

An official copy  
of the  
Newark, Ohio

# **CITY CHARTER**



It was presented  
to the registered voters  
of the City of Newark  
in the election held on  
November 4, 1997.  
It was approved by  
the citizens.

Amended 11/06/2012

To The Electors of Newark:

On November 7, 1996, you elected the Newark Charter Commission for the specific purpose of developing a charter for you which improves city government. Throughout the past eleven months, we, the members of the Commission, have dedicated ourselves to produce a proposal which reflects the values of the good people of Newark and which justifies the great faith which you placed in us. With much hard work, we believe we have been successful on both counts and hereby submit the proposed Charter for your review and approval.

The idea of a charter is not new. During the Ohio Constitutional Convention of 1912, the framers of the Ohio Constitution authorized the development of local charters and during the past eighty-five years, nearly 70% of Ohio's cities have adopted charters which fit their needs and reflect their values. The Proposed Charter presents you, the citizens of Newark, with the same opportunity to shape your city government.

Adopting a charter which reflects the values of Newark does not mean drastic change. In fact, many of you will find comfort in the fact that much will remain the same under the Charter. For instance, the Proposed Charter will:

- Maintain the current Mayor-Council Plan of government (Page 11);
- Maintain the current elective office of City Auditor, City Treasurer, and City Law Director (Page 13);
- Maintain the current City Council structure of 7 Ward Representatives, 3 At-Large Representatives, 1 President (Page 3);

However, in order to improve how the city operates, some changes are necessary. The most important changes will:

- Adjust City Council Terms of Office From the Current 2-Year Term to a 4-Year Term: This change will allow Council Members additional time to focus on their responsibilities as the city's legislators rather than focusing their energies on the politics of being re-elected every two years (Page 3);
- Establish the Department of Economic Development: This department will be responsible for recruiting new businesses to Newark as well as planning for the future growth of Newark. Currently, there is no agency serving in this capacity (Page 15);

- Set Standards for Open Public Meetings and Information Access: This assures that city government is always open for public inspection, interaction and input (Page 6);
- Establish Residency Requirements for Newark's Safety Forces: Newly hired Police Officers and Fire Fighters will be required to live in Licking County or a surrounding county in order to assure that these important employees are available during emergencies. Currently, Police Officers and Fire Fighters are only required to live in the state of Ohio (Page 20);
- Permit Outside Recruitment for the Positions of Police Chief and Fire Chief: By permitting outside recruitment (within the State of Ohio), the city will benefit by having the ability to consider a wide range of qualified candidates. Currently candidates for Police Chief and Fire Chief are limited to those employed with the Newark Police or Newark Fire Departments (Page 20);
- Mandates a Charter Review Process: The Charter will be reviewed every five years to insure that it is serving the interests, and reflecting the values, of the citizens of Newark. Currently, there is no review process and no clear process for making needed changes (Page 24).

We believe that the Proposed Charter improves the operation of the Newark City Government without making drastic changes. Under the Charter, Newark's government will focus on your needs and your values. Most importantly, however, the Charter will allow you, as citizens of Newark, to make changes to keep pace with a changing world. This is what the framers of the Ohio Constitution envisioned back in 1912 when they made it possible for Ohio's citizens to adopt a charter for their communities.

We urge each of you to read this Proposed Charter and hope that you will agree that it indeed serves the best interests of all the people of Newark, Ohio.

Respectfully submitted,  
THE NEWARK CHARTER COMMISSION

Daniel G. Applegate  
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# PROPOSED CHARTER FOR THE CITY OF NEWARK, OHIO

## PREAMBLE

In order that we may have the benefits of municipal home rule and exercise all the powers of local self-government conferred under the Constitution and Statutes of the State of Ohio, We, the citizens of the City of Newark, in the County of Licking and State of Ohio, do hereby adopt this Charter for our City.

## ARTICLE I

### *NAME; BOUNDARIES; FORM OF GOVERNMENT*

#### **1.01. Name and Boundary.**

The municipal corporation now existing as the City of Newark shall continue to be a body politic and corporate under the same name. The City shall have the same boundaries that exist on the effective date of this Charter, with power and authority to change its boundaries and annex other territory contiguous thereto in the manner authorized by the laws of Ohio.

#### **1.02. Form of Government.**

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

## ARTICLE II

### *CORPORATE POWERS*

#### **2.01. Powers Granted.**

The City shall have all powers possible for a city to have under the Constitution and law of the State of Ohio as fully and completely as though they were specifically enumerated in this Charter. Title to all real property shall be in the name of the City.

#### **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 legislation of the City. When not prescribed in this Charter or by legislation of the City, then the powers shall be exercised in the manner provided by the law of the State of Ohio until Council provides a different manner of exercising the powers.

#### **2.03. Construction of Powers.**

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

#### **2.04. Intergovernmental Cooperation.**

The City may exercise any of its powers, perform any of its functions and provide related financing, jointly or in cooperation, by contract or otherwise, with

any one or more states, including but not limited to the State of Ohio, and any of their political subdivisions, special districts, instrumentalities, divisions or agencies; the United States or any of its divisions or agencies; or any individual, partnership, prohibited by the Constitution of the State of Ohio.

## ARTICLE III

### *COUNCIL*

#### **3.01. Number and Term.**

(A) The legislative powers of the City, except as otherwise provided by this Charter, shall be vested in a Council of ten members.

(B) At the November 1999 election, seven members of Council shall be elected from the wards existing at the effective date of this Charter for two year terms of office, and at the November 2001 election and every four years thereafter seven members of Council shall be elected from wards. At the November 1999 election and every four years thereafter three members shall be elected from the City at large and for four year terms of office. Terms of Council members shall commence on the first day of January next following their election.

(C) If, for any reason, a member of Council shall fail to qualify for office within 45 days after the first day of January following his or her election, a vacancy shall exist and shall be filled in the manner provided in Sec. 3.10 of this Charter.

#### **3.02. Qualifications.**

(A) All members of Council shall be electors of the City under the laws of Ohio at the time of filing for office and during their terms of office. Members of Council elected from wards shall be electors of the ward from which they seek election at the time of filing for office and during their terms of office.

(B) Members of Council shall not hold any other public office which would be incompatible with the office of member of Council under the laws of Ohio, unless authorized by or under this Charter. No member of Council shall receive any compensation, other than his or her regular compensation as a member of Council and expenses in connection with the city business, for service rendered to the City.

#### **3.03. Organization of Council – Rules.**

Council shall be a continuing body and shall meet for the purpose of organization at its first meeting in January of each year. Council shall adopt its own rules which shall not conflict with this Charter and which shall remain in effect until amended or repealed by Council. The Council Rules of Order shall not be subject to initiative or referendum. The Council Rules of Order shall provide for such matters as Council shall determine to be necessary for the proper functioning and governance of Council.

