



City of New Franklin, Ohio
CHARTER

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A CHARTER FOR NEW FRANKLIN, OHIO

PREAMBLE

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

ARTICLE I - NAME; BOUNDARIES; FORM OF GOVERNMENT

1.01 Name and Boundary

The present municipality, known as the City of New Franklin, Ohio, shall continue to be a body politic and corporate, under the name of the City of New Franklin, as the population requires, and with the same boundaries, with powers and authority to change its boundaries and annex other territory contiguous thereto in the same manner authorized by the general laws of Ohio.

1.02 Form of Government

The municipal government provided for by this Charter shall be known as the 'Mayor/Council Plan.' The representative branch shall consist of the Mayor and Council elected by the voters of the Municipality, and shall possess respectively the judicial and legislative powers specified in this Charter.

ARTICLE II - Corporate Powers

2.01 Powers Granted

The Municipality shall have all the powers that may now or hereafter lawfully be possessed or exercised by municipal corporations under the Constitution and laws of Ohio. Title to all real property shall be taken in the name of the municipality.

2.02 Exercise of Powers

All powers shall be exercised in the manner prescribed in this Charter, or if not so prescribed, in the manner provided by ordinance or resolution of Council. When not prescribed in this Charter or by ordinance or resolution, then the powers shall be exercised in the manner provided by the laws of Ohio until Council provides a different manner of exercising the powers.

2.03 Intergovernmental Relations

The Municipality may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any state of the United States or any state civil division or agency, or the United States or any of its agencies.

ARTICLE III - THE MAYOR

3.01 Election and Term of Office

The Mayor, a full-time position, shall be elected at alternate regular Municipal elections for a term of four years commencing on the first day of January next following his or her election, and shall serve until his or her successor is elected and qualified. The election shall be non-partisan.

The Mayor shall be deemed a full-time employee in the municipality commencing January 1, 2010. The full-time salary for the position shall be established by Council in accordance with Section 4.06 A 4.

The Mayor shall have all of the powers and duties provided by this Charter and by the general laws of Ohio to the extent such laws are not inconsistent with this Charter.

3.02 Qualifications

The Mayor shall be a qualified elector of the Municipality and shall have been immediately prior to the date of election a continuous resident of the Municipality for at least two (2) years. During the term of office, the Mayor shall continue to be a resident and a qualified elector.

The Mayor shall not, directly or indirectly, conduct any business with, nor be otherwise employed by, the Municipality, or hold any other public office, except as otherwise provided in this Charter. The Mayor may be a Notary Public or a member of the State Militia or Reserve Corps of the United States. The Mayor shall have an office in the administration building of the Municipality and shall be considered a full-time elected official to properly conduct the business of the Municipality.

If the Mayor shall cease to possess any of the qualifications for such office, the Mayor shall forfeit the office. *(Amended 11/26/19)*

3.03 Vacancy

(A) Temporary Vacancy

When the Mayor is temporarily absent from the Municipality or is temporarily unable for any reason to perform the duties of the office, the President of Council shall act as Mayor, with all the duties, rights and powers of the Mayor during the period of his/her absence or inability to perform his/her duties. If both the Mayor and the President of Council are temporarily absent or unable to perform their duties, the Vice President of Council shall act as Mayor. When the President or Vice President of Council shall become Acting Mayor, in accordance with the provisions of this section, he/she shall not cease to be a member of Council.

(B) Permanent Vacancy

In the event of the death, disqualification, recall, removal, or resignation of the Mayor, the President of Council shall thereupon become Mayor and shall serve until a successor is elected and qualified. In the event the President of Council shall decline the office of Mayor, he/she shall remain as President of Council. The Council shall then appoint a member of Council to fill the vacancy in the office of Mayor. Such appointment shall be made by an affirmative vote of a two-thirds (2/3) vote of the members of Council. In this event the President of Council or other Council

member shall become Mayor, in accordance with the provisions of this section. He/She shall not cease to be a member of Council, and shall retain full voting privileges.

(C) Election to Fill A Permanent Vacancy

In the event of a permanent vacancy in the office of Mayor as set forth in Section 3.03 B, Council shall schedule a special election to fill the vacancy, provided that such election shall occur more than ninety (90) days subsequent to the vacancy and at least ninety (90) days prior to the next regular Municipal election following the vacancy. Council shall establish filing deadlines at the time of setting the date for the election which shall provide candidates no less than thirty (30) days to prepare and file petitions of candidacy.

(D) Primary Election to Fill Permanent Vacancy

In the event that four (4) or more persons file petitions of candidacy to fill the vacancy, Council shall schedule a special primary election at least thirty (30) days prior to the date of election scheduled pursuant to Section 3.03 C. The two (2) persons receiving the highest vote totals in the special primary election shall be designated candidates for such office.

(E) Term of Office

The person newly elected Mayor pursuant to Section 3.03 C and D. shall assume office immediately upon certification of the results of the election by the Summit County Board of Elections and shall serve as Mayor for the unexpired term of the Mayor in whose office the vacancy occurred.

(F) Time Requirement

The employment time requirement in effect for the Mayor at the time of the vacancy shall not apply to the member of Council who temporarily fills the office of Mayor.

(G) Salary

The member of Council who fills the office of Mayor pursuant to Section 3.03 A or Section 3.03 B shall continue to be compensated in accordance with the current rate for that person's position on Council. Council shall have the discretion to set additional compensation depending on the nature and extent of the vacancy. *(Amended 11/26/19)*

3.04 Judicial Powers

The Mayor shall have all the judicial powers now or hereafter granted by the general laws of the State of Ohio to mayors and municipalities of the class of this Municipality. The Mayor may delegate the judicial powers to a magistrate as prescribed by State law.

3.05 Powers of the Mayor

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

- 1) The power to supervise the administration of all the affairs of the Municipality and the conduct and administration of all departments and divisions, except the Council, and as otherwise stated in this Charter.
- 2) To be the Chief conservator of the peace within the Municipality and shall see that all laws, resolutions and ordinances are enforced, except as otherwise stated in this Charter.
- 3) The power, unless otherwise provided by ordinance, to execute on behalf of the Municipality all authorized contracts, conveyances, evidence of indebtedness, and all other instruments to which the Municipality is a party; and shall, where required, to attach thereto the official seal of the Mayor's office, which shall be the seal of the Municipality.
- 4) Pursuant to the general laws of the State of Ohio, the Mayor shall submit and Council shall adopt, with or without revision, the tax budget, annual and other appropriation measures at the times fixed by the general laws. The operating and capital needs of the Municipality shall be considered in the budget and appropriation measures. The Mayor shall cause such other reports to be prepared as he/she shall determine to be necessary or as requested by Council.
- 5) The Mayor shall keep the Council and Public advised of the condition and needs of the Municipality and shall recommend to the Council such measures as he or she may deem necessary or expedient for the welfare of the Municipality.
- 6) The power to appoint or engage, pursuant to contract, persons who shall serve as directors and division heads of the Municipality's administrative departments. All administrative directors shall be subject to confirmation by a majority vote of the members of Council and shall serve at the pleasure of the Mayor and Council. Such directors and division heads may be removed by the Mayor upon approval by a two-thirds (2/3) vote of the members of Council. Subject to Sections 6.02 and 7.03 C of this Charter, the Mayor shall appoint all employees of the Municipality unless this Charter denies appointing power to the Mayor or grants the appointing power to another office or body.
- 7) The power to appoint all members of Municipal Boards, Commissions and other bodies, unless otherwise provided and subject to provisions in this Charter.
- 8) Be the official and ceremonial head of the Municipality.
- 9) Perform such other duties as may be prescribed by this Charter or required by Council.
- 10) Shall attend or be represented at all meetings of Council with the right to introduce ordinances, resolutions and motions and participate in discussion, but without the right to vote.

3.06 Veto Powers

Every ordinance or resolution of the Council shall be presented to the Mayor for consideration. The Mayor may approve or disapprove the whole of any ordinance or resolution, or any item of an ordinance appropriating money. Unless an ordinance or resolution is returned to the Clerk of Council either signed or with written notice of disapproval within ten (10) days after submission to the Mayor, it shall take effect as though the Mayor had signed it. When the Mayor has disapproved an ordinance or resolution or any item of it, as herein provided, the Council may within thirty (30) days thereafter, reconsider it, and if such legislation shall be then approved by the affirmative vote of two-thirds (2/3) members of Council, it shall become effective notwithstanding the veto of the Mayor.

