

C H A R T E R
of the
CITY OF WESTERVILLE

Preamble.

We, the people of the City of Westerville in the Counties of Franklin and Delaware and State of Ohio, in order to secure for ourselves the benefits of municipal home rule and exercise all the powers of local self-government under the Constitution and laws of the State of Ohio, do adopt this Charter for our municipality.

ARTICLE I

THE MUNICIPALITY

Section 1. Name.

The municipal corporation now existing in the Counties of Franklin and Delaware and State of Ohio and known as the City of Westerville, Ohio, (hereinafter sometimes referred to as "municipality") shall continue to be a body politic and corporate under the name of the City of Westerville.

ARTICLE II

POWERS OF THE MUNICIPALITY

Section 1. Powers.

The municipality shall have all the powers, general or special, governmental or proprietary, that may now or hereafter lawfully be possessed or exercised by municipal corporations under the Constitution and laws of the State of Ohio.

Section 2. Manner of Exercise.

The powers of this municipality shall be exercised in the manner prescribed in this Charter, or to the extent not prescribed herein, then in such manner as the Council may determine, and when not prescribed in this Charter or determined by Council, such powers shall be exercised in such manner as may now or hereafter be provided by the laws of the State of Ohio.

ARTICLE III

COUNCIL

Section 1. Number and Term.

The legislative powers of the municipality, except as otherwise provided by this Charter and by the Constitution of the State of Ohio, shall be vested in a Council of seven members elected for terms of four years commencing on the first day of the January next following their election; provided that until January 1, 1966 the Council shall consist of only five members.

During the calendar years 1964 and 1965, the Council shall consist of the five persons elected to Council at the November 7, 1961 or November 5, 1963 regular municipal elections and such persons or others selected to fill a vacancy shall continue to hold their office until the expiration of the term for which they were elected or selected. Any vacancy occurring in the Council during such period shall be filled for the remainder of the term as provided in Section 7 of this Article. Two additional members of Council shall be elected at the November 2, 1965 election for a term of four years.

Section 2. Qualifications.

All members of the Council shall have been residents of the municipality for at least two continuous years prior to their election, shall be qualified electors of the municipality, and shall continue to be qualified electors thereof throughout their respective terms of office. A member of Council shall not hold any other public office, except as otherwise provided in this Charter or by ordinance enacted thereunder, or that of notary public or membership in the state or national guard or a reserve component of the United States.

Any member of Council who shall cease to possess or who violates any of the qualifications herein provided shall forfeit his office but failure to maintain such

qualifications shall not render void or ineffective any action of Council in which such member has participated.

Any member of Council who shall be absent from all Council meetings held during a period of 90 consecutive days, or who is absent for a total of one-fourth of the regular meetings during a calendar year, shall be deemed to have forfeited his position as a member of the Council and a vacancy shall exist in the Council which shall be filled by the appointment of another person as provided in Section 7 of this Article for the filling of vacancies.

Except as provided in the preceding paragraph, the Council shall be the judge of the election and qualification of its own members.

Section 3. Organization.

On the first day of January in 1965 and each even numbered year thereafter the Council shall meet in the Council chamber for the purpose of organization. The Council shall adopt its own rules, regulations and bylaws except as otherwise provided in this Charter.

Section 4. Chairman and Vice-Chairman of Council; Duties.

The Council shall at the time of its organization choose one of its members as Chairman and another as Vice-Chairman. If a vacancy shall occur in the office of Chairman or Vice-Chairman, a new Chairman or Vice-Chairman shall be chosen by the Council, provided that any vacancies then existing in Council shall first be filled in the manner provided in Section 7 of this Article. The Chairman, or Vice-Chairman in his absence, shall have all the powers, duties, functions, obligations and rights of any other member of Council including the right to vote, shall preside at all meetings of Council, shall appoint the various committees of Council, and shall coordinate the work of various committees appointed by him.

Section 5. Mayor and Vice-Mayor; Judicial Powers.

At its organizational meeting as provided for in Section 3 of this Article the Council shall elect one of its members as Mayor and may elect one of its members as Vice-Mayor, shall fix the terms of the Mayor and Vice-Mayor which shall not extend beyond the expiration of their respective terms of office or the next succeeding organizational meeting of the Council, whichever is earlier, and shall elect a Mayor and may elect a Vice-Mayor upon the expiration of such terms or a vacancy in such offices. The Mayor shall act as the ceremonial head of the government, shall be recognized as the official head of the municipality for the purpose of serving civil process, and shall have all the judicial powers granted to a mayor of a municipal corporation by the laws of the State of Ohio. The Mayor shall have the power to vote but shall have no power of veto. The Vice-Mayor shall act as Mayor in the event the Mayor is absent from the municipality or unable for any cause to perform his duties and said Vice-Mayor while acting as Mayor shall have and exercise the same powers and duties, including judicial, as herein granted to the Mayor. A person holding the position of Chairman or Vice-Chairman of Council, as provided in Section 4 of this Article, may also be elected as either Mayor or Vice-Mayor, as provided in this Section.

