Nelsonville City Charter

NELSONVILLE CITY CHARTER

PREAMBLE
ARTICLE I - Name, Succession and Boundaries
ARTICLE II - Form of Government
ARTICLE III - Powers
ARTICLE IV - The Council
ARTICLE V - City Manager
ARTICLE VI - Administrative Departments
ARTICLE VII - Boards and Commissions
ARTICLE VIII - Finance, Taxation and Debt
ARTICLE IX - Nominations and Elections
ARTICLE X - Initiative, Referendum and Recall
ARTICLE XI - General Provisions
ARTICLE XII - Transitional Provisions

PREAMBLE

We, the people of the City of Nelsonville, Ohio, in order to obtain and secure the benefits of home rule powers under the Constitution of the State of Ohio, do hereby adopt this Charter for the government of the City of Nelsonville.

Through this Charter with divine guidance we express our beliefs and convey our trusts, so that its concepts shall long endure without regard to age, race, color, sex, marital status, handicap, religion, ancestry, or national origin.

ARTICLE I - NAME, SUCCESSION AND BOUNDARIES

§1.01. Name, succession and boundaries

The City shall be known as the "City of Nelsonville", shall continue under this Charter to be a body politic and corporate, and as such shall have perpetual succession. The City shall have the same boundaries existing at the time of adoption of this Charter, with the power and authority to change its boundaries and annex territory thereto in the manner authorized by the laws of the State of Ohio.

ARTICLE II - FORM OF GOVERNMENT

§2.01. Form of government.

The government provided by this Charter shall be known as the Council-Manager form.

ARTICLE III - POWERS

§3.01. Powers.
§3.02. Construction
§3.03. Intergovernmental relations.

§3.01. Powers.

The City shall have all powers to which a city is entitled under the Constitution and laws of the State of Ohio, either expressly or by implication, as fully and completely though specifically enumerated in this Charter. The enumeration of specific powers in this Charter or the reference in this Charter to specific powers granted by the Constitution or laws of the State of Ohio shall not be construed to be exclusive, and the City may determine to exercise any power in the manner provided under this Charter or in the manner provided under the Constitution or laws of the State of Ohio. Unless otherwise specified by ordinance or resolution, powers shall be exercised in the manner provided under this Charter. It is the intention of the people by the adoption of this Charter that a substantial compliance with the Charter's provisions shall be sufficient to sustain any action taken under this Charter.

§3.02. Construction.

The powers of the City under this Charter shall be construed liberally in favor of the City. As applied in this Charter, unless the context otherwise requires, the singular includes the plural; the plural includes the singular; words of one gender include the other gender; and words in the present tense include the future tense.

§3.03. Intergovernmental relations.

The City may exercise any of its functions, and participate in the financing thereof, including the incurrence of debt, jointly or in cooperation, by contract or otherwise, with one or more political subdivisions, s or civil divisions thereof, or the United States or any agency thereof.

ARTICLE IV - THE COUNCIL

§4.01. Number, selection and term.
§4.02. Qualifications.
§4.03. Vacancies.
§4.04. Quorum.
§4.05. Meetings.
§4.06. Clerk of Council.
§4.07. Special meetings.
§4.08. Powers of Council.
§4.09. Forms of action by Council.
§4.10. Enactment of ordinances.
§4.11. Effective date.
§4.12. Publication of ordinances.
§4.13. Initiative and referendum.
§4.14. Adoption of standard codes by reference.
§4.15. Council compensation.

§4.01. Number, selection and term.

The legislative powers of the City except as are reserved to the people by this Charter (Initiative and Referendum), and by the Constitution of the State of Ohio, shall be vested in a Council, which shall consist of seven (7) members elected at large by a non-partisan ballot. All such *members must be and must remain residents of the City.* The term of office of members of Council shall be for four (4) years beginning the first Monday of December next following their election and they shall hold office until their successors

are elected and qualified. To effect election by staggered terms of its members, the four (4) members who receive the highest number of votes shall be elected for four (4) years, and the three (3) members receiving the next highest votes shall be elected for two (2) years. At succeeding elections all members shall be elected for four (4) year terms of office.

§4.02. Qualifications.

Any qualified elector who has been continuously a resident and a qualified elector of the City of one (1) year next prior to their election, and who is not the occupant of an incompatible office, shall be eligible to serve as a member of City Council. Each member of Council shall continue to be a resident and qualified elector of the City throughout his term of office, failing which Council shall remove him from office.

§4.03. Vacancies.

Vacancies in Council shall be filled by appointment of a qualified person. The appointment shall be made by a majority vote of Council and shall continue until the next election is held at which time a successor shall be elected to fill the unexpired term. In the event Council fails to fill the vacancy within thirty (30) days the President of Council shall make the appointment within fifteen (15) days of Council's failure to do so.

§4.04. Quorum.

Four (4) members of Council shall constitute a quorum to transact business, but a lesser number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by Council rules and regulations duly adopted.

§4.05. Meetings.

The Council shall meet at such times and places as may be prescribed by its ordinances, resolutions, rules or by motion. Regular meetings shall be held at least twice in each calendar month, except that during the months of July and August the Council may dispense with one of its regular meetings. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings. Council may appoint, from its own body, such officers or employees deemed necessary for efficient operation of Council. Except for such closed executive sessions as may be permitted by Ohio law, all meetings of Council and its committees shall be open to the public. Any person shall have access to the public records of the City as permitted by Ohio law.

§4.06. Clerk of Council.

Council shall appoint, by majority vote, a person to serve as Clerk of Council. The Clerk shall serve at the pleasure of Council and may be removed by a majority vote of Council. The Clerk of Council may not hold other office or position of employment in the City. The Clerk of Council shall keep an accurate and complete journal of the proceedings of Council and perform such other duties as this Charter or Council may require. Council shall set a reasonable salary for the position of Clerk of Council, before any such appointment is made.

§4.07. Special meetings.

The President of Council or any three (3) members thereof may call special meetings of Council upon written notice served personally upon each member, or left at their usual place of residence twenty-four (24) hours previous to the time fixed for such meeting. Any request for a special meeting and the notice calling same shall the subject(s) to be considered, and such meeting shall be limited to a consideration of such subject(s).

§4.08. Powers of Council.

All legislative power of the City shall be vested in the Council except as otherwise provided by this Charter and The Constitution of the State of Ohio therefore. Council shall have authority to:

(1) Adopt ordinances and resolutions on any subject within the scope of its powers and provide penalties for the violation thereof;

(2) Establish the internal organization, staffing and compensation of the departments, boards and commissions created by this Charter;

(3) Set up such additional departments, boards, or commissions as it may deem necessary and determine their powers and duties;

(4) Adopt and modify the master plan and official map of the City;

(5) Have the power to adopt and provide for the enforcement of zoning classifications, districts, uses and regulations by ordinance as authorized under the provisions of the Ohio law;

(6) Adopt a subdivision platting ordinance and approve subdivision plats which conform thereto.

