



CHARTER

OF THE MUNICIPALITY OF

CANAL WINCHESTER, OHIO

July 2011

Adopted at the General Election on November 2, 2010.
Effective with City Status on April 29, 2011.

**CHARTER
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CANAL WINCHESTER, OHIO**

EDITOR'S NOTE: The Charter was readopted by the electors at an election on November 2, 2010. A date appearing in parentheses at the end of a section heading indicates the section was subsequently adopted or amended on the date given.

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**CHARTER
OF THE MUNICIPALITY OF
CANAL WINCHESTER, OHIO**

PREAMBLE

In order that we may have the benefits of municipal home rule and exercise all of the powers of local self-government conferred under the Constitution and Statutes of the State of Ohio, and to preserve the traditional and historic values of our Community, We, the citizens of the Municipality of Canal Winchester, Ohio, do hereby adopt this Charter for our municipality.

**ARTICLE I
NAME; BOUNDARIES; FORM OF GOVERNMENT**

1.01 Name and Boundary.

The municipal corporation existing as the Village of Canal Winchester under the general statutes of the State of Ohio shall continue to be a body politic and corporate and shall be named the City of Canal Winchester. The City of Canal Winchester shall have the same boundaries that exist on the effective date of this Charter, with power and authority to change its boundaries and annex territory in the manner authorized by the laws of Ohio. As used in this Charter, "Canal Winchester" shall mean the City of Canal Winchester.

1.02 Form of Government.

The city government provided for by this Charter shall be known as the "Strong Mayor-Council Plan."

**ARTICLE II
CORPORATE POWERS**

2.01 Powers Granted.

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

2.02 Exercise of Powers.

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

2.03 Construction of Powers.

The powers of Canal Winchester under this Charter shall be construed liberally in favor of the municipality, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general powers stated in this Article.

2.04 Intergovernmental Cooperation.

(A) In carrying out any lawful function or power of the municipality, the Council may, by a majority vote of its members, authorize the execution of contracts or in any other manner provide for cooperation or joint action, between Canal Winchester and:

(1) Political Subdivisions, special districts, instrumentalities, or other units of government of the State of Ohio or other states.

(2) The State of Ohio, its officers, departments, divisions, instrumentalities or other units or agencies.

(3) Other states, their officers, departments, divisions, instrumentalities, or other units or agencies.

(4) The federal government, its officers, departments, divisions, instrumentalities or other units or agencies.

(5) Councils of governments or other instrumentalities consisting of other political subdivisions, special districts, instrumentalities or other governmental units or agencies allowed under the laws of Ohio, other states or the federal government.

(6) Persons, corporations whether for profit or non-profit, firms and other entities; unless such contracts, cooperation or joint actions are prohibited by the Constitution of the State of Ohio.

(B) The powers granted by this section shall be liberally construed to authorize intergovernmental cooperation, but shall not authorize the avoidance of the provisions of this Charter concerning taxation or initiative or referendum.

ARTICLE III COUNCIL

3.01 Powers of Council.

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

(1) The power to levy taxes and assessments and incur debts subject to the limitations imposed thereon by this Charter and the Constitution of Ohio.

(2) The power to adopt and to provide for the enforcement of local police, sanitary and other similar regulations as are not in conflict with the general laws.

(3) The power to provide for the exercise of all powers of local self-government granted to the Municipality by the Constitution of the State of Ohio in a manner not inconsistent with this Charter or the Constitution of the State of

Ohio.

(4) The power, by ordinance or resolution, to establish or authorize the number of officers and employees in the various offices, departments, divisions, bureaus, boards and commissions of Canal Winchester, including but not limited to administrative assistants to the Mayor, and to establish or authorize the establishment of the rate of their compensation, hours of work, and to provide such other fringe benefits and conditions of employment as deemed proper by the Council.

(5) The power to require such bonds as in the opinion of the Council are necessary for the faithful discharge of the duties of the officers and employees of Canal Winchester. The premium for said bonds shall be paid by Canal Winchester.

(6) The arrangements currently existing for police and fire services shall continue under this Charter; however the Council is vested with the power to determine from time to time whether police, fire, utility or other services shall be provided pursuant to contracts with other qualified providers of services or whether any of the Departments of Public Service, Police or Fire shall be created.

(7) The power to establish, by ordinance or resolution, the rates or charges made of consumers of all municipal utilities and services.

(8) The power to acquire and to sell or otherwise convey interests in real property; and to lease, as lessor or lessee, or otherwise grant or receive interests in real property.

(9) The power to provide for an independent audit of the accounts and records of Canal Winchester, which may be in addition to audits by state offices and agencies as may be required under the general laws of Ohio.

(10) The power to require the Mayor, department heads, and Boards and Commissions to provide information and reports to the Council.

(11) To exercise all other powers granted to the Council by this Charter and by the Constitution and laws of the State of Ohio.

3.02 Composition, Term and Qualifications.

(A) At the regular municipal election to be held in 1997 and each four years thereafter, four members of Council shall be elected for a four year term of office. At the regular municipal election to be held in 1999 and each four years thereafter, three members of Council shall be elected for a four year term of office. All terms of office of Council members shall commence on the first day of January next following their election.

(B) Members of Council shall be electors of Canal Winchester at the time they file for office and during their term of office. Members of Council shall not hold any other public office or employment with the Municipality during a term, except they may hold office in a political party or be a delegate to a political party convention, serve as a notary public, serve as a member or officer in the military reserve or national guard, serve in any office, position or capacity to represent the municipality or to further intergovernmental cooperation, and may hold any office permitted by the Charter or the laws of Ohio.

