

**THE SECOND AMENDED CHARTER
OF THE
CITY OF LAKEWOOD**

EDITOR'S NOTE: The Second Amended Charter was adopted on November 7, 2000. Dates appearing in parentheses following a section heading indicate those provisions were subsequently adopted, amended or repealed on the date given.

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**THE SECOND AMENDED CHARTER
OF THE
CITY OF LAKEWOOD**

PREAMBLE

We, the people of the City of Lakewood, in the County of Cuyahoga and State of Ohio, in order that we may have the benefits of municipal home rule and exercise all the powers of local self- government, do frame and adopt this Charter for the government of the City.

ARTICLE I.
POWERS

SECTION 1. POWERS.

The City shall have all power now or hereafter granted to municipalities by the Constitution and laws of the State.

SECTION 2. MANNER OF EXERCISE.

All powers shall be exercised in the manner prescribed by this Charter, or if not prescribed herein, then in such manner as shall be provided by ordinance or resolution of Council. (Amended 11-8-11)

SECTION 3. INTERPRETATION.

Words and phrases used in this Charter shall, unless the context clearly requires otherwise, be interpreted in the same manner as provided in the Ohio Revised Code relating to the interpretation of the statutes of the State. As used in this Charter, the term "general law" is that law which cannot be altered or required by Charter. (Amended 11-8-11)

ARTICLE II.
THE EXECUTIVE

SECTION 1. EXECUTIVE AND ADMINISTRATIVE POWERS.

The executive and administrative powers of the City shall be vested in the Mayor, directors of departments, and other administrative officers provided for in this Charter or by ordinance.

SECTION 2. RESIDENCY, TERM AND QUALIFICATIONS OF MAYOR.

The Mayor shall be elected for a term of four (4) years, commencing on the first day of January next following his or her election, shall have been for at least one (1) year immediately prior to the date of taking office both a resident of the City and a qualified

elector of the City, and shall continue as both a resident and qualified elector of the City during his or her term of office.

SECTION 3. MAYOR EX-OFFICIO DIRECTOR.

The Mayor, subject to the provisions of this Charter, shall be ex officio the Director of Public Safety and, as such and to that extent, shall exercise all powers and perform all duties delegated to and conferred upon the Director of Public Safety by this Charter, by ordinance, and by general law.

SECTION 4. MAYOR'S APPOINTMENT POWER.

The Mayor shall appoint, with approval of Council, and may remove, if and when the office is created, the Director of Public Safety, and shall appoint, with the approval of Council, and may remove the Director of Public Works, the Director of Law, the Director of Finance, the Director of Planning and Development, the Director of Human Services and the Health Commissioner. The Mayor shall make all other appointments under the provisions of this Charter not herein otherwise provided for by general law or ordinance; such appointees shall serve until removed by the Mayor or until their respective successors are appointed and qualified. (Amended 11-5-02.)

SECTION 5. SALARY OF THE MAYOR.

The salary of the Mayor shall be established by ordinance, provided that such ordinance must be adopted not less than thirty (30) days prior to the final date fixed by law for the filing of nomination petitions by candidates for the office of Mayor for the ensuing term, and subject to further provisions of this Charter.

The biennial report of the Civil Service Commission shall recommend the Mayor's salary to the Council. (See Article XI, Section 7.) Council shall accept, reject, or modify the Civil Service Commission's recommendations within 60 days of its receipt. No modification can increase the salary recommendations for the Mayor. No recommendation under this Section shall have any effect without Council action.

No change in the base salary for the Mayor shall take effect during the current term, except that in January of odd number years, and in any year in which base salary is not changed pursuant to the recommendations of the Civil Service Commission, the salary of the Mayor shall be increased by the same percentage as used for the last preceding increase in Social Security payments. (Amended 11-8-05.)

SECTION 6. GENERAL POWERS AND DUTIES OF MAYOR.

The Mayor shall be the chief conservator of the peace within the City; shall supervise the administration of the affairs of the City; shall see that all ordinances of the City are enforced; shall recommend to the Council for adoption such measures as the Mayor may deem necessary or expedient; shall keep Council advised of the financial condition and future needs of the City; shall prepare and submit to Council such reports as may be required by that body; and shall exercise such powers and perform such duties as are conferred or required by this Charter, by ordinance or resolution of Council, or by general law.

SECTION 7. MAYOR'S INVESTIGATION.

The Mayor may, without notice, cause the affairs of any department or the conduct of any officer or employee to be examined. The Mayor or any person or persons appointed by the Mayor may examine the affairs of any department or the conduct of any officer or employee. (Amended 11-8-11)

SECTION 8. ACTING AND INTERIM MAYOR.

- (A) Temporary Absence. When the Mayor is absent and inaccessible, or is unable for any cause to perform the duties of the office of Mayor, the person designated by ordinance or resolution of Council shall be the Acting Mayor until the Mayor resumes the office.

If the Mayor does not resume the office within sixty (60) days, Council may declare the office vacant and appoint an Interim Mayor as specified in subsection (B) of this section.

- (B) Vacancy in the Office of Mayor. In the case of the death, resignation or removal of the Mayor or the Mayor ceasing to reside within the City, Council shall appoint an Interim Mayor. Until the Council meets and appoints, by a majority vote of its members, a person qualified to be an elective officer of this City to serve as Interim Mayor, the Acting Mayor shall assume the duties of the office. The appointment of an Interim Mayor shall be made within sixty (60) days of such vacancy.

The term of any Interim Mayor filling such a vacancy shall expire at the end of the unexpired term of the former Mayor if that vacancy occurs two (2) years and one hundred five (105) days or less before the next regular election to be held for the office of Mayor, or otherwise until his or her successor is elected and qualified at the next regular municipal election. Any vacancy that results from a recall election shall be filled in the manner provided by Article XXII of this Charter. (Amended 11-8-11)

SECTION 9. LOCATION OF OFFICE; FULL-TIME POSITION.

The Mayor's office shall be located at City Hall. The Mayor is to serve the City on a full-time basis. While the Mayor shall devote his or her primary time and attention to the business of the City, holding the office of the Mayor does not necessarily preclude limited outside employment, provided that such outside employment does not conflict or interfere with carrying out the duties assigned by this Charter or general law, or otherwise violate any provision of this Charter or general law.

SECTION 10. RIGHT OF MAYOR AND DIRECTORS IN COUNCIL.

The Mayor and the directors of all departments established by this Charter, or that may be established by ordinance, shall be entitled to participate, as provided herein, in meetings of Council. The Mayor shall be entitled to introduce ordinances and resolutions and shall be entitled to take part in the discussion of all matters coming before Council.

The directors of departments shall be entitled to take part in all discussions in Council relating to their respective departments.

ARTICLE III. THE COUNCIL

SECTION 1. MEMBERSHIP, ELECTION AND TERM.

The legislative powers of the City, except as limited by this Charter, shall be vested in a Council consisting of seven (7) members, one (1) of whom shall be a resident of and elected from each of the four (4) wards in the City and three (3) of whom shall be elected at large. All members of Council shall serve for a term of four (4) years commencing on January 1 of the year following the date of the member's election.

SECTION 2. QUALIFICATIONS AND VACANCIES.

Each member of Council shall have been for at least one (1) year immediately prior to the date of taking office both a resident and qualified elector of the City. Each member of Council elected from a ward of the City shall be a resident of the ward from which such member was elected. All members of Council shall continue to be residents and qualified electors of the City and, if elected or appointed from a ward, shall be and continue to be a resident of that ward. Any member who ceases to possess such qualifications shall forthwith forfeit his or her office. Vacancies in Council shall be filled by the remaining members thereof, provided that in the event Council does not so appoint a successor within sixty (60) days of the occurrence of a vacancy, the Mayor may fill the vacancy. The term of any appointee filling such a vacancy shall expire at the end of the unexpired term of the former Councilmember if that vacancy occurs two (2) years and one hundred five (105) days or less before the next regular election to be held for the office of the former Councilmember, or otherwise until his or her successor is elected and qualified at the next regular municipal election. Any vacancy that results from a recall election shall be filled in the manner provided by Article XXII of this Charter. (Amended 11-8-11.)

SECTION 3. SALARIES.

The salaries of the Council shall be established by ordinance, provided that such ordinance must be adopted not less than thirty (30) days prior to the final date fixed by law for the filing of nomination petitions by candidates for the office of member of City Council of the City for the next succeeding term, and subject to further provisions of this Charter.

The biennial report of the Civil Service Commission shall recommend Council salaries to the Council. (See Article XI, Section 7.) Council shall accept, reject, or modify the Civil Service Commission's recommendations within 60 days of its receipt. No modification can increase the salary recommendations for either the members of Council. No recommendation under this Section shall have any effect without Council action.

The salary of a specific member of Council shall not be increased or decreased during the term in which any change in the salary is made. (Amended 11-8-05.)

SECTION 4. MEETINGS.

At seven-thirty (7:30) p.m. on the first Monday in January following each regular municipal election or, if such Monday falls on a Holiday, on the first Tuesday, Council shall meet at the usual place of holding such meetings, at which time the Council shall elect its officers for the next two years. Thereafter Council shall meet at such times as may be prescribed by its rules, or by ordinance or resolution. The President and Vice President of Council shall each be elected by a majority vote of Council. The member of Council present who has the longest consecutive tenure of office shall preside over the organizational meeting until the President of Council is elected. The Mayor, President of Council, or any three (3) members thereof may call special meetings of the Council upon written notice served personally upon each member or at his or her usual place of residence, at least six hours previous to the time fixed for such meeting. Any such request for special meeting shall state the subject or subjects to be considered at the meeting and no other subject shall be there considered.

SECTION 5. ORGANIZATION AND OPEN MEETINGS.

The Council shall be the judge of the election and qualification of its members. A majority of members shall be a quorum to do business but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the acting members of Council shall be necessary to adopt any ordinance or resolution and on the passage thereof a vote shall be taken by yeas and nays and entered upon the journal. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings. All meetings of the Council or committees thereof shall be open to the public, except that Executive Sessions may be held in accordance with the Ohio Revised Code. Any citizen shall have access to the minutes and records thereof at all reasonable times. (Amended 11-8-11)

SECTION 6. PRESIDENT OF COUNCIL.

The President of Council shall preside at all meetings of Council and shall perform such duties as may be imposed by Council upon its presiding officer and such duties as imposed upon that office by this Charter. The President of Council shall have the same right to vote on all matters presented to Council as any other member of Council.

SECTION 7. CLERK, VICE PRESIDENT AND OTHER OFFICERS OF COUNCIL.

The Council shall choose a Clerk of Council and such other officers and employees it shall determine to be necessary. The Clerk of Council shall keep the records of the Council and perform such other duties as may be required by this Charter or by Council. All officers, other than the Vice President of Council, and employees so chosen under this Section of the Charter shall serve at the pleasure of Council. Council shall elect a Vice President of Council, who shall, in the event of a vacancy in the office of or the temporary absence or disability of the President of Council, serve as Acting President of Council and shall exercise the powers and perform the duties of the President of Council until the vacancy in the office of President of Council is filled by Council or until the temporary absence or disability of the President of Council ends.

SECTION 8. ENACTMENT OF ORDINANCES AND RESOLUTIONS.

Each proposed ordinance or resolution shall be introduced in written or printed form and shall not contain more than one subject, which shall be clearly stated in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are appropriated. On the passage of each ordinance or resolution the vote shall be taken by yeas and nays and entered upon the Journal. No resolution of a permanent character or ordinance shall be passed until it has been read by title only, unless a majority shall request that it be read in its entirety on three (3) separate days unless the requirement of reading on three (3) separate days has been dispensed with by a two-thirds (2/3) vote of all the members of Council taken by yeas and nays and entered upon the Journal, but no ordinance or resolution shall under any circumstances be adopted or passed unless it has been read on three (3) separate days, (a) which changes the amount of salary or compensation for any elected officer of the City, (b) which amends any zoning ordinance, (c) which grants, renews or extends a franchise or other special privilege, (d) which regulates the rate to be charged by a public utility for its services. The enacting clause of all ordinances passed by the Council shall be "Be it ordained by the City of Lakewood." The enacting clause of all ordinances submitted by the initiative shall be "Be it ordained by the people of the City of Lakewood." No ordinance or resolution or section thereof shall be revised or amended unless the new ordinance or resolution contains the entire ordinance or resolution or section to be revised or amended, and the ordinance, resolution, section or sections so amended shall be repealed. (Amended 11-8-11)

SECTION 9. VOTER APPROVAL OF ORDINANCES AND RESOLUTIONS.