(7) Enact a comprehensive building code;

(8) Adopt an annual appropriation ordinance based upon the annual budget;

(9) Appoint and remove, and establish compensation for, the office of Mayor and Vice-Mayor. The Mayor and Vice-Mayor will be elected biennially from among the seven Council members. The Mayor shall act as President of Council and preside over Council, but will have no veto powers. The Mayor will act as a ceremonial figure for various civic functions where the City should be represented. The Mayor shall preside over Mayor's Court and supervise the bailiff of that Court. The Vice-Mayor shall perform the duties of the Mayor when the Mayor is absent;

(10) Appoint and remove, and establish compensation for, the position of City Manager, and appoint an acting Manager when necessary;

(11) Confirm and remove, and establish compensation for, the position of City Attorney;

(12) Inquire into the conduct of any City officer or employee in the performance of their functions;

(13) Make investigations of any office, department or agency of the City;

(14) Employ a public accountant to make an audit of the financial affairs of the City whenever such audit is deemed necessary or required by law;

(15) Provide for the employment of engineering and other professional services on a consulting basis when deemed necessary; and

(16) Issue subpoenas for witnesses and the production of books and papers which may be necessary in the conduct of any hearing or investigation.

§4.09. Forms of action by Council.

The action of Council shall be by ordinance or resolution. On all matters of a general or permanent nature, or granting a franchise, or levying a tax, or appropriating money, or contracting indebtedness, or issuing bonds or notes, or for the purchase, lease or transfer of property, action shall be taken formally, by ordinance, in the manner hereinafter provided. Action on all other matters of a temporary or informal nature may be taken by resolution.

§4.10. Enactment of ordinances.

Each proposed ordinance shall be introduced in writing by a member of the Council, and, in addition to the title, shall contain an opening clause reading as follows, "Be it ordained by the Council of the City of Nelsonville, Ohio." The action proposed to be taken shall be fully and clearly set forth in the body of the ordinance. Each ordinance shall contain one subject only, which shall be d clearly in the title. No ordinance shall be passed without the concurrence of a majority of all the members elected to Council, except that emergency ordinances, as hereinafter provided, shall require concurrence of five (5) members elected to Council for passage. Every ordinance shall be fully and distinctly read on two (2) different days before its enactment, unless an emergency is declared as hereinafter provided, or unless, by a vote of five (5) members elected to Council, the reading in full on two (2) different days is dispensed with, in which cases such ordinance may be read one (1) time and passed on the day as such reading. Final passage of all ordinances and resolutions shall be certified by the Mayor or Vice-Mayor and the Clerk of Council.

§4.11. Effective date.

Ordinances provided for appropriations for current expenses of the City, or for public improvements petitioned for by the owners of a majority of the foot frontage of property benefited and to be specially assessed for the cost thereof, or for raising revenue, or ordinances wherein an emergency is declared to exist, shall become effective immediately upon passage or at such later date as may be provided therein, and such ordinances shall not be subject to referendum. All other ordinances shall take effect thirty (30) days after passage. An emergency ordinance as referred to herein is one which must be passed and made effective at once or in less than thirty (30) days to meet an emergency in the operation of the City government, or which is necessary for the immediate preservation of the public peace, health, safety, morals or welfare. Each emergency ordinance must contain therein a separate Section setting forth the reason for the emergency. No ordinance granting a franchise or fixing a rate to be charged by a public utility shall be passed as an emergency measure.

§4.12. Publication of ordinances.

Within fourteen (14) days after passage, ordinances required by law to be published, shall be published by posting the complete text of the ordinance in each of the four (4) public places in the City, such places to be designated by Council, for a period of at least fifteen (15) days. In addition, all ordinances shall be posted on one prominent protected bulletin board in City Hall for a period of at least fifteen (15) days.

§4.13. Initiative and referendum.

Except as otherwise provided in this Charter, ordinances may be proposed and submitted to popular vote by initiative and referendum under the procedures set forth in Ohio law.

§4.14. Adoption of standard codes by reference.

The Council may adopt model or standard codes prepared and published by public or private agencies on such matters as building construction, plumbing, heating, ventilation, air conditioning, electric wiring, smoke regulation, fire prevention and other similar regulatory subjects by reference to the date and source of the code without reproducing the same in full in the ordinance. At least six (6) copies of all such Codes shall be kept in the office of the Clerk of Council for reference and consultation by interested persons during regular office hours, and additional copies shall always be available for sale, at cost, by the Clerk of Council. Any standard code adopted in this manner shall not be required to be published at length.

§4.15. Council compensation.

Compensation of Council members shall be established by ordinance but shall not be changed during their terms of office, nor by any ordinance passed subsequent to thirty (30) days before the final date fixed by the general election laws of Ohio or by provisions of this Charter for filing as candidate for such office.

For the first term of service under this Charter, Council members shall receive a salary of $1,200.00 per year. The President of Council shall receive an additional $1,200.00.

ARTICLE V- CITY MANAGER

§5.01. Approval and removal.
§5.02. Qualifications.
§5.03. Acting Manager.
§5.04. Powers and duties of the City Manager.
§5.05. Council, Manager relations.

§5.01. Appointment and removal.

Council shall appoint a City Manager, herein also referred to as the Manager, and establish the compensation for that position. A majority vote of the members elected to Council shall be required for the appointment of the City

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

(1) If the City Manager served less than six (6) months he may be removed by a two-thirds vote of the members of Council without any right to a public hearing and without the benefit of the provisions of subsections (2) to (4), inclusive, of this Section;

(2) If the City Manager has served six (6) months or more the Council shall adopt by a vote of two-thirds of its members a preliminary resolution which must the reasons for removal and may suspend the City Manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the City Manager;

(3) Within five (5) days after a copy of the resolution is delivered to the City Manager, he may file with the Clerk of Council a written request for a public hearing. This hearing shall be held at a regular or special Council meeting not earlier than fifteen (15) days and no later than thirty (30) days after the request is filed. The date of the public hearing shall be set by the City Manager. The City Manager may file with the Clerk of Council a written reply to the reasons for removal contained in the preliminary resolutions, not later than five (5) days before the hearing;

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

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

(6) If the City Manager is suspended from duty under subsections (1) or (2), the Council shall appoint by vote of a majority of the members thereof an administrative officer who shall serve as acting manager until the City Manager is restored to duty, or until Council shall appoint another person as Acting Manager, or until another person is appointed City Manager in accordance with this Charter. The Acting Manager so appointed shall exercise all powers, duties and functions of the City Manager under this Charter.

§ 5.02. Qualifications.

The City Manager shall be appointed solely on the basis of his executive and administrative qualifications, and need not be a resident of the City at the time of his appointment, but shall become a resident of the City within six (6) months after his appointment.

§5.03. Acting Manager.

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

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

Upon the recommendation of the City Manager, the Police Chief is hereby appointed the Acting City Manager in the absence of the City Manager. The City Manager shall still file with the Clerk of Council the designation of the Police Chief as Acting City Manager and the term of each designation. City Council reserves the right pursuant to this Section of the Nelsonville City Charter to revoke this designation at any time by passage of this ordinance.

§5.04. Powers and duties of the City Manager.