3.03 President-Vice President.

(A) At the first regular meeting of the Council in each even numbered year, the Council shall elect, by a majority vote of its members, one of its members as the President of Council for a two year term of office. The President of Council shall exercise the following powers, duties, and functions:

- (1) To serve as president of the Council and to preside at all meetings of the Council;
- (2) To perform or exercise such other powers, duties and functions as provided by this Charter and the rules of the Council, to the extent such rules of the Council are consistent with this Charter.

(B) At the first regular meeting of the Council in each even numbered year, the Council shall elect, by a majority vote of its members, one of its members as the Vice President of Council for a two year term of office. The Vice President of Council shall serve as the president pro-tempore of the Council. In the event of a vacancy in the office of President of Council, the Vice President of Council shall succeed to the office of President of Council to serve for the remainder of the unexpired term and the Council shall elect, by a majority vote of its members, another of its members to the office of Vice President of Council to serve for the unexpired term of office. In the event of the temporary absence or disability of the President of Council, the Vice President of Council shall exercise all powers, duties and functions of the President of Council.

3.04 Clerk of Council.

The Council shall appoint, by a majority vote of its members, a person to serve as the Clerk of Council. The Clerk of Council shall serve at the pleasure of the Council and may be removed without cause by a majority vote of the members of Council. The Clerk of Council may hold other office or position of employment in the Municipality. The Clerk of Council shall have those powers, duties and functions as are provided in this Charter, by the Rules of Council or by ordinance or resolution. Included in the duties of the Clerk of Council shall be the maintenance of a record of proceedings of the Council and a record of all ordinances and resolutions adopted by the Council. The Clerk of Council shall give notice of regular and special meetings of the Council to its members and to the public as may be provided by this Charter, the Rules of Council or by ordinance or resolution. The Clerk of Council shall be subject to the control of the officers of the Council. The Council may require the Clerk of Council to serve as the secretary of one or more boards and commissions provided for under this Charter.

3.05 Council Meetings.

(A) The Council shall determine, by a majority vote of its members, the frequency, dates and times of regular meetings in order to properly conduct its business, but it shall hold at least one regular meeting in each month.

(B) Special meetings of the Council may be called, for any purpose, by the Mayor or any three members of the Council upon at least twenty-four hours notice to the Mayor and each member of the Council, which notice may be served personally or left at the usual place of residence. Members of the Council and the Mayor who attend special meetings of the Council or who are present at another regular or special meeting where a special meeting is announced by the presiding officer need not receive notice of the special meeting. Members of the Council and the Mayor may waive receipt of notice of a special meeting either prior or subsequent to the meeting.

(C) Any regular or special meeting of the Council may be adjourned or recessed to another time, date or place without giving the notice required in Division (B) of this Section.

(D) All meetings of the Council and of other Boards and Commissions of Canal Winchester shall be held in accordance with the general laws of Ohio pertaining to requirements for open meetings of public bodies.

3.06 Council Organization and Rules.

The Council shall be a continuing body, but shall meet in the Council chamber at its first meeting in January of each year for the purpose of organization. Council shall adopt, by majority vote of its members, its own Rules which shall not conflict with this Charter and which shall remain in effect until amended, changed or repealed by a majority vote of the members of Council. The Rules shall go into immediate effect unless a later date is specified, and shall not be subject to initiative or referendum. The Rules of Council shall provide for the number, composition and manner of appointment of committees of Council, and such other matters as Council shall determine to be necessary for the proper functioning and government of Council.

3.07 Salaries of Elected Officials.

The salaries of all elected officials of Canal Winchester shall be established by Council by ordinance or resolution to be adopted no later than July 1, of each odd numbered year commencing in the year 1997. The salaries so established shall be effective for a two year period beginning January 1, of the year immediately following the adoption of the ordinance or resolution establishing them and shall apply to all elected officials whether they are beginning their terms or are in mid-term. In the event Council shall fail to establish salaries as required in this Section, the salaries in effect for the prior two year period shall remain in effect until changed in accordance with this Section.

3.08 Council Vacancies.

(A) A vacancy in the Council shall be filled by a majority vote of the remaining members of the Council. If the vacancy occurs subsequent to fifteen days before the date when candidates for the office of Council member must file their nominating petitions or if two years or less remain in the term of the incumbent who created the vacancy, the person elected by the Council shall serve for the unexpired term. If the vacancy occurs at least fifteen days prior to the date when candidates for the office of Council member must file their nominating petitions and more than two years remain in the term of the incumbent who created the vacancy, the person elected by the Council shall serve until a successor is elected at the next regular municipal election for the remainder of the unexpired term. The person elected for the unexpired term at the next regular municipal election shall take office on the first day of January following his election.

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

ARTICLE IV LEGISLATIVE PROCEDURE

4.01 Form of Action by Council.

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

4.02 Introduction of Ordinances and Resolutions.

Any member of Council may introduce any ordinance or resolution, at a regular or special meeting, which shall be in written or printed form and shall contain a concise title.

4.03 Form of Ordinances and Resolutions.

(A) The form and style of ordinances and resolutions shall be determined by the Rules of Council.

