

**CHARTER OF THE MUNICIPALITY  
OF WEST CARROLLTON**

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# CHARTER OF THE MUNICIPALITY OF WEST CARROLLTON

## PREAMBLE

We, the people of the Municipality of West Carrollton, Montgomery County, Ohio, in order to secure the benefits of local self-government under the Constitution of the State of Ohio, do adopt this Charter for the government of the Municipality of West Carrollton.

## ARTICLE I. NAME AND BOUNDARIES

### § 1.01 NAME AND BOUNDARIES.

The present Municipality, known as the City of West Carrollton, Ohio, shall continue to be a body politic and incorporated with the same boundaries, but with power and authority to change its boundaries and annex other territory contiguous thereto in the manner authorized by the general laws of Ohio. (Amendment adopted by the electorate, 11-4-80)

## ARTICLE II. FORM OF GOVERNMENT

### § 2.01 FORM OF GOVERNMENT.

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

## ARTICLE III. POWERS

### § 3.01 POWERS OF THE MUNICIPALITY.

Except as restricted by this Charter, the Municipality shall have all powers possible for a municipality to have under the Constitution and laws

of the State of Ohio, as fully and completely as though they were specifically enumerated in this Charter.

### § 3.02 THE MANNER OF EXERCISE OF POWER.

All powers of the Municipality shall be exercised in the manner prescribed in this Charter, or, if not prescribed herein, in such manner as shall be provided by ordinance or resolution of the Council. (Amendment adopted by the electorate, 11-4-80)

### § 3.03 CONSTRUCTION.

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

### § 3.04 INTERGOVERNMENTAL RELATIONS.

The Municipality may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

## ARTICLE IV. THE COUNCIL

### § 4.01 POWERS.

All legislative powers of the Municipality shall be vested in a Council consisting of six (6) councilmen and a separately elected mayor.

#### § 4.02 SELECTION AND TERM.

All councilmen shall be elected at large by the qualified electors of the Municipality for four (4) years overlapping terms, in the manner provided by Article XI of this Charter.

#### § 4.03 QUALIFICATIONS.

Any qualified elector who has lived in the Municipality for one (1) year prior to filing his petition of candidacy shall be eligible to hold the office of councilman or mayor.

#### § 4.04 MAYOR.

The Mayor shall be elected by separate ballot from the Municipality at large for a four (4) year term. The Mayor shall be a member of Council and have the right to vote on all issues before the Council, but shall have no power of veto.

In addition to his powers, rights and duties as a member of Council, the Mayor, when present, shall preside at meetings of the Council, shall be recognized as official head of the Municipality for ceremonial purposes, by the Governor for military purposes and by the Courts for the purpose of serving civil process, but he shall exercise no administrative authority.

The Mayor shall also have jurisdiction in civil and criminal cases as provided by the laws of Ohio, including all statutes now or hereafter enacted, until such jurisdiction is placed elsewhere by law.

#### § 4.05 DEPUTY-MAYOR.

The Council shall elect from among its members a Deputy-Mayor who shall act as Mayor during the absence or disability of the Mayor and, if a vacancy occurs, shall serve as Mayor until the next regular municipal election occurring not less than one hundred (100) days after the occurrence of the vacancy. At such election a Mayor shall be elected to serve for the unexpired term, if any; if not, for a full term. Upon the election of a Mayor, the Deputy-Mayor may retain his position as councilman for the remainder of his unexpired term.

In the event that a vacancy should occur in the office of Mayor and the Deputy-Mayor is required to serve as Mayor, the Council shall select a person to fill the vacancy in Council as provided in § 4.07

hereof; provided, however, that a person so chosen shall serve only until a Mayor is elected, as provided herein.

#### § 4.06 VACANCIES, CREATION OF.

Once elected and sworn in, a member of Council may vacate his office:

- (1) By death; or
- (2) By resignation, accepted by a majority of the remaining members of the Council; or
- (3) By ceasing to be a qualified elector; or
- (4) By removal of his permanent residence to a place outside the boundaries of the Municipality; or
- (5) By failure to attend three (3) consecutive regular meetings of Council without being excused by the Council; or
- (6) By removal from office for malfeasance; or
- (7) By the acceptance of and entering upon the duties of an incompatible office; or
- (8) By recall of the qualified voters of the Municipality under the procedure provided by § 705.92 of the Ohio Revised Code.

#### § 4.07 VACANCIES, FILLING OF.

Vacancies in the office of Councilman shall be filled within sixty (60) days by vote of a majority of the remaining Council members by the selection of a person qualified as provided in § 4.03 hereof. If the Council should fail to act within sixty (60) days, the Mayor, or Deputy-Mayor when acting as Mayor, shall fill such vacancy by appointment. A person so chosen or appointed shall serve until the next regular municipal election occurring not less than one hundred (100) days after his selection. At such election a successor shall be elected to serve for the remainder of the unexpired term, if any; if not, for a full term.

#### § 4.08 SALARY OF COUNCIL MEMBERS.

The Council may determine the annual salary of the members of Council by ordinance, provided, however, that no change in the salary of a Council member shall be effective during his current term of office, and provided further that no change in salary shall be effective unless the ordinance establishing it shall have been passed at least one hundred (100) days before a regular municipal election. Members of Council shall receive their actual and necessary

expense incurred in the performance of their duties of office.

