

# Exhibit A

## **Amendment #1**

### **Section 3.4: Removal and Vacancies.**

#### **Current Language**

The Council shall be the judge of the election and qualifications of its own members. In case of persistent failure to abide by the rules of Council. or absences without being excused by the Council for three (3) consecutive regular, special or committee-of-the-whole meetings, the seat of such member may be declared vacant by resolution of Council, five (5) members concurring.

The Council shall declare a vacant seat of any member for the following reasons:

1. One who shall cease to be a qualified elector as required by the Charter or the law of Ohio.
2. One who shall hold any other salaried public office of the City, except that of the Mayor of the City, notary public, or member of the Armed Forces of the State of Ohio or the United States, or any other elected office
3. One who holds memberships in auxiliary or volunteer organizations of the Police or Fire Departments of the City.
4. One who shall violate any expressed provision of this Charter.
5. One who shall be convicted of a crime involving moral turpitude.
6. One who shall violate any other provision of the State laws as applicable to public officials and the penalty includes forfeiture of office.

A vacancy in the Council shall be filled within thirty (30) days by a vote of the remaining members of the Council. If the Council fails to fill any vacancy within thirty (30) days following the occurrence of a vacancy, the power of the Council to fill the vacancy shall lapse. Any appointee under this Section shall qualify under the provisions of this Charter and shall serve until the next election, which occurs at least one hundred (100) days after his or her appointment (so as to allow nominating petitions to be filed by the 4:00pm deadline seventy-five (75) days before such an election).

Whether or not Council fills the vacancy, the Clerk of Council, by authority of this Charter, shall request the Board of Elections of Montgomery County to hold a special election to fill the unexpired term. Such special election shall be held no later than one hundred (100) days following the occurrence of the vacancy. This one hundred (100) day period does not include the thirty (30) day period for Council to fill the vacancy. A special election need not be held if a regular municipal election occurs during the one hundred (100) day period. The individual elected in such special election shall take office immediately following election certification by the Board of Elections and shall serve for the balance of the unexpired term.

If Council has filled the vacancy under this Section and the unexpired term of the vacated Council seat is twelve (12) months or less from the date of the occurrence of the vacancy, then, no special election shall be held, and the appointee shall serve for the balance of the unexpired term. (Amended 11-3-98).

## Proposed Amendment

The Council shall be the judge of the election and qualifications of its own members. In case of persistent failure to abide by the rules of Council, THE SEAT OF SUCH MEMBER MAY BE DECLARED VACANT BY RESOLUTION OF COUNCIL, FIVE (5) MEMBERS CONCURRING. IN CASE OF absences without being excused by the Council for FOUR (4) consecutive meetings, REGARDLESS IF THE MEETINGS ARE **REGULAR MEETINGS OR COMMITTEE OF THE WHOLE MEETING**, the seat of such member SHALL IMMEDIATELY BECOME VACANT.

The Council shall declare a vacant seat of any member for the following reasons:

1. One who shall cease to be a qualified elector as required by the Charter or the law of Ohio.
2. One who shall hold any other salaried public office of the City,
3. One who shall violate any expressed provision of this Charter.
4. One who shall violate any other provision of the State laws as applicable to public officials and the penalty includes forfeiture of office.

THE REMAINING MEMBERS OF COUNCIL MAY APPOINT A QUALIFIED ELECTOR AS DEFINED IN SECTION 3.3 TO FILL A vacancy ON the Council within thirty (30) days OF THE OCCURRENCE OF THE VACANCY. If the Council fails to fill any vacancy within thirty (30) days following the occurrence of a vacancy, the power of the Council to fill the vacancy shall lapse. Any appointee under this Section shall qualify under the provisions of this Charter and shall serve until the next election, which occurs at least one hundred (100) days after his or her appointment (so as to allow nominating petitions to be filed by the 4:00pm deadline seventy-five (75) days before such an election).

Whether or not Council fills the vacancy, the Clerk of Council, by authority of this Charter, shall request the Board of Elections of Montgomery County to hold a special election to fill the unexpired term. Such special election shall be held no later than ONE HUNDRED AND FIFTY (150) days following the occurrence of the vacancy. This ONE HUNDRED AND FIFTY (150) day period does include the thirty (30) day period for Council to fill the vacancy. A special election need not be held if a regular municipal election occurs during the one hundred AND FIFTY (150) day period. The individual elected in such special election shall take office immediately following election certification by the Board of Elections and shall serve for the balance of the unexpired term.

If Council has filled the vacancy under this Section and the term of the vacated Council seat is twelve (12) months or less from the date of the EXPIRATION OF THE TERM, no special election shall be held, and the appointee shall serve for the balance of the unexpired term. (2003).

*The Commission recommends these changes to remove inconsistencies in the current language. The language for removal is also clarified. In addition, extending the period to 150 days will allow a wider latitude for special elections. For example, under this provision, the last two special elections could have been held on the same day. Also, the language is updated to reflect the elimination of auxiliaries, etc., and the requirements of the Ohio Revised Code.*

## **Amendment # 2**

### **Section 3.5: Salaries.**

#### **Current Language**

The base salary of a Council Member shall be Twelve Hundred Dollars (\$1,200) annually. The base salary of the Mayor shall be Twenty-four Hundred dollars (\$2,400) annually. In addition, a Council Member and the Mayor shall receive, as additional salary, the sum of Twenty Dollars (\$20.00) for each regular council meeting and each Committee-of-the-Whole meeting attended each month, not to exceed a total of Eighty Dollars (\$80.00) per month. In addition, the Mayor and Deputy Mayor shall receive, as additional salary, the sum of Twenty-five Dollars (\$25.00) for each pre-scheduled court session attended each month, not to exceed a total of Thirteen Hundred Dollars (\$1,300) per year. Council Members and the Mayor shall not receive additional salary for attending special meetings of the Council. The salaries of the Council Members and the Mayor shall be changed only by a majority vote of the electors of the City of Moraine at a special or general election.