(B) Each ordinance or resolution shall contain only one subject, which shall be expressed in its title; provided that appropriation ordinances may contain the various subjects, accounts and amounts for which monies are appropriated, and that ordinances and resolutions which are codified or re-codified are not subject to the limitation of containing one subject.

4.04 Reading Ordinances and Resolutions.

Each ordinance shall be read by title only on three separate days, unless this requirement is dispensed with by a vote of at least two-thirds of the members of the Council.

Each resolution shall be read once by title only and may be voted on the day of the reading.

4.05 Vote Required For Passage.

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

4.06 Content of Emergency Legislation.

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

4.07 Effective Date of Legislation.

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

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

(B) All other ordinances and resolutions shall go into effect thirty days after their passage by the Council or at such later effective date as set forth by Council in the ordinance.

4.08 Authentication.

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

4.09 Recording Legislation.

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

4.10 Amendment.

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

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

4.11 Zoning Measures.

(A) Ordinances establishing, amending, revising, changing or repealing zoning classifications, districts, uses or regulations shall be subject to the provisions of this Charter pertaining to their enactment and matters of initiative or referendum. Except as otherwise

provided in this Charter, the Council shall, by ordinance, specify the powers of administrative officials, the relationship between the Council and the Planning and Zoning Commission, and any additional procedures or process with respect to zoning. The General Laws of Ohio which are not in conflict with this Charter shall be followed until such time as the Council shall determine, by ordinance, the powers of administrative officials, the relationship between the Council and the Planning and Zoning Commission, and any additional procedures or process with respect to zoning.

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

4.12 Adoption of Technical Codes.

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

(B) The ordinance adopting any such standard ordinance or code shall make reference to the date and source of such standard ordinance or code without reproducing the same at length in the ordinance. In such cases, publication of the standard ordinance or code shall not be required, but at least two copies of such code shall be kept at all times in the office of the Clerk of Council and available for reference by interested persons. If the standard ordinance or code is amended after its adoption by reference by the Council, the Council may adopt the amendment or change by incorporation by reference under the same procedure as is established herein for the adoption of the original standard ordinance or code.

4.13 Codification.

By a majority vote of the members of Council, the Council may cause the ordinances and resolutions of Canal Winchester to be revised, codified, re-codified, rearranged, or published in book form, and such action shall become effective immediately upon approval thereof by a majority vote of the members of Council and may contain new matter therein. The Clerk of Council shall cause a notice of such proposed action by the Council to be published one time in a newspaper of circulation in Canal Winchester at least seven days prior to Council's action, and no further publication shall be necessary. A current service supplementing the Municipality's codified ordinances and resolutions shall be maintained in the manner prescribed by the Council.

4.14 Publication of Ordinances and Resolutions.

(A) Ordinances and resolutions shall be published by posting copies thereof in not less than three public places in the municipal corporation for a period of not less than fifteen days after their adoption. The public places for such posting shall be determined by the Council. The Council may, by ordinance or resolution, require that ordinances and resolutions be published by other means either in lieu of or in addition to the posting as required by this Division.

(B) The Clerk of Council shall make and retain a certificate as to the times and places where such postings are done and other means, if any, by which an ordinance or

resolution is published; and that certificate shall be prima-facie evidence that the copies were posted and otherwise published as required by Division (A) of this Section. Failure to make or retain the certificate required by this Division shall not invalidate any ordinance or resolution.

(C) Failure to publish by posting or to maintain such posting, or to otherwise publish, as required by Division (A) of this Section shall not invalidate an ordinance or resolution, and in such events, the Clerk of Council may authorize publication by posting, and publication by other means if any such other means have been required pursuant to Division (A) of this Section, at a later date.

ARTICLE V MAYOR

5.01 Election.

At the regular municipal election to be held in 1999 and each four years thereafter a qualified person shall be elected mayor for a four year term. The term for the Mayor shall commence on the first day of January next following her or his election.

5.02 Qualifications.

The person who holds the office of Mayor shall have been an elector of Canal Winchester at the time he or she files for office and during his or her term of office. The Mayor shall not hold any other public office or position of employment with Canal Winchester during a term, except he or she may hold office in a political party or be a delegate to a political party convention, serve as a notary public, serve as a member or officer in the military reserve or national guard, serve in any office position or capacity to represent Canal Winchester or to further intergovernmental cooperation, and may hold any office or position of employment permitted by this Charter or the laws of Ohio.

5.03 Vacancy, Temporary Absence or Disability.

(A) If the office of Mayor shall become vacant, the President of Council shall succeed to the office of Mayor.

(B) If the Mayor is temporarily absent from Canal Winchester or is temporarily unable to perform the duties of Mayor, the President of Council shall become the Acting Mayor and shall, during the period of absence or disability, perform all the powers, duties and functions of Mayor, except he or she shall not have the power to veto ordinances or resolutions. The Acting Mayor shall continue in his or her capacity as President of Council and as a voting member of the Council during the period of the Mayor's temporary absence or disability.

5.04 Powers, Functions and Duties of the Mayor.

(A) The Mayor shall be the chief executive, administrative and law enforcement officer of Canal Winchester. He or she shall be responsible for the administration of all municipal affairs placed in the Mayor's charge by or under this Charter, the ordinances or resolutions of the Municipality and state laws.