Section 6. Removal.

The Council may remove any member thereof for gross misconduct, malfeasance in office, conviction of a crime involving moral turpitude, judicial declaration of incompetency, violation of this Charter or persistent failure to abide by the rules of the Council; provided that such removal shall not take place without the affirmative vote of two-thirds of the remaining members elected to Council, nor until the accused member shall have been notified in writing of the charge against him and given an opportunity to be heard. The accused member shall not vote on the question of his removal.

Section 7. Vacancies.

A vacancy shall be deemed to occur in the Council upon and as of the time of the presentation of a resignation to the Chairman or the Vice-Chairman of Council, the death of a councilman, the determination by the Council that a member of Council ceases to possess or has violated any of the qualifications of the office of Council, the removal of a councilman as provided in Section 6 of this Article, or the forfeiture of office as provided in the third paragraph of Section 2 of this Article. Any vacancy in the Council shall be filled by a majority vote of the remaining members of the Council for the unexpired term. If the vacancy is not filled within sixty days after it shall have occurred the power of Council to fill the vacancy shall lapse and the Chairman of the Council shall fill it by appointment, immediately following the expiration of said sixty days. Any appointee under this section shall qualify under the provisions of this Charter and shall hold office and serve for the unexpired term and until his successor is elected and qualified.

Section 8. Council Meetings.

The Council shall hold at least one regular meeting in each calendar month during a year provided that it may provide in its rules, regulations or bylaws, or by resolution, one month of each year in which no meeting shall be held.

A majority of the members elected to Council shall constitute a quorum for the transaction of business at any meeting of the Council but a lesser number may adjourn the meeting from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by the rules, regulations, and bylaws of the Council. The Clerk of Council shall keep a record of the Council's proceedings in a journal in which the vote on any ordinance, resolution or other measure shall be recorded. All meetings of the Council shall be open to the public and each journal and other records of the Council shall be available for public inspection at

all reasonable times.

Section 9. Special Meetings of Council.

Special meetings of the Council may be called as provided by its rules, regulations or bylaws, or by resolution or ordinance of the Council.

In the absence of any such provision, special meetings may be called by a vote of Council taken at any regular or special meeting thereof or may be called by the Chairman, Vice-Chairman, City Manager or any three members of the Council. The Clerk of Council, or in his absence, incapacity or refusal to act, the City Manager, shall cause notice in writing of each special meeting to be served personally or at the usual place of residence upon each member of the Council and the City Manager not less than twelve hours preceding the time for such special meeting. A copy of such notice shall be posted in the same locations as ordinances and resolutions are posted, at least twelve hours prior to such special meeting but failure to so post or to maintain posting for twelve hours shall not affect the validity of any meeting or any action taken at such meeting. In the event that a special meeting is called by a vote of Council taken at a regular or special meeting from which any member of Council or the City Manager is absent, written notice of such special meeting shall be given each absentee in the manner hereinbefore described. Service of notice of any special meeting shall be deemed conclusively to have been waived by any member of Council or the City Manager who shall be present at such special meeting.

Section 10. Clerk of Council.

The Clerk of Council shall be appointed by the Council and shall serve at its pleasure. The Clerk of Council shall keep an accurate and complete journal of the proceedings of Council and perform such other duties as the Council may require. The Clerk of Council may be a person having other employment or appointment

with the municipality. The Council may employ such other employees as it deems necessary for the proper discharge of its duties.

Section 11. Salaries, Compensations and Bonds.

The Council shall have the power to fix the salaries of its members and of all other officers and employees of the municipality whether elected or appointed and to establish such bonds as in the opinion of the Council are necessary for the faithful discharge of the duties of the officers and employees. The salary of a member of Council shall not be increased during his term of office, nor shall such salary be decreased during such term except with the consent of the member of Council involved.

Section 12. General Ordinances.