Any ordinance or resolution listed below in paragraphs (a) and (b) shall not become effective until Council submits the ordinance or resolution to the electorate at a regular Municipal or general election occurring more than 60 days after the passage of the ordinance or resolution and the ordinance or resolution is approved by a majority of the electors voting thereon in the City.

- (a) One providing for an increase in the rate of municipal income tax charged on taxable income within the City under the municipal income tax provisions; or
- (b) One providing for a reduction in the resident income tax credit for residents of the City under the municipal income tax provisions. (Amended 11-8-05.)

SECTION 10. MAYOR'S APPROVAL OR DISAPPROVAL OF LEGISLATION.

Any ordinance or resolution passed by Council shall be signed by the presiding officer and presented to the Mayor by the Clerk of Council. If the Mayor approves the ordinance or resolution, the Mayor shall sign it within ten (10) days after its passage or adoption. If the Mayor does not approve it, the Mayor shall return it to the Council with a statement of objections to such measure within said ten (10) days, or if Council is not then in session, at the next regular meeting thereof, which objections Council shall cause to be entered in its minutes. If the Mayor does not sign or disapprove an ordinance or resolution within the time specified, it shall take effect in the same manner as if the Mayor had signed it. The Mayor may approve or disapprove the whole or any item or part of any ordinance or resolution appropriating money, but otherwise the approval or disapproval shall be addressed to the entire ordinance or resolution. When the Mayor refuses to sign an

ordinance or resolution or part thereof and returns it to Council with objections, Council shall not later than the next regular meeting proceed to reconsider it, and, if upon consideration the ordinance or resolution or part or item thereof disapproved by the Mayor is approved by the vote of at least five (5) members of Council, it shall then take effect as if it had received the signature of the Mayor.

SECTION 11. RECORDING OF LEGISLATION; CODIFIED ORDINANCES.

All ordinances or resolutions upon their final passage or adoption shall be recorded in a book kept for that purposes and shall be authenticated by the signatures of the presiding officer and the Clerk of Council. Ordinances of a general and permanent nature shall, after their effective date, be incorporated into the Codified Ordinances of the City, which shall include, in such form as Council shall prescribe, a record of all ordinances of a general and permanent nature organized and maintained in such manner as to be available for public inspection at all reasonable times.

SECTION 12. PUBLICATION.

The Council may prescribe the manner of giving public notice of the enactment of any and all ordinances, resolutions or other acts, procedures, statements, including financial statements, or reports required by law to be published or given; provided, however, that such manner prescribed by Council shall require that notice be given, for a period of not less than fifteen (15) days. (Amended 11-8-11)

SECTION 13. EFFECTIVE DATE OF LEGISLATION.

- (A) Each ordinance or resolution providing for the appropriation of money, an improvement petitioned for by a majority of the owners of property to be benefited and specially assessed therefor, or any ordinance or resolution as to which Council provides, by the affirmative vote of at least five (5) of its members, for reasons stated in a separate section or preamble thereof, for the immediate effectiveness thereof, shall take effect, unless a later date is specified therein, upon its passage or adoption and approval by the Mayor, or upon the expiration of the time within which it may be disapproved by the Mayor, or upon its passage or approval notwithstanding the disapproval by the Mayor, as the case may be, as provided in Section 10 of Article III of this Charter. Notwithstanding the preceding sentence, ordinances or resolutions of the character described in Section 8 of this Article III shall not be subject to such action by Council.
- (B) No other ordinance or resolution shall become effective until forty (40) days after (a) its passage or adoption and approval by the Mayor, (b) the expiration of the time within which it may be disapproved by the Mayor, or (c) its passage or adoption notwithstanding the disapproval by the Mayor, as the case may be, as provided in Section 10 of this Article III.

SECTION 14. ESTIMATE OF EXPENSE; APPROPRIATION ORDINANCES.

The fiscal year of the City shall begin the first day of January. On or before the fifteenth day of November in each year, the Mayor Director of Public Works and Director of Finance shall prepare an estimate of the expense of conducting the affairs of the City for

the following year; this estimate shall be compiled from detailed information obtained from the various departments on uniform blanks prepared by the Director of Finance, and shall set forth:

- (a) An itemized estimate of the expense of conducting each department;
- (b) Comparisons of such estimates with the corresponding items of expenditures for the last two complete fiscal years and with the expenditures of the current fiscal year plus an estimate of expenditures necessary to complete the current fiscal year;
- (c) Reasons for proposed increases or decreases in such items of expenditures compared with the current fiscal year;
- (d) A separate schedule for each department showing the things necessary for the department to do during the year and which of any desirable things it ought to do if possible;
- (e) Items of payroll increases as either additional pay to present employees, or pay for more employees;
- (f) An itemization of all anticipated revenue from taxes and other sources;
- (g) The amounts required for interest on the City's debt, and for bond retirement funds as required by law;
- (h) The total amount of the outstanding City debt with a schedule of maturities of bond issues and any other long-term financial obligations of the City;
- (i) Such other information as may be required by Council. Upon receipt of the estimate, Council shall thereafter pass, taking the estimate into consideration, temporary or permanent appropriation ordinances as provided by general law. No money, from whatever source derived, shall be appropriated for use by or at the direction of individual members of Council. Provision shall be made for public hearings upon the proposed appropriation ordinance before a committee of Council or before the entire Council sitting as a committee of the whole.

SECTION 15. APPROPRIATIONS OF BALANCE OR ACCRUING REVENUE NOT ALREADY APPROPRIATED.

Any accruing revenue of the City not appropriated as hereinbefore provided, and any balance at any time remaining after the purposes of the appropriation shall have been satisfied or abandoned, may from time to time be appropriated by Council to such uses as will not conflict with any uses for which specifically such revenues accrued.

SECTION 16. DRAWING MONEY FROM THE TREASURY; UNEXPENDED BALANCES REVERT.

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except pursuant to appropriations made by Council,

and whenever an appropriation is so made the Clerk of Council shall forthwith give notice to the Director of Finance. At the end of each year, all unexpended balances of appropriations shall revert to the respective funds from which the same were appropriated and shall then be subject to future appropriation; but appropriations may be made in furtherance of improvements or other objects or work of the City that will not be completed within the current year. Money appropriated as hereinbefore provided shall not be used for purposes other than those designated in the appropriation ordinance without authority from Council.

SECTION 17. BONDS REQUIRED.

Council shall establish the amount of bond to be given by each officer, clerk and employee in each department of the City government, if any be required; which bond shall be given by such officer, clerk or employee with surety to the approval of the Mayor. Premiums on such official bonds may be paid by the City.

ARTICLE IV. DEPARTMENTS

SECTION 1. DEPARTMENTS ESTABLISHED.

The following departments are hereby established by this Charter: a Department of Public Works, a Department of Public Safety, a Department of Law, a Department of Finance, a Department of Planning and Development, and a Department of Human Services. Council shall provide for the organization of such departments. Council shall have the power to establish additional departments as the public service may require.

SECTION 2. DIRECTORS OF DEPARTMENTS.

Unless otherwise provided in this Charter, the head of each department shall be a director, appointed by the Mayor, and shall serve at the Mayor's pleasure until removed by the Mayor or until his or her successor is appointed and is qualified to serve. Each director shall administer his or her department in accordance with this Charter, applicable ordinances, and rules and regulations made by the Mayor pursuant thereto, and otherwise in accordance with law. Each director shall, subject to applicable civil service regulations, appoint, promote, transfer, reduce or remove heads of divisions and officers and employees within such director's department.

ARTICLE V. DEPARTMENT OF PUBLIC WORKS

SECTION 1. DUTIES OF DIRECTOR.

The Director of Public Works shall:

- (a) Have charge of the construction, improvement, repair and maintenance, including engineering and inspection in connection therewith, of: streets and other public highways, sidewalks, wharves, docks, and landings; sewers, drains, ditches, culverts, canals, streams, watercourses and harbors; public buildings; the

water works; parks, playgrounds, boulevards, cemeteries, squares and other public places and grounds belonging to the City or dedicated to public use;

- (b) Manage and control any public markets, sewage disposal plants, and all public utilities of the City supported in part or in whole by taxation and shall enforce all the obligations of privately owned or operated public utilities enforceable by the City; and
- (c) Have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for any public work; the cleaning, sprinkling and lighting of streets and public places; the collection and disposal of waste; the preservation of contracts, papers, tools and appliances belonging to the City and pertaining to the functions of the Department.

SECTION 2. PUBLIC IMPROVEMENTS.

- (A) Public improvements, works and repairs of all kinds, except those relating to Lakewood Hospital, shall be made by the Department of Public Works, either by direct employment of labor and the purchase of the necessary supplies and material, with separate accounting as to each improvement so made, or by contract. Council shall determine by which method any improvement shall be made. All such contracts shall be executed in the name of the City by the Director of Public Works only after approval by Council.
- (B) All such contracts entailing expenditures by the City in excess of a dollar amount as may be specified by ordinance shall be awarded to the lowest and best bidder after approval by Council and after competitive bidding, unless competitive bidding is determined by Council not to be required. Council may prescribe the procedures for competitive bidding, and determine the circumstances, if any, under which competitive bidding shall not be required.
- (C) Unless Council provides otherwise, the general law shall govern with respect to: the dollar amounts in excess of which competitive bidding shall be required; the procedures for competitive bidding; and the circumstances under which competitive bidding shall not be required. All contracts subject to competitive bidding under this Division shall be awarded to the lowest and best bidder after approval by Council.

ARTICLE VI. DEPARTMENT OF PUBLIC SAFETY

SECTION 1. DIVISIONS ESTABLISHED.

The Department of Public Safety shall be organized under at least three divisions, which shall include:

- (a) Division of Police.
- (b) Division of Fire.

(c) Division of Housing and Building.

Council may establish other divisions within the Department.

SECTION 2. DUTIES OF DIRECTOR.

Unless Council creates the office of Director of Public Safety and establishes the salary of such officer, the Mayor shall be ex officio the Director of Public Safety. The Director shall make all necessary rules and regulations for the government of the Department and the divisions thereof. The Director shall enforce all police, fire, health, safety, and sanitary regulations that may be prescribed by ordinances or rules of the City or by general law.

SECTION 3. ORGANIZATION.

The Divisions of Police and Fire shall each be under the charge of a Chief, and the Division of Housing and Building shall be under the charge of a Commissioner. Each division shall be further composed of such officers and employees as may be provided by ordinance. In case of disaster, riot, conflagration or epidemic the Mayor may appoint additional police officers, firefighters or other officers and employees for temporary service.

SECTION 4. ASSIGNMENT OF DUTIES.

The chief, commissioner or inspector of each division shall have exclusive control of the assignment of duties and stationing of all other officers and employees of the division, under such rules and regulations as the Director of Public Safety may prescribe.

SECTION 5. SUSPENSION FROM DUTIES.

The chiefs or commissioners of all divisions shall have the exclusive right to suspend any of the officers or employees in their respective divisions who are under their management and control, for incompetence, gross neglect of duty, gross immorality, habitual drunkenness, failure to obey orders given by the proper authority, or for any other just and reasonable cause. If any officer or employee is suspended, as herein provided, the chief of the division concerned shall forthwith in writing certify the fact, together with the cause for the suspension, to the Director of Public Safety, who within five days from the receipt thereof shall proceed to inquire into the cause of such suspension and render judgment thereon, which judgment, if the charge be sustained, may be suspension, reduction in rank, or dismissal, and such judgment in the matter shall be final, except as otherwise hereinafter provided. The Director of Public Safety, in any such investigation, may administer oaths and secure the attendance of witnesses, and the production of books and papers.

SECTION 6. SUSPENSION OF CHIEFS.

The Director of Public Safety shall have the exclusive right to suspend the chief, commissioner, or inspector of any division for incompetence, gross neglect of duty, gross immorality, habitual drunkenness, failure to obey orders given by the proper authority, or for any other just and reasonable cause. If the Chief of Police or Fire, the Commissioner of Housing and Building, or the head of any other division within the Department is so

suspended, the Director of Public Safety shall forthwith certify the fact, together with the cause of such suspension, to the Civil Service Commission, which within five days from the date of the receipt of such notice shall proceed to hear such charges and render judgment thereon, which judgment shall be final.

SECTION 7. APPEAL FROM SUSPENSION.

Any person in the Police, Fire, or Housing and Building Division, or any other division within the Department, who is suspended, reduced in rank or dismissed, may appeal from such decision to the Civil Service Commission within ten (10) days from and after the date of such suspension, reduction or dismissal. In such event the Director of Public Safety shall, upon notice from the Commission of such appeal, forthwith transmit to the Commission a copy of the charges and proceedings thereunder, and the Commission shall hear such appeal within ten (10) days from and after the filing of the same with the Commission, and may affirm, disaffirm or modify the judgment; and its judgment in the matter shall be final.