#### **3.04. President of Council**

(A) The President of Council shall be elected from the City at large. At the regular municipal election to be held in November 1999 and every four years thereafter, the President of Council shall be elected from the City at large for a four year term commencing on the first day of January following his or her election.

(B) The President of Council shall be an elector of the City under the laws of Ohio at the time of filing for office and during his or her term of office. The President of Council shall not hold any other public office which would be incompatible with this or her office as President of Council, unless authorized by or under this Charter. The President of Council shall not receive any compensation, other than his or her regular compensation as President of Council and expenses in connection with the City business, for services rendered to the City.

(C) The President of Council shall preside at the Council meetings. The President of Council may take part in the discussion of Council, but he or she shall not vote except to break a tie vote of the Council members. The President of Council shall enforce the rules, regulations and by-laws of Council. The President of Council shall have such other powers, duties and functions as are provided by or under this Charter and as determined by Council.

(D) A vacancy in the office of the President of Council shall be deemed to occur upon the presentation of a written resignation to the Mayor or President Pro Tem, which resignation shall be effective immediately unless a later time is specified therein; the death of the Council President; or the removal of the Council President pursuant to this Charter or Ohio law. When the office of Council President becomes vacant as set forth herein before the end of the Council President's term of office or because the Council President-Elect fails to take office, the vacancy shall be filled by the person Chosen by the residents of the City who are members of the County Central Committee of the political party by which the last occupant of the Office of Council President or the Council President-Elect was nominated. In the event the former Council President or Council President-Elect was an Independent, Council shall make such appointment by vote of at least six (6) Council members. If the vacancy is not filled by within forty-five (45) days after its occurrence, Council's power to fill the vacancy shall lapse and the Mayor shall fill such vacancy by appointment immediately following the expiration of forty-five (45) days. If the vacancy in the office of the Council President occurs more than seventy (70) days before the next general election for Municipal Officers, a successor shall be elected at such election for the unexpired term unless such term expires within one (1) year immediately following the Date of Such General Election.

(E) In the event of temporary absence or disability of the Mayor, the President of Council shall serve as the acting Mayor.

### **3.05. President Pro-tem of Council.**

At Council's organizational meeting held in each even-numbered year, Council shall elect, from among its members, a President Pro-tem of Council by a vote of at least six Council members. The President Pro-tem shall become the acting President of Council in the absence or temporary disability of the President of Council, and shall have the same powers, duties and functions as the President of Council when

he or she is acting President of Council. The President Pro-tem shall have such other powers, duties and functions as are provided by or under this Charter and determined by Council. The President Pro-tem shall serve at Council's pleasure and may be removed from office by a vote of at least six Council members without cause. A vacancy in the office of President Pro-tem shall be filled by a vote of at least six Council members from among its members.

### **3.06. Clerk of Council.**

The Clerk of Council shall be appointed by a vote of at least six Council members, shall serve at the pleasure of Council, and may be removed without cause by a vote of at least six members of Council. The Clerk of Council shall keep an accurate record and Complete journal of Council proceedings and other Council records. The vote on each ordinance, resolution, motion or other measure shall be recorded in the journal of the proceedings of Council. The Clerk of Council shall perform such other duties as this Charter of Council may require. The Clerk of Council may be a person having other employment or appointment with the City.

### **3.07. Powers of Council.**

All powers of the City permitted by this Charter, the Constitution, and the law of the State of Ohio shall be vested in Council. Council shall provide for the exercise of all City powers and for the performance of all duties and obligations imposed on the City by law. Without limitation of the foregoing, Council shall have the power to:

(A) fix the number of officers and employees in the various City offices, departments, divisions, bureaus, boards, and commissions to fix the rate of their compensations, hours of work and to provide such other fringe benefits as it deems proper;

(B) create, combine, change and abolish departments, divisions, bureaus, boards and commissions not specifically created by this Charter;

(C) provide for an independent audit of the accounts and records of the City, which may be in addition to audits by State offices and agencies as may be required under the law of the State of Ohio, and

(D) conduct inquiries and investigations regarding the City affairs and the conduct of any City department, office or agency and for this purpose subpoena witnesses, administer oaths, take testimony and require the production of evidence.

(E) Employ such other employees and persons as it deems necessary for the proper discharge of its powers, duties and functions.

### **3.08. Regular Council Meetings.**

At least two regular Council meetings shall be held each month at such times and places as determined by Council. Regular meetings may be recessed to a time certain upon a vote of at least six Council members.

### **3.09. Special Council Meetings.**

The Mayor, President of Council, or any three members of Council may call special Council meetings upon at least 24 hours notice to the Mayor, President of Council and each Council member. Special Council meetings may also be called upon a vote of at least six Council members at any regular or special meeting thereof. The Clerk of Council, or in his or her absence, incapacity or refusal to act, the Mayor, shall cause notice of each special meeting to be served personally upon or to be left at the usual place of residence of each Council member, the President of Council and the Mayor. The notice shall state the nature of the matters to be considered at the special meeting. In the event that a special meeting is called by a Council vote taken at a regular or special meeting from which any Council member, the President of Council, or the Mayor is absent, written notice of such special meeting shall be given each absentee in the manner set forth above. Service of notice of any special meeting shall be deemed conclusively to have been waived by any council member, the Mayor, or the President of council who shall be present at such special meeting. The general public shall be notified of all special Council meetings and all such meetings shall be open to the public as provided in Section 3.12 of this Charter.

### **3.10. Council Vacancies.**

A Council vacancy shall be deemed to occur upon the presentation of a written resignation to the Mayor or the President of Council, which resignation shall be effective immediately unless a later time is specified therein; the death of the Council member; or the removal of the council member pursuant to this Charter or Ohio law. When the office of a Council member holding an at-large Council position becomes vacant as set forth herein before the end of the at-large member's term of office or because the at-large member-elect fails to take office, the vacancy shall be filled by the person chosen by the residents of the City who are members of the County Central Committee of the political party by which the last occupant of the office or the at-large member-elect was nominated. When the office of a council member holding a ward Council position becomes vacant as set forth herein before the end of the ward member's term of office or because the ward member-elect fails to take office, the vacancy shall be filled by the person chosen by the residents of the City who are members of the County Central Committee representing the ward for which the vacancy has occurred of the political party by which the last occupant of the office or the ward member-elect was nominated. In the event the former Council member or Council member-elect was an independent, Council shall make such appointment by a vote of at least six Council members. If the vacancy is not filled by within 45 days after its occurrence, Council's power to fill the vacancy shall lapse and the Mayor shall fill such vacancy by appointment immediately following the expiration of 45 days. If the vacancy in the office of the Council member occurs more than seventy (70) days before the next general election for municipal officers, a successor shall be elected at such election for the unexpired term unless such term expires within one (1) Year immediately following the date of such general election.

