

**FIRST AMENDED CHARTER
OF THE
CITY OF CLEVELAND HEIGHTS, OHIO**

CONTENTS

PREAMBLE

ARTICLE I. NAME AND BOUNDARIES.

ARTICLE II. FORM OF GOVERNMENT AND POWERS.

SECTION II-1. Form of Government.

SECTION II-2. Powers.

ARTICLE III. THE COUNCIL.

SECTION III-1. Powers, Number and Term.

SECTION III-2. Qualifications.

SECTION III-3. Removal.

SECTION III-4. Vacancies.

SECTION III-5. Salaries.

SECTION III-6. Appointments.

SECTION III-7. Meetings.

SECTION III-8. General Provisions.

SECTION III-9. Emergency Measures.

SECTION III-10. Public Utilities and Franchises.

SECTION III-11. President of Council and Vice President of Council.

ARTICLE IV. CITY MANAGER.

SECTION IV-1. Appointment, Tenure, Removal.

SECTION IV-2. Powers and Duties.

SECTION IV-3. Vice City Manager.

SECTION IV-4. Acting City Manager.

ARTICLE V. ADMINISTRATIVE OFFICERS AND DEPARTMENTS.

SECTION V-1. Departments.

SECTION V-2. Directors.

SECTION V-3. City Manager as Head of Departments.

SECTION V-4. Salaries and Bonds.

ARTICLE VI. MUNICIPAL COURT.

SECTION VI-1. Establishment.

SECTION VI-2. Nomination and Election.

SECTION VI-3. General Provisions.

ARTICLE VII. NOMINATIONS AND ELECTIONS.

- SECTION VII-1. Time of Holding Elections.
- SECTION VII-2. Ballots.
- SECTION VII-3. Petition for Places on Ballots.
- SECTION VII-4. Acceptance.
- SECTION VII-5. Write-In Candidates.
- SECTION VII-6. Conduct of Elections and Canvass of Votes.
- SECTION VII-7. Voting by Members of the Armed Forces and Their Families.

ARTICLE VIII. INITIATIVE, REFERENDUM AND RECALL.

- SECTION VIII-1. Initiative.
- SECTION VIII-2. Referendum.
- SECTION VIII-3. Recall.
- SECTION VIII-4. General Provisions.
- SECTION VIII-5. Official Publicity.
- SECTION VIII-6. Statements in Support and Opposition.

ARTICLE IX. FINANCES.

- SECTION IX-1. Budget.
- SECTION IX-2. Appropriation Ordinance.
- SECTION IX-3. Transfer of Funds.
- SECTION IX-4. Unencumbered Balances.
- SECTION IX-5. Payment of Claims.
- SECTION IX-6. Certification of Funds.
- SECTION IX-7. Money in the Funds.
- SECTION IX-8. Bond Issues. (11-7-72)
- SECTION IX-9. Maturities of Bonds.
- SECTION IX-10. Temporary Loans. (11-7-72)
- SECTION IX-11. Limitation on Rate of Taxation for Current Operating Expenses. (11-7-72)
- SECTION IX-11(A). Limitation on rate of taxation for improvement and maintenance of City-owned parks, recreation and cultural facilities. (11-2-04)
- SECTION IX-12. Auditing Finances. (11-2-82)

ARTICLE X. ETHICS.

- SECTION X-1. General Expectations.
- SECTION X-2. Oath of Office.
- SECTION X-3. Public Ethics.
- SECTION X-4. Role of Council.

ARTICLE XI. CITY PLANNING COMMISSION.

- SECTION XI-1. Establishment.
- SECTION XI-2. Powers.

ARTICLE XII. CIVIL SERVICE COMMISSION.

- SECTION XII-1. Establishment.
- SECTION XII-2. President and Secretary.
- SECTION XII-3. Powers and Procedures.

SECTION XII-4. Council Compensation Review.

ARTICLE XIII. AMENDMENTS.

ARTICLE XIV. CHARTER REVIEW.

ARTICLE XV. SAVINGS CLAUSES.

SECTION XV-1. Laws Continued in Force.

SECTION XV-2. Partial Invalidity.

SECTION XV-3. Continuance of Present Officials.

SECTION XV-4. Continuance of Contracts and Vested Rights.

ARTICLE XVI. EFFECTIVE DATE OF THE CHARTER.

**FIRST AMENDED CHARTER
OF THE
CITY OF CLEVELAND HEIGHTS, OHIO**

PREAMBLE

We, the ~~people~~People of the City of Cleveland Heights (“City”), in the County of Cuyahoga and the State of Ohio, in order to secure for ourselves the benefits of local self-government under the Constitution of the State of Ohio (“Constitution”), do ordain and establish this First Amended Charter (“Charter”) for the government of the City.

**ARTICLE ~~IONE~~
NAME AND BOUNDARIES**

The municipal corporation now existing and known as the City of Cleveland Heights shall continue to be an organized, incorporated governmental entity under the same name and with the same boundaries, with power and authority to change its boundaries and annex other territory contiguous to its existing boundaries in the manner authorized by the general laws of the State of Ohio. ~~However, no territory shall be detached from the City nor shall the City be annexed to any other municipality, without the consent of the Council and of a majority of the registered voters of the City voting on that question.~~

**ARTICLE ~~HTWO~~
FORM OF GOVERNMENT AND POWERS**

Commented [EW1]: Annexing and detachment of territories are general laws not subject to home rule, thus the suggested deletion.

SECTION H2-1. FORM OF GOVERNMENT

The municipal government provided by this Charter shall, as reflected more specifically in ~~other subsequent~~ provisions of the Charter, be and be known as “Council-Manager government.”

SECTION H-2.2. POWERS.

The City shall have all powers of local self-government now or hereafter granted to municipalities by the Constitution and laws of Ohio, and such further powers as may now or hereafter be granted by the Constitution and laws of Ohio. All such powers shall be exercised in the manner prescribed by this Charter or, to the extent not inconsistent with this Charter, by ordinances, resolutions, or motions of the Council.

Commented [EW2]: “laws of Ohio” should be used throughout unless another meaning is intended.

Commented [EW3]: These are the ways that Council currently exercises power. See Memo CRC DECISION REQUIRED

**ARTICLE HTHREE
THE COUNCIL**

SECTION H-3.1. POWERS, NUMBER AND TERM.

Except as otherwise allocated, provided, or limited by the laws of Ohio or this Charter, ~~all powers of the City the legislative power, and such additional powers as may be expressly granted by this Charter or by ordinance, thereafter codified,~~ shall be vested in a council of seven (7) members elected at large (“Council”). Other than as called for under ~~Article III Section 3.4.4~~ to address a vacancy, three (3) members shall be elected in the regular municipal election held in the year immediately ~~preceding before~~ that in which a United States presidential general election is held, and four (4) members shall be elected in the regular municipal election held in the year immediately following that in which a United States presidential general election is held. The terms of Council members shall begin on the first day of January immediately following their election. Each shall serve for a term of four (4) years ~~or until his or her respective successor is chosen and qualified,~~ provided that the members of Council in office when this provision becomes effective shall continue in office until the expiration of the then existing terms.

Commented [EW4]: Ambiguous. Not clear what “all powers” means and its likely not true in a Council Manager form of government.

Commented [EW5]: Council currently is the final adjudicator for use variances. It needs the charter authority to continue to do so. If not by codified ordinance (as is the case now and so drafted here), then this should be changed to an explicit reference to power to be a final decision adjudicator.