ARTICLE IV - COUNCIL

4.01 Election and Term of Office

The Council shall be composed of seven (7) members elected to four (4) year terms, three of whom shall be elected at large and four of whom shall be elected from wards as provided herein. All elections shall be non-partisan. The members elected from wards shall be known as Ward Council members. The members elected from the Municipality at large shall be known as Council members At Large.

All members of Council shall assume office on the first day of January following their election.

4.02 Wards

In accordance with the Ohio Revised Code, the Municipality shall be divided into four (4) wards within one-hundred fifty (150) days of the effective date of this charter, which shall be as nearly equal in population as is practicable. In the absence of more restrictive case law to the contrary, the population in the largest and the smallest among the wards shall not vary by more than twenty percent (20%) of the population of the smallest ward. Each ward shall be composed of contiguous and compact territory bounded by streets, roads, streams, railroads, and/or census block lines.

Council shall have the power to change ward boundaries, but shall not have the power to change the number of wards. After each recurring United States census, but more often if Council finds it necessary because of population changes, Council shall re-draw the boundaries of the four (4) wards subject to the population requirement of this section.

4.03 Qualifications

Each Councilperson shall be a qualified elector of the Municipality and shall have been immediately prior to the date of election a continuous resident of the Municipality for **at least two (2) years**. Ward Councilpersons shall be residents of the Ward they seek to represent at the time they circulate nominating petitions and remain residents throughout any term as Councilperson of that Ward. All Councilpersons shall continue to comply with the above requirements throughout their term of office.

A Councilperson shall hold no other elective office. The Councilperson shall not be otherwise employed by, directly or indirectly, nor hold any other office in this Municipality except as provided in this Charter. *(Amended 11/26/19)*

4.04 President and Vice President

Within the first seven (7) days of January of each year, Council shall meet in the Council Chambers for the purpose of organization. At such organization meeting, Council shall, by a majority of the members elected and appointed to Council, elect from its membership a President of Council and a Vice-President of Council, each to serve for a term of one (1) year. The President of Council shall have all the powers, duties, obligations and rights of any other member of Council, including the right to vote, and shall appoint the various committees of Council.

The President of Council, or in his or her absence, the Vice-President of Council, shall preside at all meetings of Council. The President and Vice-President of Council, neither by holding such offices, nor in performing the duties of the acting Mayor as provided in Section 3.03 A and B of

this Charter, shall be deprived of their powers and rights or be relieved of their duties or obligations as members of Council.

4.05 Vacancies

(A) Whenever the office of a Councilperson shall become vacant for any reason, whether occurring by death, disqualification, recall, removal, or resignation, the vacancy in the Council shall be filled by a majority vote of the remaining members of the Council. If the vacancy occurs subsequent to twenty (20) days before the date when candidates for the office of Council member must file their nominating petitions or if two (2) years or less remain in the term of the incumbent who created the vacancy, the person elected by the Council shall serve for the unexpired term. If the vacancy occurs at least twenty (20) days prior to the date when candidates for the office of Council member must file their nominating petitions and more than two (2) years remain in the term of the incumbent who created the vacancy, the person elected by the Council shall serve until a successor is elected at the next regular municipal election and qualified to serve for the remainder of the unexpired term. The person elected for the unexpired term at the next regular municipal election shall take office immediately upon certification of the results by the Summit County Board of Elections.

(B) If the Council shall fail to elect a person to fill a vacancy in the Council under Division (A) of this Section within forty-five (45) days after the occurrence of the vacancy, its power to do so shall lapse and the Mayor shall appoint a person to serve for the time as provided in Division (A) of this Section.

(C) If the vacancy is in an office of a Councilperson representing a ward, such vacancy must be filled from that ward. If the vacancy occurs in the office of a Council-at-large, such vacancy can be filled from any ward within the Municipality.

(D) If the office of President of Council becomes vacant because of the succession of the President of Council to the office of Mayor or for any other reason, the Vice-President of Council shall become President of Council and Council shall elect by a majority vote of the members elected and appointed to Council a new Vice-President from its members. If the President of Council declines to serve as Mayor, he or she may remain as President of Council and Council shall then appoint one of its remaining members to the office of Mayor.

(E) The person elected or appointed to fill a vacancy on the Council shall have the qualifications for the particular office as specified in Section 4.03 of this Charter.

4.06 Powers of Council

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

- 1) The power to levy taxes and assessments and incur debts subject to the limitations imposed thereon by this Charter and the Constitution of Ohio.
- 2) The power to adopt and to provide for the enforcement of local police, fire, zoning, sanitary and other similar regulations, as are not in conflict with the general laws.
- 3) The power to provide for the exercise of all powers of local self-government granted to the Municipality by the Constitution of the State of Ohio in a manner not inconsistent with this Charter or the Constitution of the State of Ohio.
- 4) Council shall set by ordinance the compensation of the Mayor, members of Council and each officer and employee, or member of any board or commission, of the Municipality, whether elected or appointed, except as specifically provided otherwise in this Charter. Not less than forty-five (45) days prior to the final date for filing nominating petitions, Council shall set the compensation of the Mayor and all members of Council for the term of office commencing January 1 of the ensuing year, and such compensation shall not thereafter be changed with respect to such period. The compensation of every other officer, employee and member of any board or commission of the Municipality, as set by Council, may at any time be changed by ordinance at the discretion of Council. Council may authorize the payment or reimbursement of expenses incurred by any officer, employee or member of any board or commission of the Municipality, for traveling or other expenses incidental to the authorized furtherance of the interests of the Municipality.
- 5) The power to require such bonds as in the opinion of the Council are necessary for the faithful discharge of the duties of the officers and employees of the Municipality. The premium for said bonds shall be paid by the Municipality.
- 6) The power to establish, by ordinance or resolution, the rates or charges made to consumers of all municipal utilities and services.
- 7) The power to acquire and to sell or otherwise convey interests in real property; and to lease, as lessor or lessee, or otherwise grant or receive interests in real property, in the manner authorized by ordinance or resolution with or without competitive bidding.
- 8) The power to provide for an independent audit of the accounts and records of the Municipality, which may be in addition to audits by state offices and agencies as may be required under the general laws of Ohio.
- 9) To exercise all other powers granted to the Council by this Charter and by the Constitution and laws of the State of Ohio.
- 10) The power to approve all contracts entered into by the Municipality which require expenditures in excess of \$10,000.00.

4.07 Clerk of Council

The Clerk of Council shall be appointed by Council and shall serve at the pleasure of Council. The Clerk of Council shall keep the Journal of Council, an accurate and complete record of all proceedings of Council; authenticate by his or her signature and have custody of all laws, ordinances, and resolutions of Council; have custody of all official documents, reports, papers, and files of Council; and perform other such duties as Council shall require.

The Clerk of Council may also hold another municipal appointive office within the classified or unclassified service of the Municipality, but shall not hold any municipal elective office while serving as Clerk of Council.

During the temporary absence or disability of the Clerk of Council, Council shall by affirmative vote of a simple majority of its members appoint a like-qualified individual to perform the duties of that office.

4.08 Rules and Journal of Council

Council shall adopt its own rules, regulations or by-laws, and shall keep a journal of all its proceedings which shall be open for public inspection during normal business hours. The voting upon any ordinance or resolution shall be by roll call, and the vote of each Councilperson shall be recorded upon the journal.

4.09 Organizational Meeting

Within the first seven (7) days of January of each year, Council shall meet for the purpose of organization. The Mayor, or a person appointed by the Mayor, shall call this meeting and shall preside as temporary chairman only until the President of Council shall be elected.

4.10 Regular Council Meetings

(A) Council shall meet at such times as may be prescribed by its rules, regulations or by-laws, or by resolution or ordinance, except that it shall hold regular meetings at least once during each calendar month. All regular meetings of Council shall be held at the Council Chambers unless extraordinary circumstances dictate otherwise.