### **3.11. Reapportionment of Wards.**

All matters pertaining to voting districts within the municipality, including their designations, apportionment and reapportionment, shall be governed by the general

laws of Ohio, except that there shall be seven wards for the purpose of electing ward Council members.

### **3.12. Open Meetings, Public Records.**

(A) All Council meetings shall be open to the public, except as allowed by the laws of the State of Ohio.

(B) Public records and their availability for inspection and copying by the public shall be governed by the general laws of Ohio.

## **ARTICLE IV**

### **LEGISLATIVE PROCEDURE**

#### **4.01. Action to be taken by Ordinance or Resolution.**

Action of Council shall be by ordinance, resolution or motion. Motions shall be used to conduct the business of the Council, in procedural matters, for elections conducted among Council members, and as otherwise provided in this Charter. Every action of a general and permanent nature and as otherwise provided in this Charter or by Council shall be taken by ordinance, in the manner hereinafter provided. All other action may be taken by resolution. No Council action shall be invalidated merely because the form of the action does not comply with the provisions of this section, if it is otherwise valid.

#### **4.02. Introduction of Ordinances and Resolutions.**

(A) Any Council member, the President of Council or the Mayor may, at a regular or special meeting, introduce any ordinance or resolution. Such ordinance or resolution shall be in written or printed form and shall contain a concise title. Any ordinance or resolution introduced by the Mayor shall be either passed, with or without amendments, or rejected by Council within 90 days after it is introduced. The Mayor shall not be entitled to vote on any matter before Council.

(B) The form and style of ordinances and resolutions shall be determined by Council rules.

(C) All business for transaction by Council must be delivered to the Clerk's office no later than 4:00 p.m. on the fifth day preceding a regular Council meeting. A copy of the agenda and accompanying legislation shall be available to each Council member and the general public by 4:00 p.m. four days preceding a regular Council meeting.

#### **4.03. Subject of Ordinances and Resolutions.**

Each ordinance or resolution shall contain only one subject which shall be expressed in its title, provided however, that appropriation ordinances may contain the various subjects, accounts and amounts for which moneys 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 of Ordinances and Resolutions.**

(A) Each ordinance and resolution shall be read by title only, unless a motion is passed by a vote of at least six Council members requiring that it be read in full.

(B) Unless enacted as an emergency ordinance or resolution pursuant to Section 4.06 of this charter, each ordinance or resolution shall be read on two separate days. Council may, by vote of at least six Council members, dispense with the requirement that an ordinance or resolution be read on two separate days, and authorize the adoption of an ordinance or resolution on its first reading.

#### **4.05. Vote Required for Passage.**

The vote on the question of passage of each ordinance, resolution, and motion shall be taken by roll call vote and entered on the journal, and no ordinance, resolution or motion shall be passed without concurrence of at least six Council members, except that each emergency ordinance or resolution shall require the affirmative vote of at least seven Council members for its enactment, provided that if such emergency ordinance or resolution shall fail to receive the required seven votes, but receives the necessary six votes for passage as a non-emergency ordinance or resolution, it shall be considered as a non-emergency ordinance or resolution and shall become effective as hereinafter provided by this Charter. Any non-emergency ordinance or resolution can be changed to an emergency ordinance or resolution by an affirmative vote of at least seven Council members.

#### **4.06. Content of Emergency Ordinances and Resolutions.**

Each emergency ordinance or resolution shall declare that it is necessary for the immediate preservation of the public peace, health, safety, or welfare, and shall clearly specify the necessity of the emergency.

#### **4.07. Effective Date of Ordinances and Resolutions.**

(A) The following ordinances and resolutions shall take effect upon adoption, unless a later time is specified by Council:

- (1) appropriations of money;
- (2) annual tax levies for current expenses;
- (3) improvements petitioned for by owners of the requisite majority of the front footage of the area of the property benefited and to be assessed;
- (4) submissions of any questions to the electorate or a determination to proceed with an election;
- (5) approvals of a revision, codification, recodification, rearrangement or publication of ordinances; and
- (6) emergency ordinances.

(B) All other ordinances and resolutions shall become effective 30 days after their passage or at any later date specified by Council.

(C) For purposes of determining the effective date of ordinances and resolutions, the date of passage shall be determined as follows:

(1) If the ordinance or resolution is adopted by Council and signed by the Mayor as approving it within the seven day period provided for in Sec. 4.11 of this Charter, its date of passage shall be the date the ordinance or resolution was signed by the Mayor.

(2) If the ordinance or resolution is adopted by Council and the Mayor does not return the ordinance or resolution with his written notice of disapproval thereof within the seven day period provided for in Sec. 4.11 of this Charter, its date of passage shall be the last day of the seven day period.

(3) If the ordinance or resolution is adopted by Council, vetoed by the Mayor and approved by a vote of at least seven Council members upon its reconsideration, as provided in Sec. 4.11 of this Charter, its date of passage shall be the day on which it is reconsidered and approved by Council.

#### **4.08. Authentication of Ordinances and Resolutions.**

Each ordinance or resolution shall be authenticated by the signature of the President of Council, or other presiding officer, and the Clerk of Council; however, the failure or refusal of such officers to sign such ordinances or resolutions shall not invalidate an otherwise properly enacted ordinance or resolution.

#### **4.09. Recording of Ordinances and Resolutions.**

Each ordinance or resolution shall be recorded in a book or other record prescribed by Council, established and maintained for that purpose. The Clerk of Council or a duly authorized deputy to said Clerk shall, upon the request of any person and upon the payment of a fee, as established by Council, certify true copies of any ordinance or resolution, which certified copies shall be admissible as evidence in any court.

#### **4.10. Amendment of Ordinances or Resolutions.**

(A) No ordinance or resolution or any section thereof, shall be revised or amended unless the new ordinance or resolution contains the entire ordinance, resolution, section or sub-sections revised and amended, and the ordinance, resolution, section or sub-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, sections, sub-section or sub-sections and in such case the full text of the former ordinance or resolution need not be set forth; nor shall this section prevent repeals by implication.

(B) Except in the case of a codification or recodification of ordinances and resolutions, a separate vote shall be taken on each ordinance or resolution proposed to be amended.

(C) Ordinances and resolutions that have been introduced and have received their first reading, or their first and second reading, but have not been voted on as to passage, may be amended or revised upon approval by at least six Council members

and such amended or revised ordinance or resolution need not receive additional readings.