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

(1) He shall appoint and, when he deems it necessary for the good of the service, suspend or remove or otherwise discipline all City employees and appointive administrative officers, except as provided for by or under this Charter, in the manner provided by the rules adopted by the Civil Service Commission pursuant to this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, division, office or agency. He shall have the power and authority to appoint various City positions, including the City Attorney, under this Charter. He shall not have the power or authority to appoint or remove, suspend or discipline any member of any board or commission established under this Charter;

(2) He shall direct and supervise the administration of all departments, divisions, offices and agencies of the City, except as otherwise provided by this Charter;

(3) He shall attend all Council meetings and shall have the right to take part in discussion but may not vote;

(4) He shall see that all laws, provisions of this Charter, and ordinances and resolutions of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed;

(5) He shall prepare and submit the annual budget and capital program to Council;

(6) He shall submit to Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;

(7) He shall make such other reports as the Council may require concerning the operations of City departments,

divisions, offices, boards, commissions and agencies subject to his direction and supervision;

(8) He shall make detailed monthly reports to Council fully advising Council as to the financial condition and future operating and capital needs of the City and make such recommendations to the Council concerning the affairs of the City;

(9) He shall require reports and information of subordinate officers and employees of the City as he deems necessary in the orderly operation of the City, or when requested to do so by Council or any board or commission of the City;

(10) He shall be the contracting officer of the City and shall award and execute contracts and agreements on behalf of the City in the manner and under the procedures required by this Charter, provided that:

(a) When the expenditure of funds for the purchase of supplies or materials, or to provide labor for any work to be performed under contract exceeds the amount specified by the laws of the State of Ohio for which such purchases or work may be accomplished without advertisement and competitive bidding, such expenditure shall first be authorized and directed by ordinance passed by the Council. The City Manager shall recommend to Council the lowest and best bid, and upon approval of Council, may award a written contract to the lowest and best bidder after advertisement on the same day of each week for not less than two (2) nor more than four (4) consecutive weeks in a newspaper determined by the Council to be of circulation within the City;

(b) Compensation of persons and employees; contracts with persons, firms or corporations for services requiring specialized skill, knowledge, or training; and expenditures required because of a real and present emergency arising in connection with the maintenance, operation or repair of City buildings, equipment and facilities, and City services, when authorized by ordinance adopted by a two-thirds vote of all members of the Council, need not be advertised and notices need not be published as provided hereinabove;

(c) Modifications and changes to contracts awarded under competitive bidding, and in excess of One Thousand Dollars ($1,000), shall first be authorized by ordinance;

(d) The City Manager may designate an administrative officer or employee of the City to act as purchasing agent to award and execute contracts, orders or agreements on behalf of the City, when such contracts, orders or agreements do not authorize an expenditure of money in excess of Five Thousand Dollars ($5,000); and

(e) The City Manager or any other person designated by him as purchasing agent shall not willfully cause or allow any contract or order to be split or divided into separate orders or contracts in order to avoid the requirements of subsection (4) above, or the requirements of competitive bidding as provided by this Charter.

(11) He shall execute on behalf of the City all contracts and agreements, except as otherwise hereinabove provided by paragraph (10) of this Section regarding the designation of a purchasing agent, conveyances, evidences of indebtedness and other instruments to which the City is a party;

(12) He shall affix to official documents and instruments of the City the City Manager's Seal which shall be the seal of the City, but the absence of the seal shall not affect the validity of any such document or instrument;

(13) He shall perform such duties and have such other powers as are conferred or required by this Charter, by any ordinance or resolution of the Council, or by the laws of the State of Ohio; and

(14) He shall endeavor to actively pursue the awarding of grants to aid in the operation of the City.

§5.05. Council, Manager relations.

Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, unless otherwise provided by this Charter, but the Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees. Except for the purpose of inquiries and investigations, the Council or its members shall deal with officers and employees who are subject to the direction and supervision of the City Manager solely through the Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately, except that the Council may require of the Departments of Law and Finance such reports, information, and opinions as Council shall determine. This Section shall not be construed as limiting the power of Council to remove or suspend the City Manager because of his practices in connection with the appointment, promotion, disciplining or removal of officers and employees of the City.

ARTICLE VI- ADMINISTRATIVE DEPARTMENTS

§6.01. Creation of departments.
§6.02. Creation of new departments.
§6.03. Department directors and division heads.
§6.04. Administrative Code.
§6.05. Department of Law.
§6.06. Department of Finance.
§6.06.01. Auditor: term.
§6.06.02. Auditor: qualifications.
§6.06.03. Auditor: powers and duties.
§6.06.04. Auditor: compensation.
§6.06.05. Auditor: vacancy.
§6.06.06. Auditor: staff.
§6.06.07. Treasurer: term.
§6.06.08. Treasurer: qualifications.
§6.06.09. Treasurer: powers and duties.
§6.06.10. Treasurer: compensation.
§6.06.11. Treasurer: vacancy.
§6.07. Department of Public Safety.
§6.07.01. Division of Water.

§6.07.02. Division of Water Distribution.
§6.07.03. Division of Sewers.
§6.07.04. Division of Streets.
§6.08. Department of Public Safety.
§6.08.01. Division of Police.
§6.08.02. Division of Fire.
§6.08.03. Residence requirements.
§6.08.04. Procedure for appointment of Police and Fire Chief.

§6.01. Creation of departments.

The administrative functions of the City shall be carried on by the departments of Law, Finance, Public Safety, and Public Service. This Section shall not preclude the Council from providing for such services by contract or through joint participation with other governmental agencies.

§6.02. Creation of new departments.

The Council may, by ordinance or resolution, create, change or abolish any office, department, division, or subunit of any department or division, or agency, other than those established by the Charter. Council may assign additional duties to any department established by this Charter, but may not discontinue or assign to any other office, department, or agency, any function assigned by this Charter to a particular office, department, or agency.

§6.03. Department directors and division heads.

Unless otherwise provided by this Charter, the Director of each department shall be the Manager. Unless otherwise provided by this Charter, the head of each division shall be a part-time or full-time Division Head, appointed by the City Manager and approved by a majority vote of Council, who shall exercise division supervision and control subject to the direction of the Manager. Two (2) or more divisions may be headed by the same person, and the Manager, with approval of Council, may serve as the division head of one (1) or more divisions. Each division head shall be an administrative officer of the City.

§6.04. Administrative Code.

Subject to the provisions of this Charter, Council shall, by ordinance or resolution, adopt, revise or repeal an ordinance or resolution referred to as the Administrative Code, which Code shall provide for the organization of the City government that is consistent with this Charter, define the powers and duties of each organizational unit, and determine administrative procedures. Council may delegate to the City Manager the power to make rules and regulations to govern management practices, consistent with this Charter, the Administrative Code and other ordinances and resolutions.

§6.05. Department of Law.

There shall be a Department of Law, the head of which shall be the City Attorney. The City Attorney shall be an attorney-at-law, qualified to practice law in the State of Ohio, appointed by the City Manager subject to approval by a majority vote of City Council.

A law firm, as well as an individual attorney, may serve as the City Attorney and in that case, the person designated by the law firm shall serve with the title of City Attorney, and other persons so designated may serve as Acting City Attorney with all the power, duties and functions of the City Attorney when the person designated as City Attorney is not available. The City Attorney shall serve as the chief legal advisor to Council, the City Manager, and all city departments, divisions, offices and other agencies, boards or commissions. The City Attorney shall represent the City in all legal proceedings and shall perform any other duties prescribed by this Charter, by ordinance or resolution or by the Administrative Code or the general laws of Ohio, except that the person or firm holding the office of City Attorney shall not be required to represent any school district or any other unit of government, other than the City, by virtue of holding the office of City Attorney. When necessary, the Council may appoint special legal counsel to represent the City, together with or in place of the City Attorney. The City Attorney shall be present at all Council meetings, and may be requested to attend any Commission and Board meetings. The person or firm holding the office of City Attorney shall not be required to be resident of the City.