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

4.11 Special Council Meetings

(A) Special meetings of Council may be called as provided by its rules, regulations or by-laws, or by resolution or ordinance. In the absence of any such provision, special meetings may be called by the Clerk of Council upon the written request of the Mayor, or the President of Council, or any four (4) members of Council, and written notice of any such meeting shall be served personally upon each Councilperson and the Mayor or left at the usual place of residence at least twenty-four (24) hours prior to such meeting. Service of notice of any special meeting shall be deemed conclusively to have been waived by the Mayor or by any Councilperson who shall be present at such meeting.

(B) All special meetings of Council shall be held at the Council Chambers unless extraordinary circumstances dictate otherwise and in accordance with the general laws of Ohio pertaining to requirements for open meetings of public bodies.

4.12 Executive Session

Council may hold closed executive sessions in accordance with the laws of the State of Ohio. The Mayor shall be permitted to attend all executive sessions of Council.

4.13 Quorum

A majority of the members of Council shall constitute a quorum for the transaction of business at any meeting of Council, but a lesser number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be provided by resolution or ordinance.

4.14 Rights in Council of Executive Officers

The Mayor and the directors of all departments established by this Charter or that hereafter may be established by ordinance, shall be entitled to seats in the Council. Neither the Mayor nor the directors of any department shall have a vote in Council, but the Mayor shall have the right to recommend legislation and take part in the discussion of all matters coming before the Council. The directors of departments shall be entitled to take part in those discussions in Council that relate to their respective departments.

4.15 Council Relationship to Administrative Officers

Neither Council, nor any of its committees, nor any of its several members, shall in any manner take part in the discipline of, or give orders to, any subordinates and employees in the administrative service of the Municipality responsible to the Mayor, but must deal directly with the Mayor. Council may inquire into the conduct of any office or department and into the performance of any contract or any of the affairs of the Municipality.

ARTICLE V - LEGISLATIVE PROCEDURE

5.01 Form of Action by Council

Action of Council shall be by ordinance, resolution or motion. Motion shall be used to conduct the business of Council, in procedural matters, for elections conducted among and appointments made by Council members, to provide directions to and to make requests of administrative officers and employees and members of Boards and Commissions, and as otherwise provided in this Charter. All other action shall be taken by ordinance or resolution. No action of Council shall be invalidated merely because the form thereof fails to comply with the provisions of this Section.

5.02 Introduction of Ordinances and Resolutions

Any member of Council or the Mayor may introduce any ordinance or resolution, at a regular or special meeting, which shall be in written or printed form and shall contain a concise title. Zoning ordinances or resolutions may be introduced in the manner as Council may prescribe by ordinance or resolution.

5.03 Form of Ordinances and Resolutions

(A) The form and style of ordinances and resolutions shall be determined by the Rules of Council.
(B) Each ordinance or resolution shall contain only one subject, which shall be expressed in its title, provided that appropriation ordinances may contain the various subjects, accounts and amounts for which monies are appropriated, and that ordinances and resolutions which are codified or recodified are not subject to the limitation of containing one subject.

5.04 Reading Ordinances and Resolutions

Each ordinance and resolution shall be read by title only on three separate days, unless this requirement is dispensed with by a vote of at least two-thirds (2/3) of the members of the Council. Readings shall be by title only, unless a majority of the Council shall request that any ordinance or resolution be read in full. Not less than one (1) copy of each ordinance and resolution shall be available for public inspection at the meetings of the Council at which the ordinance or resolution is considered.

5.05 Committee Deliberations

All proposed ordinances and resolutions, except those of a purely ceremonial nature, and those of a procedural nature, shall be referred by the President of Council to one (1) or more of the standing committees of Council as appropriate to the subject matter, unless this requirement is waived by a vote of two-thirds (2/3) of the members of Council.

Said committee(s) shall consider the proposed legislative action separately and/or jointly and shall report their recommendations to Council for final disposition. Said committee(s) shall keep written or electronic minutes of all proceedings. (*Amended 11/20/24*)

The recommendations reported by such committee(s) shall be given orally or in writing and shall be accompanied by the original documents, if any, upon which such report is based. Such report and supporting documentation shall be entered or referred to upon the Journal of Council.

If any matter referred to committee has not been reported upon for one (1) successive regular Council meetings, such matter may be brought before Council, with or without an accompanying committee report, upon the vote of a two-thirds (2/3) vote of the members of Council.

Nothing in this provision shall preclude any standing committee from proposing an ordinance or resolution on their own initiative.

5.06 Vote Required for Passage

The vote on the question of passage of each ordinance, resolution and motion shall be taken by a roll call of members to be entered on the Journal, or other record of proceedings of the Council, and none shall be passed without concurrence of a majority of the members of Council. Each emergency ordinance or resolution shall require the affirmative vote of at least two-thirds (2/3) of the members of Council for its enactment. If an emergency ordinance or resolution shall fail to receive the required two-thirds (2/3) affirmative vote, but receives the necessary majority for passage as non-emergency legislation, it shall become effective as non-emergency legislation.

5.07 Content of Emergency Legislation

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

No action of the Council authorizing the surrender of any of its powers or in granting any franchise, or contracting for the supply to the Municipality or its inhabitants of the product or service of any utility, whether Municipally or privately-owned, or amending or repealing any zoning ordinance, or changing any ward boundaries, or authorizing any change in the boundaries of the Municipality, shall be taken as an emergency measure.

5.08 Effective Date of Legislation

(A) The following ordinances or resolutions shall take effect upon passage unless a later time is specified herein:

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

(B) All other ordinances or resolutions shall go into effect thirty (30) days after their passage by the Council.

5.09 Authentication

Each ordinance and resolution shall be authenticated by the signature of a presiding officer of the Council and the Clerk of Council. The failure or refusal to sign shall not invalidate an otherwise properly enacted ordinance or resolution.

5.10 Recording Legislation

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

5.11 Amendment

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

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

5.12 Zoning Measures

The Council may determine, by ordinance or resolution, all procedures to be followed by the Council and the Planning and Zoning Commission with respect to zoning within the Municipality and other land use regulations and matters, including but not limited to: public hearings; notices to owners of land; and notices to the general public. Otherwise, the Ohio Revised Code will apply.

A concurring vote of at least two-thirds (2/3) of the membership of Council shall be necessary to pass any zoning ordinance or resolution which differs from the written recommendations of the Planning and Zoning Commission, but in no event shall an ordinance or resolution be considered as having passed unless said amendment receives at least a majority vote of the members of Council.

5.13 Adoption of Technical Codes

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

The ordinance or resolution adopting any such standard ordinance or code shall make reference to the date and source of such standard ordinance or code without reproducing the same at length in the ordinance or resolution. In such cases, publication of the standard ordinance or code shall not be required, but at least one copy of such code shall be kept at all times in the office of the Clerk of Council and available for reference by interested persons. If the standard ordinance or code is amended after its adoption by reference by the Council, it shall be deemed to have been adopted.

5.14 Codification

By a majority vote of the members of Council, the Council may cause the ordinances and resolutions of the Municipality to be revised, codified, recodified, rearranged, or published in book form.

5.15 Public Notice

Public notice as required by law, or by this Charter, or by ordinance, shall be given to resolutions, ordinances, statements, measures, orders, proclamations and reports by publication in a newspaper of general circulation in the City, or by posting on the City website and social media accounts.
(Amended 11/20/24)

Council shall cause each resolution and ordinance to be given public notice, commencing not later than seven days after its first reading in the event that the rule requiring three readings is not suspended, and within seven days like public notice shall be given each resolution and ordinance after its adoption and approval by the Mayor, or upon the expiration of the time within which it may be vetoed by the Mayor, or upon its passage after veto by the Mayor, as the case may be.

ARTICLE VI - Administrative Departments

6.01 Establishment of Departments

A Department of Finance, Department of Law, Department of Public Safety, and a Department of Public Service are hereby created and established by this Charter as administrative departments, and the Council shall provide by ordinance the organization thereof.

The Mayor or Council may not abolish or combine the administrative departments created by this Charter, but may consolidate, divide and re-assign, or abolish the operating divisions to various departments to assure operating and management efficiency. Council may create, by ordinance or resolution, additional administrative departments, boards or commissions as necessary.