#### **4.11. Veto by Mayor.**

The clerk of Council shall promptly deliver each ordinance and resolution passed by Council to the Mayor or to his or her office in the municipal building for his or her approval or disapproval. The Clerk of council shall note the date and time of delivery in the journal of Council. The Mayor may approve or disapprove the whole or any part of any ordinance or resolution appropriating money, but otherwise his or her approval shall be addressed to the entire ordinance or resolution. If the Mayor approves the ordinance or resolution, he or she shall sign it and file it with the Clerk of Council. If the Mayor disapproves such legislation, or any item of such legislation appropriating money, he or she shall file it, together with his or her objections, in writing, with the Clerk of Council. The Mayor's objections shall be entered in full on Council's journal. Unless the ordinance or resolution is filed with the clerk of Council with the Mayor's written notice of disapproval within seven days after delivery to the Mayor, it shall take effect as though the Mayor had signed it. Upon the Mayor's disapproval, as provided herein, Council, no later than its next regular meeting, may reconsider the ordinance or resolution and if upon such reconsideration, the legislation is approved by a vote of at least seven Council members, it shall take effect notwithstanding the Mayor's disapproval.

#### **4.12. Zoning Ordinances.**

(A) ordinances initiated by an applicant or Council establishing, amending, revising, changing or repealing zoning classifications, districts, uses or regulations shall be introduced in council. Immediately after the first reading of such an ordinance, the Clerk of council or his or her designee shall set a date for a public hearing before the Planning Commission, not earlier than fifteen days after the first reading. The Clerk of Council or his or her designee shall cause a notice of such public hearing to be published one time in a newspaper determined by Council to be of circulation within the city at least seven days prior to the date of such public hearing. The Clerk of Council or his or her designee shall mail written notice of the public hearing to the owners of the property within, contiguous to and directly across the street from the affected parcel or parcels. The failure of delivery of the notice shall not invalidate any zoning ordinance.

(B) Within sixty days of the public hearing referred to in subsection (A) of this section, the Planning commission shall cause such ordinance to be returned to the clerk of Council together with the Commission's written recommendations. Immediately after receipt of the Commission's recommendations, the Clerk of Council shall cause a notice of public hearing to be published one time in a newspaper determined by Council to be of circulation within the City at least seven days prior to the date of the public hearing. Such public hearing shall also constitute the second reading of the proposed ordinance or resolution.

(C) An affirmative vote of at least six Council members shall be necessary to adopt or defeat a zoning ordinance as to which the Planning Commission has recommended approval or has made no recommendation. An affirmative vote of at

least seven Council members shall be necessary to adopt a zoning ordinance as to which the planning commission has recommended against approval.

#### **4.13. Adoption of Technical Codes by Reference.**

(A) Council may, by ordinance or resolution, adopt technical codes for the purpose of drawing on the latest scientific and technological advances, including, but not limited to construction standards, and such other matters as Council may determine to be appropriate for adoption by reference.

(B) An ordinance adopting any technical code shall make reference to the date and source of the technical code without reproducing it at length in the ordinance. In such cases, publication of the technical code shall not be required. A copy of each technical and a copy of the adopting ordinance shall be authenticated and recorded by the Clerk of Council as provided in Sections 4.08 and 4.09. If the technical code is amended after its adoption by reference, Council may adopt the amendment or change by incorporation by reference under the same procedure established for the adoption of the original technical code.

#### **4.14. Codification of Ordinances and Resolutions.**

Council shall provide for the preparation of a general codification, a recodification, a revision or a rearrangement of all City ordinances and resolutions which shall be adopted by Council by ordinance or resolution and shall be published in printed form, together with this Charter. A current service supplementing the City's codified ordinances and resolutions shall be maintained in the manner prescribed by Council.

#### **4.15. Publication of Ordinances and Resolutions.**

(A) Each ordinance and resolution passed by Council shall be published pursuant to the form determined by Council at least once in a newspaper determined by Council to be of circulation within the City of Newark. Failure to publish legislation as required by this Section shall not invalidate the legislation, and in such event, the Clerk of Council may authorize the legislation to be published at a later date.

(B) The Clerk of council shall make and retain a certificate as to the times and places by which the legislation is published. The certificate shall be prima facie evidence that the legislation was published as required by subsection (A). Failure to make or retain the certificate required by this Section shall not invalidate any legislation.

## **ARTICLE V**

### **THE MAYOR**

#### **5.01. Election Term and Qualifications.**

(A) The person elected to the office of Mayor at the November 1995 election under the general statutory plan of government for cities shall serve as the Mayor under this Charter, with all the powers, duties and functions of the Mayor as

provided by this Charter until January 1, 2000. At the regular municipal election to be held in November 1999, and every four years thereafter, the Mayor shall be elected from the City at large for a term of office of four years commencing on the first day of January next following his or her election.

(B) The Mayor shall be an elector of the City under the laws of the State of Ohio at the time of filing for office and during his or her term of office.

(C) The Mayor shall not hold any other public office which would be incompatible with the office of Mayor under the laws of Ohio, unless authorized by or under this Charter. The Mayor shall not receive any compensation, other than his or her regular compensation as Mayor and expenses in connection with the City business, for service rendered to the City.

#### **5.02. Vacancy, Temporary Absence or Disability.**

(A) In the event of a vacancy in the office of Mayor, the office shall be filled in the manner provided by the laws of the State of Ohio governing statutory plan cities.

(B) In the event of the temporary absence or disability of the Mayor, the duties of the Mayor shall be assumed in the manner provided by the laws of the State of Ohio governing statutory plan cities.

#### **5.03. Powers and Duties.**

(A) The Mayor shall be the Chief Executive Officer of the City. The Mayor shall supervise the administration of the affairs of the City and shall exercise control over all departments and divisions thereof. The Mayor shall be the chief conservator of the peace within the City and shall cause all laws and ordinances to be enforced therein. The Mayor shall:

(1) appoint and, when the Mayor or his or her designee deems necessary for the good of the City, suspend or remove or otherwise discipline the City employees and appointed officers, except as otherwise provided in this Charter. The Mayor shall not appoint, suspend, remove or discipline employees of the council or elected officials. Employees of such elected officials shall be under the sole control and supervision of such elected officials and may be appointed, suspended, removed or disciplined only by the officer having charge of their control and supervision. The Mayor or other appointing authority as hereinbefore provided, shall make all appointments and promotions or removals or suspensions of persons in the classified service of the City in the manner required by the provisions of this Charter pertaining to Civil Service.

(2) direct and supervise the administration of all administrative departments, offices and agencies except offices under the direction of elected officials;

(3) attend the meetings of Council, shall be entitled to participate in Council's discussions, and shall have those powers enumerated in subsection (A) of Section 4.02 of this Charter pertaining to the introduction of ordinances and resolutions;

(4) prepare and submit the annual budget and capital program to council;

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

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

(7) keep Council fully advised as to the financial condition and future operating and capital needs of the City and make such recommendations to Council concerning the affairs of the City as he or she deems desirable;

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

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

(10) exercise all the judicial, military and emergency powers conferred upon Mayors by the laws of Ohio.