§6.06. Department of Finance.

The direction of and the responsibility for the Department of Finance shall be split between the City Auditor and the City Treasurer, each being elected by the public. Each shall be solely responsible for the operation of their office as prescribed by this Charter and the laws of Ohio.

§6.06.01. Auditor: term.

The City Auditor, herein referred to as the Auditor, shall be elected at the regular municipal election held in the year 1995 and every four (4) years thereafter, for a term of four (4) years, commencing on the first day of December next after such election, and shall serve until succeeded as in this Charter provided. The office of Auditor shall be a nonpartisan office.

§6.06.02. Auditor: qualifications.

No person shall be eligible to hold office of Auditor unless he shall have been continuously a resident and a qualified elector of the City for one (1) year next prior to his election. The Auditor shall continue to be a resident and qualified elector of the City throughout his term of office, failing which Council shall remove him from office.

§6.06.03. Auditor: powers and duties.

The Auditor shall attend all regular meetings of Council, and may be requested to attend any special or committee meetings. The Auditor (and the Manager) shall execute on behalf of the City all contracts, conveyances, evidences of indebtedness and all other instruments to which the City is a party.

The Auditor shall be the fiscal officer of the City. He shall serve the Manager and the Council as financial adviser in connection with City affairs, shall be responsible for the preparation and submission of the annual estimate of receipts and expenditures and appropriation measures and shall at all times keep the Manager and Council informed of

the financial condition and needs of the City. He shall authenticate all records, documents and instruments of the City on which authentication are proper. The Auditor shall examine all payrolls, bills and other claims against the City and shall issue no warrant unless he shall find that the claim is in proper form, correctly computed and duly approved, that it is due and payable, that a lawful appropriation has been made therefore, and that the amount required to pay said claim is in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances. He shall perform such other duties consistent with their office as the Manager or the Council may request and shall comply with the laws of Ohio relating to certifications for expenditures of public moneys.

§6.06.04. Auditor: compensation.

The Council shall fix the salary of the Auditor, which salary, for the term of 1995 through 1999, shall be fixed by Council prior to August 1, 1995.

If the established salary of the Auditor is to be changed or adjusted in respect to a succeeding term of Office, such change or adjustment must be made by Council not later than February 1st of the last year of the elective term then being served by the Auditor but the salary shall not be increased or decreased during the elective term of office which is then being served by the Auditor. Unless and until the salary is changed, it shall remain as last fixed.

§6.06.05. Auditor: vacancy.

When a vacancy occurs in the office of Auditor, the vacancy shall be filled by an appointment made by the Manager, subject to confirmation by a majority of the members of Council, and the person so appointed shall serve for the unexpired term or until succeeded as in this Charter provided.

§6.06.06. Auditor: staff.

The Auditor shall have a staff of two (2) employees. They shall be titled the Deputy Auditor and the City Tax Clerk. They shall be hired subject to the requirements of the Civil Service provisions, where applicable, and shall be subject to a job description as provided by the City Auditor. Council may approve to increase or decrease this staff, but Council may never decrease below a staff of two (2).

§6.06.07. Treasurer: term.

The City Treasurer, herein also referred to as the Treasurer, shall be elected at the regular municipal election held in the year 1995 and 1997, and every four (4) years thereafter, for a term of four (4) years, commencing on the 1st day of December next after such election, and shall serve until succeeded as in this Charter provided. The office of City Treasurer shall be a nonpartisan office.

§6.06.08. Treasurer: qualifications.

No person shall be eligible to hold the office of Treasurer unless he shall have been continuously a resident and a qualified elector of the City for one (1) year next prior to his election. The Treasurer shall continue to be a resident and qualified elector of the City throughout his term of office, failing which Council shall remove him from office.

§6.06.09. Treasurer: powers and duties.

The Treasurer shall be custodian of all moneys of the City and of all evidences of investments of City moneys, and shall keep and preserve the same in such public depositories as are authorized by the laws of the State of Ohio or by ordinance of Council. They shall pay out money from the City treasury only on warrants issued by the Auditor. They shall keep a detailed record of all receipts from taxes and other sources, as well as a detailed record of all disbursements of City moneys and a record of the expenditures from various appropriated funds.

§6.06.10. Treasurer: compensation

The Council shall fix the salary of the Treasurer, which salary, for the term of 1995 through 1997, shall be fixed by Council prior to August 1, 1995.

If the established salary of the Treasurer is to be changed or adjusted in respect to a succeeding term of office, such change or adjustment must be made by Council not later than February 1st of the last year of the elective term then being served by the Treasurer, but the salary shall not be increased or decreased during the elective term of office which is then being served by the Treasurer. Unless and until the salary is changed, it shall remain as last fixed.

§6.06.11. Treasurer: vacancy.

When a vacancy occurs in the office of Treasurer, the vacancy shall be filled by an appointment made by the Manager, subject to confirmation by a majority of the members of Council, and the person so appointed shall serve for the unexpired term or until succeeded as in this Charter provided.

§6.07. Department of Public Service

There shall be a Department of Public Service, the head of which shall be the City Manager. The Department of Public Service shall be responsible for the general supervision, custody, care and maintenance of the public buildings, grounds, streets, sewers, utilities, cemeteries and property owned or operated by the City. The department shall consist of four (4) divisions: Water, Water Distribution, Sewers, and Streets, with each division having its own Division Head.

§6.07.01. Division of Water.

The direction of and the responsibility for the Division of Water shall be vested in the Manager. The Division Head shall be appointed by the Manager with the majority approval of Council, and shall report to the Manager for administrative purposes. The appointment of all members of the Division of Water shall be made by the Manager, subject to the requirements of the Civil Service Provisions where applicable.

§6.07.02. Division of Water Distribution.

The direction of and the responsibility for the Division of Water Distribution shall be vested in the Manager.

The Division Head shall be appointed by the Manager with the majority approval of Council, and shall report to the Manager for administrative purposes. The appointment of all members of the Division of Water Distribution shall be made by the Manager, subject to the requirements of the Civil Service Provisions where applicable.

§6.07.03. Division of Sewers.

The direction of and the responsibility for the Division of Sewers shall be vested in the Manager. The Division Head shall be appointed by the Manager with the majority approval of Council, and shall report to the Manager for administrative purposes. The appointment of all members of the Division of Sewers shall be made by the Manager, subject to the requirements of the Civil Service Provisions where applicable.

§6.07.04. Division of Streets.

The direction of and the responsibility for the Division of Streets shall be vested in the Manager. The Division Head shall be appointed by the manager with the majority approval of Council, and shall report to the Manager for administrative purposes. The appointment of all members of the Division of Streets shall be made by the Manager, subject to the requirements of the Civil Service Provisions where applicable.

§6.08. Department of Public Safety.

There shall be a Department of Public Safety, the administrative head of which shall be the City Manager.

§6.08.01. Division of Police.

The Division of Police as presently established shall continue in existence. The operating rules and procedures shall be under the direction of a Chief of Police who shall report to the Manager for administrative purposes. The appointment and removal of all members of the Division of Police, excluding the appointment of the Chief of Police, shall be made by the Manager with approval of the majority of Council, subject to the requirements of the Civil Service Provisions where applicable.