6.02 General Provisions

The Law and Finance Director offices created by this Charter are part-time positions until otherwise determined by the Mayor and Council. Each Director shall be appointed by the Mayor with the approval of a majority vote of the members of Council. The Public Safety and Public Service Director positions shall be filled by the Mayor, until the Mayor and Council determine otherwise.

A Director need not be a resident of the municipality.

The qualifications, education, and experience of each Director appointee, excepting that of the Director of Law, shall be certified by the Municipality's legal counsel. The qualifications, education, and experience of the Director of Law shall be certified by the Mayor. No binding offer of employment may be made to a Director appointee prior to such certification.

The Council shall have the responsibility for the development of job descriptions for all Director positions created by this Charter, or established by future action of Council. Such job descriptions shall indicate specific job duties, organizational responsibilities, and limits of authority. Each Director shall serve until removed by the Mayor. The dismissal of any Director shall require the approval of a two-thirds (2/3) vote of the members of Council.

6.03 Director of Finance

(A) Qualifications

The Director of Finance shall have knowledge of accounting, taxation, budgets and financial control as demonstrated by experience, education or both.

The Director of Finance shall not hold any other public office, except he/she may hold office or delegate role in a political party, serve as a notary public, serve as a member or officer in the military reserve of National Guard, serve in an office position or capacity to further intergovernmental cooperation, and may hold any office permitted by this Charter, ordinance or resolution and the laws of Ohio.

(B) Powers and Duties

The Director of Finance shall be the head of the Finance Department and the municipality's fiscal officer. He/She shall be responsible for the collection, disbursement, and custody of all funds and shall establish and maintain those records and procedures necessary to perform his/her duties.

He/She shall perform other duties performed by municipal auditors and treasurers and municipal auditors under the general laws of the State of Ohio; and perform such other functions relevant to the Finance Department, as may be required by ordinance or resolution of Council, or as directed by the Mayor. *(Amended 11/24/14)*

6.04 Director of Law

(A) Qualifications

The Director of Law shall be an attorney who is licensed, during the term of his/her appointment, to practice law in the State of Ohio. He/She shall have a minimum of five (5) years of employment or public practice experience in municipal and/or other governmental law.

(B) Powers and Duties

The Director of Law shall be the legal advisor on all legal matters coming before the Municipality and shall represent or direct the representation of the Municipality in all litigation, cases, or suits coming before the Municipality. He/She shall prepare or review all contracts, ordinances, resolutions, and other documents or instruments as required by the Mayor and Council. He/She shall have other powers and duties performed by directors of law of general statutory plan cities under the general laws of the State of Ohio.

In addition, the Director of Law shall perform other duties specified by municipal solicitors by the laws of the State of Ohio.

Nothing in this Charter shall preclude Council from contracting for additional legal services as may periodically be required.

6.05 Director of Public Safety

(A) Mayor as Director

The Mayor shall serve as Director of Public Safety until such time as Council provides, by ordinance, for the separation of the two (2) positions.

(B) Powers and Duties

The Director of Public Safety shall oversee all matters relating to public safety, including police, fire, and emergency medical services.

(C) Qualifications

The Director of Public Safety, if separated from the office of the Mayor by ordinance, shall have a minimum of five (5) years management or supervisory experience in public safety or be a graduate of an accredited college with a minimum of a bachelor's degree in a pertinent field.

6.06 Director of Public Service

(A) Mayor as Director

The Mayor shall serve as Director of Public Service until such time as Council provides, by ordinance, for the separation of the two (2) positions.

(B) Powers and Duties

The Director of Public Service shall make all the necessary rules and regulations for the governing of the Department of Public Service and the operation of the divisions thereof. The Department shall include, but not be limited to, Divisions of Cemeteries, Custodial Services, Health and Environment, Highways, Parks and Recreation, Planning and Zoning.

(C) Qualifications

The Director of Public Service, if separated from the office of the Mayor by ordinance, shall have a minimum of five (5) years management or supervisory experience in a related field.

ARTICLE VII - Boards and Commissions

7.01 Establishment

The following boards and commissions are hereby created and established as Municipality boards and commissions:

- 1) Personnel Advisory and Appeals Board
- 2) The Parks and Recreation Board
- 3) The Planning and Zoning Commission
- 4) The Board of Zoning Appeals
- 5) The Charter Review Commission

(Amended 11/26/19)

7.02 General Provisions

All persons appointed to any Municipality board or commission must be qualified electors of the Municipality. The appointing authority has the option to appoint an alternate(s) to any board or commission as needed.

No voting member of a Municipality board or commission shall be an elected or appointed official, officer, or employee of the Municipality.

Members of the Municipality boards and commissions shall serve without compensation unless expressly provided for by other provisions of this Charter or by ordinance of Council. Reimbursement for expenses incurred by the members of Municipality boards and commissions in the performance of their duties shall be permitted.

Members of each Municipality board or commission may serve multiple terms.

Each Municipality board or commission shall appoint a secretary who shall prepare minutes of each meeting and shall provide copies of same to the Mayor and President of Council and for public posting at the Municipality administrative offices. Each Municipality board or commission shall adopt written operating rules and regulations subject to approval or revision by a simple majority vote of the members of Council, and shall keep a complete journal of its proceedings.

At the first meeting of each year, each Municipality board or commission shall select a Chairperson from its appointed members who shall serve for one (1) year. A member may serve multiple terms as Chairperson.

A vacancy during the term of any Municipality board or commission member shall be filled for the remaining unexpired term in the same manner as that vacated member's original appointment.

All Boards and Commissions meetings shall be open to the public. All notice of Boards and Commission meetings shall be publicized as stated in Section 5.15.

7.03 Personnel Advisory and Appeals Board

(A) Composition and Terms

The Personnel Advisory and Appeals Board shall consist of three (3) disinterested qualified electors of the Municipality not holding other public office, to be appointed by Council. Each member shall serve, without compensation, for a term of six (6) years. Each member shall have been a resident of the Municipality or territory annexed thereto for a period of two (2) years preceding the appointment and shall continue to remain a resident during the member's term. In the event of a vacancy, Council shall appoint a qualified elector to complete the unexpired term. Members shall serve no more than two (2) consecutive full six (6) year terms. Meetings of the Personnel Advisory and Appeals Board shall be open to the public except as may be provided by State law.

(B) Powers and Duties

As set forth below, the Personnel Advisory and Appeals Board shall have jurisdiction over personnel matters for Municipal employees, other than the Mayor and the Directors of Finance, Law, Service and Safety, except provisions covered by collective bargaining agreements, and shall not be required to extend its jurisdiction to any other city, or school district or political subdivision of the State or their employees. Any employee, except for Department Managers and other similarly situated employees as designated by Council, shall have the right to appeal grievances involving dismissals or suspensions for periods of longer than three (3) days or eligibility rulings, to successively higher levels of the Municipal management until satisfied, or until heard and decided by the Personnel Advisory and Appeals Board; provided, however, that such aggrieved employee presents the grievance to the Board within thirty (30) days of final determination of the grievance by the Mayor.

Any Department Manager or similarly situated employee as designated by Council aggrieved by the final determination of the Mayor may appeal grievances involving dismissals or suspensions for periods of longer than three (3) days or eligibility rulings to the Personnel Advisory and Appeals Board within thirty (30) days of the final determination of the Mayor.

(C) Personnel Principles and Rules

(1) All appointments and promotions of Municipal employees shall be made solely on the basis of merit and fitness demonstrated by examination, demonstrated job performance or other evidence of competence. Department Managers, Division Heads, and other similarly situated employees as designated by Council shall serve at the pleasure of the Mayor, subject to the City's standard performance evaluation process by the Mayor, with right of appeal as provided in Section 7.03(B).

(2) The Mayor shall propose such personnel rules to the Personnel Advisory and Appeals Board which assure compliance with the principles and policies referenced above, as well as all constitutional and Federal/State mandates. The Personnel Advisory and Appeals Board shall report to Council its recommendations thereon, and Council may by ordinance adopt such rules and amendments consistent herewith. *(Amended 11/26/19)*

7.04 Parks and Recreation Board

(A) Composition and Term

The Parks and Recreation Board shall consist of five (5) members, appointed for staggered terms of five (5) years, or until their successors have been appointed.