### **ARTICLE VI**

#### ***CITY AUDITOR***

The office of City Auditor shall be governed in the manner provided by the laws of the State of Ohio for the general statutory plan of government.

### **ARTICLE VII**

#### ***CITY TREASURER***

The office of City Treasurer shall be governed in the manner provided by the laws of the State of Ohio for the general statutory plan of government.

### **ARTICLE VIII**

#### ***DIRECTOR OF LAW***

The office of the Director of Law shall be governed in the manner provided by the laws of the State of Ohio for the general statutory plan of government.

### **ARTICLE IX**

#### ***ADMINISTRATIVE DEPARTMENTS***

#### **9.01. Administrative Departments Created.**

For the purpose of carrying out the administrative functions of the City, the following departments are created under the general control and supervision of the Mayor: Department of Safety; Department of Service; Department of Human Resources; Department of Community Development; and Department of Economic Development. The council may create such other departments as it considers



necessary in accordance with the provision of subsection (A) of Section 3.07 of this Charter.

#### **9.02. Administrative Divisions.**

The administrative departments created by this Charter or by Council shall be divided into such divisions, bureaus, and offices as Council shall determine by ordinance, provided that the division of police and division of fire shall be maintained in the Department of Safety.

#### **9.03. Department of Service.**

(A) The mayor shall appoint the Director of Service who shall be the executive head of the Department of Service and shall be responsible for the direction and supervision of the work of the Department of Service and its divisions and other organizational units, with such additional powers, duties and functions as shall be provided by ordinance or resolution. Director of Service shall serve at the pleasure of the Mayor and may be removed by the Mayor without cause. The Service Director shall be the contracting officer for the City. The divisions of the Department of Service shall include:

- (1) Traffic Control;
- (2) Litter and Recycling;
- (3) Engineering;
- (4) Water/Waste Water Utilities;
- (5) Streets;
- (6) Parks and Recreation;
- (7) Information Services; and
- (8) Cemetery.

(B) The Service Director Shall turn over all funds for cemetery purposes in accordance with the general laws of the State of Ohio, except that the funds shall be received and invested by the City Treasurer.

#### **9.04. Department of Safety.**

The Mayor shall appoint the Director of Safety who shall be the executive head of the Department of Safety and shall be responsible for the direction and supervision of the work of the Department of Safety and its divisions and other organizational units, with such additional powers, duties, and functions as shall be provided by ordinance or resolution. The Director of Safety shall serve at the pleasure of the Mayor and may be removed by the Mayor without cause. The division of the Department of Safety shall include:

- (1) Police;
- (2) Fire; and
- (3) Building code.

#### **9.05. Department of Human Resources.**

There shall be a Director of Human Resources who shall be appointed by the Mayor. The Human Resources Director shall be responsible for the direction and supervision of the work of the Department of Human Resources, with such additional powers, duties and functions as shall be provided by ordinance or resolution.

#### **9.06. Department of Community Development.**

There may be a Director of Community Development who shall be appointed by the Mayor. The Community Development Director shall be responsible for the direction and supervision of the work of the Department of Community Development, with such additional powers, duties and functions as shall be provided by ordinance and resolution.

#### **9.07. Department of Economic Development.**

There shall be a Director of Economic Development who shall be appointed by the Mayor. The Economic Development Director shall be responsible for the direction and supervision of the work of the Department of Economic Development, with such additional powers, duties and functions as shall be provided by ordinance or resolution.

### **ARTICLE X**

#### **PURCHASING AND CONTRACTING**

##### **10.01. Contracting Officer.**

(A) The Service Director shall be the contracting officer for the City, and all such contracts shall be awarded by the Board of Control. The Service Director shall sign all contracts on behalf of the City. All contracts shall be in written form.

(B) Bids for contracts with the City shall be opened at twelve noon on the last day for filing them in the presence of the Service Director and Auditor or their designated representatives. A record of the proceedings of each bid opening shall be maintained by the City Auditor or his or her representative, and a copy of all bids received and opened shall be attached to the proceedings.

(C) The Mayor may designate any other administrative officer or employee of the City as purchasing agent, and authorize such purchasing agent to make all contracts on behalf of the City, where advertising and bidding are not required. The Mayor may adopt such rules and regulations as he or she deems necessary concerning the purchasing and contracting policies and procedures of the City.

##### **10.02. Bidding.**

(A) The threshold amount for instituting and requiring formal bidding procedures is established at \$30,000.00 for each purchase. Council may establish a threshold exceeding that amount by ordinance. The threshold amount may be waived by a vote of at least six Council members.

(B) When any contract or expenditure for the Construction of a public improvement or the purchase of equipment, supplies, or materials is estimated to exceed the threshold but not to exceed \$75,000.00, such contract shall not be subject to competitive bidding but shall be subject to review and approval by the board of control. When any contract or expenditure for the construction of a public improvement or the purchase of equipment, supplies, or materials is estimated to exceed \$75,000.00, such contract shall be competitively bid, which shall be authorized and directed by ordinance or resolution passed by council.

C) When authorized or directed by the Board of Control, the Service Director shall make a written contract with the lowest and best bidder following advertisement once a week for at least two consecutive weeks in a newspaper of circulation in the City, provided that the Service Director may reject any and all bids in whole or by item(s). By a vote of at least six members, Council may waive the competitive bidding requirements if the statutory or common law of the State of Ohio does not require competitive bidding; if Council determines that an item is available and can be acquired only from a single source; or Council determines that a waiver of the competitive bidding requirement is in the best interest of the City.

(D) Notwithstanding subsections (A) and (B), contracts for professional services shall not be subject to the competitive bidding requirements and shall not require authorization by Council if the current operating budget provides sufficient funding for the scope of services in any such contract.

#### **10.03. Certification of Availability of Funds.**

(A) No contract, agreement, or other contractual obligation, involving the expenditure of money shall be entered into or authorized by any officer or employee of the City unless the City Auditor or his or her duly authorized representative shall first certify that the money required for such contract, agreement, obligations, or expenditure, is in the Treasury or in the process of collection thereto, to the credit of the fund from which it is to be drawn, and appropriated for such purpose, which certificate shall be filed and immediately recorded in the accounting records of the City, and a copy thereof shall be furnished to the contractor or person to whom such money will be payable. The sum so certified shall thereafter be considered encumbered until the City is discharged from the contract, agreement or obligation.

(B) All Contracts, agreements, or other contractual obligations and orders entered into contrary to the provisions of subsection (A) of this section shall be void, and no person whatever shall have any claim or demand against the City thereunder, except that such claim may be paid in the manner and under the conditions provided by the general laws of Ohio pertaining to certifications by fiscal officers of cities, and such claims may be paid upon the authorization of an ordinance or resolution passed by Council, as a moral obligation.