The Council may by ordinance make provision for:

- (a) The procedures for making public improvements and levying assessments, including the procedure for combining two or more public improvements and the levying of assessments therefor in one proceeding if the Council finds that it would be economical and practical to undertake such improvements jointly; provided that such ordinance may permit the Council to take its procedures to levy assessments either under the general law or in accordance with the procedure provided in such ordinances;
- (b) The making, advertising and awarding of contracts including establishing requirements for receipt of competitive bids, schedules for payments on contracts, security and other provisions for bids and for the faithful performance of contracts;

- (c) The procedure for safekeeping of all moneys of the municipality including the deposit of such moneys in a financial institution or financial institutions and the selection of such financial institutions therefor, and the investment of moneys of the municipality;
- (d) The requirement of a second signature on behalf of the municipality on contracts, agreements, conveyances, evidence of indebtedness, warrants, and drafts of the municipality, and other instruments to which the municipality is a party.
- (e) Such other general regulations as the Council may deem necessary.

Section 13. Legislative Procedure.

- (a) All legislative action shall be by ordinance, resolution or motion.
- (b) Each proposed ordinance or resolution shall be introduced in written or printed form and shall contain only one subject which shall be expressed in its title, provided, however, that general appropriation ordinances may contain the various subjects, accounts and amounts for which moneys are appropriated.
- (c) The vote on the question of passage of each ordinance, resolution and motion shall be taken by yeas and nays and entered on the Journal and no ordinance, resolution or motion shall be passed without concurrence of a majority of all members elected to Council, except as provided in Section 8 of this Article.
- (d) No ordinance or resolution of a general or permanent nature or granting a franchise or creating a right or involving the expenditure of money or the levying of a tax or authorizing the purchase, lease, sale or transfer of property shall be passed unless the title thereof has been read at Council meetings on three different days and with respect to any such ordinance or resolution there shall be no authority to dispense with this rule except by

a two-thirds affirmative vote of all members elected to Council taken separately by yeas and nays on each ordinance and resolution and entered on the Journal; provided that the requirement of this paragraph (d) shall not be applicable to any ordinance or resolution determining to submit any question to the electorate or determining to proceed with any election.

- (e) No ordinance or resolution or any section thereof, shall be revived or amended unless the new ordinance or resolution contains the entire ordinance, resolution or section as revived or amended, and the ordinance, resolution or section so amended shall be repealed. This requirement shall not prevent the amendment of an ordinance or resolution by the addition of a new section or sections, and in such case the full text of the former ordinance or resolution need not be set forth.
- (f) As soon as an ordinance or resolution has been passed, it shall be recorded by the Clerk of the Council in a book established and maintained for that purpose.
- (g) Council may by ordinance adopt standard ordinances and codes prepared by any public or private department, board, subdivision or agency on such subjects as fire prevention, building construction, fire hazards, fire, plumbing, electrical construction, refrigeration machinery, piping, boiler construction or the maintenance and operation thereof, heating and ventilating, air conditioning and such other matters as the Council may determine to be appropriate for adoption by reference. 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 three 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 and copies of such standard ordinance and code shall be available for sale by said Clerk. If the standard ordinance or code after its adoption by reference by the Council is amended, the Council may adopt the amendment or change by incorporation by reference in an ordinance under the same procedure as is established herein for the adoption of the original standard ordinance or code without the necessity of setting forth in full in the ordinance the provisions either of the amendment or change or of the original ordinance or the standard ordinance or code.

- (h) All ordinances and resolutions passed by the Council shall be published by posting copies thereof in not less than four of the most public places in the municipality as determined by the Council for a period of not less than ten days and if there be a newspaper printed and of general circulation within the municipality, then by publishing the title of the ordinance or resolution once in such newspaper.

Section 14. Effective Dates of Ordinances and Resolutions.

Each ordinance or resolution providing for the appropriation of money, an annual tax levy, improvements petitioned for by the owners of the majority of the front footage or of the area of the property benefited and to be specially assessed therefor, submission of any question to the electorate or the determination to proceed with an election and any emergency ordinance or resolution shall take

effect, unless a later time be specified therein, upon its passage. No other ordinance or resolution shall go into effect until thirty days following its passage by the Council.

Section 15. Emergency Ordinances and Resolutions.

Each emergency ordinance or resolution shall determine that it is necessary for the immediate preservation of the public peace, health or safety and shall contain a statement of the necessity for such emergency. Each emergency ordinance or resolution shall require the affirmative vote of at least two-thirds of the members elected to Council for its enactment; provided that if it fails to receive the requisite two-thirds affirmative vote, but receives the necessary majority for passage as a non-emergency ordinance or resolution, it shall be considered passed as such and shall become effective as provided in Section 14 of this Article. No action of the Council granting any franchise shall ever be passed as an emergency.

Section 16. Relation of Council to City Manager.