Commented [EW6]: This is parallel language to “following” otherwise use preceding and proceeding

Commented [EW7]: This means that the person cannot step down until a successor is picked. This is inconsistent with Section 3.4. A vacancy is first required to fill one. Consider deleting the reference. But if its reworded instead of deleted, also add a reference the removal section (not just resignation). FYI, if it’s here to be consistent with Planning Commission and Civil Service procedures that’s not necessary. The Planning and Civil Service Commissioners need to stay on until an appointment is made by Council. Sometimes there isn’t a timely appointment and making a quorum would become an issue pending the appointment. Council is different because of the election.

SECTION H-3.2. QUALIFICATIONS.

To serve as a member of Council, a person shall reside in, and be registered to vote in, the City at the time of submitting his or her nominating petition to the election authorities as required under the terms of this Charter, and shall continue to reside in the City during his or her term of office. No person serving on Council may hold any employment with the City or any elected public office other than that of precinct committee person or State central committee person.

SECTION H-3.3. REMOVAL.

The Council shall be the judge of the election and qualifications of its own members. It may expel any member for gross misconduct, for malfeasance in or disqualification for office, for conviction of a crime involving moral turpitude while in office, for violation of this Charter, or for persistent failure to abide by the rules of the Council. However, that expulsion may take place only upon Council acting by an affirmative vote of at least five of its members, and only after the accused member has been given an opportunity to be heard. Not fewer than ten (10) days in advance of the hearing, the accused member ~~must shall~~ be given both written notice of the time and place of the hearing and a written statement of the charges proposed as the basis for expulsion.

Commented [EW8]: Consider adding physical or mental inability as a separate basis for removal. See memo. CRC DECISION REQUIRED

Commented [EW9]: This is the first reference to the Rules of Council. See my general comment in memo about the need to mandate Rules. Consider adding a cross reference to said mandate if this suggestion is taken.

SECTION ~~HH-3.4~~. VACANCIES.

The procedure for filling a Council vacancy is as follows:

(a) Unless the unexpired term is scheduled to expire earlier, an election regarding a Council vacancy shall be held at the first primary or general election that occurs at least one hundred eighty (180) days after the vacancy occurs (“Vacancy Election”).

(b) Council may, by an affirmative vote of a majority of its members in office at the time of the appointment, fill the vacancy in the first instance by appointment, provided that it acts not later than sixty (60) days after the vacancy occurs. Council shall develop a process for making the appointment and include the process in the rules by which it operates. The term of a person who fills a vacancy by appointment shall extend until (i) the expiration of the unexpired term or, if earlier, (ii) the first regular meeting of Council following the certification of electoral results from the Vacancy Election.

(c) If Council does not fill the vacancy in the first instance by appointment as provided above, the vacancy shall be filled in the first instance by election at the Vacancy Election.

(d) The term of a person elected at the Vacancy Election shall begin at the first regularly scheduled meeting of Council following the certification of electoral results of the Vacancy Election and shall extend for the remainder of the unexpired term.

SECTION ~~HH-3.5~~. SALARIES.

Council shall, by ordinance passed biennially in odd numbered years, fix the salaries of all members of Council for the two-year period commencing on January 1 of the second year following the year in which the ordinance is adopted. Any ordinance fixing salaries shall be null and void unless adopted at least sixty (60) days before the deadline for filing nominating petitions by candidates for Council for the regular municipal election to be held in the year of adoption, and subject to further provisions of this Charter. Salaries for the six (6) members of Council other than the President of Council shall be identical. The salary for the President of Council shall be larger by [20-30% ?] than the salary for other members.

In the years in which the Civil Service Commission makes salary recommendations for members of Council under Article XII, Council shall, by ordinance, accept, reject, or modify the recommendations within ninety (90) days of their having been filed with the Clerk of Council (Clerk). In the absence of action by Council on the recommendations within the ninety day period, the recommendations shall become effective as if adopted by ordinance.

SECTION ~~HH-3.6~~. APPOINTMENTS.

The Council shall appoint a City Manager. The Council shall evaluate the performance of the City Manager no less frequently than annually and shall, at the first meeting of Council that follows completion of the evaluation, announce that it has been performed and completed.

Unless otherwise provided by ordinance of the Council, the Director of Finance shall serve as ex officio Clerk of the Council, and shall have the duty of keeping Council's records and

Commented [EW10]: See memo for issues raised here by lack of procedure and process. CRC DECISION REQUIRED

Commented [EW11]: “at least” is throughout the document, not sure if it should be replaced to “no fewer than” or just let it be. I defer to drafter

Commented [EW12]: see memo about “rules” concern

Commented [EW13]: Assuming this will be updated. No legal concerns just noting the bracketed text.

performing all other duties required of the Clerk by this Charter and by the Council. The Council may also appoint, employ, retain, contract with, and otherwise secure the services of additional persons as Council may deem necessary to advise or assist it in its functions, with all such persons to hold their appointment, employment, retention, or other status at the pleasure of Council.

The Council may create and establish any other offices and positions it deems necessary to administer City affairs and for which this Charter does not otherwise provide.

Neither the Council nor any of its members or committees may dictate the appointment of any person to office or employment by the City Manager, or in any manner interfere with or prevent the City Manager from exercising his or her own judgment in the appointment of officers and employees in the administrative service unless otherwise provided for in this Charter. Except for the purpose of inquiry, the Council and its members ~~must~~ may deal with the administrative service solely through the City Manager and neither the Council nor any member of Council may give orders to any subordinate of the City Manager.

Commented [EW14]: This is inconsistent with Section 5.2. This is just suggested language to fix that and recognize that directors are confirmed by council. Consider adding a more direct reference

In its employment practices, the City is and shall continue to be an equal opportunity employer regarding race, color, religion, sex, familial status, national origin, disability, sexual orientation, and gender identity or expression. At least once each year, the City Manager must submit a report to the Council for review concerning the carrying out of this policy. Council must make this report public.

Commented [EW15]: See memo. CRC DECISION REQUIRED

SECTION ~~III~~-3.7. MEETINGS.

The Council shall meet for the purpose of organization on the first Monday in January following each regular municipal election. In the event the first Monday is a legal holiday, Council shall meet the following day. Thereafter, the Council shall meet at such times and at such public places within the City as may be prescribed by ordinance or resolution. Four (4) members shall constitute a quorum.

SECTION ~~III~~-3.8. GENERAL PROVISIONS.

The Council shall determine its own rules and order of business, provide for special meetings and keep a record of its proceedings. The Council may by ordinance provide for: legislative procedure; the form and method of enactment of ordinances; a simplified procedure for levying assessments; the method and manner of giving public notice of passage of ordinances or resolutions of a general or permanent nature; the advertisement and sale of bonds and notes; the advertisement and awarding of public contracts; and interpretation of principles of open government for the City, as well as the methods and manners of applying those principles. Ordinances of the type listed immediately above, when once adopted, may not be repealed or amended except by an affirmative vote of at least five (5) Council members or by vote of the people.

Commented [EW16]: See memo for Rules comment. Consider mandating these rules to be in writing. This would be the cross reference throughout charters mention of "rules" if needed.

SECTION ~~III~~-3.9. EMERGENCY MEASURES .