(B) The Mayor shall have the following powers, duties and functions to:

(1) Appoint, promote, and, when he or she deems it necessary for the good of the service, suspend, remove or otherwise discipline all municipal employees and appointive administrative officers, except as otherwise provided by or under this Charter, subject to the powers granted to the Council pursuant to

Section 3.01 (A)(4) of this Charter and subject to the provisions of this Charter pertaining to the Merit System.

(2) Direct and supervise the administration of all departments, offices and agencies of Canal Winchester, except as otherwise provided by this Charter.

(3) Attend all Council meetings and shall have the right to take part in discussions but may not vote.

(4) See that all laws, provisions of this Charter and ordinances and resolutions of the Council, subject to enforcement by the Mayor or by officers subject to his or her direction and supervision, are faithfully executed.

(5) Prepare and submit the annual budget and capital program to the Council.

(6) Submit to Council and make available to the public a complete report on the finances and administrative activities of Canal Winchester as of the end of each fiscal year.

(7) Make such other reports as the Council may require concerning the operations of municipal departments, offices, boards, commissions and agencies subject to his or her direction and supervision.

(8) Keep the Council fully advised as to the financial condition and future operating and capital needs of the Municipality and make recommendations to the Council concerning the affairs of Canal Winchester.

(9) Require reports and information of subordinate officers and employees of Canal Winchester as he or she deems necessary in the orderly operation of Canal Winchester, or when requested to do so by the Council or any board or commission of Canal Winchester.

(10) Execute on behalf of Canal Winchester all contracts and agreements, except as otherwise provided in this Charter.

(11) Affix to official documents and instruments of Canal Winchester the Mayor's Seal, which shall be the seal of Canal Winchester, but the absence of the seal shall not affect the validity of any such document or instrument.

(12) Perform such other powers, duties and functions 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.

5.05 Mayor's Veto Power.

(A) Each ordinance or resolution passed by the Council shall be presented to the Mayor for his or her approval or rejection. The Mayor shall have ten days after an ordinance or resolution was adopted to veto any ordinance or resolution and to return and file it with the Clerk of Council. The Mayor shall include the date of and reasons for his or her veto in writing addressed to the Council. The Mayor may veto the whole or any part of any ordinance or resolution authorizing the expenditure or appropriation of money. If the Mayor shall neither

approve nor veto an ordinance or resolution within the ten day period described herein above, the ordinance or resolution shall take effect in the same manner as if the Mayor had approved it.

(B) The Council may override the Mayor's veto by motion passed by a two-thirds majority at a regular or special meeting of the Council held not sooner than six days nor later than fifteen days after the date of the Mayor's veto. If the Mayor's veto is overridden by the Council, the ordinance or resolution shall take effect in the same manner as if the Mayor had not vetoed the measure.

(C) The Mayor shall have no authority to veto an ordinance or resolution proposing to amend this Charter or establishing or calling for an election authorized by this Charter, the Constitution or laws of Ohio.

5.06 Administrator

The Council may at the request of the Mayor, by ordinance, create or abolish the Office of the City Administrator (hereinafter referred to as the "Administrator"). The Administrator shall be appointed by the Mayor pursuant to Section 5.04(B)(1) of this Charter to serve at the pleasure of the Mayor and may be removed by the Mayor pursuant to Section 5.04(B)(1) of this Charter without cause. The Administrator shall assist the Mayor in the day-to-day operation of Canal Winchester and shall perform duties delegated to him or her by the Mayor, including but not limited to awarding contracts in an amount not exceeding the limits as established by the Ohio Revised Code Section 731.141. The Mayor may delegate, modify or revoke, the authority to supervise department and division heads to the Administrator. Until revoked, the delegation or modified delegation shall be effective, but may not exceed the current term of the Mayor or the period the person making the delegation or modified delegation holds the Office of Mayor.

The Administrator shall, in all respects, be subject to the control, direction, and supervision of the Mayor. The Administrator shall not hold any public office, unless authorized by Council, except he or she may hold office in a political party or be a delegate to a political party convention, serve as a member or officer in the military reserve or national guard, serve in any office, position or capacity to further intergovernmental cooperation, and may hold any office, other than Council Member, Director of Law or Director of Finance, as permitted by this Charter and the laws of Ohio. The Administrator may serve as a department head under this Charter.

ARTICLE VI ADMINISTRATIVE DEPARTMENTS

6.01 Power of Council Relative to Police and Fire.

(A) Council may, from time to time, provide for fire protection by contract or create the Department of Fire to be headed by a Fire Chief who shall be appointed by the Mayor and subject to control and direction by the Mayor.

(B) Council may, from time to time, provide for police protection by contract or create a Department of Police to be headed by a Police Chief who shall be appointed by the Mayor and subject to control and direction by the Mayor.

(C) In the exercise of powers granted to the Council under Divisions (A) and (B) of this Section, the Council shall act by ordinance.

6.02 Legal Services.

(A) Prior to the creation of the office of Director of Law, the Legal Advisor shall be engaged by the Mayor and confirmed by the Council by a majority vote of the members of Council pursuant to a contract with an individual attorney or law firm. The person or firm serving as Village Solicitor under the village statutory plan of government on the effective date of this Charter shall continue until other arrangements are made by: execution of a contract with any attorney or law firm upon the expiration of any existing contract; or the creation of a Department of Law, pursuant to Division (B) of this Section, to be headed by a Director appointed by the Mayor.

(B) Upon the creation of a Law Department, by ordinance or resolution passed by Council, the Mayor shall appoint a Director of Law with the approval of the Council by a majority vote of the Council. The Law Director shall serve at the pleasure of the Mayor and who may be removed, without cause, by the Mayor.