The Council and its members shall deal solely through the City Manager with respect to any part of the administration of the affairs of the municipality which are within the scope of the powers, duties and responsibilities of the City Manager.

ARTICLE IV
CITY MANAGER

Section 1. Appointment, Removal and Qualifications.

The City Manager shall be appointed by the Council, the affirmative vote of two-thirds of the members elected to Council being necessary for his appointment. His tenure shall be indefinite but shall continue only at the pleasure of Council, the affirmative vote of two-thirds of the members elected to Council being necessary for his removal. A City Manager who is removed shall receive two months salary from the date of such removal.

The City Manager shall be chosen solely on the basis of his professional qualifications and knowledge of the duties, standards and accepted practices of his office. The City Manager need not be a resident of the municipality at the time of his appointment, but shall within a reasonable time after such appointment establish and maintain residence in the municipality unless otherwise provided by Council.

Section 2. Powers and Duties.

The City Manager shall be the chief administrative and law enforcement officer of the municipality and shall be responsible to the Council for the proper administration of the affairs of the municipality within the scope of his powers, duties and responsibilities. He shall manage all departments and divisions of the municipal government and shall have the power and be required to:

- (a) Appoint all officers and employees of the municipality except those whose appointment is otherwise expressly provided for in this Charter, but subject to approval of Council when required by this Charter;
- (b) Remove, suspend or otherwise discipline any officer or employee of the municipality who is appointed by him, subject to compliance

with the ordinances passed pursuant to Article VI (Merit System) of this Charter;

- (c) Institute proceedings for the removal, suspension or other discipline of officers and employees where ordinances passed pursuant to Article VI (Merit System) of this Charter are applicable;
- (d) Attend all Council meetings with the right to participate in discussions and bring matters to the attention of Council, but without the right to vote;
- (e) Recommend legislation for passage by Council or recommend the repeal of existing legislation;
- (f) Prepare and submit to Council such reports as are requested by it and such other reports as he deems advisable;
- (g) Prepare and submit to the Council the proposed annual budget for the next succeeding fiscal year and submit at the end of each fiscal year a report on the finances of the municipality for that year;
- (h) Execute on behalf of the municipality all contracts, agreements, conveyances, evidences of indebtedness and other instruments to which the municipality is a party;
- (i) Determine that all terms and conditions imposed in favor of the municipality or its inhabitants in any franchise, contract or agreement to which the municipality is a party are faithfully kept and performed;
- (j) Affix to all official documents and instruments of the municipality the City Manager's seal which shall be the seal of the municipality, but the absence of the seal shall not affect the validity of any such document or instrument;

- (k) Act as purchasing agent for the municipality;
- (l) Perform such duties 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.

Section 3. Vacancy, Absence or Incapacity.

In the event the position of City Manager is vacant or the City Manager is absent, inaccessible or for any reason is unable to perform his duties, the Director of Finance shall become the acting City Manager and while so acting shall have and exercise all of the powers, duties and responsibilities of the City Manager. The Council by ordinance shall designate a person who shall be the acting City Manager in the event the office of Director of Finance is vacant or the Director of Finance is absent, inaccessible or for any reason is unable to act as City Manager and shall provide that such person shall have and exercise all of the powers, duties and responsibilities of the City Manager.

ARTICLE V

ADMINISTRATIVE DEPARTMENTS

Section 1. General Provisions.

There is hereby established a Department of Law, a Department of Finance, a Department of Public Safety, a Department of Public Service, a Department of Public Utilities and a Department of Recreation. The Department of Public Safety shall include but need not be limited to a Division of Police and a Division of Fire which are hereby established; provided that the Division of Police and Division of Fire may be combined by ordinance of Council as the Division of Police and Fire. Each department shall be administered by a Director thereof and the Council shall by ordinance provide for the organization thereof. The Council may by ordinance create additional departments or divisions of departments, abolish existing departments or divisions of departments except the Division of Police, the Division of Fire, or combined Division of Police and Fire, and combine departments and divisions as it may deem necessary; provided that the Department of Public Safety may not be abolished and that the Departments of Finance and Law may not be abolished or combined. Council may authorize the City Manager to be the head of any one or more departments, except the Department of Law unless he is admitted to the practice of law in the State of Ohio, and may authorize one person to be the head of two or more such departments.

Section 2. Director of Law.

The Director of Law shall be admitted to the practice of law in the State of Ohio and shall be appointed and may be removed by the majority affirmative vote of the members elected to Council. He shall serve the City Manager, the Council, the administrative departments, and officers, boards and commissions of the municipality as legal counsel in connection with municipal affairs and, subject to the direction of the Council, shall represent the municipality in all proceedings in court or before any administrative board or body. He shall perform such other duties, consistent

with his office, as may be required by this Charter or by ordinance or resolution of the Council.