An emergency ordinance, resolution, or other measure is one that is necessary for the immediate preservation of the public peace, health or safety in the City. No action of Council can qualify as an emergency ordinance, resolution, or other measure unless it receives the

Commented [EW17]: This term is ambiguous. Does this mean that Council could place it on the ballot? Under what method? Or does this mean under a initiative petition? I think the original phrase "by the people" probably meant initiative and so it should so state. Instead of "by the vote of the people" state "by initiative of the people." Consider adding reference to 8.3

affirmative vote of at least five (5) Council members, and the specific reason or reasons for the need to declare the emergency must be separately set forth in a section of the ordinance, resolution, or other measure.

SECTION ~~III-3.10~~. PUBLIC UTILITIES AND FRANCHISES.

Council may by ordinance grant permission to any person to construct and/or operate a public utility or other franchise on, across, under or above any public street or ground within the City. It ~~may shall~~ prescribe in the ordinance the kind and quality of service or product to be furnished, the rates to be charged for the service or product, and any other terms considered by Council conducive to the public interest. The grant may be amended or renewed in the manner and subject to the provisions established for original grants. The grant, amendment, or renewal shall be for a period of time determined by Council and shall be made subject to Council's continuing right to provide reasonable regulations for the operation of the utility or other franchise. No ordinance or other measure making, amending or renewing a public utility or other franchise may be passed as an emergency measure.

Commented [EW18]: I think this should be mandated

Commented [EW19]: It seems best to limit this to ordinances only. Not sure what "other measure" would mean here and here flexibility is likely not in the City's best interest

SECTION ~~III-3.11~~. PRESIDENT OF COUNCIL AND VICE PRESIDENT OF COUNCIL.

Council shall, at the time of organizing following each regular municipal election, elect one of its members as President and another as Vice President. In the event of a vacancy in either office, or if the Council determines by an affirmative vote of at least four (4) members that either the President or the Vice President is unable to fulfill the duties of the respective office, the Council shall immediately proceed to elect one of its members to serve in that office.

The President of Council, or in the President's absence the Vice President, shall preside at all meetings of the Council, shall have a voice and vote in its proceedings but no veto, and shall be recognized as a non-exclusive representative of the City for ceremonial purposes.

Commented [EW20]: Consider Pro Tem procedure, see memo. CRC DECISION REQUIRED

Commented [EW21]: Mayor currently has power to draft agenda (consider adding to charter. CRC DECISION REQUIRED

ARTICLE ~~IV~~ FOUR CITY MANAGER

SECTION ~~IV-4.1~~. APPOINTMENT, TENURE, REMOVAL.

The Council, acting by a vote of at least four (4) of its members, shall select and appoint a City Manager. The City Manager serves at the will of the Council, which, by an affirmative vote of at least four (4) of its members, may remove or suspend the City Manager with or without cause. No employment agreement between the City and the City Manager may limit the Council's authority to suspend or remove the City Manager, but the agreement may provide for post-employment payments and benefits.

SECTION ~~IV-4.2~~. POWERS AND DUTIES.

The City Manager is the chief executive officer of the City and official head of City government, and is responsible to the Council for the general direction, supervision, management and administration of all City affairs and the enforcement of all the laws and ordinances, resolutions, and other acts of Council, except as otherwise provided by federal, state or local law or by this Charter. The more particular powers and duties of the City Manager include, but are not limited to, the following:

Commented [EW22]: Ambiguity as to what "local law" meant but I think general reference to all "law" is clearer than trying to name

- (a) To represent the City in intergovernmental relationships;
- (b) To represent the City in its relationships with business and residential interests consistent with the City’s master plans and strategies adopted from time to time by Council and with the ordinances, resolutions, and other acts of ~~and policies approved by~~ Council;
- (c) To appoint, promote, suspend, discipline and/or remove all City employees and appointed City officers except as otherwise provided by federal, state or local law or by the Charter, and subject at all times to the terms of applicable collective bargaining agreements.
- (d) To be the chief conservator of the peace within the City, and to see that all laws, ~~and~~ ordinances, resolutions, and other acts of Council are enforced;
- (e) To develop and submit to Council policy proposals, including from time to time proposals for new or revised master plans and strategies, and to provide advice to Council on matters of policy;
- (f) To develop and recommend ordinances and resolutions for consideration by Council and otherwise make recommendations for actions to be taken by the City;
- (g) To prepare and to submit to Council annually, and to publish promptly in media of ready availability to City residents:
 - A proposed operating budget for the upcoming year;
 - A proposed capital improvements program and budget containing at least the improvements scheduled for or proposed for the upcoming year and for each of the next succeeding three years;
 - A written message accompanying the budget proposals that (i) describes the state of the City, including but not limited to its financial condition and its future needs, and identifies any longer term risks the City Manager believes are reasonably likely to have a material impact on the City’s future financial status and/or other aspects of its well-being; (ii) makes recommendations for the establishment and achievement of future City goals and deals with the risks identified; and (iii) sets forth the initiatives proposed for the year and for the next succeeding three years;
- (h) To promote and pursue the vision and plan for the City as determined from time to time by Council in light of and in response to the proposed budgets, the description of condition and needs, the identification of risks, and the proposed goals and initiatives;

Commented [EW23]: Just pointing out that this totals four years. Is that as intended? I have a memory of a discussion of a five year plan.

(i) To execute on behalf of the City all contracts, agreements, memorandum of understandings, conveyances, evidences of indebtedness and other instruments to which the City is a party;

(j) To attend meetings of Council, with the right to participate fully in its discussions and bring matters to its attention, but without the right to vote on or to veto any measure, and to attend meetings of any committee of Council ~~when permitted or requested by that committee~~ and, when permitted or requested by that committee, to bring matters to the committee's attention but without the right to vote —on or to veto any measure;

Commented [EW24]: Meetings are public. Seems odd to say that CM needed to be invited to attend. An invitation to talk makes more sense.

(j) To be recognized by the Courts for purposes of receiving service of civil process and by the Governor for military or defense purposes, and as a non-exclusive representative of the City for ceremonial purposes;

(k) To perform such other duties as may be prescribed by the Charter or by ordinances or resolutions of Council not inconsistent with the Charter; and

(l) To delegate to any other City officer, department head, or supervisor, subject to direction of, supervision of, and ultimate responsibility of the City Manager, the authority to exercise any of the City Manager's powers and duties as set forth in this

Section.

SECTION IV-4.3. VICE CITY MANAGER.

There shall be a Vice City Manager who is selected and appointed by the City Manager on the basis of executive and administrative training and experience appropriate to fulfill the responsibilities of the office, and whose appointment is subject to, and effective only upon, approval by Council acting by an affirmative vote of at least four of its members. The Vice City Manager reports to, is responsible to, and serves at the will of the City Manager, and may be suspended or removed by the City Manager without the approval of Council.

Commented [EW25]: This is inconsistent with the discuss about Law Director see Memo. CRC DECISION REQUIRED

The Vice City Manager assists the City Manager in the operation of the City Manager's office and the execution of the City Manager's powers and duties, subject to the direction of, supervision of, and ultimate responsibility of the City Manager. During any temporary absence, suspension or disability of the City Manager, the Vice City Manager has and exercises the powers and performs the duties of the City Manager; if and to the extent, in any circumstance of this kind, the Vice City Manager is unavailable to exercise the powers or perform the duties of City Manager, the Director of [Law? Planning?] shall do so.

Commented [EW26]: Decision here still needed as noted.

SECTION IV-4.4. ACTING CITY MANAGER.