The members of the Parks and Recreation Board shall be appointed as follows. Three (3) members shall be appointed by the Mayor, and two (2) shall be appointed by Council. For the first appointments, the Mayor shall appoint those members who will serve five (5), three (3) and one (1) year terms, and Council shall appoint those members who will serve two (2) and four (4) year terms. The Chairperson of the appropriate committee of Council shall serve as a non-voting member of the Parks and Recreation Board.

(B) Powers and Duties

The Parks and Recreation Board shall advise with respect to the acquisition, development, maintenance, and operation of the parks and recreational facilities of the Municipality. The Board shall solicit input from, provide assistance to and cooperate with civic, historical, governmental and youth athletic organizations in providing these services and facilities.

The Parks and Recreation Board shall serve in an advisory capacity to the Mayor and Council. The Parks and Recreation Board shall develop a plan to provide for the parks and recreational needs of the community and shall oversee implementation of that plan.

The Board has no power to commit the expenditure of public moneys except as expressly provided for by Council. The authority to purchase, sell, lease, dispose of, or accept as donations, any property or moneys resides in Council.

The Finance Director shall be required to provide an estimate of moneys to be appropriated for parks and recreation to the Board no later than November 15th of the year prior to the year for which moneys are to be appropriated. It shall be the duty of the Parks and Recreation Board to recommend an annual plan to Council for the most effective and beneficial use of the moneys so appropriated. *(Amended 11/26/19)*

7.05 Planning and Zoning Commission

(A) Composition and Term

The Planning and Zoning Commission shall consist of five (5) members, appointed for staggered terms of five (5) years, or until their successors have been appointed.

The five (5) members of the Planning and Zoning Commission shall be appointed by the Mayor and approved by a majority vote of the members of Council.

(B) Powers and Duties

The Planning and Zoning Commission shall be responsible for the planning of orderly growth and development of the Municipality. The Commission shall recommend to Council a long range plan for the Municipality growth and development.

The Commission shall conduct studies and make recommendations to Council concerning any items which require legislative action.

The Commission shall have those additional powers and duties as prescribed by ordinance and resolution, and, to the extent not in conflict with this Charter and the Municipality's ordinances and resolutions, the Commission may exercise those powers granted by the law.

Any legislation to be considered by Council, concerning zoning shall be brought to the Planning and Zoning Commission for its consideration and recommendation.

At least three-fourths (3/4) affirmative vote shall be required of the Planning and Zoning Commission members to recommend changing any property zoned residential to commercial, industrial or conditional-use classification.

At least two-thirds (2/3) affirmative vote of Council shall be required for passage of any ordinance or resolution that is contrary to a recommendation of the Planning and Zoning Commission.

7.06 Board of Zoning Appeals

(A) Composition and Term

The Board of Zoning Appeals shall consist of five (5) members appointed to staggered terms of five (5) years, or until their successors have been appointed.

The members of the Board of Zoning Appeals shall be appointed by the Mayor, and approved by a majority vote of the members of Council. Members of the Board of Zoning Appeals shall be persons of recognized competence in the areas of construction, architecture, real estate, or related experience.

(B) Powers and Duties

It shall be the duty of the Board of Zoning Appeals to hear and decide appeals made for the exceptions to and variations from the application of ordinances, orders and regulations of Municipality administrative officials or agencies, governing building and zoning in the Municipality. Such appeals decision shall be in conformity with the purpose and intent of such ordinances and regulations. The Board of Zoning Appeals shall have such other duties as Council may designate.

7.07 Charter Review Commission

In January, two (2) years after the effective date of this Charter, and in January every five (5) years thereafter, the Mayor shall appoint with approval of a simple majority vote of the members of Council, by January 14th, a Charter Review Commission composed of seven (7) electors of the Municipality. The appointees shall hold no other Municipality elective or appointive office, nor be employed by the Municipality except on an advisory board.

All meetings of the Charter Review Commission shall be public. Such Commission shall select its own Chairperson and Secretary and adopt its own rules for the conduct of its business. The members of the Commission, unless otherwise provided by Council, shall serve without compensation, and the term of the Commission shall end on the day of the next regular Municipal or Ohio general election occurring at least nine (9) months after their appointments.

The Charter Review Commission shall, on or before June 12th of the same year, recommend to Council any alterations, revisions, or amendments to this Charter. The Council shall publish recommendations of the Charter Review Commission in at least one (1) newspaper of general circulation within the Municipality once a week for two (2) consecutive weeks. The Council shall also cause the posting of the Charter Review Commission's recommendations on the City website and social media accounts. The Council shall hold a public hearing on such recommendations within one (1) week after the second publication thereof. *(Amended 11/20/24)*

The Council shall submit the amendments to the electors at the next regular Municipal or Ohio general election, and succeeding elections, as necessary. *(Amended 11/26/19)*

ARTICLE VIII - Finance and Taxation

8.01 General Provisions

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

8.02 Finance Department

(A) Powers and Duties

- 1) Have custody of all public funds belonging to or under control of the Municipality, or any office, department or agency thereof, and deposit or invest all funds coming into his or her hands in such manner as required by ordinance of Council.
- 2) Disburse moneys of the Municipality, provided that all warrants of the Municipality shall be signed by the Director of Finance and the Mayor or the President of Council.
- 3) Prescribe the forms of receipts, vouchers, bills, claims, accounting forms and systems of accounts to be used by all the offices, departments and agencies of the Municipal government.
- 4) Examine and approve the financial aspects of all contracts, orders and other documents by which the Municipal government incurs financial obligations, having previously ascertained that sufficient monies have been appropriated and allotted and will be available when the financial obligations shall become due and payable.
- 5) Audit and approve before payment all bills, invoices, payrolls and other evidences of claims, demands or charges against the government of the Municipality and, with the

advice of the Department of Law, determine the regularity, legality and correctness of such claims, demands or charges.

- 6) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the government of the Municipality apart from or subsidiary to the accounts kept in the Director of Finance's office.
- 7) Perform all other duties that may now or hereafter be imposed upon Municipality auditors or treasurers under the general laws of the State of Ohio, unless otherwise provided by this Charter or by ordinance of Council, and perform such other duties, consistent with the office, as may be required by this Charter, by ordinance of Council or as directed by the Mayor.

(B) Transfers of Appropriations

The Director of Finance may, toward the end of the fiscal year, transfer an unencumbered appropriation balance or portion thereof between general classifications of expenditures within the various accounts for which a specific fund was established by the original or revised appropriation, under limits set by ordinance.

(C) Fiscal Year and Tax Budget

The fiscal budget and accounting year shall be the calendar year.

On or before the 15th day of June in each calendar year, the Mayor shall submit to Council a tax budget for the next succeeding fiscal year. Council shall adopt and submit to the Summit County Budget Commission a tax budget for the next succeeding fiscal year, in accordance with the provisions of the laws of Ohio.

(D) Contracting Powers and Competitive Bidding Procedures

The Mayor shall be the contracting officer of the Municipality, shall award and execute all contracts on behalf of the Municipality, and shall report all expenditures to the Council.

Any purchase of or contract for supplies, materials, labor, services or equipment shall be made in accordance with the provisions of the general laws of Ohio, including those relating to competitive bidding, to the extent not inconsistent with this Charter and ordinances of the Council.

The Mayor may, within the amounts and items appropriated by the Council, make purchases and enter into contracts on behalf of the Municipality involving expenditures not in excess of ten thousand dollars (\$10,000).

Any contract in excess of \$10,000 requires legislative approval by Council. The Mayor shall not be permitted to breakup a contract into two (2) or more component parts for the sole purpose of avoiding the Council approval requirement for expenditures in excess of \$10,000.00.

When any expenditure or contract is required to be a bid in accordance with the Ohio Revised Code, work may be accomplished only after advertisement and bidding, and such contract or expenditure shall first be authorized or directed by an ordinance or resolution passed by the Council and shall be advertised once a week for at least two (2) weeks in a newspaper of general circulation in the Municipality; provided the Council, by an ordinance or resolution adopted by a

vote of at least two-thirds (2/3) of its members, may authorize, without advertising and competitive bidding, contracts and expenditures for any purpose where the statutory or common law of Ohio does not require competitive bidding.