ARTICLE VII. DEPARTMENT OF LAW

SECTION 1. QUALIFICATIONS AND DUTIES OF DIRECTOR.

The Director of Law shall be an attorney at law admitted to practice in the State, and shall be an elector of the City. The Director shall be the legal advisor of and attorney and counsel for the City, and shall advise, counsel, and prepare proposed legislation at the direction of any member of Council, the Mayor and any director of an administrative department, or on the request of any board or commission of the City, in matters relating to their official duties. The Director shall prepare or direct the preparation of all contracts, bonds and other instruments in writing in which the City is concerned and shall endorse on each his or her approval of the form and correctness thereof. The Director shall appoint such number of assistants as Council may authorize and assign their duties.

- (A) The Director shall be responsible for the prosecution of all cases brought before the Municipal Court and shall perform any other duties prescribed by this Charter, by ordinance, or by general law.
- (B) The Director of Law shall prosecute or defend for and in behalf of the City, all complaints, suits and controversies in which the City is a party, and such other suits, matters and controversies as the Director shall by Council be directed to prosecute or defend.
- (C) Council or any member of Council, the Mayor, the director of any department, or any officer, board or commission not included within a department, may require the opinion of the Director of Law upon any question of law involving their respective powers or duties.
- (D) The Director of Law shall apply, in the name of the City, to a court of competent jurisdiction for an order of injunction to restrain the misapplication of funds of the City, or the abuse of its corporate powers, or the execution or performance of

any contract made in behalf of the City in contravention of law, or which was procured by fraud or corruption.

- (E) When an obligation or contract made on behalf of the City granting a right or easement, or creating a public duty, is being evaded or violated, the Director of Law shall likewise apply for the forfeiture or the specific performance thereof as the nature of the case requires.
- (F) In case any officer, board or commission fails to perform any duty required by law, the Director of Law shall apply to a court of competent jurisdiction for a writ of mandamus to compel the performance of such duty.
- (G) In case the Director of Law, upon request of any taxpayer of the City, fails to make any application provided for in the preceding three Subsections such taxpayer may institute suit or proceedings for such purpose in his or her own name on behalf of the City. No such suit or proceeding shall be entertained by any court until the request of the Director of Law shall first have been made in writing, nor until the taxpayer shall have given security for the costs of the proceeding.
- (H) No such action to enjoin the performance of a contract entered into, or the payment of any bonds or notes issued by the City, shall be brought or maintained unless commenced within one year from the date of such contract, bond or notes.
- (I) If the court hearing any such action is satisfied that the taxpayer had good cause to believe his or her allegations were well-founded, or if they are sufficient in law, it shall make such order as the equity and justice of the case demands. In such case, the taxpayer shall be allowed his or her costs, and if judgment be finally entered in the taxpayer's favor, the taxpayer may be allowed as part of the costs a reasonable compensation for his or her attorney.

SECTION 2. DUTIES IMPOSED BY GENERAL LAW.

In addition to the duties imposed upon the Director of Law by this Charter or required of him or her by ordinance, the Director shall perform the duties that are imposed upon city directors of law by general law, except as may be limited by Council. (Amended 11-8-11)

ARTICLE VIII. THE DEPARTMENT OF FINANCE

SECTION 1. DUTIES.

The Director of Finance shall have charge of the Department of Finance and the administration of the financial affairs of the City including the keeping and supervision of all accounts, and the custody of all public money of the City; the collection and receipt of money owed to the City; the issuance of licenses; the collection of license fees; the control, funding and payment of the public debt of the City; and such other duties as Council may require.

SECTION 2. ACCOUNTING PROCEDURE.

The Department of Finance shall maintain accounts showing the financial transactions of all departments and offices of the City. The form of all such accounts and the financial reports rendered to or by the Department shall be prescribed by the Director of Finance or by Council. The accounts and accounting procedure of the City shall be adequate to record all cash receipts and disbursements, all revenue accrued and liabilities incurred, and all transactions affecting the acquisition, custody and disposition of assets, and for making such reports of the financial transactions and conditions of the City as may be required by general law or by ordinance.

SECTION 3. REPORTS.

The Director of Finance shall periodically report as directed to Council, to officials and to the public the recorded facts in such summaries and analytical schedules in detailed support thereof, as shall be necessary to show the full effect of such transactions for each fiscal year or part thereof upon the finances of the City and in relation to each department of the City government. The Director shall annually prepare and submit to the Mayor and Council a recommended five-year financial plan for the City's operating and capital needs. The Director's recommended financial plan shall be prepared after consultation with the Mayor and the heads of other City departments affected thereby, and such recommended financial plan shall be advisory only and need not be followed in the adoption of the City's tax budget, annual, temporary or supplemental appropriation measures or ordinances, resolutions or other actions concerning capital programs or permanent improvements.

SECTION 4. CERTIFICATION.

No contract, agreement, or other obligation, involving the expenditure of money, shall be entered into by any officer of the City, nor shall any ordinance, resolution, or order for the expenditure of money be passed by Council, unless the Director of Finance first certifies that the money required for such contract, agreement, obligation, or expenditure, is in the Treasury or in the process of collection and is available for such purpose, as provided by general law.

SECTION 5. FUNDS SUBJECT TO CERTIFICATION.

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 or assessments, or from sales of service, products or byproducts or from any City undertakings, fees, charges, accounts and bills receivable or other credits in process of collection; and all moneys applicable to the payment of such obligation or appropriation, which are to be paid into the Treasury prior to the maturity thereof, arising from the sale or lease of lands or other property, and moneys to be derived from lawfully authorized bonds, notes or other debt obligations sold and in process of delivery shall be deemed in the Treasury and subject to the certification referred to in Section 4 of this Article.

SECTION 6. FAILURE TO COMPLY.

All contracts, agreements, or other obligations and all ordinances, resolutions and orders entered into or passed contrary to the provisions of the preceding Sections shall be void, and no person whatever shall have any claim or demand against the City thereunder, nor shall Council, nor any officer of the City waive or qualify the limits fixed by such ordinance, resolution, or order or fasten upon the City any liability whatever, in excess of such limits, or release any party from compliance with this contract under such ordinance, resolution or order.

ARTICLE IX.
DEPARTMENT OF PLANNING AND DEVELOPMENT.

SECTION 1. DUTIES OF DIRECTOR.

The Director of Planning and Development shall have charge of the operation of the Department of Planning and Development. Subject to the other provisions of this Charter and the City's ordinances and resolutions, the Director shall direct administrative matters with respect to the planning for and development or redevelopment of the City. The Director shall undertake, or cause to be undertaken, any and all actions necessary to furthering the planned development of the City, including, but not limited to, the following:

- (a) Making recommendations to the Mayor, Council and the Planning Commission with respect to the City's comprehensive general plans for the development, redevelopment and improvement of the City;
- (b) The preparation of all plans, drawings and specifications that may be required or are desirable to implement the City's comprehensive general plans; or as may be required or be desirable with respect to specific locations within the City;
- (c) The preparation and administrative processing of applications for State, federal or other financial assistance in connection with programs and projects the purpose of which are to foster and promote planned community development within the City, and the administration of such programs and projects for the City;
- (d) Reviewing and making recommendations to the Mayor, Council and the Planning Commission, as appropriate, with respect to proposals for the development or redevelopment of the City;
- (e) Making recommendations to the Mayor, Council and the Planning Commission, as appropriate, with respect to zoning rules, regulations, controls, and design guidelines and standards which, in the Director's view, are necessary or desirable to guide the development or redevelopment of the City. The Director shall have such other powers and shall perform such other duties and functions as are provided by or under this Charter or by Council, and as directed by the Mayor.

ARTICLE X.
DEPARTMENT OF HUMAN SERVICES.

SECTION 1. DUTIES OF DIRECTOR.

The Director of Human Services shall have charge of the operation of the Department of Human Services, whose general purpose is to advance the humanitarian goals of local government by providing services to persons of all ages and administering intergenerational programs. The Director shall engage in programs as authorized by ordinance, general law, and the budget approved by Council.

ARTICLE XI.
CIVIL SERVICE COMMISSION

SECTION 1. APPOINTMENT AND TERM OF MEMBERS.

The Civil Service Commission shall consist of three members who are electors of the City appointed pursuant to this Section. Members of the Commission shall not hold any other office or position of employment with the City. Not more than two members shall be adherents of the same political party. The Mayor shall appoint two persons as members of the Civil Service Commission, and Council shall appoint one member of the Civil Service Commission. Each member of the Commission shall serve a term of three years and until his or her successor has been appointed and qualified for office. The members of the Commission shall be ineligible to be reappointed to succeed themselves for more than one additional three (3) year term, unless the member is completing a term for which he or she was appointed to fill a mid-term vacancy. The appointing authority shall have the right to remove any member of the Commission for cause.

SECTION 2. PRESIDENT; SECRETARY.

The Commission shall designate one of its members as President, and may appoint a secretary.

SECTION 3. CLASSIFIED AND UNCLASSIFIED SERVICE.

The civil service of the City is hereby divided into the unclassified and the classified service.

- (1) The unclassified service shall include:
 - (a) elected officers;
 - (b) directors of departments;
 - (c) members of all boards or commissions appointed by the Mayor or Council;
 - (d) the Clerk of Council and the Secretary of the Civil Service Commission;
 - (e) all employees of Lakewood Hospital; and
 - (f) unskilled labor and hourly rated personnel.

- (2) The classified service shall comprise all positions not specifically included in the unclassified service.

SECTION 4. PROCEDURE.

The Commission shall make, promulgate, prescribe and enforce rules for the appointment, promotion, transfer, lay-off, reinstatement, suspension and removal of employees in the classified service and such other rules as may be necessary and proper for the enforcement of the merit system and for the procedure of the Commission. The Commission shall keep a record of its proceedings which shall be open to public inspection.

SECTION 5. SALARIES.

The salaries of the Commission shall be determined by Council, and a sufficient sum shall be appropriated each year to carry out the civil service provisions of this Charter.

SECTION 6. SUSPENSION OF COMMISSION MEMBER.

The Mayor may at any time suspend any Commission member for inefficiency, neglect of duty, misfeasance, nonfeasance or malfeasance in office by first giving to such Commission member a copy of the charges setting forth the specific acts claimed to constitute the inefficiency, neglect of duty, misfeasance, nonfeasance or malfeasance in office, and an opportunity shall be given such Commission member to be publicly heard before Council, in person or by counsel in his or her own defense. A Commission member may be removed from office only upon the affirmative vote of the majority of Council hearing such charges.

SECTION 7. ADVISORY SALARY RECOMMENDATIONS.

On or before 1 July of each even-numbered year, the Civil Service Commission shall review and make a written report to Council, which report shall be filed with the Clerk of Council and the Mayor, setting forth the Commission's recommendations for the salary and other compensation for the offices of Mayor and members of Council.

Article III, Section 3 of this Charter, shall govern the recommendations of the Commission. (Amended 11-8-05.)

ARTICLE XII.
PLANNING COMMISSION

SECTION 1. ORGANIZATION.

- (A) There shall be a City Planning Commission composed of seven members, six of whom shall be electors of the City, and the seventh shall be the person holding the office of City Engineer, who need not be an elector of the City. Three members of the Commission shall be appointees of the Mayor, and three members shall be appointees of Council. Each member of the Commission shall serve until the expiration of his or her term, which shall be six years. Members of the Commission shall be ineligible to succeed themselves unless the member is

completing a term for which he or she was appointed to fill a mid-term vacancy. The appointing authority of the Commission member may remove that member for cause.

- (B) The Commission shall elect its own Chairperson and Vice Chairperson. A majority of the Board shall constitute a quorum to do business.
- (C) The Director of the Department of Planning and Development, or an employee of the Department as the Director shall designate in a writing filed with the Clerk of Council, shall be the Secretary to the Commission and shall be responsible for the preparation of the docket and the minutes for all Commission meetings and shall perform all other duties incident to the office of the Secretary and such other duties as may be assigned to the Secretary by the Commission. The Secretary shall have no vote.

SECTION 2. ADMINISTRATIVE STAFF.

The Director of Planning and Development and the Director's staff shall provide all administrative and support services to the Planning Commission; and, in addition to his or her other powers, duties and functions, the Director shall have such other duties and functions as directed by the Planning Commission and as are not inconsistent with any provision of this Charter or any ordinance of the City.

SECTION 3. POWERS AND DUTIES.