#### **§ 4.09 ELECTION CONTESTS.**

The Council shall be the sole judge of the election and qualifications of its own members and, for such purposes, shall have power by subpoena to compel the attendance of witnesses and the production of ballots and records.

#### **§ 4.10 RULES, JOURNAL.**

The Council shall adopt and may amend its own rules or procedure, in conformity with the provisions of this Charter. It shall cause to be kept a journal of its proceedings, which shall be a public record.

#### **§ 4.11 GENERAL POWERS AND DUTIES.**

All powers of the Municipality shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Municipality by law.

#### **§ 4.12 INVESTIGATIONS.**

The Council may make investigations into the affairs of the Municipality and the conduct of any Municipal department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. The Council may provide penalties for the failure or refusal of any person to obey a lawful order issued in the exercise of these powers.

#### **§ 4.13 INDEPENDENT AUDIT.**

During those years in which the State of Ohio shall make an audit of the affairs of the municipality, such audit may be accepted as satisfying the requirements of this section. In any other years, Council may, when it deems it advisable, provide for an annual audit by a certified public accountant or firm of such accountants.  
(Amendment adopted by the electorate, 11-4-80)

#### **§ 4.14 MEETINGS OF COUNCIL.**

The first Council meeting in January of each year shall be the organizational meeting of Council. At such meeting the newly elected members of Council shall take the oath of office and the Council shall proceed to elect a Deputy-Major and may transact such other business as may come before it. Thereafter, regular meetings shall be held as prescribed in the Council rules, but not less frequently than twice each month. Special meetings may be held upon the call of the Mayor or of four (4) or more members and, whenever practicable, upon no less than twelve (12) hours notice to each member. All meetings of Council where official business is consummated shall be open to the public except as otherwise provided by the Ohio Statute or by Ordinance. A majority of the members of Council shall constitute a quorum at all meetings.  
(Amendment adopted by the electorate, 11-7-89)

#### **§ 4.15 CLERK OF COUNCIL.**

There shall be a Clerk of Council, selected by vote of a majority of the members of Council from outside its membership, to serve until his successor is chosen and enters upon the duties of his office. He shall give notice of Council meeting, keep the journal, advertise public hearings, record in a separate book all ordinances and resolutions approved by Council and see that such enactments are published as required by this Charter. He shall perform such other duties as may be assigned to him by this Charter or by ordinance. He may be appointed to serve full time or part time and the Council may assign the duties of Clerk of Council to any employee of the Municipality as an additional duty. The Clerk of Council shall receive a salary for his services as such, as established by ordinance.

#### **§ 4.16 COMMENCEMENT OF TERM.**

The terms of members of Council shall begin the first day of January after their election.  
(Amendment adopted by the electorate, 11-4-80)

## **ARTICLE V. ORDINANCES AND RESOLUTIONS**

### **§ 5.01 ACTION REQUIRING AN ORDINANCE.**

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the Council shall be done by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter or abolish any Municipal department, office, agency, board or commission;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes, except as otherwise provided in Article VIII with respect to the property tax levied by adoption of the budget;
- (4) Grant, renew or extend a franchise;
- (5) Regulate the rate charged for its services by a public utility;
- (6) Authorize the borrowing of money;
- (7) Convey or lease or authorize the conveyance or lease of any lands of the Municipality;
- (8) Adopt with or without amendment ordinances proposed under the initiative power; and
- (9) Amend or repeal any ordinance previously adopted except as otherwise provided in §5.06 hereof with respect to repeal of ordinances reconsidered under the referendum power.

Acts other than those referred to in the preceding sentence may be done either by ordinance or resolution.

### **§ 5.02 INTRODUCTION OF ORDINANCES.**

Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The Municipality of West Carrollton, Ohio, hereby ordains..." Any ordinance which repeals or amends an existing ordinance or part of the Municipal Code shall set out in full the ordinance, section or subsections to be repealed or amended, or shall have copies of such ordinance, section or subsection attached to such proposed ordinance and if necessary for further clarification, shall indicate matter to be omitted by enclosing it in brackets or by strikeout type or shall indicate new matter by underscoring or by italics.

At least five (5) days prior to each regular meeting of Council, the Clerk of Council shall post in five (5) most public places in the Municipality, as determined by Council, an agenda of the forthcoming Council meeting with a brief description of the ordinances to be considered at such meeting. All person interested in such ordinances shall have the opportunity to be heard thereon.

(Amendment adopted by the electorate, 11-4-80)

### **§ 5.03 PASSAGE OF ORDINANCES.**

No ordinance shall be passed without the concurrence of a majority of all members of Council, except that emergency ordinances, as hereinafter provided, shall require concurrence of at least five (5) members of Council for passage. Every ordinance proposed for passage shall be available at the City Offices for review by the general public on the day the ordinance is to be considered by Council. Such ordinance shall thereafter be read by title only on two different days, unless an emergency is declared as hereinafter provided, or unless by a vote of at least five (5) members of Council, a reading thereof by title only on two different days is dispensed with, in which case such ordinance may be read by title only one time and passed on the day of such reading. Final passage shall be certified by the signatures of the Mayor or Deputy Mayor and Clerk of Council.