(C) The Director of Law or any attorney engaged by the Council, need not be an elector or resident of the Municipality, but shall be an attorney-at-law duly authorized to practice law in the State of Ohio.

(D) The Director of Law or the attorney or law firm engaged, shall be the legal advisor, prosecuting attorney and counsel for the Municipality, and subject to the direction of Council, shall represent the Municipality in all proceedings in Court or before any administrative board or body. The Director of Law or the attorney or law firm engaged shall perform all other powers, duties and functions now or hereafter imposed on Directors of Law under the laws of Ohio; and shall perform other duties as required by this Charter, by ordinance or resolution, or as directed by the Mayor.

(E) The Council may provide for assistants and special counsel to the Director of Law or the attorney or law firm engaged. All assistants shall be appointed by the Mayor. The assistants shall be responsible to the Director of Law or the attorney or law firm engaged and when authorized, by the Mayor, may exercise all or any part of the powers, duties and functions granted to the Director of Law under this Section. Special counsel may be employed by Council to perform powers, duties and functions authorized by and in the manner provided by Council.

(F) In the event of a vacancy in the office of Director of Law, if such office has been created by the Council, a successor shall be appointed by the Mayor and confirmed by the Council. The Mayor shall designate a qualified person to serve as Acting Director of Law in the case of the temporary absence or disability of the Director of Law or any other attorney engaged by the Council prior to the creation of the Department of Law.

6.03 Department of Development.

(A) The Department of Development shall be headed by the Director of Development, who shall be appointed by the Mayor to serve at the pleasure of the Mayor and may be removed by the Mayor without cause.

(B) The Director of Development, through the Department of Development, shall be responsible for the administration of building inspections, housing inspections and zoning inspections and all administrative matters pertaining to inspection services including the issuance of permits and the enforcement of building, zoning and housing codes, subject to the provisions set forth in the Municipality's ordinances and resolutions. The Director and the Department of Development shall also work closely with the Planning and Zoning Commission, and shall administer the Municipality's planning activity not delegated to the Planning and Zoning Commission pursuant to this Charter or ordinances and resolutions of the Municipality. The Director of Development and the Department of Development shall

administer and coordinate the Municipality's efforts and activities with respect to economic development within the Municipality. The Director and Department of Development shall have additional powers, functions and duties as provided in this Charter, the ordinances and resolutions of the Council and the laws of Ohio and as directed by the Mayor.

6.04 Finance Director.

(A) The Department of Finance shall be headed by the Director of Finance, who shall be appointed by the Mayor to serve at the pleasure of the Mayor and may be removed by the Mayor without cause.

(B) The Director of Finance shall be qualified by training or experience to carry out the power, duties and functions of the office. The Mayor shall be the sole judge of the qualifications of the Director of Finance. The Director of Finance need not be an elector or resident of the Municipality. The Director of Finance shall not hold any other public office, unless authorized by Council, except he or she may hold office in a political party or be a delegate to a political party convention, serve as a notary public, serve as a member or officer in the military reserve or national guard, serve in any office, position or capacity to further intergovernmental cooperation, and may hold any office permitted by this Charter and the laws of Ohio.

(C) The Director of Finance shall be the chief fiscal officer of the Municipality and shall perform the powers, duties and functions now or hereafter given to City Auditors and Treasurers under the general laws of Ohio to the extent those laws are not in conflict with this Charter. The Director of Finance, in addition to the powers, duties and functions prescribed by this Charter, shall have other powers, duties and functions as required by ordinance or resolution, or as directed by the Mayor. The Director of Finance shall keep the financial records of Canal Winchester, establish the accounting system, financial records and reports used by the offices, departments, divisions, bureaus, boards and commissions of Canal Winchester; assist the Mayor in the preparation and submission of appropriation measures, estimates, budgets, capital programs and other financial matters; provide full and complete information concerning the financial affairs and status of Canal Winchester as requested by the Mayor or Council; and provide full and complete information and assistance concerning the finances or accounting systems or records of any office, department, division, bureau, board or commission of Canal Winchester as requested by the Mayor or Council.

6.05 Department of Public Service.

(A) The Department of Public Service shall be headed by the Director of Public Service, who shall be appointed by the Mayor to serve at the pleasure of the Mayor and may be removed by the Mayor without cause.

(B) The Department of Public Service shall consist of a Division of Water, a Division of Water Reclamation, a Division of Streets, Lands & Buildings, a Division of Urban Forestry, a Division of Storm water, a Division of Parks and such other Divisions or units as created, from time to time, by ordinance or resolution. The Director of Public Service shall direct and control the activities and work of the Department of Public Service with respect to the Municipality's utilities, including but not limited to water and sewer, and the Municipality's street, highways and other public grounds. The Department of Public Service and the Divisions thereof shall have such powers, duties and functions as provided by the Charter, ordinance or resolution and the general laws of Ohio and as directed by the Mayor.

6.06 Other Departments

(A) With respect to municipal functions not otherwise provided for under this

Charter, the Council may, by ordinance or resolution, create, combine and abolish other administrative departments.

(B) The heads of any such other departments shall be appointed by the Mayor, serve at the pleasure of the Mayor and may be removed by the Mayor without cause.