Upon a vacancy in the office of the City Manager, the Vice City Manager serves as Acting City Manager until another City Manager is appointed or Council appoints a separate person to be Acting City Manager. If the Vice City Manager is serving as Acting City Manager but is unavailable to exercise the powers or perform the duties of City Manager, the Director of [Law ? Planning?] shall do so. The Council may suspend or remove an Acting City Manager from that office at any time.

Commented [EW27]: See comment above.

ARTICLE ~~V~~FIVE
ADMINISTRATIVE OFFICERS AND DEPARTMENTS

Commented [EW28]: See memo about issues in this Article.
CRC DECISION REQUIRED

SECTION ~~V-5~~1. DEPARTMENTS.

The following administrative departments are hereby established: (1) Department of Law; (2) Department of Finance; (3) Department of Planning & Development; (4) Department of Public Safety; (5) Department of Public Works; (6) Department of Community Services; and (7) Department of Parks & Recreation.

The Council shall determine and prescribe the functions and duties of each department, and, acting by an affirmative vote of at least five of its members via a codified ordinance, may create new departments, may combine or abolish existing departments including but not limited to departments established by this Charter, and may establish temporary departments for special work.

SECTION ~~V5~~-2. DIRECTORS.

There shall be a director of each department who supervises and controls the department, and who is appointed by, and is immediately responsible to, the City Manager for the department's administration. The City Manager's appointment of each director is subject to and effective only upon the affirmative vote of at least four (4) Council members. The City Manager may remove the director of any department without Council approval.

The Director of Law must be an attorney at law duly admitted to practice in the State of Ohio. The Director of Finance shall also have the title of City Auditor. Nothing in this Charter shall be construed as preventing the same person from being director of more than one department.

SECTION ~~V-5~~3. CITY MANAGER AS HEAD OF DEPARTMENTS.

Excepting the Departments of Law, Finance, and Planning & Development, the City Manager may be the director of each and every department of the City government unless otherwise stipulated by the Council.

SECTION ~~V-5~~4. SALARIES AND BONDS.

The Council shall fix by ordinance the salary, rate, or other amount of compensation of all officers and employees of the City, except as otherwise provided in this Charter. The Council may require any officer or employee to give a bond for the faithful performance of his or her duties, in such an amount as it may determine, and it may provide that the premium for the bond shall be paid by the City.

ARTICLE ~~VI~~SIX
MUNICIPAL COURT

SECTION ~~VI-6~~1. ESTABLISHMENT.

The Cleveland Heights Municipal Court ("Court") has been created and is in existence pursuant to the laws of the State of Ohio.

SECTION ~~VII-6.2~~. NOMINATION AND ELECTION.

The provisions of Article ~~VII-SEVEN~~ of this Charter shall govern the nomination and election of the Judge of the Court.

SECTION ~~VII-6.3~~. GENERAL PROVISIONS.

~~Except as otherwise specifically provided this Charter, t~~he Court shall be governed by the laws, rules and regulations of the State of Ohio.

Commented [EW29]: Deleted because the charter doesn't provide anything

**ARTICLE ~~VII-SEVEN~~
NOMINATIONS AND ELECTIONS**

SECTION ~~VII-7.1~~. TIME OF HOLDING ELECTIONS.

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

SECTION ~~VII-7.2~~. BALLOTS.

The ballots used in all elections provided for in this Charter shall be consistent with the ~~general~~ election laws of the State of Ohio.

The ballots used in all elections provided for in the Charter shall be without party marks or designations. The names of all candidates for any office shall be placed upon the same ballot and the names shall be rotated in the manner provided by the ~~election~~ laws of the State of Ohio.

SECTION ~~VII-7.3~~. PETITION FOR PLACES ON BALLOTS.

The name of anyone registered to vote in the City must be printed upon the ballot as a candidate if there is filed with the election authorities prescribed by ~~election general~~ laws ~~of the State of Ohio~~, a petition in accordance with the following requirements:

(a) The petition ~~must shall~~ state the name and place of residence of the person whose name is presented for a place upon the ballot and the name of the office for which the person is a candidate. The nomination of each candidate must be made by separate petition.

(b) The petition ~~must shall~~ be signed by registered voters of the City equal in number to not ~~less-fewer~~ than two percent (2%) of the total number of persons voting at the last regular municipal election.

(c) Each person signing a petition must add to the signature his or her place of residence, with street and number and date of signing. All signatures must be made with ink.

(d) The signatures on a petition need not all be affixed to a single paper, but to each separate paper there shall be attached a signed statement of the circulator of the paper, made under penalty of election falsification, stating the number of signers of the paper, that each person signed the paper in the ~~circulator's-circulator's~~ presence on the date noted, and that to the best of the circulator's knowledge and belief each signature is the genuine signature of the person whose name it appears to be.

(e) No petition may be signed more than one hundred eighty (180) days before the day of the applicable election, and any signature affixed before that date shall not be counted. The petition must be filed with the election authorities prescribed by ~~general~~ law not later than ninety (90) days before the day of the election.

SECTION ~~VII~~-7.4. ACCEPTANCE.

Any person whose name has been submitted for candidacy by petition must file an acceptance of candidacy with the election authorities not later than eighty-five (85) days before the applicable election; otherwise, that person's name shall not appear on the ballot. The signature of a candidate upon a declaration of candidacy contained as part of a petition filed with the election authorities, in accordance with election laws of the State of Ohio, shall constitute compliance with the requirements of this ~~section~~Section.

SECTION ~~VII~~-7.5. WRITE-IN CANDIDATES.

A person seeking election as a write-in candidate must file a declaration of intent with the election authorities not later than seventy-two (72) days before the election and must be registered to vote in the City at the time the declaration is filed. The declaration must state the person's name and place of residence and the office for which he or she intends to run. A voter may write on the ballot the name of any person who has properly and timely filed a declaration of intent to run as a write-in candidate, and that vote shall be counted.

SECTION ~~VII~~-7.6. CONDUCT OF ELECTIONS AND CANVASS OF VOTES.

All elections shall be conducted and the results canvassed and certified by the election authorities prescribed by ~~general~~ election laws of the State of Ohio, and all other election matters for which no specific provision is made in this Charter or by ordinance of Council shall also be determined by the ~~general~~ election laws of the State of Ohio.

SECTION ~~VII~~-7.7. VOTING BY MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

Members of the Armed Forces of the United States and their families shall be entitled to vote in accordance with and pursuant to the procedures of the ~~general~~ election laws of the State of Ohio.

**ARTICLE ~~VIII~~EIGHT
INITIATIVE, REFERENDUM AND RECALL**

SECTION ~~VIII~~-8.1. INITIATIVE.

The people reserve to themselves the right, by initiative petition, to propose any legislative measure, including the repeal of ordinances adopted by the Council, approved by referendum vote, or initiated by the people. An initiative petition to amend this Charter shall follow the procedures set forth in Article Thirteen. All other initiative petitions ~~must~~ shall be governed by this Article.

Commented [EW30]: See memo. Consider adding a reference to the right to amend the charter here. And a maybe cross reference to Article Thirteen. I've drafted a proposal

An initiative petition shall -be signed by registered voters of the City equal in number to not ~~less~~ fewer than ten percent (10%) of the total number of persons voting in the most recent regular municipal election.