(Amendment adopted by the electorate, 11-4-80)

### **§ 5.04 EFFECTIVE DATE.**

Ordinances providing for appropriations for current expenses of the Municipality, or for public improvements petitioned for by the owners of a majority of the foot frontage of property benefited and to be specially assessed for the cost thereof, or for raising revenue, or ordinances wherein an emergency is declared to exist, shall become effective immediately upon passage or at such later date as may be provided therein, and such ordinance shall not be subject to referendum. All other ordinances shall take effect thirty (30) days after passage. An emergency ordinance as referred to herein is one which must be passed and made effective at once or in less than thirty (30) days to meet an emergency in the operation of the Municipal Government, or which is necessary for the immediate preservation of the public peace, health, safety, morals or welfare. An emergency ordinance must contain therein a separate section setting forth the reason for the emergency.

No ordinance granting a franchise or fixing a rate to be charged by a public utility shall be passed as an emergency ordinance.

#### **§ 5.05 PUBLICATION OF ORDINANCES.**

Within ten (10) days after passage, ordinances of a general nature, or providing for public improvements shall be published one time, in summary form, in any English newspaper of general circulation in the Municipality or by posting copies thereof for at least fifteen (15) days in not less than five (5) of the most public places within the Municipality, as determined by Council. Such summary shall consist of a brief statement of the purpose and effect of the ordinance. Copies of all ordinances shall be made available by the Clerk of Council for public reference or of purchase at a reasonable price.

#### **§ 5.06 INITIATIVE AND REFERENDUM.**

Except as otherwise provided in this Charter, ordinances may be proposed and submitted to popular vote by initiative and referendum under the procedure set forth in §§ 731.28 to 731.40 of the Ohio Revised Code. Whenever the Council is required to pass more than one ordinance or resolution to complete the legislation necessary to complete and pay for any public improvement, the referendum shall apply only to the first ordinance or resolution to be passed and not to any subsequent ordinance or resolution in the series relating thereto.

#### **§ 5.07 ADOPTION OF ORDINANCES BY REFERENCE.**

The Council may adopt model or standard codes prepared and published by any public or private agency on such matters as fire prevention, building construction, electrical wiring, plumbing, heating, ventilating, air conditioning or other similar topics by reference to the date and source of the code without reproducing it at length in the ordinance. However, if Council desires to modify, add to or eliminate from any such code any section or part thereof, such addition, modification or omission shall be clearly stated in the ordinance. In all such cases in which such code shall be adopted by reference, publication of the code at length, by the Municipality, shall not be required. However, at least one copy of all such

codes, including all amendments thereto shall be kept in the office of the Clerk of Council for consultation by interested persons during regular office hours and additional copies shall always be available for sale, at cost, by the Clerk of Council.

(Amendment adopted by the electorate, 11-4-80)

#### **§ 5.08 RESOLUTIONS.**

Action by Council which is not required by this Charter to be taken by ordinance, may be taken by resolution. Such a resolution shall be in writing and shall be introduced by a member of the Council, and may be adopted by a viva voce vote of a majority of a quorum. No waiting period, notice, hearing or publication shall be required and a resolution shall become effective upon its adoption. However, the Clerk of Council shall record resolutions in a separate book, which shall be a public record.

### **ARTICLE VI. CITY MANAGER**

#### **§ 6.01 APPOINTMENT OF CITY MANAGER.**

The Council shall, by a majority vote of all members of Council, appoint and fix the salary of an officer of the Municipality who shall have the title of City Manager. The City Manager shall be chosen by the Council solely on the basis of his executive and administrative qualifications in the profession of city management, as judged by the adequacy of his technical training and/or his successful experience in public administration. At the time of his appointment he need not be a resident of the Municipality or State, but during his tenure of office he shall reside in the Municipality. No Council member shall be eligible for appointment as City Manager during the term for which he has been elected or for one (1) year thereafter.

#### **§ 6.02 DUTIES OF CITY MANAGER.**

The City Manager shall be the chief executive and administrative officer of the Municipality. He shall be responsible to the Council for the proper administration of all affairs of the Municipality and, to that end, subject to the provisions of this Charter, he shall have authority and shall be required to:

- (1) See that this Charter and the

ordinances and resolutions of the Municipality are faithfully observed and enforced;

(2) Appoint, and when necessary for the good of the service suspend or remove all officers and employees of the Municipality, not selected or appointed by the Council, in the manner provided in this Charter;

(3) Prepare the tax budget and the annual budget, submit them to the council for approval, and administer the appropriations made by Council;

(4) Prepare and submit to Council and to the public, annually not later than March 31, a complete report on the finances and administrative activities of the Municipality for the preceding year; this report shall be deemed to satisfy the requirements of the Ohio Revised Code without separate publication of the financial statement;

(5) Keep the Council informed of the current financial condition and future needs of the Municipality;

(6) Sign all contracts, bonds and notes on behalf of the Municipality;

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

(8) Appoint, with approval of Council, such citizen advisory committees as seem to him desirable and discharge them when in his judgment their function has been completely served;

(9) Delegate to subordinate officers and employees of the Municipality any duties conferred upon him by this Charter or by action of Council, and hold them responsible for the faithful discharge of such duties;

(10) Serve as an ex-officio member, without the right to vote, of all Boards and Commissions created by this Charter, by ordinance of Council, or by law;

(11) Serve as the head of all public utilities owned and/or operated by the Municipality;

(12) Perform such other duties, not inconsistent with this Charter, as may be required by the Council.