The Planning Commission shall make and adopt a general Plan for the development and improvement of the City, and for any area outside of the City that, in the judgment of the Commission, bears relation to the planning of the City. No general plan or portions thereof or amendments thereto shall be adopted by the Commission until after a public hearing thereon. So much of the general plan as may be established or from time to time amended by ordinance shall constitute the official map of the City. The Commission shall also make plans and proposals for specific improvements and projects that it deems desirable for the City and its surrounding area and recommend them to the appropriate authority. These plans and proposals shall not become a part of the general plan until adopted as such. The Commission may call upon officers and employees of other departments and divisions of the City for assistance in City planning. Each year, the Commission shall, if and to the extent requested by the Mayor, assist the Mayor in the preparation of a capital improvement budget and a comprehensive five-year capital improvement program. The Commission shall take the initiative in planning for the City and surrounding area. It may make such investigations, maps and studies relating to the planning of the community as it may deem desirable. The Planning Commission may recommend to the appropriate public authorities or private agencies programs for the development and improvement of the community, for the enactment of legislation pertaining thereto, for the building of public structures and improvements and for the financing thereof. The Commission, subject to the approval of Council, may enter into agreement with other governmental or private agencies necessary or desirable for carrying forward any of its purposes. In addition to those powers and functions as provided in this Charter, the Planning Commission shall have such other powers and functions as may be provided by Council. The Planning Commission may establish rules

and regulations for its own procedure not inconsistent with this Section or any Ordinances of the City.

SECTION 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 City, 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 is 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 resolution, ordinance or order so referred and disapproved by formal action of the Planning Commission shall require a vote of five (5) members of Council 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 City does not, under the law or Charter provision covering same, fall within the province of Council or other official or agency of the City, 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 provision of the general law. 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, adopted by at least two-thirds (2/3) of such excepting body.

ARTICLE XIII. BOARD OF ZONING APPEALS

SECTION 1. ORGANIZATION.

- (A) The Board of Zoning Appeals shall be composed of five (5) members, who shall be appointed for a term of five (5) years each. Three (3) members of the Board shall be appointees of the Mayor, and two (2) members shall be appointees of Council. Members of the Board shall be ineligible to succeed themselves unless the member is completing a term for which he or she was appointed to fill a mid-term vacancy. The appointing authority may remove the appointed member for cause. The planning staff, the Division of Housing and Building and the City Engineer shall furnish the necessary technical advice and services required by the Board.
- (B) The Board shall elect its own Chairperson and Vice Chairperson. A majority of the Board shall constitute a quorum to do business.
- (C) The Director of the Department of Planning and Development, or an employee of the Department as the Director shall designate in a writing filed with the Clerk of Council, shall be the Secretary to the Board and shall be responsible for the

preparation of the docket and the minutes for all Board meetings and shall perform all other duties incident to the office of the Secretary and such other duties as may be assigned to the Secretary by the Board. The Secretary shall have no vote.

SECTION 2. POWERS AND DUTIES.

The Board of Zoning Appeals shall:

1. Hear and decide appeals from any regulation, order, decision, requirement, or determination made by administrative officials or agents in the application of ordinances governing zoning in the City.
2. Hear and decide all appeals made for variances in the application of ordinances governing zoning in the City. No variance in the strict application of the zoning ordinances of the City shall be granted by the Board of Zoning Appeals unless it finds:
 - (a) That there exists practical difficulty or unnecessary hardship, fully described in the findings of the Board, that would deprive the owner of the reasonable use of the land or building involved;
 - (b) That there are special circumstances or conditions, fully described in the findings of the Board, applying to such land or buildings and not applying generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application of the provisions of the ordinances of the City would deprive the applicant of the reasonable use of such land or buildings;
 - (c) That, for reasons fully set forth in the findings of the Board, the granting of the variance is necessary for the reasonable use of the land or building and that the variance granted by the Board is the minimum variance that will accomplish this purpose;
 - (d) That the granting of the variance will be in harmony with the general purpose and intent of the ordinances of the City and will not be injurious to the neighborhood or otherwise detrimental to the public welfare;
3. Perform such other duties and functions as may be imposed upon it by this Charter or by Council. The Board of Zoning Appeals may establish rules and regulations for its own procedure not inconsistent with this Section or any ordinances of the City.

ARTICLE XIV.

BOARD OF BUILDING STANDARDS AND BUILDING APPEALS

SECTION 1. ORGANIZATION.

- (A) There shall be a Board of Building Standards and Building Appeals, composed of five (5) members, who shall be appointed for a term of five years each. Three (3)

members of the Board shall be appointees of the Mayor, and two (2) members of the Board shall be appointees of Council. Members of the Board shall be ineligible to succeed themselves unless the member is completing a term for which he or she was appointed to fill a mid-term vacancy. The appointing authority may remove any member for cause. The Planning and Development Department, the Division of Building Inspection, and the City Engineer shall furnish the necessary technical advice and services required by the Board. (Amended 11-5-02)

- (B) The Board shall elect its own Chairperson and Vice Chairperson. A majority of the Board shall constitute a quorum to do business.
- (C) The Director of the Department of Planning and Development, or an employee of the Department as the Director shall designate in a writing filed with the Clerk of Council, shall be the Secretary to the Board and shall be responsible for the preparation of the docket and the minutes for all Board meetings and shall perform all other duties incident to the office of the Secretary and such other duties as may be assigned to the Secretary by the Board. The Secretary shall have no vote.

SECTION 2. POWERS AND DUTIES.

The Board of Building Standards and Building Appeals may:

- (a) Approve or disapprove materials, types of construction, appliances, devices or appurtenances proposed for use pursuant to the Building Code of the City.
- (b) Make, amend, and repeal rules and regulations for carrying into effect all provisions of the Building Code other than those relating to zoning and include in such rules and regulations provisions applying to specific conditions and prescribing means and methods of practice to effectuate such provisions.
- (c) Hear and decide appeals from, and to review upon motion of any member of the Board, any order, requirement, decision or determination of the Building Commissioner or of any other administrative official or agency of the City, relating to the location, design, materials, construction, alteration, repair, equipment, use or occupancy, maintenance, removal or demolition of any building or other structure or any appurtenance connected or attached to such buildings or structures, regulated by the Building Code of the City and any rule or regulation or amendment or repeals thereof made by said officials or agencies under the authority conferred upon them by the Building Code of the City, by reversing or affirming in whole or in part, or modifying such order, requirement, decision or determination, or rule, regulation, amendment or repeal thereof as in its opinion ought to be made in the premises, and to that end shall have the power of the officer or agency relative to whose ruling the action is taken; except that matters relating to zoning shall not come within the province or jurisdiction of this Board. In taking such action, the Board of Building Standards and Building Appeals may vary or modify the application of any provision of the Building Code except provisions relating to zoning, to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, impose

unnecessary hardship, or would be contrary to the intent and purpose of the Building Code, or public interest.

- (d) Review, upon the motion of any member of the Board, any rule, regulation or decision of the Board; but no such review shall prejudice the rights of any person who has in good faith acted thereon before it is reversed or modified.
- (e) Exercise with respect to building situated in the City the same powers as are exercised by the Board of Building Standards under the laws of the State to the extent that it is competent for this Charter so to authorize the Board.
- (f) Formulate and submit to Council, changes in and amendments to the Building Code that the Board determines as desirable for the proper regulation of buildings and structures and the equipment thereof and appurtenances thereto in the City.
- (g) Establish rules and regulations for its own procedure not inconsistent with this Section or any ordinances of the City.
- (h) Perform such other duties and functions as may be imposed upon it by this Charter or by Council. Any member of the Board of Building Standards and Building Appeals may subpoena and require the attendance of witnesses, administer oaths and compel testimony and the production of books, papers, and other evidence pertinent to any issue before the Board.

ARTICLE XV. LAKEWOOD HOSPITAL

SECTION 1. ESTABLISHMENT; BOARD OF TRUSTEES.

Council may by ordinance establish a municipal hospital and for such purpose may, in accordance with general law, issue and sell bonds in such amounts as may be necessary for the procuring of the necessary real estate and the erection, furnishing, equipping and maintaining said hospital or for the purpose and acquisition of any existing hospital and its furnishings and equipment . Any such hospital shall be operated, controlled and managed by a Board of Trustees consisting of eighteen members, including the Mayor, who shall serve as President of the Board, the Commissioner of Health, and the member of Council who serves as Chairperson of Council's Hospital Committee. The additional fifteen Trustees shall be appointed by the Mayor with the approval of Council. No fewer than eight of such additional Trustees shall be resident electors of the City. Members of the Board of Trustees shall receive no compensation for their services as members of the Board.

SECTION 2. TERM OF BOARD MEMBERS.

The term of office of the appointed members of the Board shall be five years. Three members shall be appointed each year for a full term of five years. A majority of the acting members of the Board shall constitute a quorum. The Mayor shall file any vacancies on the Board with the approval of Council.

SECTION 3. DUTIES AND POWERS OF THE BOARD.

- (A) The Board of Trustees shall have control and management of such hospital and shall establish such rules for its government and the admission of persons to its privileges as it deems expedient, and shall annually appoint the professional staff as determined by approved hospital administration. The Board shall also employ an administrator, department heads, and such assistants, nurses, physicians and surgeons and such other employees as said Board deems necessary, and fix their compensation, which compensation shall, however, be subject to the approval of Council.
- (B) The Board shall have control over all improvements to, work for, or repairs to said hospital as well as the purchase of all necessary supplies, material or equipment for said hospital. All work done for the repair or improvement of said hospital shall be made either by direct employment of labor and the necessary supplies and materials or by contract . The Board shall by resolution determine by which method any improvement shall be made. All such contracts shall be executed in the name of the City by the Hospital Administrator only after approval by the Board.
- (C) All such contracts entailing expenditures by the City in excess of a certain dollar amount shall be awarded to the lowest and best bidder after approval by the Board and after competitive bidding, unless competitive bidding is determined by Council not to be required. Council may specify such certain dollar amount, prescribe the procedures for competitive bidding, and determine the circumstances, if any, under which competitive bidding shall not be required.
- (D) Until Council takes those actions required by Division (C) of this Section, the general law shall govern with respect to the dollar amounts in excess of which competitive bidding shall be required; the procedures for competitive bidding; and the circumstances under which competitive bidding shall not be required. All contracts subject to competitive bidding under this Division shall be awarded to the lowest and best bidder after approval by the Board.

SECTION 4. LEASE ALTERNATIVE.

Notwithstanding any other provision of this Charter, including, without limitation, those of this Article, Council, by ordinance duly passed by the affirmative vote of at least five (5) of its members, may lease, pursuant to a lease approved by the Board of Trustees, real and personal property and transfer the non-capital assets of the municipal hospital established pursuant to Section 1 of this Article, all as identified in such ordinance, to a nonsectarian Ohio nonprofit corporation organized for charitable purposes. Such power to lease may be exercised by Council from time to time, provided that the term of each such lease shall not exceed thirty (30) years, with the right in the lessee to renew for a like period of years. Each lease entered into pursuant to this Section shall place the control, operation and management of the hospital in the lessee and shall include such terms and provisions as Council reasonably believes necessary to provide for the health and welfare of the residents of the City, the protection of the employees of the hospital and may require the lessee under such lease to include in its governing body, representatives of the City. Control, operation and management of such hospital during any period it is not

under lease shall be provided pursuant to Sections 1 through 3 of this Article. During the terms of any lease pursuant to this Section, no provision of this Charter shall be applicable to the lessee.

ARTICLE XVI.
IMPROVEMENTS AND ASSESSMENTS

SECTION 1. LOCAL IMPROVEMENTS.

Council may provide for the construction, reconstruction, repair and maintenance, by contract or directly by the employment of labor, of all things in the nature of local improvements, and to provide for the payment of any part of the cost of any such improvement by levying and collecting special assessments upon abutting, adjacent and contiguous or other specially benefitted property. The amount assessed against the property specially benefitted to pay for such local improvements shall not exceed the amount of benefits accruing to such property. Any cost for such improvement in excess of any sum assessed therefor shall be paid by the City.

SECTION 2. METHODS OF SPECIAL ASSESSMENT.

Special assessments upon property deemed benefitted by a public improvement, shall be by any one of the following methods:

- (a) By a percentage of the tax value of the property assessed;
- (b) In proportion to the benefits which may result from the improvements;
- (c) By the foot frontage of the property bounding and abutting upon the improvement.

SECTION 3. PRELIMINARY ASSESSMENTS.