§6.08.02. Division of Fire.

The Division of Fire as presently established shall continue in existence. The operating rules and procedures shall be under the direction of a Chief of Fire who shall report to the Manager for administrative purposes. The appointment and removal of all members of the Division of Fire, excluding the appointment of the Chief of Fire, shall be made by the Manager with approval of the majority of Council, subject to the requirements of the Civil Service Provisions where applicable.

§6.08.03. Residence requirement.

As of January 1, 2001, all new employees of the Department of Public Safety must reside within 25 miles of the corporate limits of the City, within one (1) year after completing their probation.

§6.08.04. Procedure for appointment of Police and Fire Chief.

The City Manager, by rule and regulation subject to Council's approval, shall provide for and develop procedures for the operation of a review board to consider applicants for a vacancy in the office of Chief of Police and Chief of Fire. The Civil Service Commission shall adopt rules and regulations for the certification to the review board of the names of the applicants who receive the top five scores on the written examination for the position of Chief of Police and Chief of Fire without regard to whether or not any individual whose name is so certified is serving or has served previously with the Nelsonville Police Department of the Nelsonville Fire Department.

The Review Board established in Section 6.08.4 of this Charter shall consist of four (4) members, two being Chiefs from surrounding communities, plus the City Manager. The appointment of the four (4) members shall be made by the City Manager with approval of the majority of Council. Each time the Review Board is convened, the members of the Review Board shall be compensated for their services.

The Review Board shall interview each applicant certified to them, and thereafter shall submit to the City Manager the names of the top (3) applicants whom the Review Board by consensus or by majority vote, finds to be the best qualified for the appointment to the vacancy. The Review Board, in its discretion may rank the candidates in order of preference. Each applicant shall be interviewed concerning the following areas applicable to either the Police or Fire Chief: procedure skills, administrative skills, and leadership skills. A psychological evaluation shall be performed on each applicant. In making its selection, the Review Board shall consider each applicant's job experience, education, and work history, as well as skills, knowledge, and abilities shown by the applicant during the Review Board process. The Review Board shall be supplied with any materials necessary to make an informed decision.

The appointment of the Police Chief or Fire Chief shall be made by the City Manager with the approval of majority of Council from the list submitted by the Review Board. Should either the City Manager or City Council decline to make an appointment from the Review Board list, the process shall be repeated after the City Manager calls for a new Civil Service test.

ARTICLE VII- BOARDS AND COMMISSIONS

§7.01. Creation of boards and commissions.
§7.02. Appointment of members of boards and commissions.
§7.03. General rules for boards and commissions.
§7.04. The Civil Service Commission.
§7.05. City Planning Commission.
§7.06. Board of Zoning Appeals.
§7.07. Board of Parks and Recreation.

§7.01. Creation of boards and commissions.

The Boards and Commissions of the City shall include: A Civil Service Commission; a Planning

Commission; a Board of Zoning Appeals; a Board of Parks and Recreation; and such other boards and commissions as may be created by Council by ordinance or resolution.

§7.02. Appointment of members of boards and commissions.

By concurrence of a majority of its members then holding office, Council shall have the power to appoint members of boards and commissions. Vacancies on boards and commissions shall be filled by a majority vote of the members of Council then holding office for the unexpired term of office.

§7.03. General rules for boards and commissions

A. Unless otherwise provided for in this Charter:

(1) Members of a board or commission of the City shall be electors of the City;

(2) Each board or commission shall elect a Chairperson and Vice Chairperson, and shall appoint a Secretary, which Secretary may be (1) a member of the board or commission or (2) hold other employment with the City, if the Manager approves of the person holding such other employment to serve as the Secretary;

(3) Each board or commission shall keep a journal or other records of its proceedings;

(4) Each board or commission shall establish its own rules for its operation, which rules shall not conflict with this Charter or the City's ordinances or resolutions;

(5) All members of boards and commissions shall serve without compensation unless otherwise provided for by the Council by ordinance or resolution;

(6) The City Manager, or the Manager's designee, shall be an ex officio member, without voting power, of each board and commission except the Civil Service Commission; and

(7) Boards and commissions shall have all powers and shall perform all duties and functions imposed upon them by this Charter and the City's ordinances and resolutions.

B. A majority vote of the members of the board or commission then holding office shall be required to take action.

§7.04. The Civil Service Commission.

A. Composition and Term.

The Civil Service Commission shall consist of three (3) electors of the City, not holding other municipal office, to be appointed for a term of six (6) years, except that of the three first appointed, one shall be appointed for a term of two (2) years, one for a term of four (4) years, and one for a term of six (6) years.

B. Duties.

The Civil Service Commission shall provide by rule for the ascertainment of merit and fitness as the basis for appointment and promotion of all regular employees in the service of the City as required by the Constitution and laws of Ohio, and for appeals from the action of the City Manager in any case of transfer, reduction or removal. The action of the Commission on any such appeal shall be final, except as otherwise provided by the laws of Ohio.

Civil Service examination shall not be required for the appointment of any member of a board or commission, or to the Clerk, or to appointment to any office or position requiring professional or exceptional qualifications.

All permanent employees who have had at least twelve (12) months service with this City prior to the effective date of this Section may be retained in the same or any similar position without examinations. Except as herein provided, the Civil Service Commission shall determine the practicability of competitive examinations for any non-elective office or job classification in the service of the City.

§7.05. City Planning Commission.

The Planning Commission shall consist of five (5) members serving overlapping terms of five (5) years each, provided that initial appointments under this Charter shall be as follows: One for a term of one (1) year, one for a term of two (2) years, one for a term of three (3) years, one for a term of four (4) years, and one for a term of five (5) years.

The Council, by ordinance or resolution, shall designate the Planning Commission to serve as the platting commission of the City, and the Commission shall have control of platting and shall recommend regulations to Council covering the platting of all lands within the City.

The Planning Commission shall recommend to Council, for the Council's adoption with or without revisions thereto, a comprehensive general plan or revisions thereto for the physical development of the City, which shall include, but not be limited to: The location of public ways, property, bridges, utilities, buildings, parks, playgrounds, bikeways, and recreation areas. The comprehensive general plan shall show the existing school locations in the City and shall show the projected locations of all new schools as determined by the governing board of the appropriate school district.

The Planning Commission shall prepare and recommend to Council such ordinances and resolutions as will promote the general welfare of the City and its inhabitants; recommend for the Council's approval a base map to be titled the "Official Map of the City of Nelsonville"; and exercise control over the subdivision of lands and the improvement or development thereof as authorized by the City's ordinances and resolutions.

In the performance of its functions, the Planning Commission may enter upon any land in a lawful manner to make examinations and surveys, and place and maintain necessary monuments and markers thereon. The Planning Commission shall have such other powers and perform such other duties and functions as provided by the City's ordinances and resolutions.

§7.06. Board of Zoning Appeals.

The Board of Zoning Appeals shall consist of five (5) members serving overlapping terms of five (5) years each. The first members appointed under this Charter shall be appointed for terms as follows: One for a term of one (1)

year, one for a term of two (2) years, one for a term of three (3) years, one for a term of four (4) years, and one for a term of five (5) years.