Council may from time to time provide for such assistants and special counsel to the Director of Law as it shall deem necessary and neither the Director of Law, his assistant or any special counsel shall be required to reside in the municipality.

Section 3. Director of Finance.

The Director of Finance shall be the fiscal officer of the municipality and shall be appointed by the City Manager subject to confirmation by the affirmative vote of two-thirds of the members elected to Council. He shall serve at the pleasure of the City Manager and may be removed by the City Manager subject to such removal being confirmed by the affirmative vote of two-thirds of the members elected to Council. He shall keep the financial records of the municipality, exhibiting accurate statements of all moneys received and expended, of all property owned by the municipality, and of all taxes and assessments. He shall advise the City Manager and the Council concerning the financial condition of the municipality and shall examine all payrolls, bills and other claims against the municipality and shall issue no warrants unless he finds that the claim is in proper form, correctly computed, duly approved and that an appropriation has been made therefor. He shall collect all money due and payable to the municipality and shall be the custodian of all public money of the municipality and shall disburse the same as may be required by law or ordinance. He shall examine and audit the accounts of all other officers, employees, departments, boards and commissions, and shall assist the City Manager in the preparation and submission of appropriation measures, estimates, budgets and other financial matters. He shall perform all other duties now or hereafter imposed on City Auditors and Treasurers under the laws of the State of Ohio and shall perform

such other duties, consistent with his office, as may be required by this Charter, by ordinance or resolution of Council, or as directed by the City Manager.

Section 4. Director of Public Safety.

The Director of Public Safety shall be appointed by the City Manager subject to confirmation by the affirmative vote of two-thirds of the members elected to Council. He shall serve at the pleasure of the City Manager and may be removed by the City Manager subject to such removal being confirmed by the affirmative vote of two-thirds of the members elected to Council. The Director of Public Safety shall be the head of the Division of Police and the Division of Fire, or the Division of Police and Fire if such a combined division is established as provided in Section 1 of this Article, and such other divisions as shall be established and placed within the jurisdiction of the Department of Public Safety by Council by ordinance. He shall make all necessary rules and regulations for the government of the Department of Public Safety and the several divisions thereof, subject to the approval of the City Manager, and he shall be charged with the duty of enforcing all police, health, safety and sanitary regulations that may be prescribed by ordinance or rules of the municipality or the laws of the State of Ohio. The Director of Public Safety shall perform such other duties, consistent with his office, as may be required by this Charter, by ordinance or resolution of Council, or as directed by the City Manager.

Section 5. Director of Public Service.

The Director of Public Service shall be appointed by the City Manager subject to the confirmation by the affirmative vote of two-thirds of the members elected to Council. He shall serve at the pleasure of the City Manager and may be removed by the City Manager subject to such removal being confirmed by the affirmative vote of two-thirds of the members elected to Council. The Director of Public Service shall have charge of the administration, operation, construction, maintenance

and repair of all public works, improvements and buildings, other than municipally owned utilities or the maintenance of recreational facilities and parks of the municipality. He shall perform such other duties, consistent with his office, as may be required by this Charter, by ordinance or resolution of the Council, or as directed by the City Manager.

Section 6. Director of Public Utilities.

The Director of Public Utilities shall be appointed by the City Manager subject to confirmation by the affirmative vote of two-thirds of the members elected to Council. He shall serve at the pleasure of the City Manager and may be removed by the City Manager subject to such removal being confirmed by the affirmative vote of two-thirds of the members elected to Council. He shall have charge of the administration, operation, construction, maintenance and repair of all public utilities belonging to the municipality. Rates to be charged for the products or service of any such public utility shall be fixed by ordinance of Council. He shall perform such other duties, consistent with his office, as may be required by this Charter, by ordinance or resolution of the Council, or as directed by the City Manager.

Section 7. Director of Recreation.

The Director of Recreation shall be appointed by the City Manager subject to confirmation by the affirmative vote of two-thirds of the members elected to Council. He shall serve at the pleasure of the City Manager and may be removed by the City Manager subject to such removal being confirmed by the affirmative vote of two-thirds of the members elected to Council. He shall operate, supervise and maintain or cause to be maintained all recreational facilities and parks of the municipality. The Director of Recreation shall perform such other duties, consistent with his office, as may be required by this Charter, by ordinance or resolution of the Council, or as directed by the City Manager.

ARTICLE VI
MERIT SYSTEM

Section 1. Merit System.