6.07 Acting Department and Division Heads.

In the event of a vacancy or the temporary absence or disability of the head of any administrative department or division, the Mayor shall appoint an acting head of the department or division until the vacancy is filled or the temporary absence or disability is removed. The acting head may hold another office or position of employment with Canal Winchester, but shall not be a member of Council.

ARTICLE VII BOARDS AND COMMISSIONS

7.01 Planning and Zoning Commission.

(A) There is hereby created a Planning and Zoning Commission consisting of seven members to be appointed by the Mayor and confirmed by the Council. Members shall serve for overlapping four year terms of office

(B) The powers, duties and functions of the Planning and Zoning Commission shall be provided by this Charter and the ordinances and resolutions of Canal Winchester. The Planning and Zoning Commission shall hear all appeals from administrative officers and employees authorized by ordinance or resolution with respect to zoning, platting, subdivision, building and other regulations pertaining to land uses.

7.02 [INTENTIONALLY OMITTED]

7.03 Other Boards and Commissions.

(A) The Council may provide for additional boards and commissions not provided for in this Charter by ordinance or resolution.

(B) Boards and commissions continued, revised or created pursuant to this section of the Charter shall have those powers, duties and functions as provided by ordinance or resolution.

7.04 Merit System.

(A) **[INTENTIONALLY OMITTED]**

(B) Within one hundred twenty days after Canal Winchester is declared and proclaimed to be a city, the Council shall adopt ordinances or resolutions providing for a code of personnel practices, which initial measures shall not be subject to referendum or initiative procedures. Pursuant to the procedures established in the code of personnel practices as it may be amended from time to time, all appointments and promotions of employees of the Municipality shall be made according to merit and fitness, to be ascertained, as far as practicable, by competitive examination.

(C) The following offices and employee positions shall be exempted from the requirements of the merit system and shall be in the unclassified service of the City:

- (1) All elected officials;
- (2) The Clerk of Council, the Clerk or Secretary to each Board and

Commission, the Director of Law, Prosecutor, the Director of Finance, the Director of Development, the Director of Public Service,, the Police Chief, the Fire Chief, other department heads, and one assistant to each department head, other than police and fire.

(3) All members of Boards and Commissions.

(4) Any other offices or positions of employment that the Council shall determine by ordinance or resolution to be exempted from the merit system because of: (a) the confidential nature of their duties to the Mayor, any department head, the Council, or any board or commission; (b) the professional, technical or scientific nature of their duties, or (c) the part-time or voluntary nature of the work or duties.

(D) The code of personnel practices shall include provisions for causes and procedures for the dismissal, suspension and other disciplinary action against employees in the classified service. Except as otherwise provided in this Charter, the Mayor shall appoint, promote, dismiss, suspend and otherwise discipline employees in the classified and unclassified service of Canal Winchester.

(E) There is hereby created a Personnel Board of Review consisting of three electors of Canal Winchester not holding other office, appointment or employment with Canal Winchester, to be appointed by the Mayor subject to confirmation by the Council by a majority vote of the Council for a term of three years, except that of the three members of the Board first appointed, one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years, all commencing the first day of January following their appointment. The Personnel Board of Review shall be organized as provided in Division (E)(1) of this Section and shall have the powers, duties and functions provided in Division (E)(2) of this Section.

(1) The Personnel Board of Review shall designate one of its members as Chairman and the Council by ordinance or resolution may authorize the appointment by said Board of a Clerk who may be a person having other employment with the Municipality.

(2) The Personnel Board of Review shall have the power to hear appeals from administrative determinations made pursuant to the code of personnel practices, as may be authorized by the code, and may have such other powers and duties as may from time to time be given to it by ordinance or resolution of the Council. The Board shall keep a record of its proceedings which shall be open to public inspection and shall conduct its proceedings in accordance with the ordinances and resolutions of Council enacted pursuant to this Charter and the rules and regulations of the Board adopted by it pursuant to authority granted by ordinances or resolutions of the Council.

7.05 [INTENTIONALLY OMITTED]

7.06 Charter Review Commission.

On or before the last day of January in the year 2000 A.D. and each ten years thereafter, the Mayor shall appoint five and the Council shall appoint six members of the Charter Review Commission. The Commission shall submit its findings and recommendations for revisions of the Charter to the Council no later than the last day of December of the year of their appointment. The terms of the members of the Commission shall end on the last day of December of the year of their appointment. The Council may, in its discretion, submit any, all or none of the recommendations of the Commission to the electors in the form of proposed amendments to Canal Winchester's Charter at an election established by the Council.

7.07 Organization, Vacancies.

(A) Unless otherwise provided in this Charter, each of the Municipality's boards and commissions, whether created by this Charter or by ordinance or resolution, shall:

(1) Organize at its first meeting each year by electing a chairman, vice chairman and secretary. The chairman and vice chairman shall be members of the board or commission and the secretary may be elected from within or without the membership of the board or commission. The secretary shall keep an accurate and complete record of the proceedings of the board or commission and shall file a copy of its proceedings with the Clerk of Council for public inspection.

(2) Take action by motion, and a majority vote of the members of the board or commission shall be necessary to take action. A majority of the members shall constitute a quorum. All members of boards and commissions shall be electors of the Municipality.

(3) Adopt rules for calling regular and special meetings, the conduct and government of the board, commission or the Committee, however, the rules shall not conflict with the provisions of this Charter or ordinances and resolutions of the Municipality.