The Board of Zoning Appeals shall hear and determine applications for variances from the provisions of any zoning ordinances and resolutions, in harmony with the intent and purposes of any zoning ordinances and resolutions and in accordance with procedures provided therein. The Board of Zoning Appeals shall also hear and determine appeals from any order, requirement, decision, or determination made by the administrative department or administrative officer who is in charge of the enforcement and application of any zoning ordinances and resolutions. The Board shall have such other powers and perform such other duties and functions as provided by ordinance or resolution.

§7.07. Board of Parks and Recreation.

The Board of Parks and Recreation shall consist of five (5) members serving overlapping terms of five (5) years each. The first members appointed under this Charter shall be appointed for terms as follows: One for a term of one (1) year, one for a term of two (2) years, one for a term of three (3) years, one for a term of four (4) years, and one for a term of five (5) years.

It shall be the function and duty of the Board of Parks and Recreation to recommend a program to Council for the operation of public parks, recreation facilities, and the acquisition, improvement, construction and maintenance of the parks, parkways, bikeways, and any other services related thereto. The Board's functions and duties shall be advisory only.

ARTICLE VIII- FINANCE, TAXATION AND DEBT

§8.01. General.
§8.02. Capital Improvements Plan.
§8.03. Temporary appropriations.
§8.04. Income tax.
§8.05. Purchasing and contracting; competitive bidding.

§8.01. General.

The laws of Ohio relating to budgets, appropriations, taxation, debt, bonds and notes, assessments, and other fiscal matters of the City shall be applicable to the City, except as such laws are modified by or are inconsistent with the provisions of this Charter, or when provisions for such matters are made in the Constitution of Ohio.

§8.02. Capital Improvement Plan.

A. Submission to Council.

The City Manager shall prepare and submit to Council a five (5) year Capital Improvement Plan, or revision thereto, at least one (1) month prior to the final date for submission of the tax budget to the Council.

B. Contents.

The Capital Improvement Plan shall include:

(1) A clear, general summary of its contents;

(2) a list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) cost estimates, methods of financing and recommended time schedules for each improvement; and

(4) the estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

C. Adoption by Council.

The Council, by ordinance or resolution, shall adopt the Capital Improvements Plan, with or without amendment, prior to adoption of the tax budget. The Capital Improvements Plan shall be advisory only and shall not affect the validity of any tax budget and shall not prevent the Council from undertaking capital improvements, or the issuance of debt therefore, which are not shown in or are inconsistent with the Capital Improvements Plan.

§8.03. Temporary appropriations.

If the annual appropriation measure is not adopted by the first day of January, the Council may, by ordinance or resolution, provide for temporary appropriations. If a temporary appropriations measure is not adopted, the amounts appropriated for the preceding fiscal year shall be deemed appropriated for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly, until such time as Council adopts the annual appropriations resolution for the ensuing year.

§8.04. Income tax.

After the effective date of this Charter the Council shall not have the power to adopt and levy a City income tax without the approval of a majority vote of the electors voting on such issue at a general, primary or special election.

§8.05. Purchasing and contracting; competitive bidding.

A. The Manager shall award all contracts in manner consistent with subsections (j) and (k) of Section 5.04 of this Charter. Where competitive bidding is required pursuant to Council's determination under subsection (B) of this Section, the contract shall be awarded to the lowest and best bidder.

B. The Council shall, by ordinance or resolution, provide for:

(1) The circumstances under which competitive bidding shall be required, including but not limited to the amount of an expenditure to be made pursuant to a contract above which bidding shall be required; contractual expenditures which shall be exempted from competitive bidding requirements; and the procedure to be followed where bidding is required. The Council may, by ordinance or resolution, exempt any specific contract or contractual expenditure from bidding requirements which would, under the City's general ordinances or resolutions, is subject to bidding.

(2) All other matters relating to the contracting powers and procedures of the City. Until the Council acts pursuant to subsection (B) of this Section, the

general laws of Ohio shall apply with respect to the matters described in this subsection B.

ARTICLE IX- NOMINATIONS AND ELECTIONS

§9.01. City elections.
§9.02. Nominations.
§9.03. Absence of general laws.

§9.01. City elections.

All City elections shall be on a non-partisan basis and there shall be no party designation on either nominating petitions or ballots for any City office.

Both regular and special City elections shall be conducted by the Board of Elections of Athens County, Ohio, under the provisions of this Charter. Where this Charter is silent, the provisions of the election laws of the State of Ohio shall apply.

Regular City elections shall be held on the first Tuesday after the first Monday in November in the odd numbered years. Any matter which, by the terms of this Charter, may be submitted to the electors of the City at any special election may be submitted at the time of a primary election or of a general election.

The candidates for any office, equal in number to the places to be filled, who shall receive the highest number of votes, shall be declared elected.

Passage of tax levies and bond issues shall require an affirmative vote of a simple majority of those voting therein.

In case of a tie between candidates or issues, the plan of the laws of the State of Ohio shall be followed concerning such emergencies.

§9.02. Nominations.

Qualifications as a candidate for City office shall be a petition signed by not less than fifty (50) electors of the City. Petitions shall be standard forms provided by the election authorities under the general laws for the nomination of individual non-partisan candidates for municipal offices. Group petitions shall not be used. Petitions shall be filed with the Board of Elections in the time and manner prescribed by the general laws of Ohio.

§9.03. Absence of general laws.

Whenever the general laws of Ohio do not provide for the procedures or the method of conducting elections or the nomination of officers, and this Charter refers to the general laws, the Council shall, by ordinance or resolution, provide the necessary procedure to implement this Charter's provisions.

ARTICLE X- INITIATIVE, REFERENDUM AND RECALL

§10.01. General authority.
§10.02. Commencement of proceedings; petitioner's committee.
§10.03. Petitions.
§10.04. Referendum petitions; suspension of effect of ordinance.
§10.05. Action of petitions.
§10.06. Results of election.

§10.01. General authority.

A. *Initiative.*

The qualified voters of the City shall have the power to propose ordinances or resolutions to Council provided that such power shall apply only to the first ordinance, resolution or other measure required to be passed and not to any subsequent ordinances, resolutions or other measures relating thereto, and further provided that such power shall not extend to the tax budget or any ordinance relating to the appropriation of money or salaries of non-elected City Officers or employees. If Council fails to adopt an ordinance or resolution so proposed without any change in substance, the voters may adopt or reject said ordinance or resolution at a general, primary or special election.

B. Referendum.

The qualified voters of the City shall have the power to reject any adopted ordinance or resolution provided that the power to reject shall apply only to the first ordinance, resolution or other measure required to be passed and not to any subsequent ordinances, resolutions or other measures relating thereto, and further provided that such power to reject ordinances and resolutions shall not extend to the tax budget, or any other ordinance relating to the appropriation of money or salaries of non-elected City officers or employees or ordinances or resolutions adopted as emergency measures. The voters may approve or reject such ordinance or resolution at a general, primary or special election.

C. Recall.

The qualified voters of the City shall have the power to propose the removal of any elected City official as herein provided, and if said official fails to resign, to remove said official by majority vote of those electors voting on the issue.

§10.02. Commencement of proceedings; petitioner's committee.