All appointments and promotions of employees in the service of the municipality shall be made according to merit and fitness, to be ascertained, as far as practicable by competitive examination. The Council by ordinance shall provide that the City Manager or his appointee is to be the personnel director of the municipality and by ordinance shall establish a classified and unclassified service for employees of the municipality and a Code of Personnel Practices and Procedures to implement the mandate of this section; provided that appointments to and removal from offices, boards, and commissions created by this Charter shall be made in accordance with the specific applicable provision of this Charter and shall not be subject to this Article.

Section 2. Personnel Review Board.

There is hereby created a Personnel Review Board which shall consist of three qualified electors of the municipality not holding other public office, appointment, or employment to be appointed by a majority vote of 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 January 1, 1965.

Section 3. Organization of Personnel Review Board.

The Board shall designate one of its members as Chairman and the Council by ordinance may authorize the appointment by said Board of a Clerk who may be a person having other employment with the municipality.

Section 4. Powers.

The Personnel Review Board shall have the power to hear such appeals from administrative determinations made pursuant to said Code of Personnel

Practices and Procedures, as may be authorized by said Code, and may have such other powers and duties as may from time to time be given to it by ordinance of 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 of Council enacted pursuant to this Charter and the rules and regulations of the Board adopted by it pursuant to authority granted by ordinance of Council.

ARTICLE VII

PLANNING COMMISSION

Section 1. Membership and Organization.

There is hereby created and established a Planning Commission which shall consist of five members as hereinafter provided. Four members of the Planning Commission shall be qualified electors of the municipality and shall be appointed for terms of four years each by a majority vote of the members elected to Council and shall not hold any other municipal office, appointment, or employment; provided that the first person appointed by Council pursuant to this section to succeed to one of the positions on the Planning Commission existing prior to adoption of this Charter which has a term expiring December 31, 1966 shall be appointed for a term of one year. One member of the Planning Commission shall be a member of the Council selected by it for a term of two years at the Council's meeting for organizational purposes; provided that the first Council member selected to serve on the Planning Commission shall serve for a term of one year beginning on the first day of January in 1965. The three citizen members of the Planning Commission established pursuant to Section 713.01, Ohio Revised Code, holding terms which expire December 31, 1966, December 31, 1966, and December 31, 1969 shall serve as members of the Planning Commission hereby created and established until the expiration of their respective terms but the membership of all other members of the Planning Commission created pursuant to said Section 713.01 shall terminate on December 31, 1964. The City Manager or a person he designates as his representative shall attend all meetings of the Planning Commission and shall provide such assistance as is requested by the Planning Commission.

Section 2. Powers and Duties.

The powers and duties of the Planning Commission shall be established by the Council by ordinance, but until such ordinances shall be passed its powers and duties shall be those as provided by the general laws of Ohio.

ARTICLE VIII

FINANCES, TAXATION, AND DEBT

Section 1. General.

The laws of the State of Ohio relating generally to budgets, appropriations, debts, bonds, and other fiscal matters of the municipality shall be applicable to the municipality, except as modified by or necessarily inconsistent with the provisions of this Charter or ordinances of Council enacted pursuant thereto and except when provision therefor is made in the Constitution of the State of Ohio.

Section 2. Limitation on Tax Rate For Current Expenses.

The aggregate amount of taxes that may be levied by the Council without a vote of the people on property assessed and listed for taxation according to value for current operating expenses of the municipality and for the necessary levies for relief and pension funds of the municipality shall not exceed in any one year three and one-quarter mills for each one dollar of assessed valuation. The Council shall levy annually outside of the three and one-quarter mill limitation hereinabove provided, but subject to the ten-mill limitation imposed by the Constitution and laws of the State of Ohio, such taxes as may be necessary to pay the interest on and the principal of all notes and bonds of the municipality heretofore or hereafter issued. The limitation of this Charter upon the power of Council to levy taxes shall not operate as a limitation upon the power of Council to levy taxes upon such other subjects and for such other purposes as may be lawful under the Constitution and laws of the State of Ohio, nor shall the authority of Council to submit additional levies to a vote of the people under the authority of the Constitution or laws of the State of Ohio be deemed impaired or abridged by reason of any provision of this Charter.

Section 3. Limitation of Debt.

The municipality shall not incur debt in excess of the limitations imposed by the Constitution and the laws of the State of Ohio.

ARTICLE IX

ELECTIONS

Section 1. Time of Elections.