When it is deemed necessary to make a public improvement to be paid for in whole or in part by special assessment, Council shall declare the necessity thereof by resolution, and such resolution shall include the method of assessment, the mode of payment, and the number of annual installments. Such resolution shall thereupon be certified to the Director of Finance, who shall thereupon proceed to make an assessment report, in accordance with the method of assessment provided in the resolution, which report shall be filed with Council, and shall show the lots and lands assessed, and the amount of the assessment as to each. Such special assessment shall be payable in such number of annual installments and at such times as the legislative authority prescribes, provided that the number of annual installments of any assessment shall not exceed the maximum maturity for which bonds may lawfully be issued in anticipation thereof. If no period of such maximum maturity is specified then the period for which such assessments shall be levied shall not be less than one (1) year, but may not exceed the estimated life of the usefulness of the improvement as certified by the Director of Finance.

SECTION 4. NOTICES SERVED.

Upon the filing of such report the Director of Finance shall cause written notice to be served upon the owner of each lot or parcel of land assessed, or upon the persons in whose name the same may be assessed for taxation upon the tax duplicate, said notice to be served as is provided for service of summons in civil actions; and as to all nonresidents and persons who cannot be found, publication of such notice shall be as prescribed in Article III, Section 12. Said notice shall contain a statement of the character of the proposed improvement, the fact that the assessment report has been filed with Council, the rate of such assessments, the number of installments, and shall set a time and place when complaints and claims will be heard before the Board of Revision of Assessments.

SECTION 5. PLANS OF PROPOSED IMPROVEMENTS.

At the time of the passage of the resolution hereinbefore provided there shall be on file in the office of the Director of Public Works, plans, specifications, estimates and profiles of the proposed improvement showing the proposed grade of the street and improvement after completion, with reference to the property abutting thereon, which plans, specifications, estimates and profiles shall be open to the inspection of all persons interested.

SECTION 6. BOARD OF REVISION OF ASSESSMENTS.

The Board of Revision of Assessments shall consist of the Mayor, Director of Law, the Director of Finance, the Director of Public Works and the President of Council. The Mayor shall be the President of the Board and the Director of Finance shall be the Secretary thereof; it shall meet at such times and place as is provided by its rules, and shall hear all claims and objections as to the character of all improvements to be paid for in part or in whole by special assessments, the necessity therefor, and the equity of the assessments as provided in the assessment report. A majority of those constituting the Board of Revision of Assessments shall determine all complaints and objections submitted to it, and as to each improvement the Board shall, after such hearing, amend, equalize and adjust the assessment report, and shall report its findings as to the necessity for the improvements and any amendments it directs in the assessments, to Council.

SECTION 7. CLAIMS.

An owner of a lot or of land bounding and abutting upon a proposed improvement claiming that he or she will sustain damage by reason of the improvement shall present such claim to the Board of Revision of Assessments within two weeks after the service of notice of the completion of the publication hereinbefore provided. Such claim shall be in writing and shall set forth the amount of damages claimed, with a general description of the property with respect to which it is claimed the damage will accrue. Any owner who fails so to do shall be deemed to have waived such damages and shall be barred from filing a claim or receiving damages therefor. This provision shall apply to all damages which will obviously result from the improvement, but shall not deprive the owner of his or her right to recover damages arising without his or her fault, from acts of the City or its agents. The Board of Revision of Assessments shall report to Council all such claims for damages filed with it.

SECTION 8. FINAL ASSESSMENT.

When the Board of Revision of Assessment shall have made its final report to Council as to any improvement, if Council decides to proceed with the improvement an ordinance for the purpose shall be passed. Such ordinance shall set forth specifically the lots and lands to be assessed for the improvement, shall contain a statement of the general nature of the improvement, the character of the materials which may be bid upon therefor, the mode of payment therefor, a reference to the resolution theretofore passed for such improvement with date of its passage, and a statement of the intention of Council to proceed therewith in accordance with such resolution and in accordance with the plans, specifications, estimates and profiles provided for such improvement. In setting forth specifically the lots and lands abutting upon the improvement and to be assessed therefor, it shall be sufficient to describe them as all the lots and lands abutting and abounding upon such improvement between and including the terminal of the improvement, and in describing those which do not so abut it shall be sufficient to describe the lots by their appropriate lot numbers, and the lands by metes and bounds, and this rule of description shall apply in all proceedings in which lots and lands are to be charged with special assessment. Special assessments shall be payable by the owners of the property assessed at the time stipulated in the ordinance, and shall be a lien from the date of the assessment, upon the respective lots and parcels of land assessed, enforceable in the manner provided by general law.

SECTION 9. DAMAGES ASSESSED.

At the time of the passage of the ordinance determining to proceed with the improvement as hereinbefore provided, Council shall determine whether the claims for damages so filed shall be judicially inquired into before commencing or after the completion of the proposed improvement. When claims for damages are filed within the time limited, and Council having passed an ordinance for making the improvement, determines that the damage shall be assessed before commencing it, the Director of Law shall make a written application for a jury, to a court of competent jurisdiction, or a judge in vacation. The court or judge shall direct the summoning of a jury in the manner provided for the appropriation of property and fix the time and place for the inquiry and the assessment of such damages, which inquiry and assessment shall be confined to such claim. The proceedings had relative to such inquiry and determining of such damages shall be in the manner provided by general laws for the appropriation of property to assess the amount of damage in each particular case. When Council determines to assess the damages after the completion of the improvement, for which a claim for damages has been filed as hereinbefore provided, the Director of Law shall, within ten (10) days after the completion of such improvement make written application as hereinbefore provided in the case of the ascertainment of damages before the improvement was made, and the same proceedings shall be had. No person who claims damages arising from any cause shall commence a suit therefor against the City until he or she shall have filed a claim for such damages with the Director of Finance and sixty (60) days shall have elapsed thereafter, to enable the City to take such steps as it may deem proper to settle or adjust the claim; but this provision shall not apply to an application for an injunction or other proceeding to which it may be necessary for such applicant to resort in case of urgent necessity. No public improvement, the cost or part of cost of which is to be specially assessed on the owners of property, shall be made without the concurrence of three-fourths of the members of Council, unless the owners of a majority of the foot frontage to be assessed petition in writing therefor in which event Council, a majority of its members

thereto concurring, may proceed with the improvement in the manner provided herein.
(Amended 11-8-11)

SECTION 10. WORK TO BE DONE.

When Council shall have passed an ordinance directing an improvement to be made, to be paid for in whole or in part by special assessments, the Director of Public Works shall, as provided by ordinance, either directly by the employment of labor, or by entering into a contract therefor as provided by law, cause the improvement to be made.

SECTION 11. LANDS UNALLOTTED OR NOT ON DUPLICATE.

When special assessments are levied by the percentage of tax value of the property assessed or by the foot frontage of the property bounding and abutting upon the improvement, and there are lands subject to such assessment which are not assessed for taxation, the Director of Finance shall fix, for the purpose of such assessment, the value of such lots as they stand and of such lands at such depths as the Director of Finance considers a fair average of the depth of lots in the neighborhood, so that it will be a fair average of the assessed value of other lots in the neighborhood, and where lands are not subdivided into lots, but are assessed for taxation, the Director of Finance shall fix the value and the depth in the same manner; but the above rule shall not apply in making a special assessment according to benefits.

SECTION 12. INTEREST ON ASSESSMENT BONDS.

When bonds or notes are issued in anticipation of the collection of assessments, the interest thereon shall be treated as part of the cost of the improvement for which assessments may be made.

SECTION 13. LIMITATION ON ASSESSMENTS.

Council shall limit all assessments to the special benefits conferred upon the property assessed, and in no case shall there be levied on any lot or parcel of land any assessments for any or all purposes within a period of five years, in excess of thirty-three and one-third percent (33- 1/3%) of the actual value thereof after the improvement is made. Assessments levied for the construction of main sewers shall not exceed the sum that, in the opinion of Council, would be required to construct an ordinary street sewer or drain of sufficient capacity to drain or sewer the lots or lands to be assessed for such improvement, nor shall any lots or lands be assessed that do not need local drainage, or which are provided therewith.

SECTION 14. CITY'S PORTION OF COST.

The City shall pay such part of the cost and expense of improvements for which such special assessments are levied, as Council deems just, which part shall not be less than one-fiftieth of all such cost and expense; and in addition thereto the City shall pay the cost of intersections; and Council may provide for the payment of the City's portion of all such improvements by the issuance of bonds or notes therefor, and may levy taxes, in addition to all other taxes authorized by law, to pay such bonds or notes and the interest authorized by law. Council may provide for the transferring to the General Fund of such

portion of the proceeds of special assessments or of the proceeds of bonds issued in anticipation of the collection of special assessments, and of the proceeds of bonds or notes issued or taxes levied to provide funds for the payment of the City's share of the cost of improvements, as is equal to the estimated cost of the engineering and inspection done or to be done directly by the City in connection with said improvement.

SECTION 15. REPLACING EXISTING IMPROVEMENTS.

Council may provide in whole or in part the cost of replacing any improvement existing in a street at the time of the adoption of this Charter by levying special assessments as hereinbefore provided, but any assessment for such replacement in less than twenty (20) years from date of a prior assessment for the improvement to be replaced shall be limited to a sum not in excess of thirty-three and one-third percent (33-1/3%) of the cost of such improvement.

SECTION 16. SUBSEQUENT IMPROVEMENTS.

Every ordinance providing for an improvement to be paid for in whole or in part by special assessments, passed subsequent to the adoption of this Charter, shall contain an estimate by the Director of Public Works of the life of the proposed improvement. Any assessment thereafter made for replacing such improvement within such period of estimated life shall be limited to a sum not in excess of thirty-three and one-third percent (33-1/3%) of the cost of such replacement. Assessments for replacements at or after the expiration of such estimated period of life shall be subject to no limitation except as provided for assessments for original improvements.

SECTION 17. SUPPLEMENTARY ASSESSMENTS AND REBATES.

Upon the completion of any improvement, the Director of Finance shall rebate to the then owner of the property which shall have been assessed.

SECTION 18. SEWER AND WATER CONNECTIONS.

The Director of Public Works may compel the making of sewer and water connections whenever, in view of contemplated street improvements or as a sanitary regulation, sewer or water connections should in the Director's judgment be constructed. The Director shall cause written notice of the Director's determination thereof to be given to the owner of each lot or parcel of land to which such connections are to be made, which notice shall state the number and character of connections required. Such notice shall be served by a person designated by the Director of Public Works, in the manner provided for the service of summons in civil actions. Nonresidents of the City, or persons who cannot be found, may be served by one publication of notice in a newspaper of general circulation in the City, which notice shall state the time within which such connection shall be constructed; and if they be not constructed within the said time, the work may be done by the City and the cost thereof, together with a penalty of five percent (5%) assessed against the lots and lands for which such connections are made. Said assessments shall be certified and collected as other assessments for street improvement.

SECTION 19. SIDEWALKS.

Council may by resolution declare that certain specified sidewalks, curbing, or gutters shall be constructed or repaired. Upon the adoption of such a resolution, the Clerk of Council shall cause written notice of the passage thereof to be served upon the owner, or agent of the owner, of each parcel of land abutting upon such sidewalk, who may be a resident of the City, in the manner provided by law for the service of summons in civil actions. The Clerk shall return a copy of the notice within the time and manner of service endorsed thereon, signed by the person serving it, to the Director of Public Works, who shall file and preserve such return. For the purpose of such service, if the owner of any such property is not a resident of the City, any person charged with the collection of rent, or the payment of taxes on such property, or having control thereof in any way shall be regarded as the agent of the owner, and service upon such person shall have the like force and effect as though personal service were made upon the owner thereof. If it appears in any such return, however, that the owner is a nonresident, or that neither such owner or agent could be found, publication of a copy of the resolution in a newspaper of circulation in the City in the manner provided for service and publication of resolutions for street improvements, shall be deemed sufficient notice to such owner. If such sidewalks, curbing, or gutters be not constructed or repaired within thirty (30) days from the service of notice, or the completion of the publication, the Director of Public Works may proceed by direct employment of labor, or by contract, to do or have done the said construction or repair at the expense of the owner and all such expense shall be assessed on all the property abutting or bounding thereon. Such assessment shall be collected in the same manner, with a penalty of 5% and interest for failure to pay at the time fixed by the assessing ordinance, as in cases of other improvements.

SECTION 20. FURTHER PROCEEDINGS UNNECESSARY.

No other or further proceedings for the construction or repair of sidewalks, curbing and gutters, and levying assessments therefor, shall be necessary than the proceedings required under this and the preceding Section. In any case in which special assessments may be made on property for all the cost of constructing or repairing sidewalks, curbing or gutters, such assessments within the limit of thirty-three and one-third percent (33-1/3%) of the real value of the property shall be a valid assessment thereon.