#### **10.04. Splitting Contracts to Avoid Bidding.**

The Service Director or any other person designated by the Mayor as purchasing agent shall not willfully cause or allow any contract or order to be split or divided into separate orders or contracts in order to avoid the requirements of competitive bidding as provided by this Charter.

## **ARTICLE XI**

### **BOARDS AND COMMISSIONS**

#### **11.01. Civil Service Commission.**

The laws of Ohio pertaining to Municipal Civil Service Commissions, their composition, procedures and powers, duties and functions shall apply to the City under this Charter, except as otherwise provided in this Charter.

#### **11.02. Planning Commission.**

(A) There is hereby created and established a Planning Commission consisting of the Mayor, the Service Director and three citizen members who are electors of the City appointed by the Mayor to serve for a term of four years, provided that the citizen members serving under the general statutory form of government at the time this Charter becomes effective shall continue in office exercising the powers, duties, and functions provided for the Commission under this Charter until their respective terms shall expire. Thereafter each citizen member shall be appointed for a term of four years and shall continue in office until his or her successor is appointed. However, no one citizen member of the planning Commission shall be permitted for any reason to serve more than five (5), four (4) year terms on the commission after the date of this amendment.

(B) The Board of Zoning Adjustment shall have the power to hear and decide appeals for exceptions to and variances in the application of resolutions, ordinances, regulations, other legislative measures and administrative determinations governing zoning in the City, as may be required to afford justice and avoid unreasonable hardship. The Board of Zoning Adjustment may make advisory recommendations to Council and the Planning Commission concerning zoning matters; and shall exercise such other powers, duties and functions as provided by Council.

#### **11.03. Board of Zoning Adjustment.**

(A) There is hereby created and established a Board of Zoning Adjustment consisting of five members to be appointed by the Mayor to serve for terms of four (4) years each, provided that the members currently serving at the time this amendment becomes effective shall continue in office exercising the powers, duties, and functions provided for the Board under this Charter until their respective terms shall expire. Thereafter each member shall be appointed for a term of FOUR (4) years and shall continue in office until his or her successor is appointed. However, no one citizen member of the board of zoning adjustment shall be permitted for any reason to serve more than five (5), four (4) year terms on the board after the date of this amendment.

(B) The Board of Zoning Adjustment shall have the power to hear and decide appeals for exceptions to and variances in the application of resolutions, ordinances, regulations, other legislative measures and administrative determinations governing zoning in the City, as may be required to afford justice and avoid unreasonable hardship. The Board of Zoning Adjustment may make advisory recommendations to Council and the Planning Commission concerning zoning matters; and shall exercise such other powers, duties and functions as provided by Council.

#### **11.04. Citizens' Advisory Council on Recreation.**

There is hereby created and established a Citizens' Advisory Council on Recreation consisting of thirteen members to be appointed by the Mayor to serve for terms of four (4) years each provided that the members currently serving at the time this amendment becomes effective shall continue in office exercising the powers, duties, and functions provided for the council under this charter until their respective terms shall expire. There shall be one member from each ward, three at-large members, one City representative, and two members recommended by the Boards of Education of the Newark City School District and the Newark Catholic School System, respectively, and confirmed by the Mayor. The Citizens' Advisory Council on Recreation shall have those powers, duties and functions as provided by ordinance or resolution. However, no one citizen member of the advisory council shall be permitted for any reason to serve more than five (5), four (4) year terms on the council after the date of this amendment.

#### **11.05. Charter Review Commission.**

(A) Not later than the last day in March, 2002, and every five (5) years thereafter, Council shall appoint, by vote of at least six (6) members, a Charter Review Commission consisting of five (5) electors of the City, no more than three (3) of whom may be of the same political affiliation.

Council may appoint, at any time a Charter Review Study Group to consider issues of importance to the governance of the City during the period between the appointments of any mandatory Charter Review Commission. The term and number of members of such a study group shall be determined by Council as deemed most appropriate at the time of the appointment. The Charter Review Study Group shall have no authority to recommend alterations, revisions, or amendments to the Council or to submit any such alterations, revisions or amendments to the Electors for consideration.

(B) In addition to the appointment of the Mandatory Charter Review Commission as set forth above, Council may at any time appoint, by a three-fourths (3/4ths) majority vote, a Discretionary Charter Review Commission consisting of five (5) electors of the city. At no time, however, shall there be in place more than one (1) Charter Review Commission. Any Discretionary Charter Commission appointed by Council shall submit a final report and shall be dissolved prior to the date upon which a Mandatory Charter Review Commission is appointed as set forth herein. No Discretionary Charter Review Commission may be appointed until such time as any existing Mandatory Charter Review Commission is dissolved and the members released from their respective appointment.

(C) Any Charter Review Commission, whether mandatory or discretionary, appointed by Council shall review the charter of the City and, within the time designated by council at the time the members are appointed, or within any extension thereof granted by Council, recommend to Council such alterations, revisions, and amendments, if any, to this Charter, as in its judgment are desirable. Council shall not extend the term of any Discretionary Charter Review Commission or any individual member thereof except by a three-fourths (3/4ths) majority vote.

After consideration of the recommendations of the Charter Review Commission, Council shall submit all such proposed alterations, revisions, or amendments to this Charter to the electors of the City in the manner provided by the Constitution of the State of Ohio. The terms of the members of the commission shall terminate at the end of the period designated at the time of their appointment, or any extension thereof, by council as set forth above.

#### **11.06. Board of Control.**

There is hereby created a board of Control consisting of the Mayor, Service Director, Safety Director, City Auditor and Law Director. The Board of Control shall have the power and duty to accept bids and award contracts on behalf of the City.

#### **11.07. Other Boards and Commissions.**

Council, by a vote of at least six members, may create and establish and combine, merge or abolish such other boards and commissions in the manner provided in subsection (B) of Section 3.07 of this Charter. The number of members, qualifications, term of office and powers, duties and functions of such other boards and commissions shall be provided by ordinance, but such ordinance shall not conflict with any of the provisions of this Charter and no one citizen member of any such board or commission shall be permitted for any reason to serve more than five (5), four (4) year terms, or the functional equivalent thereof, on such board or commission after the date of this amendment.

#### **11.08. Organization – Vacancies.**

(A) At the first meeting in each year, each board or commission, except the Civil Service Commission, established by this Charter or by ordinance of Council shall organize by electing a chairperson and secretary. The chairperson shall be a member of the board or commission and the secretary may be elected from within or without the membership of such board or commission. The secretary shall keep an accurate and complete record of the proceedings of such board or commission. Each member shall be an elector of the City.

(B) A majority of each of the boards and commissions shall constitute a quorum for meetings and a majority vote of the total membership of each such board or commission shall be necessary to take any action and for the passage of motions. Rules providing for the number and manner of calling regular and special meetings, and to provide for the conduct and government of meetings of each such board or commission, may be adopted by a majority vote of the members of each such board or commission.