A. Any five (5) qualified voters may commence initiative, referendum or recall proceedings by filing with the Clerk of Council a written statement that they constitute the petitioner's committee and will be responsible for circulating and filing the petition in proper form and in such compliance with all applicable general laws of Ohio. Such statement shall list the names and addresses of all committee members, specify a mailing address for the committee, and set out in full, the proposed initiative ordinance, the ordinance sought to be considered, or the office and name of the official to be considered for recall and shall be accompanied by a non-refundable fee of fifty dollars ($50.00) payable to the City.

B. Upon the filing of a petitioners' statement, the Clerk of Council shall promptly inform the Council of the committee's intent. Within ten (10) days of receipt of a petition, the Clerk of Council shall determine its sufficiency

and advise the petitioners' committee and Council of such findings. If the petition is found to be sufficient, Council shall pass an ordinance at its next regular meeting that the issue be placed on the ballot in accordance with Ohio law. If the Clerk of Council finds the petition deficient, the Clerk shall inform the petitioners' committee of such deficiency and return the petition. The petitioners' committee shall have thirty (30) days in which to correct the petition, and failure to do so shall void the petition.

§10.03. Petitions.

A. Number of signatures.

Initiative, referendum and recall petitions must be signed by qualified electors of the City in number to at least fifteen percent (15%) of the total number of the votes cast within the City in the last gubernatorial election.

B. Form and content.

All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil, and shall be followed by the address of the person signing. Petitions shall contain, or have attached thereto throughout their circulation, the full text of the ordinance or resolution proposed, or sought to be reconsidered, or the name and office of the official to be recalled.

C. Procedure.

Each petition shall be circulated and signed in the manner prescribed by applicable law and not in conflict with the provisions of this Charter.

D. Time for filing referendum petitions.

Referendum petitions must be filed within thirty (30) days after adoption by Council of the ordinance or resolution sought to be reconsidered. All petitions shall be filed with the election authorities. The election authorities shall review same for sufficiency according to law, and shall notify both the petitioners' committee and the Clerk of Council as to the outcome of said review.

§10.04. Referendum petitions; suspension of effect of ordinance.

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

(1) there is a final determination of insufficiency of the petition;

(2) the petitioners' committee withdraws the petition;

(3) the Council repeals the ordinance or resolution; or

(4) the electors of the City have approved the adoption of the ordinance or resolution and the election authorities have certified the results of the election.

§10.05. Action of petitions.

A. Submission to voters.

The vote of the electors of the City on a proposed or referred ordinance or resolution shall be held at the next scheduled general or primary election or a special election called by Council, not less than seventy-five (75) days after the ordinance or resolution is certified by the election authorities.

B. Action by official.

When a recall petition has been determined sufficient, the City official shall have ten (10) days to resign. If said official fails to resign during the ten-day period, a recall election shall be held at the next general or primary election or at the next possible special election called by Council, if the next scheduled general or primary election or a special election called by Council shall not occur within seventy-five (75) days.

C. Withdrawal of petitions.

An initiative, referendum or recall petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the electors in the City, by filing with the Clerk of Council a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings therein shall be terminated.

§10.06. Results of election.

A. Initiative.

If a majority of the qualified electors voting on a proposed initiative vote in its favor, such initiative shall be considered adopted upon certification of the results and shall be treated in all respects in the same manner as ordinances or resolutions of the same kind adopted by Council. If conflicting ordinances or resolutions are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

B. Referendum.

If a majority of the qualified electors vote on a referred ordinance or resolution vote for its passage, such ordinance or resolution shall take effect upon the certification of the election results.

C. Recall.

If a majority of the votes cast at a recall election are in favor of recall, the official in questions shall forfeit office upon certification of the election results. Such vacancy shall be filled as set forth in this Charter. The official recalled shall be ineligible to hold any City office for the remainder of the unexpired term of said office. If the majority of the votes cast at a recall election are against the recall, the official may not again be subject to recall for a period of eighteen (18) months after the election at which he was unsuccessfully subjected to recall.

ARTICLE XI- GENERAL PROVISIONS

§11.01. Oath of Office.
§11.02. Official bonds.
§11.03. Fees.
§11.04. Amendments.
§11.05. Conflicting amendments.
§11.06. Effect of partial invalidity.
§11.07. Political activity.

§11.08. Removal of official.
§11.09. Conflicts of interest; ethics; campaign financing.
§11.10. Succession.
§11.11. Effect of Charter on existing laws and rights.

§11.01. Oath of Office.

All officers of the City shall, before entering upon their offices, take and subscribe an appropriate oath or affirmation to be filed and kept in the office of the Clerk of Council.

§11.02. Official bonds.

The City shall pay the costs of all surety bonds for those of its officers and employees that are required by the Council to be bonded. The amount of such bonds shall be established by Council. Surety bonds shall be issued by a company authorized to do business in the State of Ohio, and such bonds shall be approved as to form and content by the City Attorney.

§11.03. Fees.

All fees and costs received directly by officers or employees of the City in connection with the performance of their official duties and functions that are included within the scope of their office or employment with the City shall be accounted for and paid into the City's treasury.

§11.04. Amendments.

This Charter may be amended as provided in Article XVIII of the Ohio Constitution.

§11.05. Conflicting amendments.

In the event conflicting amendments of the Charter are approved at the same election by a majority of the total number of votes cast, the amendment receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

§11.06. Effect of partial invalidity.

A determination that all or any part of any Article, Section or Division of this Charter is invalid shall not invalidate or impair the force and effect of any other part, except to the extent that the other part is wholly dependent for its operation upon the part declared invalid.

§11.07. Political activity.

A. Except for one's own campaign, no employee or officer of the City, other than an elected official or a member of a board or commission of the City, shall:

(1) solicit or receive any contributions to the campaign funds of any candidate for City office; or

(2) take any part in the campaign for the office of any candidate for City office other than to vote and to express personal opinions.

§11.08. Removal of official.

A. The Council members and members of boards and commissions shall be removed for cause as provided in this Section of this Charter.

B. The Charging Official having reason to believe there is probable cause (as such causes are defined in this Section) for the removal of a Council member or member of a board or commission, shall give notice of the alleged cause for removal and the time, date and place of the commencement of hearing for removal, which shall not be earlier than ten (10) days after the service of the notice to the accused person by personal service, certified mail, or by leaving a copy of such notice at the person's last known place of residence in the City. At such time, date and place, and at any adjourned meetings, the Council shall hear, provide an opportunity to the accused person to be heard and present defense, and determine whether the accused person shall be removed from office. The Council shall remove an official for any of the following causes by a two-thirds (⅔) vote of the Council members then holding office, providing that if the accused person is a Council member, such person shall not vote on any matter during the removal procedures and shall not be counted in determining required majorities:

(1) Failure to possess or maintain the qualifications of the office prescribed by this Charter;

(2) Intentional violation of Section 5.05 of this Charter;

(3) Conviction of a felony; or

(4) Unexcused absence from any three (3) consecutive regular meetings of the Council, board or commission on which such person serves. An absence from a regular meeting may be excused by a majority vote of the members of the Council then holding office, or by a majority vote of the members of the board or commission then holding office on which such person serves. Such absence may be excused at any time, including the excusing of any absence after the action is initiated but prior to the commencement of hearings for the person's removal under this Section.