(B) Unless otherwise provided in this Charter, a vacancy during the term of any member of a board or commission created by this Charter or by ordinance or resolution shall be filled for the unexpired term, if any, in the manner authorized for an original appointment.

ARTICLE VIII FINANCE, TAXATION AND DEBT

8.01 General.

The laws of Ohio relating to budgets, appropriations, taxation, debts, bonds, assessments and other fiscal matters of Canal Winchester shall be applicable to Canal Winchester, except as modified by or necessarily inconsistent with the provisions of this Charter, or when provision therefore is made in the Constitution of Ohio, regardless of whether the provision is specific or by way of general language or pursuant to court decision interpreting the Charter or the Constitution of Ohio.

8.02 Contracting Powers and Procedures.

(A) Except as otherwise provided in this Section, the Mayor, or his designee, shall award and execute all contracts on behalf of Canal Winchester.

(B) Council, by ordinance, shall establish a threshold amount, notice provisions and other procedures for competitive bidding. When any contract for the construction of a public improvement or the purchase of equipment, supplies, non-professional services or materials is estimated to exceed the threshold established by Council, the contract shall be competitively bid unless exempted under 8.02(C). Council shall award a contract to the lowest and best bidder, provided that Council may reject any and all bids in whole or by items. No contract shall be divided to avoid the requirements of competitive bidding.

(C) By a vote of no less than five members, Council may waive the competitive bidding requirement if Council determines that an item is available and can be acquired only from a single source or if Council determines that a waiver of the competitive bidding requirement is in the best interest of the City.

(D) The Mayor shall select the project delivery method that in the Mayor's sole discretion is in the best interest of Canal Winchester and may include without limitation design-build, single-prime contracts, or any other method of project delivery.

(E) Notwithstanding any provision of general law, contractors and vendors shall not be entitled to receive interest on funds temporarily retained on a contract pending final acceptance of work performed or goods supplied, nor shall Canal Winchester be required to maintain a separate escrow account from which to pay any contractor or vendor.

(F) Contracts for professional services, including design and engineering contracts, shall not be subject to the competitive bidding requirements of this Section and shall not require authorization by Council if the current operating budget provides sufficient funding for the scope of services in any such contract.

(G) Council shall establish procedures for alterations or modifications of contracts. Modifications or alterations of contracts shall not require competitive bidding.

(H) No contract involving the expenditure of money shall be entered into or authorized by the Mayor unless the Director of Finance or designee shall first certify that:

- (1) funds required for the contract are in the Village's treasury or in the process of collection; and
- (2) funds have been appropriated by Council and remain unencumbered.

(I) The Director of Finance shall file and record the certification of availability and appropriation of funds in the accounting records of the Village and shall furnish a copy to the vendor or contractor. Without the certification, a contractual obligation shall be void and unenforceable against the Village unless recognized by Council as a moral obligation.

ARTICLE IX NOMINATIONS AND ELECTIONS

9.01 Nominations.

Nominations for all elected offices of Canal Winchester shall be made by petition only and no primary shall be held to nominate officers of Canal Winchester. Nominating petitions

shall be in the form determined by the election authorities provided under the general laws of Ohio and signed by electors of Canal Winchester equal in number to not less than one percent nor more than three percent of the electors of Canal Winchester voting at the last preceding gubernatorial election.

9.02 Regular Municipal Elections.

The regular municipal elections for all elected offices, and for issues to be presented to the voters, shall be held on dates and at the times fixed by the election laws of Ohio for general statutory plan cities, except that all such officers shall be elected to terms of office as provided in this Charter.

9.03 Special Elections.

The Council may, at any time, order a special election by ordinance or resolution which shall set forth the date and purpose of the election, including but not limited to the referral of pending ordinances and resolutions to the electors for their approval or rejection. Special elections may be held on any date, including but not limited to the dates of general and primary elections in odd or even numbered years.

9.04 Conduct of Elections.

All regular and special elections shall be conducted by the election officials as established under the laws of Ohio. Such elections shall be held in conformity with the provisions of this Charter. Where the Charter is silent, the provisions of the election laws of Ohio shall be followed.

ARTICLE X INITIATIVE, REFERENDUM AND RECALL

10.01 Initiative and Referendum.

Ordinances, resolutions, issues and other measures may be proposed by initiative petition and adopted by election, and ordinances and resolutions adopted by the Council shall be subject to referendum, as provided by the Constitution and laws of Ohio, provided ordinances and resolutions calling elections under this Charter shall not be subject to referendum.

10.02 Recall.

(A) The electors shall have the power to remove from office by a recall election any elected official of Canal Winchester in the manner provided in this Section.

(B) If the elected official shall have served six months of his or her term, an elector or electors of Canal Winchester may serve written notice upon the Clerk of Council of their intent to circulate petitions for the recall of a named elected official or officials. No petitions for the recall of an elected official may be circulated until such written notice of intent is served upon the Clerk of Council. Not later than thirty days after service of such notice of intent on the Clerk of Council, such persons may file, with the Clerk of Council, a petition demanding the removal of an elected official. Separate petitions shall be filed for each elected official sought to be removed by recall. The Clerk shall note thereon the name and address of the person filing the petition and the date of such filing, and deliver to such person a receipt therefore and attach a copy thereof to said petition. Such petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain the name and office of the person whose removal is sought. Such petition shall be signed by at least that number of electors which equals fifteen percent in number of the electors voting at the last preceding regular municipal election.