When a petition proposing an ordinance ~~or other measure~~ has been signed by the required number of persons and filed with the Clerk of Council, the Clerk ~~of Council~~ shall, at the next regular Council meeting, certify the petition to the Council; at that meeting, the Council shall read the petition and refer it to an appropriate Council committee, which may be the committee of the whole; provision may, in the discretion of the committee to which the petition is referred, be made for public hearings on the proposed legislation; not later than the second regular meeting of the Council following that at which the proposed measure was certified to the Council by the Clerk, the committee must report the proposed measure to the Council along with its recommendations.

Commented [EW31]: What other measure could be proposed? Consider deleting.

Upon receiving the proposed measure from the committee, the Council must proceed to consider it and take final action on it not later than thirty (30) days from the date of the committee's report and recommendation to Council. If the Council rejects the proposed measure, fails to act on it within the time prescribed, or passes it in a form different from that set forth in the petition, the committee of petitioners may require that it be submitted to a vote of the people in its original form. Alternatively, the committee of petitioners may require that the measure be submitted to a vote with any proposed change, addition, or amendment that had been presented, either at a public hearing before the committee to which the proposed measure was referred, or during the consideration of the proposed measure by the Council. In no instance may any such change, addition, or amendment substantively alter the measure as it had appeared in the petition originally circulated for signatures. If the committee of petitioners intends to require a submission of the measure for a vote, it shall certify that intent to the Clerk in writing no later than ten (10) days after the final action on the proposed measure by the Council or after the expiration of the prescribed time without Council having acted, whichever is applicable; the Clerk shall promptly certify the committee's intent to the Council, which must provide for submitting it to a vote of the people.

Commented [EW32]: This is defined by Section 8.4 consider a cross reference or define here instead?

No measure initiated by the people and adopted by popular vote shall be repealed by the Council, or so amended by it as to destroy its effectiveness, within two (2) years after it takes effect.

SECTION ~~VIII~~ 8.2. REFERENDUM.

The people reserve to themselves the right, by petition, to subject to referendum any ordinance ~~or other measure~~ resolution passed by the Council, except as otherwise provided in this Section ~~VIII 2~~. No ordinance or other measure shall go into effect until thirty (30) days after it has been passed by the Council, except as otherwise set out in this Section; provided that nothing contained in this Section shall prevent the City, after the passage of any ordinance or resolution ~~or other measure~~, from proceeding at once to give any notice or make any tender or publication required ~~by the measure~~, by this Charter, by the general laws or Ohio, -or by ordinance or resolution.

Commented [EW33]: Unclear what "other measure" may refer to.

A petition demanding that an ordinance or other measure be submitted to the people for their approval or rejection must be signed by registered voters of the City equal in number to not less than fifteen percent (15%) of the persons voting in the most recent regular municipal election and must be filed with the Clerk of Council no later than thirty (30) days after the ordinance or other measure has been passed by the Council. When a referendum petition has been signed by the required number of persons and timely filed, the Clerk of Council shall, at the next regular Council meeting, certify the petition to the Council. Upon receipt of the certified petition, the Council shall immediately proceed to reconsider the ordinance or other measure. If upon reconsideration, the ordinance or other measure is not entirely repealed within thirty (30) days of Council's receipt of the petition, the Council shall provide for submitting it to a vote of the people, and it shall not go into effect unless and until approved by a majority of those voting on it.

Whenever the Council is by general law or ordinance required to pass more than one ordinance or other measure to complete the legislation necessary to make and pay for any public improvement, the provisions of this Section ~~VIII-2~~ shall apply only to the first ordinance or other measure required to be passed and not to any subsequent ordinances or other measures relating to the first ordinance or measure.

Whenever the people have authorized the issuance of bonds, subsequent ordinances or other measures relating to the issuance of the bonds shall not be subject to the provisions of this Section ~~VIII-2~~.

Ordinances or other measures providing for appropriations for the current expenses of the City, or for street improvements petitioned for by the owners of a majority of the front feet of the property benefited and to be specially assessed for the cost of the improvements, as provided by general law or ordinance, and emergency ordinances or other measures, shall go into immediate effect and are not subject to the provisions of this Section VIII-2.

SECTION ~~VIII-8.3~~. RECALL.

(a) The people reserve to themselves the right, by recall petition, to remove from office any member of the Council.

A petition for removal of a Council member must contain the name of the person sought to be removed and a concise statement setting forth the basis for removal and must be signed by registered voters of the City equal in number to not ~~less-fewer~~ than twenty-five percent (25%) of the total number of persons voting in the most recent regular municipal election. No petition shall be signed fewer than one hundred eighty (180) days following the commencement of the most recent term of office of the Council member whose removal is sought, and any signature affixed before that date shall not be counted. No petition may relate to the recall of more than one Council member.

When a petition for recall has been signed by the required number of registered voters and filed, the Clerk of Council shall, at the next regular Council meeting, certify the petition to the Council and shall at the same time furnish a copy of the petition to the member of the Council whose removal is sought. Unless within no more than five (5) days after certification of the petition to

Council the member of Council tenders his or her written resignation to the Clerk, the Council shall provide for submitting the question of removal to a vote of the people.

(b) If a majority of the votes cast at the election on the question of removal are affirmative, the person whose removal is sought shall be deemed removed from office upon the certification of the official canvass of the election to the Council.

A vacancy caused by removal of a member of Council shall be filled by the remainder of the Council according to the provisions of Article III of this Charter, provided that if the removal of four (4) or more members of Council is the subject of a single election, any vacancy caused by removal shall be filled by election at the same election at which the removal is presented. The candidates for the vacancies shall be nominated by petitions similar in form to petitions presenting names of candidates for regular municipal elections, dated and verified in the manner required for those petitions, and filed with the election authorities not later than ninety (90) days before the recall election, but no nominating petition shall be signed until the recall petition has been certified to the Council, and any signature affixed before that date shall not be counted.

If a majority of the votes cast at the election on the question of removal are not in the affirmative, the person whose removal has been sought shall be allowed by the Council reasonable expenses incident to the election.

SECTION VIII-8.4. GENERAL PROVISIONS.

Any initiative, referendum or recall petition may be presented in separate parts. Each part of an initiative petition must contain a full and correct copy of the title and text of the proposed ordinance or other measure. Each part of a referendum petition must contain the number and the full and correct copy of the title of the ordinance or other measure sought to be referred, but need not contain the full text of the ordinance or other measure. Each part of a recall petition must contain the name of the member of Council sought to be removed and the statement of basis for removal.

Each person signing a petition must add to the signature his or her place of residence with street and number and date of signing. All signatures must be made with ink. Each part of a petition must contain a signed statement of the person circulating the petition, made under penalty of election falsification, stating the number of signers of the part and that to the best of the circulator's knowledge and belief (i) each of the signatures contained on the part is the genuine signature of the person whose name it appears to be, (ii) each signer is a registered elector of the City, and (iii) each signer signed the petition with the knowledge of its contents. Each part of a petition shall also have printed on it the names and addresses of at least five (5) registered voters of the City, who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for purposes of this Article VIII.

All petitions must be filed with the Clerk of the Council and all parts of any the petition shall be assembled by the Clerk as one instrument.

Upon the filing of a petition the Clerk must examine it and, not later than ten (10) days after the filing, determine whether the petition has been signed by the required number of registered

Commented [EW34]: It could be clearer that this applies to charter amendment initiatives

Commented [EW35]: Consider requiring more information so that they can be contacted, i.e., via phone, to timely correct deficiencies

voters. Upon the completion of his or her examination, the Clerk shall endorse upon the petition a certificate of the result.