SECTION 21. ASSESSMENT BONDS.

Council may at any time borrow money and authorize the issuance of notes or bonds according to law therefor in anticipation of the collection of assessments levied for the purpose of paying the cost of constructing or repairing sidewalks, which are to be or have been constructed by the Director of Public Works upon the failure of the owners of the property to construct or repair the same, pursuant to notice as hereinbefore provided.

SECTION 22. ALTERATIONS OR MODIFICATIONS IN CONTRACT.

When it becomes necessary, in the opinion of the Director of Public Works in the prosecution of any work or improvement under contract, such alterations or modifications shall be made only upon the order of such Director in writing, provided, however, that such alteration must be approved by Council in case it involves an additional expenditure exceeding one thousand dollars (\$1,000). No such order shall be effective until the price to be paid for the work and material, or both, under the altered or

modified contract, has been agreed upon in writing and signed by the contractor and the Director in behalf of the City.

SECTION 23. PLAT OF SUBDIVISION.

A proprietor of lots or grounds within the City who desires to subdivide or lay out said lots for sale shall cause to be made accurate maps or plats of such subdivision by a competent surveyor or civil engineer, describing with certainty all of said lands laid out and all lands granted for streets, alleys, commons or other public uses. The lots shown on the plat shall be numbered by progressive numbers, and the plat shall show the exact length and width of each lot and show all measurements of all lines, widths of streets and other data necessary or required to be submitted. Such map or plat shall first be submitted to the Planning Commission, which shall either approve or disapprove said map or plat. If approved, the map or plat shall bear the written approval of the Commission upon the face thereof; if disapproved, the map or plat shall be returned to such proprietor, within thirty (30) days, together with written objections to the same. Said map or plat shall be subscribed by the proprietor before an officer authorized to take the acknowledgment of deeds, who shall certify his or her official act on the map or plat. If any owner is a nonresident of the State, his or her agent authorized by writing may make such acknowledgment of such map or plat, and if the execution is by agent, his or her written authority shall be in such form as is necessary under the law to constitute a valid power of attorney and such power of attorney shall be recorded in the office of the County Recorder of Cuyahoga County. Said plat shall further be certified to by the surveyor as to the correctness of all measurements appearing upon said plat. If the Planning Commission shall refuse to approve said plat, the proprietor may thereupon submit the plat or map for approval to Council, together with the written objections of the Planning Commission. No such map or plat of any subdivision within the limits of the City shall be recorded until the Planning Commission certifies that the streets as laid down on the plat of the subdivision correspond with those laid down on the recorded plats of the City. When there are streets laid down, in addition to those adopted by the Planning Commission, no such plat shall be recorded until it has been approved by the Planning Commission or Council, and no such streets shown thereon shall be considered as dedicated streets of the City until such time as said plat has been accepted and approved by Council. No such proprietor of land shall sell by land contract, deed, or agreement, any lot or lots in the plat or map of the subdivision until the map or plat has been duly approved by the Planning Commission or Council, and thereafter accepted by Council.

SECTION 24. FEE SHALL VEST IN CITY.

The map or plat so recorded shall thereupon be a sufficient conveyance to vest in the City the fee of the parcel or parcels of land designated or intended for streets, alleys, ways, commons, or other public uses, to be held in the corporate name in trust to and for the uses and purposes in the instrument set forth, expressed, designated or intended.

SECTION 25. STREETS AND PUBLIC GROUNDS.

Council shall provide for the care, supervision, control and improvement of public highways, streets, avenues, alleys, sidewalks, public grounds, bridges, aqueducts and viaducts within the City and shall cause them to be kept open, in repair and free from

nuisance, and Council may limit the time within which claims shall be filed, arising from or out of any alleged violation of this Section.

SECTION 26. ALTERATION OF STREETS.

When it deems it necessary, Council may cause any street, alley or public highway to be opened, straightened, altered, diverted, narrowed or widened.

SECTION 27. DEDICATION OF STREETS.

No street or alley dedicated to public use by the proprietor of ground in the City shall be deemed a public street or alley, or under the care or control of Council unless the dedication is accepted and confirmed by an ordinance passed for such purpose.

SECTION 28. VACATION OR CHANGE OF NAME.

Council, when vacating any street or part of street or changing the name of any street, may include in one ordinance the change of name or the vacation or narrowing of more than one street, avenue, or alley, but before vacating any street or part thereof, or narrowing any street, Council shall first adopt a resolution declaring its intention so to do. The Clerk of Council shall cause notice of such declaration to be served in the manner that the service of summons is required to be made, upon all persons whose property abuts upon the part of the street affected by the proposed vacation or narrowing, and by publication once in one newspaper of general circulation in the City as to all the persons who cannot be personally served. That notice shall state the time and place when objections can be heard before the Board of Revision of Assessments. Upon the report of the Board of Revision of Assessments approving the proposed vacation or narrowing Council may by ordinance declare such vacation or narrowing, and such order of Council vacating or narrowing a street or alley which has been dedicated to public use by the proprietor shall, to the extent to which it is vacated or narrowed, operate as a revocation of the acceptance thereof by Council, but the right of way and easement therein of any lot owner shall not be impaired thereby.

SECTION 29. TAXATION WITHOUT VOTE.

In any calendar year, taxes may be levied upon the tax duplicate without a vote of the people for the current operating expenses of the City, but no such tax shall be levied at a rate exceeding by more than five and two-tenths (5.2) mills the rate for such purposes within the constitutional limitation allocated to the City on the 1938 tax duplicate. Except as above stated, all power to tax shall be as defined and limited by general law.

SECTION 30. LEVY FOR POLICE AND FIREMEN'S DISABILITY AND PENSION FUND.

Notwithstanding any other provision of this Charter, and in addition to all other levies authorized or required by law, but otherwise in the manner provided for the making of other municipal levies, Council shall levy annually, without a vote of the people, outside of the constitutional and statutory ten (10) mill limitation and outside of the limitations provided by this Charter, a tax upon all real and personal property listed for taxation upon the tax lists and duplicates for each year sufficient in rate to provide all moneys

required to meet the City's obligations related to the Police and Firemen's Disability and Pension Fund and to pay debt charges on securities issued therefore.

SECTION 31. LEVY FOR RECONSTRUCTION, EXPANSION, OPERATION AND MAINTENANCE OF A SEWAGE DISPOSAL PLANT.

Without prejudice to the use of other funds from taxes or other sources available for such purpose, Council may levy a tax upon all real and personal property listed for taxation upon the tax list and duplicate at a rate not to exceed two (2) mills outside of the levies provided in Sections 29 and 30 of this Article to provide a fund for the purpose of financing the reconstruction, expansion, operation and maintenance of a sewage disposal plant and sewer system, and the capital needs of street infrastructure, municipal buildings, parks and recreation facilities. (Amended 11-8-11)

**ARTICLE XVII.
APPROPRIATION OF PROPERTY**

SECTION 1. APPROPRIATION.

Property within the corporate limits of the City may be appropriated for any public or municipal purpose, and subject only to the limitations thereon imposed by the Constitution of the State, such appropriation shall be made in the manner herein provided. By such appropriation the City may acquire a fee simple title or any less estate, easement or use. Appropriation of property located outside of the corporate limits of the City shall be made according to the requirements of and in the manner provided by the general law.

SECTION 2. DECLARATORY RESOLUTION.

When it is deemed necessary to appropriate property Council shall adopt a resolution declaring such intent, defining the purpose of the appropriation, setting forth a pertinent description of the property, and the estate or interest therein desired to be appropriated.

SECTION 3. NOTICE.

Immediately upon the adoption of such resolution, for which but one reading shall be necessary, the Clerk of Council shall cause written notice thereof to be given to the owner, person in possession thereof or having an interest of record in every piece of land sought to be appropriated, or to his or her authorized agent; and such notice shall be served by a person designated for the purpose and return made in the manner provided by law for the service and return of summons in civil actions. If such owner, person or agent cannot be found, notice shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation in the City, and Council may thereupon pass an ordinance by the vote of two-thirds of all members thereof, directing such appropriation to proceed. (Amended 11-8-11)

SECTION 4. FURTHER PROCEEDINGS.

Upon the passage of such ordinances the Director of Law shall make application to a court of competent jurisdiction or a judge thereof in vacation, which application shall

describe as correctly as possible the land or other property to be appropriated, the interest or estate therein to be taken, the object for which the land is desired, and the name of the owner of each lot or parcel thereof, and all the subsequent proceedings with regard thereto shall be in the manner provided by general law for the appropriation of property by municipal corporations in this State.

ARTICLE XVIII. FRANCHISES

SECTION 1. GRANT.

Council may grant permission to any individual, company or corporation to construct and operate a public utility in the streets and public grounds of the City. It may prescribe the kind and quality of service or the product to be furnished, the rate or rates to be charged therefor, and any terms and conditions conducive to the public interest; and also the manner in which the streets and public grounds shall be used and occupied. Such grant or any amendment or renewal thereof shall be for such period of time as Council may determine, but it shall not exceed a period of twenty- five (25) years.

SECTION 2. RENEWALS.

Council may renew any grant for the construction or operation of any utility, at its expiration, upon such terms as may be conducive to the public interest. All such grants and renewals thereof may reserve to the City the right to purchase all the property of the utility in the streets and highways and elsewhere used in, or useful for, the operation of the utility, at a price either fixed by ordinance, or to be fixed in the manner provided by the ordinance making the grant or renewal of the grant. Nothing in such ordinance shall prevent the City from acquiring the property of any such utility by condemnation proceedings or in any other lawful mode; but all such methods of acquisition shall be alternative to the power to purchase, reserved in the grant or renewal as hereinbefore provided. No ordinance making such purchase shall be valid unless it shall expressly provide therein that the price to be paid by the City for the property that may be acquired by it from such utility by purchase, condemnation or otherwise, shall exclude all value of such grant or renewal. Upon the acquisition by the City of the property of any utility by purchase, condemnation or otherwise, all grants or renewals shall at once terminate.

SECTION 3. EXTENSION.

Council may grant to any individual, company or corporation operating a public utility, the right to extend the appliances and service of such utility. All such extensions shall become a part of the aggregate property of the utility, and shall be subject to all the obligations and reserved rights applicable to the property of the utility by virtue of the ordinance providing for its construction and operation. The right to use and maintain any such extension shall expire with the original grant of the utility to which the extension was made or any renewal thereof.

SECTION 4. CONSENTS.

No consent of the owner of property abutting on any highway or public ground shall be required by Council as a condition of its authority to authorize the construction, extension, maintenance or operation of any public utility by original grant or renewal.

SECTION 5. REGULATIONS.

All rights granted for the construction and operation of public utilities in the City shall be subject to the continuing right of Council to require such reconstruction, relocation, change or discontinuance of the appliances used by the utility in the streets, alleys, avenues, and highways of the City, as shall in the opinion of Council be necessary in the public interest. In ordering any such reconstruction, relocation, change or discontinuance Council shall provide for such alteration in the rates for service and in the terms upon which purchase is authorized to be made by the City, as shall be necessary or equitable to protect the owner of the utility against loss of property value.

ARTICLE XIX. ELECTIONS

SECTION 1. REGULAR AND SPECIAL MUNICIPAL ELECTIONS.

General 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 each odd- numbered year and shall be known as regular municipal elections. All other elections held under the provisions of this Charter or as may be required by law shall be known as special municipal elections. (Amended 11-5-02)

SECTION 2. PRIMARY ELECTIONS.

On the second Tuesday in September prior to each general municipal election, primary elections shall be held for the purpose of nominating persons, without regard to political parties, for election to offices provided for by this Charter to be voted for at the next succeeding regular municipal election.

The number of candidates for the office of Mayor and the four Ward Councilmen at any regular election in the City shall be the two (2) persons on the primary election ballot receiving the highest number of votes at the primary election. The number of candidates for the office of Council-at-Large at any regular municipal election in the City shall be the six (6) candidates on the primary ballot receiving the highest number of votes at the primary election.

In case there shall not be more than two persons who shall have filed petitions for the office of Mayor or the four Ward Councilmen as provided for in this Charter, then said persons shall be the candidates at the regular municipal election and the primary for the particular office shall not be held. In case there shall not be more than six (6) persons who shall have filed petitions for the office of Council-at-Large as provided for in this Charter, then said persons shall be the candidates at the regular Municipal election and the primary for the particular office shall not be held. (Amended 11-4-08)

SECTION 3. ELECTION PROCEDURES.