(Amendment adopted by the electorate, 11-7-95)

### **§ 6.03 ABSENCE OR DISABILITY OF THE CITY MANAGER.**

The City Manager may designate, by letter filed with the Clerk of Council, any qualified administrative officer of the Municipality to perform his duties during his temporary absence or disability. If such designation has not been made, and the City Manager is unable to perform his duties or to make such a designation, the Council may, by resolution,

appoint any qualified administrative officer of the Municipality to perform the duties of the City Manager until he shall return or his disability cease.

### **§ 6.04 REMOVAL OF THE CITY MANAGER.**

The City Manager shall serve for an indefinite term, subject to removal by the Council at any time by a majority vote of all the members of Council. At least thirty (30) days before such removal shall become effective, the Council shall adopt a preliminary resolution stating the reasons for the removal. The City Manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of the request, before the full Council. After such public hearing, if one is requested, after full consideration, the Council may adopt a final resolution of removal. By the preliminary resolution the Council may suspend the City Manager from duty and designate an acting City Manager, but shall cause to be paid to the City Manager forthwith any salary due him up to the date of his suspension. Upon removal, unless for misconduct of the City Manager involving moral turpitude, he shall be paid his salary for the period of suspension from duty and for the next two (2) months following the removal. In case of the voluntary resignation of the City Manager, the council and the City Manager shall agree upon the effective date of the resignation.

### **§ 6.05 COUNCIL: RELATION TO CITY MANAGER.**

Except for the purpose of inquiry or investigation, members of Council shall deal with the administrative employees of the Municipality, other than the Law Director, solely through the City Manager. Except for the appointment or removal of the Law Director, no member of Council shall take the initiative in the appointment or removal of officers or employees subordinate to the City Manager. Neither the Council nor any member or committee thereof shall give any orders to a subordinate of the City Manager, other than the Law Director, either publicly or privately. Any Council member who violates any of the provisions of this section or votes for any ordinance or resolution in violation thereof shall be guilty of malfeasance in office and upon conviction

thereof shall cease to be a Council member and shall be ineligible to hold further office or employment in the Municipal government.

## **ARTICLE VII. ADMINISTRATIVE DEPARTMENTS**

### **§ 7.01 CREATION OF DEPARTMENTS.**

The administrative activities of the Municipality shall be carried on by a Department of Finance, a Department of Law, a Department of Safety, a Department of Service and such other departments as may be created by ordinance, after consultation with the City Manager.

### **§ 7.02 DEPARTMENT HEADS.**

At the head of each department there shall be a full time or part time director. The City Manager, with approval of Council, shall appoint the directors of all departments, other than the Director of the Department of Law, who shall be appointed by Council. Each director shall be an administrative officer of the Municipality. He shall have supervision and control of the department he heads subject to the direction of the City Manager, except the Director of the Department of Law shall be subject to the direction of Council. With the approval of Council, the City Manager may serve as the head of one (1) or more such departments, except that he may not serve as Director of Finance, or he may appoint one (1) person as the head of two (2) or more departments.

### **§ 7.03 ADMINISTRATIVE CODE.**

Subject to the provisions of this Charter and after consultation with the City Manager, the Council shall adopt an administrative code which shall provide in detail the organization of the Municipal government, define the powers and duties of each organizational unit, and determine the administrative procedures to be followed. The Council may delegate to the City Manager and he to the heads of departments, other than the Director of the Department of Law, power to make rules and regulations to govern management practices, consistent with the administrative code. Amendments to and revisions of the administrative code shall be made by the council only after consultation with the

City Manager. Where the administrative code is silent, the officers and employees of the Municipality shall have and may exercise all powers and duties provided for similar officers and employees by the state law. However, provisions of the administrative code shall supersede those of the state law in case of conflict.

### **§ 7.04 DEPARTMENTAL DIVISIONS.**

The work of each department shall be distributed among such divisions thereof as may be established by the administrative code. Pending the adoption of such a code by the Council, the City Manager may establish temporary divisions by administrative order, which shall be applicable to all departments other than the Department of Law.

### **§ 7.05 CENTRAL PURCHASING.**

The Council shall establish a purchasing agency either as a separate office or as a division of one of the departments created by this Charter, whose duty it shall be to contract for, purchase, store and distribute all supplies, printing, materials, equipment and contractual services required by any agency of the Municipality, within the appropriations made by Council. The Council may designate the City Manager as Purchasing Agent, but in any case the City Manager shall be responsible for supervising the purchasing function.

### **§ 7.06 COMPETITIVE BIDDING.**

Purchase of all supplies, materials and equipment for the Municipality shall be made pursuant to specifications through open competitive bidding under such rules, consistent with this Charter as the Council may establish by ordinance. In cases of public disaster, declared by resolution approved by at least five (5) members of Council, purchases may be made in the open market without competition.