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

D. The removal of an official or the occurrence of any of the causes permitting the removal shall not invalidate any official action of the Council, board or commission in which the member participated. The subsequent removal of a person, who fills a vacancy created pursuant to this Section by the reinstatement by a Court of a person previously removed by the council, shall not invalidate any action of the person who filled the vacancy or the Council, board or commission in which such person who filled the vacancy participated.

E. The Council shall be the judge of the grounds for removal from office and shall conduct the proceedings relative to removal. The Council shall have the power to subpoena witnesses, administer oaths and require the producing of evidence, either on its own motion or through the process of any appropriate Court or officer thereof. A person charged with conduct constituting grounds for removal from office shall be entitled to a public hearing on demand, but in any case, a record of the proceedings shall be made and preserved. If a public hearing is demanded, a notice of such hearing shall be published in one or more newspapers of general circulation

in the City at least one (1) week in advance of the hearing, and in such an event, the Charging Official may reschedule the time, date and place of the hearing to accommodate the publication of the notice. If the hearing is rescheduled, the Charging Official shall notify the accused person of such fact. Decisions made by the Council under this Section shall be subject to review by the Courts on matters of law and whether the Council acted arbitrarily and without probative evidence to support the grounds for removal.

F. Council shall request the County Prosecutor or his designee to prosecute the removal proceedings before the Council and any reviews thereof by the Courts. If the County Prosecutor refuses to accept the responsibility, Council shall appoint a Special Prosecutor who shall prosecute the removal proceedings before the Council and any reviews thereof by the Courts. If a person accused is not finally removed, the City shall pay the reasonable costs of the defense of such persons and any compensation withheld pending the appeal of the action of the Council.

§11.09. Conflicts of interest; ethics; campaign financing.

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

§11.10. Succession.

The City of Nelsonville under this Charter is hereby declared to be the legal successor of the City of Nelsonville under the laws of Ohio; and shall have title to all property, real and personal, owned by its predecessor, including all moneys on deposit and all taxes or assessments in process of collection, together with all accounts receivable and rights of action, the City shall be liable for all outstanding orders, contracts and debts of its predecessor, and any other obligations for which it may be held liable by any Court with jurisdiction. All contracts entered into by the City or for its benefit prior to the effective date of this Charter shall continue in full force and effort.

§11.11. Effect of Charter on existing laws and rights

A. The adoption of this Charter shall not affect any pre-existing rights of the City nor any right, liability, pending suit or prosecution, either on behalf of or against the City or any officer thereof, nor any franchise granted by the City nor pending proceedings for the authorization of public improvements or the levy of assessments thereof. Except as a contrary intent appears in this Charter, all acts of Council of the City including ordinances and resolutions in effect the date this Charter becomes effective, shall continue in effect until amended or repealed.

B. No action or proceeding pending against the City or an officer thereof shall be abated or affected by the adoption of this Charter. All actions or proceedings shall be prosecuted or defended under the laws in effect at the time they were filed.

ARTICLE XII- TRANSITIONAL PROVISIONS

§12.01. Effective date.
§12.02. Effect of Charter on existing personnel.
§12.03. Votes of Council during transition period.

§12.01. Effective date.

A. This Charter shall be submitted to the electors of the City of Nelsonville, Ohio, at an election to be held on November 8, 1994. If approved by a majority of the electors voting on the issue, this Charter shall be come effective January 1, 1995.

B. Except as provided in Section 12.02 of this Charter, the Council members, the Mayor and any other elected City officials provided for under this Charter shall be those persons who are elected at the primary and general elections to be held in 1995 and at subsequent elections pursuant to the provisions of this Charter and any person appointed to fill a vacancy in any elected office. All persons elected to public office at the primary and general election to be held in 1995, shall be elected to terms of office prescribed in this Charter commencing on June 1, 1995, or December 1, 1995, respectively.

C. In the interim period beginning January 1, 1995, and ending November 30, 1995, the City shall function under this Charter as described in Section 12.02 hereafter.

§12.02. Effect of Charter on existing personnel.

A. All elected offices and the terms of elected offices under the general statutory plan of government for cities shall be abolished and terminated as of December 31, 1994, however, said elected City office holders as of January 1, 1995, shall continue in service to the City until May 31, 1995, or November 30, 1995, upon the following conditions:

(1) All persons elected to the office of Council member at or before the regular election on November 8, 1994, serve as Council members under this Charter until May 31, 1995.

(2) The person holding the office of City Attorney under the general statutory plan of government on December 31, 1994, shall serve as City Attorney under this Charter until January 1, 1996.

(3) The person holding the office of City Treasurer under the general statutory plan of government on December 31, 1994, shall serve as City Treasurer under this Charter until November 30, 1995.

(4) The person holding the office of City Auditor under the general statutory plan of government on December 31, 1994, shall serve as City Auditor under this Charter until November 30, 1995.

(5) Should vacancies on Council occur during the period of December 31, 1994, through May 31, 1995, the vacancies created shall be filled as provided in this Charter on an interim basis, terminating May 31, 1995.

(6) No person holding a City elective office on December 31, 1994, shall be prohibited from being appointed as a City official by virtue of this Charter.

(7) The elected positions of Mayor and Council President under the general statutory plan of government on December 31, 1994, shall be abolished.

B. The person holding the office of Director of Public Safety and Service under the general statutory plan of government on December 31, 1994, shall serve as Acting City Manager under this Charter until Council appoints a City Manager. Except as otherwise provided by this Charter, all other persons holding office at the time this Charter takes effect shall continue in office and in the performance of their duties until other provisions have been made in accordance with this Charter for the performance of their duties by others or the discontinuance of the duties of or the discontinuance of the office. When such provisions shall have been made, the term of any officer shall expire and the office shall be abolished. The powers conferred and the duties imposed upon any office, body, commission, board, department or division of the City under the laws of Ohio or under any municipal ordinance, resolution or contract in force at the time of this Charter takes effect, if the office, body, commission, board, department or division is abolished by this Charter, shall be thereafter exercised and discharged by those upon whom are imposed corresponding functions, powers and duties by this Charter or by any ordinance or resolution of Council thereafter enacted.

C. Every employee of the City on January 1, 1995, shall continue in such employment subject in all respects to the provisions of this Charter and ordinances, resolutions, rules or regulations enacted or promulgated under this Charter.

§12.03. Votes of Council during transition period.

During the transition period beginning January 1, 1995, and ending May 31, 1995, wherever this Charter requires a vote of five (5) members of Council or a majority of Council, such vote shall be defined as the simple majority of the remaining number of Council members then serving; a majority of two-thirds (⅔) shall be defined as two-thirds (⅔) of the remaining number of Council members then serving; and a three-fourths (¾) majority of Council shall be defined as three-fourths (¾) of the remaining number of Council members then serving.

CERTIFICATE

We, the qualified members of the Charter Commission of the City of Nelsonville, Ohio, elected May 3, 1994, have framed the foregoing Charter and have fixed November 8, 1994, as the time of the election at which the Charter shall be submitted to the electors of the City of Nelsonville, Ohio.

Gary Edwards, Chairperson
Mary T. Sparks, Vice Chairperson
Janet Pritchard, Secretary
Bill McKnight, Treasurer
Ruth Brooker
Lowell Cole
Keith Conner
Violet Hollenbaugh
Wilma Lanning
Melvin MacCombs
Mary Jane McKinley
Melissa Meeks
Dan Pfeiffer
Charles Schnipke
Theodore Sharpe