Write-in votes for municipal candidates in general elections shall be permitted only if a duly nominated candidate cannot participate due to death or other disqualifications, or if each candidate does not have an opponent. The ballots used in the primary and general municipal elections shall be without party mark or designation. 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. Any person may vote in any municipal election if such person is registered as a voter with the election authorities as prescribed by the laws of the State of Ohio. (Amended 11-5-02)

SECTION 4. CERTIFICATE OF NOMINATION WHEN NO PRIMARY IS HELD.

In the event a primary election is not held, the election officials whose duty it would have been to provide for and conduct such primary election shall declare each candidate to be nominated, issue appropriate certificates of nomination to each of them, and certify each of their names to the proper election officials in order that their names may be printed on the official ballots provided for use in the next succeeding regular municipal election, in the same manner as if such primary election had been held and each such person had been nominated at such election. (Amended 11-5-02)

SECTION 5. DESIGNATION OF CANDIDATES.

Candidates for nominations to elective offices provided for in this Charter shall have their names printed on the official primary ballot by filing a declaration of candidacy and paying the required filing fee. (Amended 11-5-02)

SECTION 6. DECLARATIONS OF CANDIDACY.

Candidates for the offices of Mayor and member of Council shall, not later than 4:00 p.m. of the ninetieth day before the day of the primary election, file a declaration of candidacy as required by general law. Except as otherwise required by this Charter, the general laws of the state of Ohio shall govern such declarations of candidacy. Nominations for each elective municipal office shall be made by petition only, on standard forms provided by the Cuyahoga County Board of Elections for the nomination of non-partisan candidates. (Amended 11-6-12)

SECTION 7. BALLOT FORM.

Except as otherwise required by this Charter, the form of the ballot at primary, special and regular municipal elections shall be determined by the election authorities in accordance with general law. (Amended 11-5-02)

SECTION 8. NOMINATION AND ELECTION OF JUDGES.

Candidates for Judge of the Lakewood Municipal Court shall be nominated by petition signed by at least two hundred (200) qualified electors of the City of Lakewood, Ohio. Such petition or petitions when filed shall be accompanied by the written acceptance of the nominee. Each signer of a petition shall sign his or her name and after his or her name designate his or her residence. Such petition or petitions shall be filed with the Board of Elections of Cuyahoga County, Ohio, as one instrument at least ninety (90) days prior to the date of the holding of the election for the office of Judge. The names of all

candidates thus nominated shall appear on a nonpartisan judicial ballot in the regular municipal election. There shall not be a primary election in regard to judicial candidates. (Amended 11-5-02)

ARTICLE XX.
INITIATIVE

SECTION 1. RIGHT TO INITIATIVE.

Any proposed ordinance may be submitted to Council by a petition signed by qualified electors equal in number to at least five percent (5%) of the total votes cast for the office of Mayor at the last preceding regular municipal election at which a Mayor was elected.

SECTION 2. FORM OF PETITION.

Petitions submitting proposed ordinances to Council shall be filed with the Clerk of Council. Signatures to such petition need not all be appended to one paper, but all petition papers circulated with respect to any proposed ordinance shall be uniform in character and shall contain the proposed ordinance in full and there shall appear thereon the names and addresses of at least five electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purposes hereinafter set forth.

SECTION 3. SIGNATURES TO PETITION.

Each signer of a petition shall sign his or her name in ink or indelible pencil, and shall place on the petition paper, after his or her name, his or her place of residence by street and number. To each petition paper there shall be attached an affidavit by the circulator thereof stating the number of signers to such part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and was made in the presence of the affiant.

SECTION 4. FILING OF PETITION.

All papers comprising a petition shall be assembled and filed with the Clerk of Council as one instrument. Within twenty (20) days after the filing of a petition the Clerk shall ascertain whether it is signed by the required number of qualified electors. Upon the completion of the Clerk's examination, the Clerk shall endorse upon the petition a certificate of the result thereof.

SECTION 5. ADDITIONAL SIGNATURES.

If the Clerk's certificate shows that the petition contains insufficient valid signatures in its support, the Clerk shall at once notify each member of the committee described in Section 2 of this Article by depositing the same in the United States mail with postage prepaid. In the event the initial petition contained prima-facie sufficient signatures, additional signatures of qualified electors, signed in the manner required in Section 3 hereof, appended to petitions in form as previously filed, may, within fifteen (15) days from the date of the notification to the committee, be filed with the Clerk. Within ten (10) days after the filing of such further signatures, the Clerk shall examine them and attach thereto

a certificate of the result. If still insufficient, or if no further petitions have been filed, the Clerk shall file the petition in the Clerk's office and shall notify, in the manner herein provided, each member of the committee of that fact. The final finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

SECTION 6. HEARING BY COUNCIL COMMITTEE.

When the certificate of the Clerk shows the petition and supplemental petition, if any, to be sufficient, the Clerk shall submit the proposed ordinance to Council at its next regular meeting and Council shall at once read and refer the same to an appropriate committee, which may be the committee of the whole. Provisions shall be made for at least one public hearing upon the proposed ordinance before the committee to which it is referred. Thereafter the committee shall report the proposed ordinance to Council with its recommendation thereon, not later than the third regular meeting of Council following that at which the proposed ordinance was submitted to Council by the Clerk.

SECTION 7. ACTION BY COUNCIL.

Upon receiving the proposed ordinance from the committee Council shall at once proceed to consider it and shall take final action thereon within thirty (30) days from the date of such committee report.

SECTION 8. POWER OF COUNCIL.

If Council rejects the proposed ordinance or passes it in a form different from that set forth in the petition, the committee of the petitioners may, as hereinafter provided, require that it be submitted to a vote of the electors in its original form, or that it be submitted to a vote of the electors with any proposed change, addition or amendment, which was presented in writing either at a public hearing before the committee to which such proposed ordinance was referred, or during the consideration thereof by Council.

SECTION 9. CERTIFICATION; SUPPLEMENTAL PETITION.

When an ordinance proposed by petition is to be submitted to a vote of the electors, the committee of the petitioners shall certify that fact and the proposed ordinance to the Clerk of Council within thirty (30) days after final action on such proposed ordinance by Council and shall also file with the Clerk a supplemental petition asking that the proposed ordinance be submitted to popular vote signed by that number of qualified electors which when added to the number of electors who signed the original petition provided for in Sections 1 and 5 of this Article will equal fifteen percent (15%) of the total votes cast, for the office of Mayor, at the last preceding regular municipal election at which a Mayor was elected. Such supplemental petitions shall be in the form, signed in the same manner and verified by the circulator all as required of original petitions. The sufficiency of any such supplemental petition shall be determined, and it may be further supported, in the manner provided for original petitions for proposing ordinances to Council.

SECTION 10. SUBMISSION TO ELECTORS.

- (A) When the certificate of the Clerk shows the petition and supplemental petition, if any, to be sufficient, the Clerk shall certify the fact to Council at its next regular

meeting. If a primary, regular municipal or general election is to be held not more than six (6) months or less than thirty (30) days after the receipt of the Clerk's certificate by Council, such proposed ordinance shall then be submitted to a vote of the electors. If no such election is to be held within that time, Council may provide for submitting the proposed ordinance to the electors at a special election. If no other provision is made as to the time of submitting a proposed ordinance to a vote of the electors, it shall be submitted at the next primary, regular municipal or general election.

- (B) If a majority of the qualified electors voting on any such proposed ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the City.
- (C) If the provisions of two or more ordinances adopted or approved at the same election conflict, the provisions of the ordinance receiving the highest affirmative vote shall prevail.

SECTION 11. BALLOT FORM.

The ballots used when voting upon any such proposed ordinance shall state the title of the ordinance to be voted on and below it the two propositions "For the Ordinance" and "Against the Ordinance".

SECTION 12. REPEALING ORDINANCES.

Proposed ordinances for repealing any existing ordinance or ordinances in whole or in part may be submitted to Council as provided in this Section.

SECTION 13. PUBLICATION, AMENDMENT OR REPEAL.

Ordinances adopted as provided in this Section shall be published and may be amended or repealed by Council as the case of other ordinances.

ARTICLE XXI. REFERENDUM

SECTION 1. RIGHT TO REFERENDUM.

If at any time within forty (40) days after (a) the passage of any ordinance or the adoption of any resolution by Council, (b) the expiration of the time within which it may be disapproved by the Mayor, or (c) its passage or adoption notwithstanding the disapproval by the Mayor, as the case may be, a petition signed by qualified electors equal in number to at least fifteen percent (15%) of the total votes cast for the office of Mayor at the last preceding regular municipal election at which a Mayor was elected is filed with the Clerk of Council requesting such ordinance or resolution be repealed or be submitted to a vote of the electors, such ordinance or resolution shall not become operative until the steps set forth in this Article have been taken.

SECTION 2. FORM OF PETITION.

Petitions seeking a referendum vote on any ordinance or resolution shall be filed with the Clerk of Council. Signatures to such petition need not all be appended to one paper, but all petition papers circulated with respect to a referendum vote on any ordinance or resolution shall be uniform in character. It need not contain the text of the ordinance or resolution the repeal of which is sought, but shall contain the number assigned to such ordinance or resolution and its full title. There shall appear thereon the names and addresses of at least five (5) electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purpose hereinafter set forth.

SECTION 3. SIGNATURES TO PETITION.

Each signer of a petition shall sign his or her name in ink or indelible pencil, and shall place his or her residence by street and number on the petition paper after his or her name. The signatures to any such petition paper need not all be appended to one paper, but to each such paper there shall be attached an affidavit by the circulator thereof stating the number of signers to such part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and was made in the presence of the affiant.

SECTION 4. FILING OF PETITION.

All papers comprising a petition shall be assembled and filed with the Clerk of Council as one instrument. Within twenty (20) days after the filing of a petition, the Clerk shall ascertain whether it is signed by the required number of qualified electors. Upon the completion of the Clerk's examination, the Clerk shall endorse upon the petition a certificate of the result thereof.

SECTION 5. ADDITIONAL SIGNATURES.

If the Clerk's certificate shows that the petition contains insufficient valid signatures in its support, the Clerk shall at once notify each member of the committee described in Section 2 hereof by depositing the same in the United States mail with postage prepaid. In the event the initial petition contained prima-facie sufficient signatures, additional signatures of qualified electors signed in the manner required in Section 3 of this Article appended to petitions in form as previously filed may within fifteen (15) days from the date of the notification to the committee be filed with the Clerk. Within ten (10) days after the filing of such further petitions, the Clerk shall examine them and attach thereto a certificate of the result. If still insufficient, or if no further petitions have been filed, the Clerk shall file the petition in the Clerk's office and shall notify in the manner herein provided each member of the committee of that fact.

SECTION 6. PROCEDURE.

If the petition is found sufficient, or is rendered sufficient by further signatures as permitted in this Article, the Clerk shall certify that fact to Council, which shall proceed to reconsider the ordinance or resolution. If upon such reconsideration the ordinance or resolution is not entirely repealed, Council shall submit said ordinance or resolution to a vote of the electors. If a primary, regular municipal or general election is to be held not more than six (6) months or less than thirty (30) days after the refusal of Council to reconsider the ordinance or resolution, such ordinance or resolution shall then be

submitted to a vote of the electors. If no such election is to be held within the time aforesaid, Council may provide for submitting such ordinance or resolution to the electors at a special election. If no other provision is made as to the time of submitting such ordinance or resolution to a vote of the electors, it shall be submitted at the next primary, regular municipal or general election.

SECTION 7. BALLOT FORM.

The ballot used when voting upon any ordinance subject to referendum shall state the title of the ordinance to be voted on and below it the two propositions "For the Ordinance" and "Against the Ordinance".

SECTION 8. MAJORITY VOTE.

If when submitted to a vote of the electors any such ordinance is not approved by a majority of those voting thereon, it shall be deemed repealed.

SECTION 9. ENACTMENTS NOT SUBJECT TO REFERENDUM.

Notwithstanding any provisions to the contrary in Sections 1, 11 or 12 of this Article or any other provisions of this Charter, ordinances or resolutions enacted for the following purposes shall not be subject to referendum:

- (a) To appropriate money for any lawful purpose;
- (b) To create, revise or abolish departments or to provide regulations for their government;
- (c) To authorize the appointment of employees in any of the departments;
- (d) To authorize, or otherwise affecting, the issuance of bonds, notes or other debt instruments of the City;
- (e) To authorize a contract for a public improvement or an expenditure of money which contract is to be paid or expenditure is to be made, in whole or part, from the proceeds of bonds, notes or other debt instruments of the City; and
- (f) To provide for the payment of operating expenses of any department of the City.

SECTION 10. INITIATED ORDINANCE SUBJECT TO REFERENDUM.