Regular municipal elections shall be held on the first Tuesday after the first Monday of November in each odd numbered year commencing with the year 1965. All candidates for Council shall be nominated by petition and all petitions, ballots, and ballot labels shall be without party mark or designation. The names of all candidates shall be rotated, insofar as possible, in the manner provided by the election laws of the State of Ohio. Except as otherwise provided in this Charter, all elections shall be held and conducted and the results thereof ascertained and certified as provided by the laws of the State of Ohio.

Section 2. Nomination for Council.

Nomination for members of Council shall be made only by petition, signed by qualified electors of the municipality not less in number than 50. Such petition shall be accompanied by a declaration of candidacy and shall be filed with the election authorities not later than 60 days before the date of the regular municipal election. No primary election shall be held for Council candidates.

ARTICLE X

INITIATIVE, REFERENDUM AND RECALL

Section 1. Initiative and Referendum.

Ordinances and resolutions may be proposed by initiative petition and adopted by election, and ordinances and resolutions adopted by Council shall be subject to referendum to the extent and in the manner now or hereafter provided by the Constitution or the laws of the State of Ohio. Initiative and referendum petitions shall be filed with the Director of Finance.

Section 2. Recall.

The electors shall have the power to remove from office by a recall election any councilman of the municipality in the manner herein provided. If any councilman shall have served six (6) months of his term, a petition demanding his removal may be filed with the Director of Finance, who shall note thereon the name and address of the person filing the petition and the date of such filing, and deliver to such person a receipt therefor 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 and a statement in not more than two hundred (200) words of the grounds for the removal. Such petition shall be signed by at least that number of electors which equals twenty-five per cent (25%) in number of the electors voting at the last preceding regular municipal election. Within twenty (20) days after the day on which such petition shall have been filed, the Director of Finance shall determine whether or not it meets the requirements hereof. If the Director of Finance shall find the petition insufficient, he shall promptly certify the particulars in which the petition is defective, deliver a copy of his certificate to the person who filed the petition,

and make a record of such delivery. Such person shall be allowed a period of ten (10) days after the day on which such delivery was made in which to make the petition sufficient. If the Director of Finance shall find the petition sufficient, he shall promptly so certify to Council, shall deliver a copy of such certificate to the councilman whose removal is sought, and shall make a record of such delivery. If such councilman shall not resign within five (5) days after the day on which such delivery shall have been made, Council shall thereupon fix a day for holding a recall election, not less than thirty (30) days nor more than forty-five (45) days after the date of such delivery, 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 determined by Council to be of general circulation in the municipality. At such recall election, this question shall be placed upon the ballot: "Shall (naming the councilman) be allowed to continue as councilman?", with the provision on the ballot for voting affirmatively or negatively, and in the event a majority of the vote is negative such councilman shall be considered as removed, his office shall be deemed vacant, and such vacancy shall be filled as provided in this Charter. The councilman removed at such recall election shall not be eligible for appointment to the vacancy created thereby. If the councilman is not removed at such recall election, no further recall petitions shall be filed against him for a period of one (1) year following such election.

ARTICLE XI
GENERAL

Section 1. Succession.

The City of Westerville, under this Charter, is hereby declared to be the legal successor of the City of Westerville, under the laws of the State of Ohio, and as such it has title to all property, real and personal, owned by its predecessor including all moneys on deposit and all taxes in process of collection together with all accounts receivable and rights of action. The municipality is liable for all outstanding orders, contracts and debts of its predecessor, and for any other obligations for which it may be held liable, as such successor, by any court of competent jurisdiction. All contracts entered into by the municipality or for its benefit prior to May 5, 1964, shall continue in full force and effect.

Section 2. Effect of Charter on Existing Laws and Rights.

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

Section 3. Effect of Charter Upon Pending Proceedings.

No action or proceeding pending against the municipality or an officer thereof shall be abated or affected by the adoption of this Charter, but all such actions or proceedings shall be prosecuted or defended under the laws in effect at the time of the filing thereof.

Upon the election of a Mayor pursuant to Section 5 of Article III of this Charter, all causes, judgments, executions, and proceedings then pending before the Chairman of Council shall proceed before the Mayor. In all cases the pleadings, orders, entries, dockets, bonds, papers, records, books, exhibits, files, moneys, property, and persons belonging to, in the possession of, or subject to the jurisdiction of the Chairman of Council, or any officer thereof, that pertain to causes, judgments, executions, and proceedings then pending and arising from such Chairman of Council's jurisdiction shall be transferred by the custodian thereof to the Mayor elected pursuant to said Section 5.

Section 4. Organization of Boards and Commissions.

Boards and commissions created in accordance with this Charter shall elect their officers from the appointed members and shall determine their own rules of procedure, except as otherwise provided in this Charter or by ordinances enacted pursuant thereto.