If the Clerk's certificate shows that the petition has an insufficient number of signatures, the Clerk must promptly notify each member of the committee of the petitioners, and the petition may be amended at any time within fifteen (15) days from the date of the Clerk's certificate of examination by filing with the Clerk a supplement to the petition in one or more parts with additional signatures in the same manner as provided for the original petition. If, upon challenge, a court determines that a certificate of the Clerk to the effect that the petition is sufficient is erroneous, a similar period of fifteen (15) days after the final judicial determination shall be granted for amending the petition in the same manner.

Upon amendment by the filing of a supplement to the petition, the Clerk must, no later than ten (10) days after the filing, examine the petition as amended and endorse upon it a certificate of the result of the examination, which shall constitute the final determination. The final determination of the insufficiency of a petition shall not prevent the filing of a new petition for the same purpose.

An initiative, referendum or recall petition is deemed to be filed by the Clerk with the Council on the date the final Clerk's certificate is endorsed on the petition.

Whenever the Council is required to provide for an election by reason of the filing of a petition for initiative or referendum or recall, the Council must set the election at the next regular primary or general election occurring not less than sixty (60) days or more than one hundred twenty (120) days after the requirement has arisen. If no regular primary or general election is to be held within that period, the Council must provide for a special election to be held not less than sixty days or more than one hundred twenty days after the requirement has arisen; provided, however, that if the recall of four or more members of Council is sought by petition in a single election, the periods of sixty days and one hundred twenty days shall be changed, respectively, to one hundred twenty days and one hundred eighty (180) days. The Council shall certify the action to the election authorities.

When a legislative measure resulting from an initiative or referendum petition is approved by a majority of those voting on it, then the measure shall become effective at the time fixed in the measure, and if no time is fixed in it, the measure shall become effective upon the certification of the official canvass of the election to the Council; provided, however, that in the event two or more inconsistent legislative measures on the same subject are submitted at the same election, only the one receiving the largest affirmative vote, ~~not less than a majority of those voting,~~ shall become effective.

Commented [EW36]: See memo.
CRC DECISION REQUIRED

SECTION VIII-8.5. OFFICIAL PUBLICITY.

Not less than thirty (30) days before an election at which a Charter amendment, an initiated or referred legislative measure, or recall of an elective official is to be submitted to the voters, the Clerk of Council shall either:

(a) Mail materials to each registered voter of the City determined as of the most recent general election; or

(b) Publish materials promptly in a newspaper of general circulation within the City. The publication must be made once a week for not less than two consecutive weeks with the first publication being no fewer thirty (30) days prior to the election.

The materials mailed or published must contain at least the full text of the Charter amendment, initiated or referred ordinance, or recall petition, with their respective ballot titles, together with any explanation or argument for or against the measure or recall that that may have been filed with the Clerk of Council. The validity of a Charter amendment or an initiated or referred legislative measure approved by the voters, and the result of a recall election, shall not be questioned because of technical or non-consequential errors or irregularities in the mailing or publication.

SECTION VIII-8.6. STATEMENTS IN SUPPORT AND OPPOSITION.

Not fewer than fifty (50) days before an election prompted by a petition, the committee designated in the petition at issue may submit to the Clerk of Council an explanation or argument supporting the position taken by the signers of the petition. In the event a Charter amendment is proposed by the Council, a committee of three members of Council to be appointed by the President of Council shall prepare an explanation or argument in support.

In the event of an initiated Charter amendment, an initiated ordinance or a referred ordinance, a committee of three (3) members of Council to be appointed by the President of Council shall prepare an answer to the explanation or argument submitted by the committee of petitioners. In the event of a recall election, the Council member whose recall is sought may prepare an answer to the explanation or argument submitted by the committee of petitioners. In the event a Charter amendment is proposed either by Council or by initiative, any civic body or committee of citizens may prepare and submit an answer to the explanation or argument submitted in favor of the amendment. All answers must be filed with the Clerk not fewer than forty (40) days before the applicable election. An explanation or argument for or against any measure or recall must be signed by the person or persons authorized to submit it. No explanation or argument may exceed five hundred (500) words in length. All explanations and arguments in favor of or against any Charter amendment, legislative measure or recall, once filed with the Clerk, shall at all times be open to the inspection of anyone interested in them.

ARTICLE IX FINANCES

SECTION IX-1. BUDGET.

The finances of the City shall always be conducted upon the budget system. The City Manager, with the assistance of the Director of Finance, shall furnish to the Council at such time prior to the first Monday in June of each year (or such other date as may from time to time be fixed by general law for the certifying of the budget of the Municipality, to the Budget Commissioners of the County or other similar officials having charge of taxation matters), as may be required by Council, an annual budget setting forth in itemized form an estimate stating the amount of money needed for the various departments in the Municipality for the succeeding calendar year, which shall be the fiscal year of the Municipality, and for each month thereof. Such annual budget

Commented [EW37]: This was skipped for Legal Review as it is still being drafted.

shall set forth specifically such items as may be required by general law or by ordinance of the Council and the Council shall thereupon and within such time as may be prescribed by general law approve or revise such budget and submit the same to the County Budget Commissioners or similar officials. On or before the fifteenth day of November of each year, the City Manager shall submit to the Council an estimate of the expenditures and revenues of the City departments for the ensuing year. This estimate shall be compiled from the detailed information obtained from the several departments, on uniform blanks to be furnished by the City Manager and approved by the Council; and the Director of Finance shall assist the City Manager in the preparation of such information. Such information shall be furnished in detail for each department, and in such form as the City Council may from time to time require; and shall contain the recommendations of the City Manager as to the amounts to be appropriated, with the reasons therefor, in such detail as the Council may require.

SECTION IX-2. APPROPRIATION ORDINANCE.

Upon receipt of such estimate, the Council shall at once prepare an appropriation ordinance, in such manner as may be provided by general ordinance or resolution, using the City Manager's estimate as a basis, and such appropriations shall not exceed the estimated revenues of the Municipality.

SECTION IX-3. TRANSFER OF FUNDS.

Upon request of the City Manager, the Council may transfer any part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year as proved insufficient, or may authorize a transfer of money to be made between items appropriated to the same office or department.

SECTION IX-4. UNENCUMBERED BALANCES.

At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated, and shall be subject to future appropriation. Any accumulated revenue not appropriated as hereinbefore provided, and any balances at any time remaining after the purposes of the appropriation shall have been satisfied or abandoned, may from time to time be appropriated by the Council to such uses as will not conflict with any uses for which such revenues specifically accrue. 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 the Council.

SECTION IX-5. PAYMENT OF CLAIMS.

No warrant for the payment of any claim shall be issued by the Director of Finance until such claim shall have been approved by the director for the department for which the indebtedness was incurred, and by the City Manager. Such officers and their sureties shall be liable to the Municipality for any loss or damage sustained by the Municipality by reason of the corrupt approval of any such claim against the Municipality. Whenever any claim shall be presented to the Director of Finance, he shall have power to require evidence that the amount of the claim is justly due and is in conformity to law and ordinance; and for that purpose he may summon before him any officer, agent or employee of any department of the Municipality, or any other person, and examine him upon oath or affirmation relative thereto.

SECTION IX-6. CERTIFICATION OF FUNDS.