### **§ 7.07 OVER-EXPENDITURES.**

No officer, department or agency of the Municipality shall expend or contract to expend any money incur any liability, or enter into any contract which by its terms involves the expenditure of money

on behalf of the Municipality of any purpose in excess of the amounts appropriated for such expenditures and obligations. The officer or employee who knowingly attempts or purports to create such an obligation shall be guilty of malfeasance in office and upon conviction thereof shall be removed from office. However, nothing in this section shall prevent the making of contracts not to be fully performed within the fiscal year when specifically authorized by the Council.

#### **§ 7.08 PERSONAL FINANCIAL INTEREST.**

Any Municipal officer or employee who has a substantial financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the Municipality or in the sale of any land, material, supplies or services to the Municipality or to a contractor supplying the Municipality shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a Municipal officer or employee in the making of such sale or in the making or performance of such contract. Any Municipal officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of his section shall be guilty of malfeasance in office or position and shall forfeit his office or position.

#### **§ 7.09 ILLEGAL CONTRACTS VOIDABLE.**

Whenever any contract is found to be illegal, for the reasons stated in §§ 7.07 or 7.08 and the Municipality has received the goods or property involved, the Council may, by resolution, elect to rescind the contract, and return the goods or property or retain them, paying for them not at the contract price, but at their fair value, provided such value is not in excess of the contract price. If payment has already been made, the Municipality shall be entitled to recover the excess, if any, over the fair value.

#### **§ 7.10 DEPARTMENT OF LAW - LAW DIRECTOR.**

The Law Director shall be the head of the Department of Law. He shall be appointed by a majority vote of the Council, and shall serve at the pleasure of the Council. The Law Director must be

admitted to the practice of law in the State of Ohio.

The Law Director shall be the legal advisor, attorney, and counsel for the Municipality, and for all other offices, departments, divisions, bureaus, boards, commissions and bodies of the Municipality in connection with Municipal affairs; and subject to the direction of 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, by ordinance or resolution of the Council, or by the laws of the State of Ohio, unless otherwise provided by ordinance of Council. The Law Director shall be the prosecuting attorney on behalf of the Municipality and shall prosecute cases brought before Courts of competent jurisdiction.

The Council may provide for such assistants and special Council to the Law Director as shall be deemed advisable. All assistants shall be responsible to the Law Director, and when authorized by him, may exercise all or any part of the powers and duties granted to the Law Director under this section. Special counsel may be selected by the Council or the Law Director, as determined by the Council; and such special counsel may perform those powers and functions as authorized by and in the manner provided by the Council.

(Amendment adopted by the electorate, 11-4-80)

#### **§ 7.11 DEPARTMENT OF FINANCE.**

The Department of Finance shall perform those functions customarily performed by the auditor and the treasurer under the state law. The Director of Finance shall be the fiscal officer of the Municipality and shall be responsible for accounting, collection and custody of public funds, and control over disbursements. 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 countersign all bonds and notes issued by the Municipality and shall perform such other functions as may be assigned by ordinance or by order of the City Manager.

#### **§ 7.12 DEPARTMENT OF SAFETY.**

The Department of Safety shall have and

perform such functions as may be assigned by ordinance or by order of the City Manager. Notwithstanding any provisions of state law, the Council may establish unified police and fire service in which both types of service are rendered by the same personnel.

#### **§ 7.13 CREATION OF NEW DEPARTMENTS.**

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

### **ARTICLE VIII. FINANCE, TAXATION, AND DEBT**

#### **§ 8.01 DEBT SERVICE LEVY.**

The Council may annually levy taxes on property assessed and listed for taxation, outside any limitation imposed by the Constitution of Ohio or by any act of the legislature, a sum sufficient to pay all or any part of the principal of and interest on any bonds and notes constituting general obligations of the Municipality, which are now outstanding or hereafter lawfully issued, including the expenses incident to the management of the bond retirement fund, which levy shall be placed before and in preference to all other levies.

#### **§ 8.02 OPERATING LEVY.**

The Council shall annually levy a tax for current operating expenses on the property assessed and listed for taxation for the purposes of the Municipality of West Carrollton, its boards, departments and institutions. The rate of such tax shall not exceed 6.25 mills on the dollar of the assessed valuation of which amount four (4) mills may be levied beyond the Constitutional tax limitation.

#### **§ 8.03 OTHER TAX LEVIES.**

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 on property assessed and listed for taxation according to value 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.

#### **§ 8.04 PROCEDURE IN BOND ISSUES - DEBT LIMITATIONS.**

The procedure to be followed in authorizing and issuing bonds and notes of the Municipality and applying the proceeds therefrom, shall be in accordance with the provisions of the general laws of the State of Ohio in effect at the time, except as expressly modified by other sections of this Charter. The limitations on the indebtedness of the Municipality evidenced by its notes or bonds and incurred with or without a vote of the people, shall be those imposed by the general law of the state in effect at the time of issuance.

#### **§ 8.05 GENERAL.**

The laws of the State of Ohio relating generally to budgets, appropriations, investment and deposit of funds, 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.

#### **§ 8.06 FISCAL YEAR.**

The Fiscal, budget and accounting year of the Municipality shall be the calendar year from January 1 to December 31.

## **ARTICLE IX. BOARDS AND COMMISSIONS**

### **§ 9.01 PLANNING COMMISSION.**

There shall be a Municipal Planning Commission consisting of five (5) members all of whom shall be residents of the Municipality who hold no other Municipal office or employment, selected by the Council for overlapping terms of five (5) years, except that the members first selected shall be appointed for such terms that the term of one member shall expire annually thereafter.