### **ARTICLE XII**

#### **CIVIL SERVICE**

#### **12.01. Classified and Unclassified Employees.**

All compensated positions in the service of the City, including the Police Chief and Fire Chief, shall be in the classified service, except as hereinafter provided. All employees in the Police and Fire Divisions shall be appointed and promoted pursuant to competitive examinations and such other criteria established by the Civil Service Commission. All other employees shall be appointed and promoted through

a competitive selection process to the extent practicable. Council shall have the authority to create classified or unclassified positions funded in whole or in part by grants. The following employees shall not be considered classified employees and shall comprise the unclassified service of the City:

- (1) All elected officials;
- (2) The Clerk of Council and other employees of Council;
- (3) Administrative Secretary to the Mayor;
- (4) Deputy Auditor;
- (5) Assistant Law Directors and staff;
- (6) Municipal Courts staff;
- (7) Probation Department staff;
- (8) Cemetery Sales staff; and

(9) All department heads (see Section 9.01 of this Charter) with the exception of the director of human resources who shall be in the classified service and who shall be appointed through a competitive selection process to the extent practicable.

#### **12.02. Police and Fire Selection, Promotion and Residency.**

(A) Preference shall be given to those entry level candidates who are either honorably discharged from the military or who hold a current State of Ohio Peace Officer or Firefighter Certificate or both, whose names are on the eligible list for a position, over all persons eligible for such appointments, with a rating equal to that of each such person. Such preference points shall be established by the Civil Service Commission.

(B) Promotion from the lowest to next lowest ranks in the police and fire departments shall require at least two years of service in the department, after satisfactory completion of the prescribed probationary period.

(C) Outside recruiting, within the State of Ohio, for the positions of Chief of Police and Fire Chief shall be permitted, and such candidates shall be subject to the same requirements as local applicants.

(D) All uniformed safety officers shall reside in Licking County or any county contiguous to Licking County. Such officers shall establish residency within Licking County or a contiguous county within six months after completion of the prescribed probationary period. Existing safety officers as of the effective date of this Charter who do not reside within Licking County or a contiguous county shall be exempt from the residency requirement.

### **ARTICLE XIII**

#### ***NOMINATIONS AND ELECTIONS***

##### **13.01. Nominations.**

Candidates for all elected offices shall be nominated at a partisan primary held on the date and at the time 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. Persons seeking such offices shall file declarations of candidacy or nominating petitions in such form and at such times and places as fixed by the election laws of Ohio for general statutory plan cities, except as otherwise provided in this Charter.

##### **13.02. Regular Municipal Elections.**

The regular municipal elections for all elected offices, and for issues to be presented to the voters, shall be held on the dates and at 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. The procedure established by the election laws of Ohio for the conduct of elections in general statutory plan cities shall be followed, except as modifies by this Charter.

##### **13.03. Special Elections.**

Council may, at any time, order a special election by ordinance or resolution, the purpose of which shall be set forth in the ordinance or resolution.

##### **13.04. Conduct of Elections.**

All regular, primary 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 XIV**

#### ***INITIATIVE, REFERENDUM AND RECALL***

##### **14.01. Initiative.**

Ordinances and resolutions may be proposed by initiative petition and adopted by election in the manner provided by the Constitution and law of the State of Ohio, except that initiative petitions shall be filed with the Clerk of Council.

##### **14.02. Referendum.**

Ordinances and resolutions adopted by Council shall be subject to referendum to the extent and in the manner provided by the Constitution and law of the State of Ohio, except that initiative petitions shall be filed with the Clerk of Council.

##### **14.03. Recall.**

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

(B) If the elected official shall have served twelve months of his or her term, a petition demanding the official's removal may be filed with the Clerk of Council, 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 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 and, in not more than 200 words, a specific statement pursuant to which the removal is sought. Such

petition shall be signed by at least that number of electors which equals fifteen percent of the electors voting at the last preceding regular municipal election; and if the petition is filed demanding the removal of a ward council member, such petition shall be signed by at least that number of electors which equals fifteen percent in number of the electors voting in such ward at the last preceding regular municipal election.

(C) Within ten days after the day on which such petitions shall have been filed, the Clerk of Council shall determine whether the signatures amount to at least fifteen percent of the electors voting at the last preceding municipal election. If the Clerk of Council finds that such petition is 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 record such delivery. If the Clerk of Council finds that such petition is insufficient, the Clerk shall promptly certify the particulars in which such petition is insufficient, deliver a copy of the certificate to the elector or electors responsible for circulation of such petition and make a record of such delivery. The responsible elector or electors shall be allowed a period of ten days following the day on which such delivery was made in which to make the petition sufficient. If the insufficient petition is not made sufficient within the prescribed ten days, such petition shall die for lack of certification.

(D) The Clerk of Council shall at once deliver to the election authorities a copy of the original petition with his or her certificate as to the percentage of electors who signed the same and a certificate as to the date of his or her last mentioned notice to Council. The board of elections shall determine the form, sufficiency and regularity of any such petition in accordance with the general election laws.

(E) If the person whose removal is sought shall not resign within five 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 nor more than forty-five 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 circulation in the City. At such recall election, this question shall be placed upon the ballot: "Shall (name of person whose removal is sought) be allowed to continue as (position)?" with the provision on the ballot for voting affirmatively or negatively, and in the event a majority of the vote is negative, such person shall be considered as removed, his or her office shall be deemed vacant, and such vacancy shall be filled as provided herein. The person removed at such recall election shall not be eligible for appointment to the vacancy created thereby. 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. In the event that a recall election is ordered, as provided by this section, for a ward Council member, only the duly qualified electors of the ward which said Council member represents shall be entitled to vote upon the issue of recall.

(F) In the case of an elected official who is removed by recall, the county central committee of the political party with which the last occupant of the office was affiliated, acting through its members who reside in the City, shall appoint a person to hold the office and to perform the powers, duties and functions thereof for the remainder of the unexpired term. Not less than five days nor more than fifteen days after a vacancy occurs, the county central committee, acting through its members who reside in the City, shall meet for the purpose of making an

appointment for such vacancy. Not less than four days before the date of such meeting, the chairperson or secretary of such central committee shall send by first class mail to every member of such central committee who resides in the City written notice which shall state the time and place of such meeting and its purpose. A majority of the members of such central committee who reside in the City present at such meeting may make the appointment. In the event that such last occupant of the vacant office was an independent candidate, Council shall make such appointment at the time the vacancy occurs.

(G) A removal by recall election shall not bar the person so removed from becoming a candidate for office in future elections.