No contract, agreement, or other obligation involving the expenditure of money, shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money be issued by the Council or be authorized by any officer of the City unless the Director of Finance shall have first certified in writing to the Council, or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation, or expenditure, is in the treasury to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose, which certificate shall be filed and immediately recorded. The sum so certified shall not thereafter be considered unappropriated until the City is discharged from the contract, agreement, or obligation; but the provisions of this section shall not be construed as prohibiting the making of contracts for the furnishing of services or public utilities for a period extending beyond a single fiscal year when such contracts are otherwise authorized by this Charter or by general law.

SECTION IX-7. MONEY IN THE FUNDS.

All moneys actually in the treasury to the credit of the fund from which they are to be drawn, and all moneys applicable to the payment of the obligation or appropriation involved, that are anticipated to come into the treasury before the maturity of such contract, agreement, or obligation, from taxes, assessments, or license fees, or from sales of services, products, or by-products of any City undertaking, and moneys to be derived from lawfully authorized bonds, sold and in process of delivery, shall, for the purpose of such certificate, be deemed to be in the treasury to the credit of the appropriate fund, and shall be subject to such certification.

SECTION IX-8. BOND ISSUES.

Except as may be authorized specifically by the laws of the State of Ohio, no bonds or notes of the City shall at any time be issued for current operating expenses or for acquisition of any property, asset or improvement of the estimated life or usefulness of less than five years, but this prohibition shall not be construed as applying to money borrowed in anticipation of the collection of special assessments, or for defraying the expenses of an extraordinary epidemic of disease, or emergency expenses made necessary by sudden casualty which could not reasonably have been foreseen, or for paying final judgments upon non-contractual obligations.
(Amended 11-7-72.)

SECTION IX-9. MATURITIES OF BONDS.

All bonds shall be serial bonds; and the maturities thereof shall not extend beyond the estimated life of the property, asset, or improvement, as certified to the Council by the Director of Finance, which certificate shall be on file with the Council prior to the passage of any bond ordinance.

SECTION IX-10. TEMPORARY LOANS.

In anticipation of the collections of current revenues in any fiscal year, the City may borrow money and issue certificates of indebtedness therefor, signed as municipal bonds are signed, but no such loans shall be made to exceed the amount estimated to be actually received from taxes or other current revenues, for such fiscal year, after deducting all advances. The sum so anticipated shall be deemed appropriated for the payment of such certificates at maturity. The certificates shall not run for a longer period than six months nor bear a greater rate of interest than is

permitted under the laws of the State of Ohio, and shall not be sold for less than the par value thereof with accrued interest. (Amended 11-7-72.)

SECTION IX-11. LIMITATION ON RATE OF TAXATION FOR CURRENT OPERATING EXPENSES.

The power of the Council without a vote of the people to levy taxes on property assessed and listed for taxation according to value for the purpose of paying the current operating expenses including the purpose of police and fire pensions, which is required to be, or may lawfully be, included in the general levy for the general fund of the City, shall not exceed 8 mills per one dollar (\$1.00) of assessed valuation. (Amended 11-7-72.)

SECTION IX-11(A). LIMITATION ON RATE OF TAXATION FOR IMPROVEMENT AND MAINTENANCE OF CITY OWNED PARKS, RECREATION AND CULTURAL FACILITIES.

Notwithstanding the 8 mill limitation on current operating expenses contained in Section 11 of this article, and in addition thereto, Council may levy annually, commencing with a levy on the 2004 tax duplicate for collection in calendar year 2005, a tax not to exceed seven-tenths (.7) of one mill per dollar of all property in the City assessed and listed for taxation for the acquisition, construction, reconstruction, rehabilitation, renovation, improvement, equipping and maintenance of land, facilities, buildings and structures belonging to or operated by the City and used for parks, playgrounds, play fields, rights of way, swimming pools, indoor recreation and community centers, municipal amphitheaters and cultural facilities, and the equipment therefor, and for the debt charges on general obligation bonds and bond anticipation notes issued to pay the cost of the improvements and/or maintenance specified herein. (Added 11-2-04.)

SECTION IX-12. AUDITING FINANCES.

Council may engage the services of a private independent public accounting firm for the purpose of auditing the City's finances. Said contractual arrangements shall be for a period deemed proper by Council. This section shall become effective January 1, 1983. (Adopted 11-2-82.)

**ARTICLE ~~X~~TEN
ETHICS**

SECTION ~~X-10~~.1. GENERAL EXPECTATIONS.

The citizens of Cleveland Heights rightfully expect their government of elected and appointed officials, and their employees, to behave legally and ethically. All officials are expected to treat each other with respect and together work to make the City a desirable place to live. The citizens also rightfully expect honesty, respect, and fair treatment by all involved in governance. City officials have a responsibility to educate, monitor, and support all employees and City representatives in this mission.

SECTION ~~X-10~~.2. OATH OF OFFICE.

The City Manager, the Vice City Manager, all members of Council, all other officers of the City and all employees holding a position with an annual salary shall, before entering upon the

Commented [EW38]: Not sure what this means. Who has an annual salary vs. who does not? Maybe this should be bargained vs. not bargained?

duties of the respective office, take and subscribe an oath or affirmation that will be kept in the office of the clerk of the Council, and that conforms to the provisions of applicable ~~state law~~laws of Ohio.

SECTION ~~X10~~-3. PUBLIC ETHICS.

The City Manager, Vice City Manager, members of Council, and all directors of departments owe a ~~fiduciary duty~~ to the City. In the interest of preserving public trust, ~~these officials shall~~ avoid any actual or perceived conflict of interest and any action likely to give the appearance of impropriety in the execution of their public duties.

Commented [EW39]: See memo discussion about the director issue (Article Five). Similar issue here.

Commented [EW40]: See memo. CRC DECISION REQUIRED

The City Manager shall be responsible for seeing that policies governing the ethics of City employees in the execution of their job duties are in place, that these policies are consistent with ethical requirements of general ethics law of the State of Ohio, and that these policies are communicated in writing to all City employees.

No City official or employee, through any improper use of that person's official position with the City, may affect the hiring of any person, the letting of any contract, or any other action by the City that may result in that official or employee, or any of the official's or employee's immediate family members or close business associates, securing anything of value. Nothing in this Section ~~X-3~~ shall be construed to prohibit a City official or employee from serving as an employment, personal, or credit reference for any person.

Any person who has been found guilty by a court of competent jurisdiction of a felony violation of general law relating to bribery, theft in office, having an unlawful interest in a public contract, soliciting or accepting improper compensation, perjury relating to an official duty, or corrupt practices relating to any local, state, or federal election ("Disqualifying Offense") shall be ineligible to hold office as City Manager, Vice City Manager, member of Council, or director of a department. If, while in office, the City Manager, the Vice City Manager, a member of Council, or a director of a department is found guilty by a court of competent jurisdiction of any Disqualifying Offense, that person shall, upon the finality of the conviction, immediately forfeit the office held. The terms used in this Section ~~X-3~~ shall be interpreted consistent with their use in the general law.

Commented [EW41]: See memo discuss of directors. E.g., this would not apply to Chief of Police or Fire

SECTION ~~X-10~~.4. ROLE OF COUNCIL.

Nothing in this Article ~~X~~ shall be construed to prohibit Council from adopting any rules or policies that govern ethics of City employees that are not inconsistent with the provisions of this Charter, or enacting any additional prohibitions or penalties relating to public ethics.

ARTICLE ~~X~~ELEVEN CITY PLANNING COMMISSION

SECTION ~~XI~~11.1. ESTABLISHMENT.