(E) Contracts

When it becomes necessary to make alterations or modifications in connection with any work or improvements covered by contract, they shall be made only upon approval by the Mayor and certification of available funding by the Director of Finance. No such order shall be effective until the price to be paid for the work or material, or both, under the altered or modified contract, shall have been agreed upon in writing and signed by the contractor and the Mayor on behalf of the Municipality. Modifications or alterations in contracts shall not require advertising and competitive bidding.

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

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

The certification as to the availability of funds and the appropriation of funds shall be filed and recorded in the accounting records of the Municipality and a copy furnished the vendor or contractor. Without the certification, contractual obligations shall be unenforceable against the Municipality unless subsequently authorized by the Council by a majority vote of its members.

No contract, agreement or contractual obligation shall be entered into or authorized by any municipal authority until the same has been approved as to form by the Director of Law.

(F) Establishment of New Municipality Services

When a function of the Municipality is proposed to be performed for the first time subsequent to the adoption of this Charter by officers and employees of the Municipality rather than pursuant to contracts with other governments, persons, or firms, and the cost of the annual operation and capital requirements would exceed twenty percent (20%) of the Municipality's revenues in the prior fiscal year, which revenues were lawfully available for such function, then Council shall place the question of whether such function shall be performed by officers and employees of the Municipality rather than by contract upon the ballot at the next general, primary, or regular Municipal election to be held within the Municipality. The Council may cause such an election to be held at a special election on any date upon a vote of three-fourths (3/4) of the members of Council.

This Section shall not apply where a three-fourths (3/4) majority of the members of Council determines that the function must be established due to State or national law, or where Council

determines by a unanimous vote of its members that such function cannot be provided by contract at a reasonable cost.

This provision shall not include programs in effect as of the effective date of this Charter, nor those programs established by this Charter.

This provision shall not preclude Council from contracting with other governmental or private entities to provide such services on a fee basis. *(Amended 11/26/19)*

8.03 Allocation of Income Tax Revenues

The funds collected under the provisions of any municipal income tax in the Municipality shall be deposited in a special fund known as the Income Tax Revenue Fund. Disbursements of moneys from this fund shall be made as follows:

(A) First, funds shall be allocated to defray all expenses of collection, administration, and enforcement of the income tax and the provisions of the ordinance.

(B) Second, a minimum of five percent (5%) of the tax revenues shall be allocated and assigned to the Municipality parks and recreation program. Such funds shall be appropriated to capital expenditures only, that is, the purchase of property, building construction, or other improvements with a life of five (5) years or longer. Any unused funds shall, on an annual basis, be assigned to a fund for use only in support of the Municipality parks and recreation program. This provision shall be reviewed by the Charter Review Commission as specified in the time period mandated in Section 7.07.

(C) Third, funds shall be allocated to the General Fund of the Municipality.

8.04 Limitation on Total Municipal Income Tax

Where a resident of the Municipality is subject to a municipal income tax in another municipality, such resident shall not pay total municipal income tax on that same income that is greater than the tax imposed at the higher rate.

ARTICLE IX - Nominations and Elections

9.01 Effect of State Law

All elections in the Municipality shall be non-partisan, without party affiliation appearing on the ballot. Except as otherwise provided in this Charter, the laws of the State of Ohio shall govern the nomination and election of the elective officers of the Municipality. Elections shall be held and conducted, and the results thereof ascertained and certified, as provided by the general laws of the State of Ohio, and by the election authorities and procedure provided by law.

9.02 Regular, Primary and Special Municipal Elections

Municipal elections for the purpose of the election of officers provided for in this Charter shall be held on the first Tuesday after the first Monday in November in odd numbered years. Elections so held shall be known as regular Municipal elections. An election conducted for the purpose of nominating persons as candidates for elective office as provided in this Charter, to be voted upon at the next regular Municipal election, shall be known as a primary election. Other elections shall be held as may be required by law or provided for in this Charter. Such other elections shall be

known as special Municipal elections. At any time, by resolution, the Council may order a special Municipal election, the purpose of which shall be set forth in the resolution.

9.03 Nominations

There shall be no primary election for Mayor, Ward Councilperson, or Councilmember At Large (if only one office is available) unless four (4) or more persons file nominating petitions for the respective position. There shall be no primary election for Councilmember At Large (if there are three offices available) unless eight (8) or more persons file nominating petitions. For purposes of this provision affecting the necessity of a primary election, the term “nominating petition” shall include only those petitions and nominating papers which the Summit County Board of Elections shall have reviewed, examined and certified as to their sufficiency and validity.

In the event it is necessary to hold a primary election, such non-partisan primary election shall be held in the Municipality on the first Tuesday following the first Monday in May. Those persons receiving the highest vote totals, and equal in number to twice the number of offices for which such election is held, shall be designated candidates for such office, subject to applicable provisions of this Charter. *(Amended 11/20/24)*

Each candidate shall file a separate petition. Group petitions shall not be used for any elective office in the Municipality.

Forms provided by the Summit County Board of Elections, if appropriate, or by the Municipality, for the nomination of non-partisan candidates for such office, shall be used and filed with the Summit County Board of Elections as required by state law. *(Amended 11/26/19)*

9.04 Nominating Petitions

Although a primary election may not be necessary, as provided by this Charter, each person desiring to become a candidate for nomination for any Municipality office shall, not later than 4:00 p.m. of the ninetieth (90th) day before the date set by Section 9.02 of this Charter, file with the Summit County Board of Elections, a nominating petition and a petition requiring signatures of registered electors as follows: not less than fifty (50) nor more than one-hundred fifty (150) for the office of Ward Councilmember; not less than seventy-five (75) nor more than two-hundred twenty-five (225) for the office of Councilmember At Large; and, not less than one-hundred fifty (150) nor more than three-hundred fifty (350) for the office of Mayor.

Such petitions may contain the names and addresses of five (5) registered electors of the Municipality designated in advance by the candidate as a nominating committee. Such committee may fill vacancies caused by the death or withdrawal of the candidate as set forth in this section of the Charter.

If a person nominated by petition, in accordance with this section of the Charter, for the offices of Mayor or Councilmember, and who faces a non-partisan primary contest for nomination by the electorate, should die or withdraw due to illness or loss of elector status not less than thirty-five (35) days before the day of such primary election, the vacancy so created may be filled only by the nominating committee designated in the nominating petition of such affected candidate.

If a person is either nominated in the primary election as a candidate at the next regular Municipal election for one (1) of the offices named in this section, or certified as a candidate for the next regular Municipal election without the necessity of a primary election in accordance with the provisions of this Article, and such candidate dies or withdraws due to illness or loss of elector status not less than thirty-five (35) days before such regular Municipal election, the vacancy so created may be filled only by the nominating committee of five (5) persons designated in the nominating petition filed by the affected candidate prior to the Primary Election.

To fill the vacancy created by the death or withdrawal of a candidate for any of the offices named in this section, a majority of the members of the nominating committee designated by the nominating petition of the affected candidate shall file with the Summit County Board of Elections, not less than thirty (30) days before either the primary election, or the regular Municipal election, a sworn, notarized statement, signed by a minimum of three (3) members of such committee, designating the person they select to fill such vacancy. Such statement must be accompanied by the written acceptance of the person so certified as their candidate choice.

ARTICLE X - GENERAL PROVISIONS

10.01 Initiative

The electors of the Municipality shall have the power to propose ordinances and other measures by initiative petition in accordance with provisions of the Constitution and laws of Ohio now and hereafter in effect.

10.02 Referendum

The electors of the Municipality shall have the power to approve or reject at the polls any ordinance or other measure enacted by Council in accordance with the provisions of the Constitution and laws of Ohio now or hereafter in effect.