Section 5. Franchises.

The Council, in addition to all other rights and powers granted to it under the general law, may by ordinance grant permission to any person, firm or corporation to construct and operate a public utility on, across, under or above any public street or ground within this municipality. It may prescribe in the ordinance the kind and quality of service or product to be furnished, the rate or rates to be charged therefor, and any other terms conducive to the public interest. Such grant may be amended or renewed in the manner and subject to the provisions established by this Charter for original grants. Such grant, amendment or renewal shall be for such period of time as the Council may determine, but it shall not be perpetual or exclusive.

No consent of the owner of property abutting on any public street or ground shall be necessary to the effectiveness of any such grant, amendment or renewal. All such grants, amendments or renewals shall be made subject to the continuing right of the Council to provide reasonable regulations for adequacy of service and maintenance and the operation of such utilities with reference to such streets and public grounds, including the right to require such reconstruction, relocation or discontinuance of appliances, plant or equipment used in such street or public grounds as shall, in the opinion of the Council, be necessary in the public interest.

Section 6. Conflict of Interest; Disqualification.

No Councilman, City Manager, or any other officer, employee or appointee

to any board or commission of the municipality shall directly or indirectly be financially interested in any contract, job, work or service with or for the municipality; nor in the profits or emoluments thereof, nor in the expenditure of any money on the part of the municipality other than in his fixed compensation and expenses; and any contract with the municipality in which any officer or employee is or becomes financially interested may be declared void by the Council. Such interest shall disqualify any such officer or employee from holding office in addition to the other penalties provided by law.

Section 7. Effect of Partial Invalidity.

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

Section 8. Amendments to Charter.

The Charter may be amended as provided by Article XVIII, Section 9, of the Constitution of Ohio, by the submission of the proposed amendment or amendments to the electors of the municipality.

Section 9. Vacancy in Board or Commission.

A vacancy occurring during the term of any member of the Personnel Review Board or the Planning Commission shall be filled for the unexpired term in the manner authorized for an original appointment.

Section 10. Removal; Board or Commission.

The Council may at any time remove any member of the Personnel Review Board or the Planning Commission for inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office, incapacity or incompetency; provided,

however, that such removal shall not be effective without the concurrence of two-thirds of all members elected to Council, nor until such member shall have been notified in writing of the charge against him at least 10 days in advance of any hearing upon such charge by the Council and he or his counsel has been given an opportunity at such hearing to be heard, present evidence, or examine any witness appearing in support of such charge.

Section 11. Charter Review.

In January, 1970 and in January each ten years thereafter, the Council shall appoint five qualified electors of the municipality holding no other office, appointment or employment in the government of the municipality as members of a Charter Review Commission. Such Commission shall review the Charter of the municipality, and within six calendar months after such appointment, recommend to Council such alterations, revisions, and amendments, if any, to this Charter, as in its judgment are desirable. The Council shall submit to the electors any such proposed alterations, revisions, or amendments to this Charter in accordance in each instance with the provisions of the Constitution of Ohio. The members appointed to the Charter Review Commission shall serve without compensation. Meetings of the Charter Review Commission shall be open to the public.

ARTICLE XII
TRANSITIONAL PROVISIONS

Section 1. Effective Date.

This Charter, shall be submitted to the electors of the municipality at the election to be held on May 5, 1964 and if approved by the electors shall be in effect from and after its approval.

Section 2. Abolishment of Offices.

The following appointive offices under the existing statutory City Manager plan of government shall be abolished at the times indicated.

The office of City Manager shall be abolished when a City Manager is appointed as provided in Article IV, Section 1.

The offices of Auditor, Clerk and Treasurer shall be abolished when a Director of Finance is appointed as provided in Article V, Section 3; provided that the incumbent of the position of Clerk-Treasurer shall continue to serve as Clerk of Council until a Clerk of Council has been appointed by Council as provided in Article III, Section 10.

The office of Solicitor shall be abolished when a Director of Law is appointed as provided in Article V, Section 2.

Section 3. Continuance of Present Employees.

Every employee of the City government on May 5, 1964, shall continue in such employment and thereafter shall be subject in all respects to the provisions of this Charter and ordinances enacted pursuant thereto.

Section 4. Continuance of Present Officials.

Except as otherwise provided in this Charter, all members of Council and the officers thereof and members of boards and commissions of the municipality holding office on May 5,

1964, shall continue in office and in the performance of their duties until provision shall have been made otherwise in accordance with this Charter for the performance or discontinuance of the duties of any such office. When such provision shall have been made, the term of any such officer or member shall expire and his office be deemed abolished.