(C) Within ten days after the day on which such petition is filed, the Clerk of Council shall determine whether or not it meets the requirements hereof. If the Clerk of Council shall find the petition insufficient, the Clerk shall promptly certify the particulars in which the petition is insufficient, deliver a copy of the certificate to the person who filed the petition and make a record of such delivery. Such person shall be allowed a period of ten days after the day on which such delivery was made in which to make the petition sufficient. If the Clerk of Council shall find the petition sufficient, the Clerk shall promptly so certify to Council and shall deliver a copy of such certificate to the person whose removal is sought within five days and make a record of such delivery.

(D) If the person whose removal is sought shall not resign within ten days after the day on which the Clerk's certificate shall have been delivered, Council shall, by ordinance or resolution, fix a day for holding a recall election, not less than thirty days nor more than forty-five days after the date of the Clerk's certification of sufficiency to the Council, and shall cause notice of such recall election to be published on the same day of each week for two consecutive weeks in a newspaper of general circulation in Canal Winchester. At such recall election, this question shall be placed upon the ballot: "Shall (naming the person whose removal is sought) be allowed to continue as (naming the office)?" with the provision on the ballot for voting affirmatively or negatively. In the event a majority of the vote is negative, such person shall be removed, the office shall be vacant, and such vacancy shall be filled as provided in Section 3.08 of this Charter. If the person is not removed at such recall election, no further recall petitions shall be filed against him or her for a period of one year following such election.

ARTICLE XI GENERAL PROVISIONS

11.01 Removal of Officials.

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

(B) As used in this Section of the Charter, the "Charging Official" shall mean: the "Mayor" except where the person accused of a grounds for removal is the person holding the office of Mayor; or the "President of Council" where the person sought to be removed for cause holds the office of Mayor.

(C) The Charging Official, if he or she has reason to believe there is probable cause (as such causes are defined in this Section 11.01) for the removal of an elected official 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 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 Canal Winchester. 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 defenses, and determine whether the accused person shall be removed from his or her office. The Council shall remove an official for any of the following causes by a two-thirds vote of the members of the Council, provided that if the accused person is a member of Council, such person shall not vote on any matter during the removal procedure and shall not be counted in determining required majorities:

(1) Unexcused absences from any four consecutive regular meetings of the Council or the Board or Commission on which such person serves or any six regular or special meetings thereof in any year provided the accused person received notice of special meetings. An absence from a regular or special

meeting may be excused by a majority vote of the members of the Council or the Board or Commission on which such person serves at any time, including the excusing of any absence after action is initiated but prior to the commencement of hearings for the person's removal under this Section.

(2) Failure to possess or maintain the qualifications of the office.

(3) A determination that the accused person is guilty of misfeasance, malfeasance or nonfeasance in office.

(D) 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.

(E) The removal of an official or the occurrence of any of the causes permitting the removal shall not invalidate any action of the official or any body, including the Council, 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 any body, including the Council, in which such person who filled the vacancy participated.

(F) The Council shall be the judge of the qualifications of and of the grounds for removal from office and shall conduct the proceedings relative to removal. The Council shall have the power to subpoena witnesses, administer oaths and require the production of evidence, either on its own motion or through the process of any appropriate court or officer thereof. A person charged with conduct constituting grounds for removal from office shall be entitled to either a private or 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 Canal Winchester at least one week in advance of the hearing, and in such an event, the Mayor, or other presiding officer of the Council, may reschedule the time, date and place of the hearing set by the Charging Official to accommodate the publication of the notice. If the hearing is rescheduled, the Mayor or other presiding officer, 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.

(G) The Director of Law shall prosecute the removal proceedings before the Council and any review thereof by the Courts. If a person accused is not finally removed, the Municipality shall pay the reasonable costs of the defense of such person and any compensation withheld pending the appeal of the action of the Council.

11.02 Conflicts of Interest, Ethics, Campaign Financing.

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

11.03 Succession.

The City of Canal Winchester under this Charter is hereby declared to be the legal successor of the Village of Canal Winchester 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. Canal Winchester 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 of competent jurisdiction. All contracts entered into by Canal Winchester or for its benefit prior to the effective date of this Charter shall continue in full force and effect.

11.04 Effect of Charter on Existing Laws and Rights.

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

(B) No action or proceeding pending against Canal Winchester 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.

11.05 Retirement System - Health District.

The laws of Ohio governing the retirement of officers and employees of Canal Winchester and the organization of health districts shall be applicable under this Charter.

11.06 Amendment of Charter.

This Charter may be amended by the voters as provided by the Constitution of Ohio.

11.07 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.

**ARTICLE XII
TRANSITIONAL PROVISIONS**

12.01 Effective Date of Charter.

This Charter shall be submitted to the electors of the Municipality at an election to be held November 7, 1995. If approved by a majority of the persons voting, the Charter shall take effect from the date the final result of the election is certified by the election authorities for the purpose of designating, nominating and electing officers of the Municipality and conducting municipal elections. For all other purposes, this Charter shall take effect January 1, 1996.

12.02 Effective Date of 2010 Amendments to Charter.

The amendments to this Charter proposed by Ordinance No. 28-10, adopted on July 19, 2010, if such amendments are approved by a majority of the persons voting at the election held on November 2, 2010, shall take effect thirty (30) days after issuance of a proclamation by the Ohio Secretary of State, pursuant to Section 703.06 of the Revised Code, stating that the population of canal Winchester is more than five thousand (5000).