10.03 Recall

The electors of the Municipality shall have the power to remove from office by a recall election any person holding an elective position of the Municipality. If a person holding an elective position shall have served six months of a term, a form of petition demanding removal may be filed with the Clerk of Council, who shall note thereon the name and address of the person filing the petition, and the date of such filing, and deliver to such person a receipt therefore and attach a copy thereof to said petition. A petition in such form may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain the name and address of the person whose removal is sought and a statement in not more than two hundred (200) words on the ground(s) for the removal. Such petition shall be signed by at least that number of electors which equals twenty-five percent of the total number of electors voting at the last preceding regular Municipal election for the office of the officer sought to be recalled. Except as expressly modified herein, all such petitions in form, circulation, placement and withdrawal of signatures, alterations and corrections, shall conform to the laws of the State of Ohio applicable to the holding of any issue.

Within ten days after the day on which such petition shall have been filed, the Clerk of Council shall determine whether or not it meets the requirements hereof. If the Clerk of Council shall find

the petition insufficient, the Clerk shall promptly certify the particulars in which the petition is defective, deliver a copy of the Clerk's certificate to the person who filed the petition, and make a record of such delivery. Such person shall be allowed a one-time period of twenty days after the day on which delivery was made in which to make the petition, and all parts thereof if so filed, sufficient. If the Clerk of Council shall find the petition sufficient, the Clerk shall promptly so certify to the Council, shall deliver a copy of such certificate to the officer whose removal is sought, and make a record of such delivery.

If the person whose removal is sought shall not resign within five days after the day on which the Clerk's certificate shall have been delivered, Council shall, by ordinance or resolution, fix a day for holding a recall election, which date shall not be less than forty days nor more than sixty days after the date of the Clerk's certification of sufficiency to the Council, and shall cause notice of such recall election to be published on the same day of each week for two consecutive weeks in a newspaper of general circulation in the City. At such recall election, this question shall be placed upon the ballot: "Shall (naming the person whose removal is sought) be allowed to continue as (naming the office)," with the provision on the ballot for voting affirmatively or negatively. In the event of a majority of the vote is negative, such person shall be removed, the office shall be vacant, and such vacancy shall be filled as provided in this Charter. If the person is not removed at such recall election, no further recall petitions shall be filed against him or her for a period of one year following such election.

10.04 Resignation

No person holding an elective office of the Municipality who resigns from his or her office shall be eligible for appointment to any elective position with the Municipality during the term for which the person was elected.

10.05 Removal

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

As used in this section of the Charter, the "charging official" shall mean: the Mayor, except where the person accused of a ground(s) for removal is the person holding the office of Mayor; or the President of Council where the person sought to be removed for cause holds the office of Mayor.

The charging official, if he/she has reason to believe there is probable cause (as such causes are defined in this section) for removal of an elected official or member of a Municipality board or commission, shall give notice of the alleged cause for removal and the time, date, and place of the commencement of a hearing for removal, which shall not be earlier than ten (10) days after the service of the notice to the accused person by personal service, certified mail or by leaving a copy of such notice at the person's last known place of residence in the Municipality. At such time, date, and place and at any adjourned meetings of such hearing, the Council shall hear the cause for removal, shall provide an opportunity for the accused person to be heard and present defenses, and shall determine whether the accused person shall be removed from office.

The Council may remove an official for any of the following causes by a two-thirds (2/3) vote of the members of Council. Such person shall not vote on any matter during the removal procedure,

and shall not be counted in determining required majorities. The following are grounds for the removal of elected officials and members of Boards and Commissions:

- 1) Failure to possess or maintain the qualifications of office required pursuant to the provisions in this Charter.
- 2) Has been adjudicated mentally incompetent.
- 3) Is guilty of gross misconduct, gross neglect of duty, misfeasance, malfeasance, or nonfeasance in office.
- 4) Failure to take the required oath, or to give any bond required of him/her within twenty (20) days after the effective date of his/her election or appointment, or obligation to give a new or additional bond.
- 5) Has violated the oath of office.
- 6) Conviction of a felony or other crime involving moral turpitude.
- 7) Gross failure of a member of Council or of a Municipality board or commission to abide by the rules of Council or the Municipality board or commission, as appropriate; or absence from three (3) consecutive regular meetings of the Council or Municipality board or commission without being excused by Council or the Municipality board or commission, as appropriate.

Upon the removal of an official from office pursuant to this Section, the office of the offending person shall be declared vacant, subject to any appeal to and review by an appropriate court, and the vacancy shall be filled as provided in this Charter.

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

Council shall be the judge of the qualifications of and of the grounds for removal from office and shall conduct the proceedings relative to removal. Council shall have the power to subpoena witnesses, administer oaths, and require the production of evidence, either on its own motion or through the process of any appropriate court or officer thereof. A person charged with conduct constituting grounds for removal from office shall receive a public hearing, and a record of the proceedings shall be made and preserved. A notice of such hearing shall be published in at least any one (1) newspaper of general circulation in the Municipality at least one (1) week in advance of the hearing, and in such event, the President of Council, or other presiding officer of Council, may reschedule the time, date, and place of the hearing to accommodate the publication of the notice. If the hearing is rescheduled, the President of Council, or other presiding officer, shall notify the accused person of such fact. Decisions made by Council under this Section shall be subject to review by the Courts on matters of law and whether Council acted arbitrarily and without probative evidence to support the grounds for removal.

The Director of Law or special counsel engaged by the Director of Law, shall prosecute the removal proceedings before Council and any review thereof by the courts. If a person accused is

not finally removed, the Municipality shall pay the reasonable costs of the defense of such person and any compensation withheld pending the appeal of the action of Council.

10.06 Conflicts of Interest, Ethics, Campaign Financing

The laws of Ohio pertaining to conflicts of interest, criminal misbehavior, ethics and financial disclosure by municipal officials and employees, and campaign financing and other election practices of candidates for municipal office shall apply under this Charter.

No officer, employee, or board and commission members of the Municipality shall directly or indirectly solicit, contract for or receive any gift, profit or emolument from or on account of, any contract, job, work, or service with or for the Municipality, other than his or her compensation for expenses as fixed by Council.

10.07 Oath of Office

Every elected officer of the Municipality and every appointed Board and Commission Member shall be required to subscribe to an oath or affirmation, that the elected officer, Board and Commission Member will in all respects faithfully discharge the duties of his or her office, before entering upon the duties thereof.

The following oath or affirmation, or some other suitable oath or affirmation, shall be signed by each elected officer and Board or Commission Member and filed with the Council.

*City of New Franklin
Oath of Office*

I, <state your name>, do solemnly and sincerely promise and swear or affirm that I will conform to and uphold the Constitution of both the United States of America and the State of Ohio, and will support the Charter and all ordinances and resolutions of the City of New Franklin, Ohio;

I will be loyal and, with strict adherence, obey the duties of my office set forth by law and the will of the citizens of the City of New Franklin, Ohio.

Failure to take the oath or affirmation or failure to sign the oath or affirmation shall disqualify the official from holding his or her public office within the Municipality. *(Amended 11/20/24)*

10.08 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 sections 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.

ARTICLE XI - Charter

11.01 Amendments to Charter

(A) Submission to Electors

Council may, by affirmative vote of two-thirds (2/3) of its members, submit to the electors any proposed amendment to this Charter, or, upon petition signed by not less than five (5) percent of the electors of the Municipality, that voted in at the last general election, setting forth any proposed amendment to this Charter, Council shall submit such proposed amendment to the electors in accordance with the provisions of the Constitution and laws of the State of Ohio.

(B) Adoption

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 (2) or more inconsistent proposed amendments on the same subject be 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 the Charter.

11.02 Effect of Charter Upon Existing Laws and Rights

The adoption of this Charter shall not affect any pre-existing rights of the Municipality, nor any right or liability or pending suit or prosecution, either on behalf of or against the Municipality or any officer thereof, nor any franchise granted by the Municipality, nor pending proceedings for the authorization of public improvements or the levy of assessments thereof. 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 XII - Eminent Domain

12.01 Public Use

(A) Notwithstanding any other provision of law, neither this municipal government or any political subdivision thereof, nor any other condemning entity shall use eminent domain unless it is necessary for a public use.

(B) The term “public use” shall only mean the possession, occupation and enjoyment of the land by the general public, or by public agencies, or the use of land for the creation or functioning of public utilities or common carriers such as railroad, utility, or toll road; the acquisition of property to cure a concrete harmful effect of the current use of the land, including the removal of public nuisances, structures that are beyond repair or that are unfit for human habitation or use, and the acquisition of abandoned property.