The Commission shall adopt its own rules and elect its own officers annually. It shall have all the power and authority conferred upon city planning commissions by state law and such other duties as may be imposed upon it by the administrative code. Its members shall serve without compensation. (Amendment adopted by the electorate, 11-7-95)

### **§ 9.02 COMPREHENSIVE PLAN.**

The Planning Commission shall adopt and recommend to the Council a comprehensive general plan for the physical development of the Municipality, which shall include the location of public ways, property, bridges, utilities, buildings, parks, playgrounds and recreation areas. The comprehensive general plan shall show all existing school locations in the Municipality and shall show the proposed location of new schools as determined by the Board of Education.

### **§ 9.03 BOARD OF ZONING APPEALS.**

There shall be a Board of Zoning Appeals consisting of five (5) members who shall be residents of the Municipality who hold no other Municipal office or employment, selected by the Council for overlapping terms of five (5) years, except that the members first selected shall be appointed for such terms that the term of one member shall expire annually thereafter. The Board shall adopt its own rules and elect its own officers annually. It shall have all the power and authority conferred upon Boards of Zoning Appeals by state law and such other duties as may be imposed upon it by ordinance. Its members shall serve without compensation.

### **§ 9.04 REMOVAL OF MEMBERS OF PLANNING COMMISSION AND BOARD OF ZONING APPEALS.**

By concurrence of four (4) or more of its members, Council shall have the power to remove members of the Planning Commission or Board of Zoning Appeals for just cause upon public hearing. The decision of the Council in removing a member of such Commission or Board pursuant to this section shall be final.

### **§ 9.05 RECREATION BOARD.**

There shall be a Municipal Recreation Board consisting of five (5) members, all of whom shall be residents of the Municipality and hold no other municipal office or employment. Two of such members shall be members of the Board of Education of the School District, or members appointed by such Board, and three of whom shall be selected by Council. All members of the Board shall serve for terms of five (5) years, except that the members of such Board first appointed shall be appointed for such terms that the term of one member shall expire annually thereafter. The Board shall adopt its own rules and elect its officers annually. It shall have such power, authority and duties as may be imposed upon it by ordinance or by state law but in case of conflict or inconsistency between the two the provisions of the ordinances shall take precedence. Its members shall serve without compensation. (Amendment adopted by the electorate, 11-4-80)

### **§ 9.06 CREATION OF NEW BOARDS AND COMMISSIONS.**

The Council by ordinance may create, change and abolish boards and commissions, other than those established by this Charter. The Council may assign additional duties to the boards and commissions established by this Charter, but may not discontinue or assign to any other board or commission any function assigned by this Charter to a particular board or commission.

**ARTICLE X. PERSONNEL**

**§ 10.01 MERIT SYSTEM ESTABLISHED.**

Appointments and promotions in the civil service of the Municipality shall be made solely on the basis of merit and fitness demonstrated, wherever practical, by open competitive examinations or other evidence of competence. Except as herein otherwise provided, the council shall enact ordinances to prescribe and enforce rules for appointment, promotion, transfer, layoff, reinstatement, suspension and removal of employees in the Civil Service of the Municipality. Such ordinances shall prevail over conflicting state law. The City Manager shall have the authority to determine if it is in the best interests of the City to leave a position vacant, or to combine the duties of two positions under a single employee. (Amendment adopted by the electorate, 11-4-80; Amendment adopted by the electorate, 11-7-95)

**§ 10.02 EXEMPT POSITIONS.**

The civil service shall include all positions in the Municipality except:

- (1) Members of Council;
- (2) The Clerk of Council;
- (3) The City Manager;
- (4) The Directors of Departments;
- (5) The Secretary to the City Manager;
- (6) The Assistant to the City Manager;
- (7) Members of Boards and Commissions appointed by Council, advisory committees appointed by the City Manager;
- (8) Those positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character;
- (9) Unskilled laborers;
- (10) Seasonal, provisional, temporary or part time employees.

In addition to the above, other positions may be exempted from the civil service and/or the competitive examination requirements upon the determination of the City Manager and the approval of the Personnel Appeals Board.

(Amendment adopted by the electorate, 11-4-80; Amendment adopted by the electorate, 11-7-95)

**§ 10.03 PERSONNEL OFFICER.**

The City Manager shall appoint a suitably

qualified person to serve part or full time as Personnel Officer. He shall:

- (1) Conduct recruitment of qualified persons;
- (2) Prepare, schedule and hold examinations;
- (3) Create eligible lists from results of examinations;
- (4) Certify eligibles to appointing officers;
- (5) Classify positions and establish job specifications;
- (6) Certify payrolls;
- (7) Develop and conduct training programs;
- (8) Prepare and recommend to the City Manager for approval and publication, necessary rules to establish and maintain the merit system in the Municipality;
- (9) Perform such other duties relating to personnel as the City Manager may direct.

**§ 10.04 PERSONNEL APPEALS BOARD.**

There shall be a Personnel Appeals Board consisting of three (3) members who shall be selected by the Council for overlapping terms of three (3) years, except that the members first selected shall be appointed for such terms that the term of one member shall expire annually thereafter. Each member of the Board shall be a qualified elector of the Municipality, known to be in sympathy with the merit principle as applied to the civil service, shall neither hold nor be a candidate for any public office or employment and shall not be a member of any local, state or national committee of a political party or an officer in any partisan political club or organization. Its members shall serve without compensation.