## ARTICLE XV

### *FINANCES, TAXATION AND DEBT*

#### **15.01. General.**

The laws of the State of Ohio relating generally to budgets, appropriations, debts, bonds, assessments and other fiscal matters of the City shall be applicable to the City, except as modified by the provisions of this Charter or ordinances of Council, and except when provision therefore is made in the Constitution of the State of Ohio.

#### **15.02. Limitation on Tax Rate.**

The power of Council to levy taxes shall be subject to the limitations now or hereafter provided by the Constitution and general laws of the State of Ohio.

#### **15.03. Limitation of Debt.**

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

## ARTICLE XVI

### *GENERAL PROVISIONS*

#### **16.01. Succession.**

The City of Newark under this Charter, is hereby declared to be the legal successor of the City of Newark, 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 taxed in process of collection together with all accounts receivable and rights of action. The City 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 City for its benefit prior to January 1, 1998, shall continue in full force and effect.

#### **16.02. Effect of Charter on Existing Laws and Rights.**

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

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

#### **16.03. Amendments to Charter.**

This Charter and any section thereof may be amended as provided by the Constitution of the State of Ohio, by submission of the proposed amendment or amendments to the electors of the City. If any such proposed amendment shall be approved by a majority of the electors voting hereon, it shall become a part of this Charter, except that if two or more inconsistent proposed amendments on the same subject shall be submitted at the same election, only the one of such amendments receiving the greatest number of affirmative votes, not less than a majority, shall become effective as part of the Charter.

#### **16.04. Removal of Elected Officials and Members of Boards and Commissions.**

(A) Council may remove from office any member of Council, the President of Council, the Mayor, or any member of a board or commission established by this Charter or by ordinance, upon a determination that the person:

- (1) has pled to or has been convicted of a felon while in office;
- (2) has pled to or has been convicted of any crime involving dereliction of duties while in office;
- (3) lacks, or is found to have lacked, at an time prescribed by this Charter, any eligibility requirement of Sections 3.02, 3.04 or 5.01;
- (4) has violated any prohibitions of Sections 3.02, 3.04 or 5.01;
- (5) has committed gross misconduct, malfeasance, misfeasance or nonfeasance while in office.

(B) Charges under this section may be brought only by the Mayor or any four members of Council. Council shall initiate the process to establish grounds for forfeiture of office by motion and shall have the power to subpoena witnesses, administer oaths and require the production of evidence.

(C) Upon finding that grounds exist which subject a member to forfeiture of office, Council shall instruct the Clerk of Council to notify the person by any method which includes written evidence of receipt. A member so notified shall receive a public hearing before Council to be held no earlier than fifteen days nor later than forty-five days after the written evidence of receipt.

(D) Council shall make final determination by a motion to regard the office of the accused person as forfeited. The person subject to forfeiture of office shall be entitled to vote, if a Council member. Upon passage of the motion by the affirmative vote of three-fourths of the members of council, the office shall be deemed vacant and Council shall fill the vacancy as provided in this Charter.

(E) Any person removed from office under this section shall not be eligible to become a candidate for or hold any elective or appointive office with the City for a period of five years after his or her removal.

#### **16.05. Retirement System.**

The laws of the State of Ohio relative to the retirement of officers and employees of the City shall be applicable under this Charter and the retirement of officers and employees of the City shall be governed by the laws of the State of Ohio, except as otherwise provided by or under this Charter.

#### **16.06. Effective of Partial Invalidity.**

A determination that any article, section, subsection, or part of any article, section, or subsection 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.

#### **16.07. Conflict of Interest.**

The laws of the State of Ohio pertaining to interests of municipal officials in contracts and the expenditures of money on behalf of the City shall apply to the officials of the City.

### **ARTICLE XVII**

#### ***TRANSITIONAL PROVISIONS***

##### **17.01. Effective Date of charter.**

This Charter shall be submitted to the electors of the City at the regular election to be held November 4, 1997, and if approved by the electors shall take effect on the first day of January in the year nineteen hundred ninety-eight (January 1, 1998).

##### **17.02. Continuance of Present Officials – Abolishment of Offices.**

Except as otherwise provided by this Charter, all persons holding office at the time this Charter takes effect shall continue in office and in the performance of their duties until provisions shall have been otherwise made in accordance with this Charter for the performance or discontinuance of any such office. When such provisions shall have been made the term of any officer shall expire and the office

shall be abolished. The powers which are conferred and the duties which are imposed upon any officer, body, commission, board, department or division of the City under the laws of the State, or under any municipal ordinance, resolution or contract in force at the time of the taking effect of this Charter shall, if such office, body, commission, board, department or division is abolished by this Charter, be thereafter exercised and discharged by the officer, body, commission, board, department or division whom are imposed corresponding functions, powers and duties by this Charter or by any ordinance or resolution of the Council thereafter enacted.

### 17.03. Continuance of Present Employees.

Every employee of the municipal government on December 31, 1997, shall continue in such employment and thereafter be subject in all respects to the provisions of this Charter and ordinances, resolutions, rules or regulations enacted or promulgated thereunder.

### CERTIFICATE

We, the undersigned, constituting the regularly elected and qualified members of the Charter Commission of the city of Newark, Ohio, elected November 5, 1996, have framed the foregoing Charter and have fixed November 4, 1997 as the time of the election at which said Charter shall be submitted to the electors of the City of Newark.

\_\_\_\_\_  
Daniel G. Applegate, Co-Chairman

\_\_\_\_\_  
Richard E. Baker, Co-Chairman

\_\_\_\_\_  
Patricia C. Athan

\_\_\_\_\_  
R. Stewart Beck

\_\_\_\_\_  
Betty C. Comisford

\_\_\_\_\_  
Homer L. Curry

\_\_\_\_\_  
Bruce A. Ennen

\_\_\_\_\_  
Cheri Lynn Hottinger

\_\_\_\_\_  
Molly Ingold

\_\_\_\_\_  
Johnny John

\_\_\_\_\_  
C. Herbert Koehler, III

\_\_\_\_\_  
John Stare

\_\_\_\_\_  
Carol E. Wollenburg

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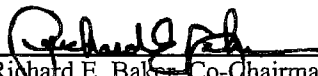
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## CERTIFICATE

We, the undersigned, constituting the regularly elected and qualified members of the Charter Commission of the City of Newark, Ohio, elected November 5, 1996, have framed the foregoing Charter and have fixed November 4, 1997 as the time of the election at which said charter shall be submitted to the electors of the City of Newark.

  
Daniel G. Applegate, Co-Chairman

  
Richard E. Baker, Co-Chairman

  
Patricia C. Athan


  
R. Stewart Beck

  
Betty C. Comisford

  
Homer L. Curry

  
Bruce A. Ennen


  
Cheri Lynn Hottinger

  
Molly Ingold

  
Johnny John

  
C. Herbert Koehler, III

  
John Stare

  
Carol E. Wollenburg