(C) The public benefits of economic development, including an increase in tax base, tax revenues, employment, general economic health, shall not constitute a public use.

(D) The municipal government or any political subdivision thereof or any other condemning entity shall not use eminent domain to take private property, without the consent of the property owner, to be used for private commercial use.

ARTICLE XIII - Transitional Provisions

13.01 Effective Date

The provisions of this Charter shall be submitted to the voters at the general election to be held in November 2006. This Charter, if approved, shall become effective January 1, 2007, except as may otherwise be provided for in this Charter.

13.02 Creation of Wards

Council shall enact an ordinance dividing the municipality into four (4) wards according to the manner prescribed in Section 4.02 of this Charter.

13.03 Initial Municipality Officers

Upon the effective date of this Charter, the Mayor and Council defined under this Charter shall be composed of the currently serving Mayor and Council of the City of New Franklin. Such offices shall continue to be compensated as previously authorized until Council revises the method or rate of compensation by ordinance or resolution in accordance with the provisions in this Charter.

Should any official of the Municipality occupy an elective office by reason of appointment to fill a vacancy occurring before the effective date of this Charter, he or she shall serve as an appointed official until elected or replaced by a person elected to fill the unexpired term in accordance with the provisions of the Charter dealing with vacancies in office (Section 3.03 C for Mayor, and 4.05 for Council members).

These officials shall have all the rights and powers provided herein the same as if they had been elected under the provisions of this Charter.

The Mayor, whose term expires December 31, 2009, may serve his four-year term before being replaced by a mayor elected in the regular municipal election of November 2009; and again every four (4) years thereafter.

The four (4) Council-at-Large members, whose terms expires in December 31, 2009, may serve their four (4) year terms, before being replaced by three (3) Council-at-Large members elected in the regular municipal election in November 2009; and again four (4) years thereafter.

The two (2) Council-at-Large members, whose two terms expire December 31, 2007, shall be replaced by four (4) Ward Council members, elected in the regular municipal election in November 2007.

Currently elected Council-At-Large members who choose to run for their respective Ward Council positions in the regular municipal election in November 2007 may do so without relinquishing their at-large council seat should they lose the Ward election. Up to three (3) council-at-large seats vacant after the Ward election must be filled by Council to bring the total Council membership to seven (7). Council will elect at-large members under Section 4.05 A, B and C of this Charter.

Should no council members at-large run for and get elected to one of the four (4) Ward council member positions, Council will operate with eight (8) members until a vacancy occurs in an at-large position or the 2009 election, whichever comes first.

13.04 Abolishment of Offices

The elected office of Clerk/Treasurer is eliminated by the State statute for Cities and under the provisions of this Charter.

The elected Village of New Franklin Clerk/Treasurer shall be offered the position of Finance Director/Clerk of Council, a part-time position reporting to the Mayor and the Council respectively, until the Clerk/Treasurer term expires March 31, 2010. After the expiration date, or sooner, if the position becomes open, a Finance Director will be appointed by the Mayor and approved by Council, according to Section 6.03 A and B of this Charter and a Clerk of Council shall be appointed by Council according to Section 4.07.

During the time that the Clerk/Treasurer serves as Finance Director/Clerk of Council, Council cannot lower or raise the compensation for that position during the transition term.

13.05 First Election

The first election under this Charter shall be held on the first Tuesday after the first Monday in November 2007, unless it is necessary, under the provisions of this Charter, for a primary election to be held in accordance with the provisions of this Charter.

13.06 Continuance of Present Employees

Upon the effective date of this Charter all individuals lawfully appointed and employed by the Municipality, shall continue employment with the new City of New Franklin under the same terms, privileges, duties, and responsibilities, and with no loss in pay and in the same position to which such employees would normally be assigned, subject to the following:

(A) That no civil service, psychological or physical examinations shall be required of such employees to qualify for initial employment with the new Municipality.

(B) That nothing in the terms and conditions of this Charter shall be construed so as to limit the lawful authority of the new Municipality to determine employment requirements beyond the effective date of this Charter, or to create any expectancy of employment or re-employment beyond the effective date of this Charter.

Any officer or employee who has been in the classified service of the Municipality for a period of more than ninety (90) days on the effective date of this Charter or who has been continuously and permanently employed for more than ninety (90) days in a position which will be included in the classified service as a result of the adoption of this Charter, shall retain his/her position until discharged, reduced, promoted or transferred pursuant to the provisions of civil service.

13.07 Continuance of Present Board and Commission Members

All existing Boards and Commissions shall remain in their current terms and shall continue pursuant to the ordinances and resolutions creating them until such time as they shall be revised. All present members to Boards and Commissions will remain in their present positions for their current terms unless removed pursuant to Section 10.05 of this Charter.

13.08 Continuation of Ordinances

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

13.09 Continuance of Contracts and Public Improvements

All contracts entered into by the Municipality or for its benefit prior to the taking effect of the Charter shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws existing at the time this Charter takes effect shall be completed, as nearly as practicable, under the provisions of such laws.

13.10 Pending Actions and Proceedings

No action or proceeding, civil or criminal, pending at the time when this Charter takes effect, brought by or against the Municipality or any office, agency, or officer thereof, shall be abated or affected by anything herein contained, but all such actions shall be prosecuted or defended under the laws in effect when they were filed.

13.11 Succession

The City of New Franklin, under this Charter, is hereby declared to be the legal successor of the City of New Franklin, under the general laws of the State of Ohio, and as such it has title to all property, real and personal, owned by its predecessor including all moneys on deposit and all taxes in process of collection together with all accounts receivable and rights of action. The Municipality is liable for all outstanding orders, contracts, and debts of its predecessor, and for any other obligations for which it may be held liable, as such successor, by any court of competent jurisdiction. All contracts entered into by the Municipality for its benefit prior to the effective date of this Charter, shall continue in full force and effect.

All laws and parts of laws relating to or affecting the Municipality in force when this Charter shall take effect are hereby repealed and superseded to the extent that the same are inconsistent with the provisions of the Charter; however, all laws, ordinances and regulations not inconsistent with the provisions of the Charter shall continue in full force and effect until the same shall be lawfully amended or repealed under the terms and provisions of this Charter.

13.12 Definition of Majority

For as long as Council shall consist of seven (7) members, a simple majority shall be deemed to be four (4) members, a two-thirds (2/3) majority shall be deemed to be five (5) members, and a three-fourths (3/4) majority shall be deemed to be six (6) members. Should the size of Council be different, the number of votes satisfying these definitions shall be revised appropriately to be consistent with the stated types of majority, providing that the number of votes satisfying each definition shall be different and unique.

Certificate

We, the qualified members of the Charter Commission of the City of New Franklin, Ohio, elected November 8, 2005, have framed the foregoing Charter and have fixed November 7, 2006 as the time of the election which the Charter shall be submitted to the electors of the City of New Franklin.

John Perduyn, Chairman

Robin I. Aikey, Vice-chairman
Jim Berry
Bill Hunter
Sylvia Johnson
Nick Kechkes
Gladding Miller
Minnie Pritchard

Carol Adamson
Fred Ford-Smith
Martin Hyatt
Dick Lowry
Glenn Lackey
R. C. Norris
Perry Surgeon

Charter Commission of the City of New Franklin

Amended 11/24/14

Amended 11/26/19

Amended 11/20/24

2009 Charter Review Commission

Andrea Norris (Chair), Robert Armbruster, Jim Berry, Bill Hunter, Robert Nitzsche, Eric Roberts, Richard Sponseller

2014 Charter Review Commission

Joseph D. Parsons (Chair), Carol Adamson, Robin Aikey, Bill Hunter, John Perduyn, Eric Roberts, Perry Surgeon

2019 Charter Review Commission

Joseph D. Parsons (Chair), Carol Adamson, Lynn Clark, Scott Fischer, Harry Gehm, Nela Lucy, Mary Stormer

2024 Charter Review Commission

David Stock (Chair), Scott Fischer (Vice Chair), Carol Adamson, Lynn Clark, Mark Webb, Rosemarie Millican, Judy Williams

City Organization Under Charter