**§ 10.05 DUTIES OF PERSONNEL APPEALS BOARD.**

The Personnel Appeals Board shall hear appeals upon request of any officer or employee when such officer or employee of the civil service has been suspended in excess of three (3) days, reduced in rank or removed from his/her position. The Board shall make its own rules, choose its own officers, and have authority to subpoena witnesses and to require the production of records. (Amendment adopted by the electorate, 11-4-80)

**§ 10.06 ASSESSMENTS AND CONTRIBUTIONS.**

No person shall orally, by letter or

otherwise solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding any compensated appointive Municipal position.

No person who holds any compensated appointive Municipal position shall make, solicit or receive any contribution to the campaign funds of any political party or any candidate for public office or take any part in the management, affairs or political campaign of any political party, but he may exercise his rights as a citizen to express his opinions and to cast his vote.

#### **§ 10.07 PENALTIES.**

Any person who violates the provisions of § 10.06 of this Charter shall be guilty of a misdemeanor and shall, if an office or employee of the Municipality be guilty of malfeasance in office and upon conviction shall be removed from the office or position he holds and shall be ineligible for election or appointment to any position in the Municipal service for a period of five (5) years.

#### **§ 10.08 PROMOTIONAL EXAMINATIONS.**

Whenever a vacancy occurs in any position in the service of the Municipality which is not exempted under the provisions of § 10.02 of this Charter it shall be filled in the manner provided in the personnel ordinance. Promotional examinations may be restricted to present employees, or if recommended by the City Manager, they may be opened to qualified candidates from outside the Municipal service, by resolution of the Council. The names of the three (3) eligibles standing highest on the promotional eligible list shall be certified to the appointing authority and he shall appoint one (1) of the three (3) so certified, as may be provided by ordinance.

### **ARTICLE XI. NOMINATIONS AND ELECTIONS**

#### **§ 11.01 NOMINATIONS.**

There shall be no primary election for municipal offices. Nominations for the office of Mayor or Councilmember shall be made by petition only, on the standard forms provided by the Board of Elections of Montgomery County for the nomination

of non-partisan candidates for such office in the odd numbered years in which they are to be elected. Each candidate for Mayor or Councilmember shall file a petition containing no less than fifty (50) signatures of qualified electors of the Municipality. Group petitions shall not be used for individual offices. Petitions shall be filed with the Board of Elections by 4:00 p.m. at least ninety (90) days before the election. The procedure established by the Ohio election laws for filing and voting shall be followed, except as modified by this Charter. An elector may sign only as many petitions for Mayor or Councilmember as there are places to be filled at the regular Municipal election.

(Amended by Ord. 1860, approved at election 11-5-74; Amendment adopted by the electorate, 11-7-95)

#### **§ 11.02 REGULAR MUNICIPAL ELECTIONS.**

The regular Municipal election for Mayor and Councilmen shall be held on the first Tuesday after the first Monday in November in the odd numbered years in which they are to be elected, commencing in the year 1969. The procedure established by the Ohio election laws for the conduct of Municipal elections shall be followed, except as modified by this Charter.

#### **§ 11.03 SPECIAL ELECTIONS.**

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

#### **§ 11.04 CONDUCT OF ELECTIONS.**

Non-partisan ballots shall be used for all Municipal offices. All regular and special Municipal elections shall be conducted by the Board of Elections of Montgomery County under the provisions of this Charter, so far as they are applicable. Where the Charter is silent, the provisions of the Ohio election laws shall be followed.

(Amendment adopted by the electorate, 11-7-95)

### **ARTICLE XII. GENERAL PROVISIONS**

#### **§ 12.01 OATH OF OFFICE.**

Every officer and employee of the

Municipality shall, before entering upon his duties, take and subscribe to the following oath or affirmation to be filed and kept in the office of the Clerk of Council:

“I solemnly swear (or affirm) that I will support the Constitution of the United States and the State of Ohio and will obey the laws thereof, and that I will, in all respects, uphold and enforce the provisions of the Charter and ordinances of this Municipality and will faithfully discharge the duties of \_\_\_\_\_ upon which I am about to enter.”

#### **§ 12.02 OFFICIAL BONDS.**

All offices and employees of the Municipality whose duties require that they handle or be concerned with the management of its money or other property, and any other employee required by Council to furnish a bond, shall furnish to the Clerk of Council before entering upon their duties, a corporate surety bond, issued by a company authorized to do business in Ohio, to protect the Municipality against loss due to their acts or omissions. The amount of such bond shall, in each case, be fixed by the Council. The premium on such bonds shall be paid from the funds of the Municipality.

#### **§ 12.03 FEES.**

All fees received by any officer or employee of the Municipality in connection with his employment with the Municipality shall be accounted for and paid into the Municipal treasury, except as otherwise provided by law.

#### **§ 12.04 REMOVAL FROM OFFICE.**

Whenever in this Charter certain acts on the part of Municipal officials or employees are described as constituting malfeasance in office, the procedure for complaint, trial and judgment thereon shall be that prescribed in §§ 733.72 to 733.77 of the Ohio Revised Code.

