 92-66; approved by voters 11-3-92.)

ARTICLE XIV

EFFECT OF CHARTER

SECTION 14.1 NOMINATIONS AND ELECTIONS.

For the purpose of nominating and electing officers of the Municipality, including the abolition of primary elections and fixing the compensation of those elected in 1949, this Charter shall be in effect from and after the time of its approval by the electors of the Municipality; and for all other purposes it shall be in effect on and after the 1st day of January, 1950, and continue in effect regardless of any change of the classification by law of this Municipality.

SECTION 14.2 SAVING CLAUSE.

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

SECTION 14.3 EFFECT OF CHARTER UPON EXISTING LAWS AND RIGHTS.

The taking effect of this Charter shall not affect any pre-existing rights of this Municipality, nor any right or liability or pending suit or prosecution either on behalf of or against the Municipality, 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 this Municipality shall continue in effect until lawfully amended or repealed.

ARTICLE XV

CONTINUITY OF GOVERNMENT

The Council shall have the power and the immediate duty to pass laws to provide for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, incumbents of which may become unavailable for carrying on the powers and duties of such offices and to pass such other laws as may be necessary and proper for insuring the continuity of governmental operations in periods of emergency resulting from disasters caused by enemy attack or other major disaster.

(Ord. 82-67; approved by voters 11-2-82.)