The Council shall establish a City Planning Commission of seven (7) voting members, all of whom shall be residents of the City appointed by the Council and not employed by the City. A

vacancy occurring during the term of any voting member shall be filled for the unexpired term in the manner authorized for an original appointment. The following shall be nonvoting members of the Commission: The Chairman of the City Planning and Development Committee of the Council; the City Manager; the Director of the Department of Planning and Development, who shall serve as ex officio secretary of the Commission; and such other persons as the Council shall from time to time appoint by ordinance. The voting members shall serve for a term of six (6) years, provided that the members of the Commission in office at the time this Charter becomes effective shall continue in office until the expiration of the then-existing terms.

Commented [EW42]: See memo about directors. Currently, no such position.

SECTION ~~XI~~-11.2. POWERS.

The Commission may make recommendations to the Council and City Manager on all matters affecting the physical development of the City, including, but not limited to, such factors as economic, environmental, and social sustainability. In addition, the Commission shall perform all other duties and responsibilities provided by codified ordinance.

ARTICLE ~~XII~~TWELVE CIVIL SERVICE COMMISSION

SECTION ~~XII~~-12.1. ESTABLISHMENT.

The Civil Service Commission shall consist of three (3) registered voters of the City not holding other municipal office or employment, to be appointed by the City Manager, which appointment is subject to and effective only upon the approval of Council acting by at least four (4) of its members. Each Commissioner shall serve for a term of six (6) years or until a successor has been appointed and approved by Council, provided that the members of the Commission in office at the time this Charter becomes effective shall continue in office until the expiration of the then existing terms. A vacancy occurring during the term of any member shall be filled for the unexpired term in the manner authorized for an original appointment.

Commented [EW43]: Is this meant to just eliminate City officers or employees or any government worker? Consider replacing municipal with City. CRC DECISION REQUIRED

SECTION ~~XII~~-12.2. PRESIDENT AND SECRETARY.

The Civil Service Commission shall elect one of its members as President. The City Manager shall appoint a City employee to serve as secretary of the Commission.

SECTION ~~XII~~-12.3. POWERS AND PROCEDURES.

Except as otherwise specifically set forth in this Charter, Council shall provide by codified ordinance the powers, duties and jurisdiction of the Commission, the determination of the positions of employment that shall comprise the classified and unclassified service of the City, the method and procedure for determining merit and fitness for employment and promotion in the classified service, and such other matters relating to classified employment service as the Council may determine are necessary and proper and consistent with the laws of Ohio.

SECTION ~~XII~~-12.4. COUNCIL COMPENSATION REVIEW.

In each year immediately preceding the year in which a United States presidential general election is to be held, the Commission shall conduct a review of compensation for members of Council and, on or before May 1 of that year, shall file with the Clerk of Council a written report

to Council based on that review setting forth the Commission’s recommendations for salary and other compensation for members of Council.

**ARTICLE ~~XIII~~THIRTEEN
AMENDMENTS**

Amendments to this Charter may be submitted to a vote of the people of the City by the Council by an affirmative vote of at least five (5) of its members. Amendments must be submitted to a vote of the people by the Council when a petition setting forth the proposed amendments has been signed by registered voters of the City equal in number to not less than ten percent (10%) of the total number of registered voters voting in the most recent regular municipal election and is filed in the manner and form prescribed in ~~Article VIII-Eight~~ of the Charter for the submission of ordinances by initiative petition. The amendments must be submitted to the people at the next regular primary or general election, if one shall occur not less than sixty (60) days or more than one hundred twenty (120) days after the passage by Council or the filing of a petition, whichever is applicable. Otherwise the Council must provide for the submission of the amendments at a special election to be held not less than sixty (60) days or more than one hundred twenty (120) days after the passage or filing.

Commented [EW44]: Consider changing to a listing of the sections in Article 8 that apply and not just the general article.

When a proposed amendment is approved by a majority of those voting on it, the amendment shall become a part of the Charter at the time fixed in the amendment. If no time is fixed in it, then the amendment shall become a part of the Charter upon the certification of the official canvass of the election, provided, however, that if two (2) or more inconsistent amendments on the same subject are submitted at the same election, only the amendment receiving the largest affirmative vote, ~~not less than a majority of those voting,~~ shall become a part of the Charter.

Commented [EW45]: See memo

**ARTICLE ~~XIV~~FOURTEEN
CHARTER REVIEW**

Council shall, at least once during every twenty year (20) year period (“Review Period”), by ordinance or resolution, appoint a Commission to review the entire Charter. The first Review Period shall commence on January 1, [insert the year immediately following the election in which voters have considered the Charter]. Each new Review Period shall commence on January 1 of the year following the year in which Council takes action on the recommendations of a Commission that has most recently reviewed the entire Charter. At no greater interval than every five (5) years commencing with the beginning of a Review Period, Council shall consider and exercise its discretion whether to appoint a Commission to review the entire Charter.

**ARTICLE ~~XV~~FIFTEEN
SAVINGS CLAUSES**

SECTION ~~XV-15~~.1. LAWS CONTINUED IN FORCE.

All general laws of the State of Ohio that are not in conflict with the provisions of this Charter or with any ordinance or resolution enacted under it shall apply to the government of the City. All ordinances and resolutions that are in force at the time the Charter takes effect and are not inconsistent with its provisions shall continue in full force and effect until amended or repealed.

SECTION ~~XV-15.2~~. PARTIAL INVALIDITY.

The determination by a court of competent jurisdiction that any section or part of a section of this Charter is invalid shall neither invalidate, nor impair the force or effect of, any other section or part of a section, except to the extent the other section or part of a section is dependent for its operation upon the section or part of a section declared invalid.

SECTION ~~XV-15.3~~. CONTINUANCE OF PRESENT OFFICIALS.

All persons holding office at the time this Charter takes effect shall continue in office and in the performance of their duties unless and until provision is otherwise made in accordance with the Charter for the performance or discontinuance of the duties of that office. When a provision of that kind is made, the term of the officer affected shall expire and the office be deemed abolished. The powers conferred and the duties imposed upon any officer, commission, board, or department of the City under the laws of the State of Ohio, or under any City ordinance or contract, agreement, or memorandum of understanding in force at the time this Charter takes effect shall, if the office, commission, board, or department is abolished by the Charter, be exercised and discharged by the officer, commission, board, or department upon whom corresponding functions, powers, and duties are imposed by the Charter or by any ordinance or resolution of the Council subsequently enacted.

SECTION ~~XV-15.4~~. CONTINUANCE OF CONTRACTS AND VESTED RIGHTS.

All vested rights of the City shall continue to be vested in the City and shall not in any manner be affected by the adoption of this Charter; nor shall any right or liability, or pending suit or prosecution, either in behalf of or against the City, be in any manner affected by the adoption of the Charter, unless otherwise expressly provided to the contrary in the Charter. All contracts, agreements, and memorandum of understanding entered into by the City or for its benefit before the taking effect of the Charter shall continue in full force and effect. All public work begun prior to the taking effect of the Charter shall be continued and perfected under it. Public improvements for which legislative steps shall have been taken under laws in force at the time the Charter takes effect may be carried to completion in accordance with the provisions of those laws.

**ARTICLE ~~XV~~SIXTEEN
EFFECTIVE DATE OF CHARTER**

This Charter shall take effect on January 1, [insert the year immediately following the election in which voters have approved the Charter] or such earlier date as Council may determine.

DRAFT

11/12/18