#### **§ 12.05 ENFORCEMENT OF SUBPOENAS.**

Whenever in this Charter the Council or any other agency of the Municipal government is given authority to issue subpoenas or to require attendance of witnesses or the production of books, ballots,

papers and records, the same shall be issued and enforced in the manner provided in § 705.21 of the Ohio Revised Code.

#### **§ 12.06 AMENDMENTS TO CHARTER.**

Any provision of this Charter may be amended as provided in Article XVIII, § 9 of the Ohio Constitution, by submission of a proposed amendment to the voters of the Municipality and approved by a majority of those voting on the question of its adoption. Such amendment may be initiated either by a vote of at least five (5) members of Council, or by petition to the Council signed by ten (10) percent of the electors.

The Council shall no later than every five (5) years appoint a Charter Review Commission, commencing in the year 1985, and every five years thereafter, to review the Charter of the City of West Carrollton and if such Commission finds changes in the Charter may be necessary, to make recommendations for such changes to the Council to be placed upon the ballot for approval by a majority of the electors of the city. (Amendment adopted by the electorate, 11-4-80)

#### **§ 12.07 EFFECT OF PARTIAL INVALIDITY.**

A determination that any article, section, or part of any article or section, 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 thereof, is wholly dependent for its operation upon the part declared invalid.

#### **§ 12.08 PUBLICATION.**

Whenever publication of an ordinance, resolution, notice or other official document is required by the provisions of this Charter or by any ordinance passed thereunder, it shall be sufficient compliance with such requirement if the publication is made as provided in § 5.05 of this Charter. As an alternative, the Municipality may publish and distribute an official Municipal bulletin to the residences in the Municipality, containing such official notices and general reports concerning Municipal affairs. Such official bulletin may be reproduced by letterpress, offset or any other suitable method and the cost of its reproduction and distribution shall

be paid from public funds. Whenever the Council so determines, official notice may also be given by radio or television news services.

**§ 12.09 INCORPORATION OF GENERAL LAW.**

Whenever reference is made in this Charter to sections of the Ohio Revised Code as governing organization or procedure of Municipal officials or agencies, it is declared to be the intention of the voters in approving this Charter that if such sections should be amended in the future by the Ohio General Assembly, such amendments shall be incorporated into this Charter also, unless the people amend the Charter to provide a different organization or procedure from that established by state law. If a section referred to in this Charter is repealed, the Council, may by ordinance, establish the rule to be followed.

**ARTICLE XIII. TRANSITIONAL PROVISIONS**

**§ 13.01 EFFECTIVE DATE.**

For the purpose of nominating and electing the elective officers of the Municipality of West Carrollton, this Charter shall take effect on the first day of January, 1969. For all other purposes, this Charter shall take effect from the time of its approval by the electors of the Municipality.

**§ 13.02 SUCCESSION.**

The Municipality of West Carrollton, under this Charter, is hereby declared to be the legal successor of the Municipality of West Carrollton, under the laws of the State of Ohio, and as such it has title to all property, real, personal and mixed, 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 also 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.

**§ 13.03 CONTINUATION OF COUNCIL.**

Councilmen and the Mayor in office when this Charter becomes effective shall continue in office until the end of the terms for which they were elected when successors shall be chosen for full terms under the provisions of this Charter.

**§ 13.04 CONTINUATION OF ORDINANCES.**

All ordinances, resolutions and other acts of the Village of West Carrollton, in effect at the time this Charter becomes effective, shall remain in effect, except as superseded by the provisions of this Charter, until they are amended or repealed.

**§ 13.05 CONTINUATION OF OFFICERS.**

All persons holding office at the time this Charter takes effect shall continue in office (except as specifically provided otherwise in this Charter) until provision shall have been made, in conformity with this Charter, for the performance of their duties by a successor, or the office is abolished.

**§ 13.06 CONTINUATION OF EMPLOYEES.**

Every employee of the Municipality when this Charter takes effect shall be retained in his employment with the same status, rights and privileges as before, but shall thereafter be subject in all respects to the provisions of this Charter.

**§ 13.07 TRANSFER OF RECORDS AND PROPERTY.**

All public records and property in the custody of officers and employees of the Municipality at the time this Charter becomes effective shall be transferred and delivered promptly to their successors.

**§ 13.08 CONTINUATION OF CONTRACTS AND IMPROVEMENTS.**

All Contracts entered into by the Municipality or for its benefit, prior to the taking effect of this Charter shall remain in full force and effect. Public improvements for which legislative steps have been taken under laws existing at the time

this Charter takes effect, shall be completed, as nearly as practicable, under the provisions of such laws.

**§ 13.09 PENDING ACTIONS AND PROCEEDINGS.**

No action or proceeding, civil or criminal, pending in any Court at the time this Charter takes effect, brought by or against the Municipality or any office, agency or officer thereof, shall be abated or affected by anything herein contained, but all such actions shall be prosecuted or defended under the laws in effect when they are filed.

**§ 13.10 TRANSFER OF FINANCE FUNCTIONS.**

The functions performed by the Clerk-Treasurer under the optional law shall be transferred under this Charter to the Department of Finance on June 1, 1967, and the office of Clerk-Treasurer shall be abolished as an independent office as of that date.