Ordinances submitted to Council by petition, as provided in Article XX of this Charter, and passed by Council without change, or passed in an amended form and not required to be submitted to a vote of the electors by a committee of the petitioners, shall be subject to referendum in the same manner as other ordinances.

SECTION 11. REFERENDUM OF MEASURES TAKING EARLY EFFECT.

An ordinance that, under Article III, Section 13, of this Charter, goes into effect earlier than forty (40) days after (a) its passage and approval by the Mayor, or (b) the expiration

of the time within which it may be disapproved by the Mayor, or (c) its passage notwithstanding the disapproval by the Mayor, as the case may be, shall go into effect at the time indicated therein but shall be subject to referendum in like manner as other ordinances, except that it shall go into effect at the time indicated in such ordinance. If, when submitted to a vote of the electors, such an ordinance is not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder; but such ordinance so repealed shall be deemed sufficient authority for payment, in accordance with the ordinance, of any expense incurred, work done, or material or service furnished previous to the referendum thereon.

SECTION 12. ACTS PRELIMINARY TO ELECTION.

In case a petition is filed requiring that a measure passed by Council providing for an expenditure of money, a bond issue, or a public improvement be submitted to a vote of the electors, all steps preliminary to such actual expenditure, actual issuance of bonds, or actual execution of a contract for such improvement, may be taken prior to the election.

ARTICLE XXII. RECALL

SECTION 1. RECALL PROCEDURE.

Any elective officer provided for in this Charter may be removed from office by the electors qualified to vote for a successor to such office as provided in this Article. A petition demanding that the question of removing such official be submitted to the electors qualified to vote for his or her successor shall be addressed to Council and filed with the Clerk of Council. Such petition shall be signed by qualified electors equal in number to at least fifteen percent (15%) of the total votes cast at the last preceding regular municipal election for the office of the officer sought to be recalled, in case the officer was elected by the voters of the entire City, and at least twenty-five percent (25%) of the total valid ballots at the last preceding regular municipal election for the office if the officer was elected by the voters of the particular ward. The question of the removal of any officer shall not be submitted to the electors until such person has served one year of the term during which such person is sought to be recalled or, in case of an officer retained in a recall election, until one year after that election.

SECTION 2. PETITIONS.

Petition papers shall be procured from the Clerk of Council. Prior to the issuance of such petition papers, an affidavit shall be made by one or more qualified electors and filed with the Clerk, stating the name and office of the officer sought to be removed. The Clerk, upon issuing any such petition paper to an elector, shall enter in a record, to be kept in the Clerk's office, the name of the elector to whom issued and shall certify upon each such paper the name of the elector to whom issued and the date of issuance. No petition paper so issued shall be accepted as part of a petition unless it bears such certificates of the Clerk and unless it is filed as provided herein.

SECTION 3. SIGNATURES.

Each signer of a recall petition shall sign his or her name in ink or indelible pencil and shall place thereon after his or her name, his or her place of residence by street and number. To each such petition paper there shall be attached an affidavit of the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper was made in his or her presence and is the genuine signature of the person whose name it purports to be.

SECTION 4. FILING AND CERTIFICATION.

All papers comprising a recall petition shall be assembled and filed with the Clerk of Council as one instrument within thirty (30) days after the filing with the Clerk of the affidavit stating the name and office of the officer sought to be removed. Within ten (10) days from the date of the filing of such petition the Clerk shall determine the sufficiency thereof and attach thereto a certificate showing the result of the Clerk's examination. If the Clerk shall certify that the petition is insufficient, the Clerk shall set forth in the certificate the particulars in which the petition is defective, and shall return a copy of the certificate by depositing the same in United States mail with postage prepaid to the person designated in such petition to receive it.

SECTION 5. SUPPLEMENTAL PETITIONS.

In the event the initial petition contained prima-facie sufficient signatures, such recall petition may be supported by supplemental signatures of qualified electors signed in the manner required in Section 3 of this Article appended to petitions issued, signed and filed as required for the original petition at a time within twenty (20) days after the date of the certificate of insufficiency by the Clerk. The Clerk shall within ten (10) days after such supplemental petitions are filed make a like examination of them, and if the Clerk's certificate shall show the same to be still insufficient, the Clerk shall return it in the manner described in Section 4 of this Article to the person designated in such petition to receive it, without prejudice, however, to the filing of a new petition for the same purpose, provided that no new petition shall be filed within one (1) year thereafter.

SECTION 6. RECALL ELECTION.

If a recall petition or supplemental petition shall be certified by the Clerk to be sufficient, the Clerk shall at once submit the same with a certificate to Council and shall notify the officer sought to be recalled of such action. If the official whose removal is sought does not resign within five (5) days after such notice, Council shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than thirty (30) nor more than forty (40) days after the petition has been presented to the Clerk, at the same time as any other general or special election held within such period, but if no such election is to be held within such period, Council shall call a special recall election to be held within the time aforesaid. Such special recall election shall be submitted to the electors of the entire City if such officer to be recalled was elected by the electors of the entire City, and such special recall election shall be submitted to the electors of a single ward if the officer to be recalled was elected by the electors of a single ward. The election authorities shall publish notice and make all arrangements for holding such election, which shall be conducted and the result thereof returned and declared in all respects as are the results of special municipal elections.

SECTION 7. BALLOTS.

The ballots at such recall election shall, with respect to each person whose removal is sought, submit the question: "Shall (name of person) be removed from the office of (name of office) by recall?" Immediately following each such question, there shall be printed on the ballots the two propositions in the order set forth: "For the recall of (name of person)", "Against the recall of (name of person)".

SECTION 8. SUCCEEDING OFFICER.

The incumbent, if not recalled in such election, shall continue in office for the remainder of the incumbent's unexpired term subject to the recall as before except as provided in this Charter. If recalled in the recall election, such person shall regardless of any technical defects in the recall petition, be deemed removed from office upon the announcement of the official canvass of that election, and the office shall be filled by Council for the unexpired term. The successor of any person so removed shall hold office during the unexpired term of his or her predecessor.

SECTION 9. STATE LAW GOVERNS WHERE NO CHARTER PROVISION.

The method of removal provided in this Section is in addition to such other methods as are provided by law. Where no special provision is made in this Charter governing recall elections, the general law shall govern.

ARTICLE XXIII.
GENERAL PROVISIONS

SECTION 1. CONTINUANCE OF PRESENT OFFICERS.

- (A) All persons holding office at the time this amended Charter goes into effect shall continue in office and in the performance of their duties until provision shall have been otherwise made in accordance with this Charter for the performance or discontinuance of the duties of any such office. When such provision shall have been made the term of any such officer shall expire and the office be deemed abolished. The powers which are conferred and the duties that are imposed upon any officer, commission, board or department of the City under general law, shall, if such office or department is abolished by this Charter, be thereafter exercised and discharged by the officer, board or department upon who are imposed corresponding functions, powers and duties hereunder.
- (B) Any vacancy that occurs in any appointed position on any board, commission or other body under this Charter, whether during the term or upon the expiration of the term of a member thereof, shall be filled by appointment by the appointing authority who or that appointed the member whose office has become vacant. Mid-term vacancies shall be filled for the unexpired term.

SECTION 2. OATH OF OFFICE.

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

Council, that he or she will in all respects faithfully discharge the duties of his or her office.

SECTION 3. ACTIVITY OF OFFICIALS AND EMPLOYEES RESTRICTED.

The Mayor, members of Council and the directors of departments shall not, during their term of office, hold any other public office except that of notary public, Reserve Corps of the United States or member of the State Militia, nor shall they hold public employment with the City. The Mayor, members of Council and directors of departments shall not, during their term of office, be interested in the profits or emoluments of any contract with or job, work or service for the City, nor shall the Mayor, members of Council and directors of departments, during their term of office, or any other employee of the City, during their employment by the City, practice law or give legal advice or be associated with another in the practice of law in any matter or controversy in which the City is or may become a party, except on behalf of the City as an officer or employee. This Section shall not prohibit the Mayor, members of Council and the directors of departments and other officials or employees of the City from serving as a member or official of any organization of governments, special unit of government or an organization of governmental officials, whether such organization or special unit of government is organized as a special district, regional council of governments, nonprofit corporation or some other form under the statutes or Constitutions of the State or the federal government. This Section shall not prohibit the Mayor, members of Council and the directors of departments and other officials or employees of the City from serving as a member or an official in any other nonprofit corporation where their service is in the capacity of representing the City. When serving as a member or an official of any organization of governments, special unit of government or an organization of governmental officials, or where the Mayor, members of Council and the directors of departments and other officials or employees of the City's service are members or officials of a nonprofit corporation permitted by this Section, such persons shall not be deemed to be interested in the profits or emoluments of any contract, job, work or service for the City or other transaction because of any contract or other transaction between the City and such organizations, special unit of government or nonprofit corporation; and the Mayor, members of Council and the directors of departments and other officials or employees of the City may fully participate (a) in their respective official capacities in the deliberations by the City or its agencies, and (b) in their capacity as members or officials of such organization of governments, special unit of government, organization of governmental officials or nonprofit corporation, including the right to vote with respect to such contract, job, work, service or other transaction. Any willful violation of this Section shall constitute malfeasance in office, and any such officer or employee found guilty thereof by a court of law shall forfeit his or her office. (Amended 5-8-07)

SECTION 4. CONTINUANCE OF CONTRACTS.

All contracts entered into by the City prior to the taking effect of this amended Charter are continued in full force and effect. All public work begun prior to the taking effect of this amended Charter shall be continued and perfected hereunder. All public improvements for which legislative steps have been taken under law in force at the time of the adoption hereof may be carried to completion in accordance with the provisions of such laws.

SECTION 5. CONTINUANCE OF OTHER ENACTMENTS.

All ordinances and resolution in force at the time of the taking effect of this amended Charter, not inconsistent with its provisions, shall continue in force until amended or repealed.

SECTION 6. AMENDMENTS.

Amendments to this Charter may be submitted to the electors of the City by a two-thirds vote of the Council, and, upon petitions signed by ten percent (10%) of the electors of the City setting forth any such proposed amendment, shall be submitted by such Council. The submission of a proposed amendment to the electors shall be governed by the requirements of Article XVIII, Sections 8 and 9 of the Constitution of the State of Ohio as to the submission of the question of choosing a charter commission; and notice of the proposed amendment may be mailed to the electors as provided by the Constitution or, pursuant to ordinances adopted by the Council, notice of the proposed amendments may be given by newspaper advertising. If any such amendment is approved by a majority of the electors voting thereon, it shall become a part of the Charter of the Municipality, 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 of the electors voting thereon, shall become a part of this Charter. A copy of said Charter or any amendment thereto shall be certified to the Secretary of State within thirty (30) days after the adoption by a vote of the electors.

SECTION 7. SEVERABILITY.

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

SECTION 8. CHARTER REVIEW COMMISSION.

In January of 2004 and of each tenth year thereafter, nine electors of the City shall be appointed as members of a Charter Review Commission pursuant to this Section. Five members of the Commission shall be appointed by Council, and four members of the Commission shall be appointed by the Mayor. Members of the Commission shall not hold any other office or position of employment with the City. The Commission shall review the Charter and within six months after the appointment of its members, may recommend to Council by a two-thirds vote of the members of the Commission, revisions and amendments to this Charter. Council may submit any proposed amendments recommended by the Commission to a vote of the people in the manner provided under this Charter and the State Constitution. Such amendments shall be in the form as provided by Council.

SECTION 9. EXCEPTIONS FOR BONDS, NOTES AND OTHER DEBT INSTRUMENTS.

- (A) Nothing contained in Article XVIII, Sections 8 and 13 of Article III, or any other provisions of this Charter with respect to specific restrictions upon the granting, renewing or extending, or procedure for granting, renewing or extending, franchises or other special privileges shall apply to franchises or other special privileges given in connection with the issuance of bonds, notes or other debt instruments by the City. Grants, renewals or extensions of franchises given in connection with the issuance of bonds, notes or other debt instruments by the City shall conform to any applicable provisions of the State Constitution.
- (B) Section 1 of Article VII of this Charter shall not require the Director of Law to prepare or endorse his or her approval of the form and correctness on bonds, notes or other debt instruments of the City, when the City has engaged other counsel as bond counsel to prepare and render approving opinions with respect to such bonds, notes or other debt instruments of the City.
- (C) Ordinances and resolutions authorizing or otherwise affecting the issuance or terms of bonds, notes or other debt instruments of the City, need not be certified by the Director of Finance pursuant to Sections 4 and 5 of Article VIII of this Charter, and Section 6 of Article VIII of this Charter shall not apply to such ordinances and resolutions.