#### **Proposed Amendment**

The base salary of a Council Member shall be FOUR THOUSAND DOLLARS (\$4,000) annually. The base salary of the Mayor shall be FIVE THOUSAND, TWO HUNDRED DOLLARS (\$5,200) annually. In addition, the Mayor and Deputy Mayor shall receive, as additional salary, the sum of Twenty-five Dollars (\$25.00) for each pre-scheduled court session attended each month, not to exceed a total of TWO THOUSAND, SIX HUNDRED DOLLARS (\$2,600) per year. Council Members and the Mayor shall not receive additional salary for attending special meetings of the Council. The salaries of the Council Members and the Mayor shall be changed only by a majority vote of the electors of the City of Moraine at a special or general election. (2003)

*The Commission recommends the elimination of per meeting pay at the request of the Finance Director. The per meeting pay is confusing and difficult to administer. Secondly, the per meeting pay was meant as an inducement to attend the meetings. As the member can be removed for failure to attend, that inducement is no longer necessary.*

*Additionally, the Commission reviewed the salaries of cities of similar size and budget and found the Council salary to be far below the average levels. The Commission, therefore, recommends the increase above. Once per meeting pay is taken into account, the current actual salary is \$2,160. The recommended salaries are in the median range of Council salaries for similar cities. Further, the Commission recommends allowing payment not to exceed two court sessions per week for the Mayor and/or Deputy Mayor. The Commission intends the \$2,600 to be the total payable amount, whether to a single individual or both the mayor and deputy mayor.*

## **Amendment # 3**

### **Section 3.5: Salaries.**

#### **Current Language**

The Mayor and the Council Members shall receive their reasonable and necessary expenses incurred in the performance of their official duties. Reasonable and necessary expenses shall only include expenses actually incurred and paid by Council Members or the Mayor while in the performance of their official duties and, in regard to Attendance at conventions and meetings occurring outside Montgomery County, Ohio, and shall be authorized by resolution, stating the exact purpose thereof.

Council shall, by ordinance, provide for the filing by Council Members and the Mayor. of expense reports. detailing all costs with receipts attached, which must be filed with the Finance Director within ten (10) BUSINESS days after performance of said official duty. Said ordinance shall further provide that any unused funds advanced by the City for expenses shall be accounted for and repaid within said ten (10) day period. (Amended 11-3-98).

#### **Proposed Language**

### **Section 3.6 Reimbursement of Expenses**

The Mayor and the Council Members shall receive their reasonable and necessary expenses incurred in the performance of their official duties. Reasonable and necessary expenses shall only include expenses actually incurred and paid by Council Members or the Mayor while in the performance of their official duties. Attendance OF conventions and meetings occurring outside Montgomery County, Ohio, shall be authorized by resolution, stating the exact purpose thereof.

Council shall, by ordinance, provide for the filing OF EXPENSE REPORTS by Council Members and the Mayor. THE EXPENSE REPORTS SHALL INCLUDE A DETAILED LISTING OF COSTS WITH RECEIPTS ATTACHED. THE RECEIPT REQUIREMENT, HOWEVER, DOES NOT PROHIBIT THE USE OF STANDARDIZED PER DIEM AMOUNTS TO COVER MEALS AND OTHER INCIDENTAL EXPENSES. EXPENSE REPORTS must be filed with the Finance Director within ten (10) BUSINESS days after performance of said official duty. Said ordinance shall further provide that any unused funds advanced by the City for expenses shall be accounted for and repaid within said ten (10) BUSINESS day period. IF A COUNCIL MEMBER FAILS TO FILE EXPENSE REPORTS OR FAILS TO REPAY ADVANCED FUNDS WITHIN SAID TEN DAY PERIOD, THE TRAVEL PRIVILEGES OF SUCH COUNCIL MEMBER SHALL IMMEDIATELY BE SUSPENDED AND THE ADVANCED FUNDS RECOVERED THROUGH GARNISHMENT OF SAID COUNCIL MEMBER'S SALARY UNTIL SUCH TIME AS THE ADVANCED FUNDS ARE REPAYED (2003).

*Also at the recommendation of the Finance Director, the Commission reviewed the travel section. The Commission believes a per diem rate to be more efficient and less costly and time consuming to the City. The Commission also felt a penalty clause should be enacted to ensure that expense reports are properly and timely filed.*

## **Amendment # 4**

### **Section 3.6: Mayor.**

#### **Current Language**

At the general Municipal election in 1967, a Mayor shall be elected by separate ballot from the City at large with the term ending with the first business day of 1970. A successor shall be elected at the general City election of November 1969, and every fourth year thereafter. The Mayor shall be a qualified elector of the City, a resident of the City for one year. removal of residence from the City shall forfeit his office.

The Mayor shall be a member of Council. The Mayor shall have a right to vote as a member of Council but shall have no veto.

In addition to his power, rights and duties as a member of Council, the Mayor shall preside at all Regular Special and Executive Meetings SESSIONS of the Council and shall be recognized as the official head of the City for ceremonial purposes, by the Governor for military purposes and by the courts for the purpose of serving civil process. The Mayor shall perform all other duties prescribed for him in this Charter and such other duties as may be imposed on him by any measure of the Council.

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

A vacancy in the office of the Mayor shall be filled as a vacant seat of a member of Council as set forth in Section 3.4 of the Charter. (Amended 1-8-80).

#### **Proposed Amendment**

At the general Municipal election in 1967, a Mayor shall be elected by separate ballot from the City at large with the term ending with the first business day of 1970. A successor shall be elected at the general City election of November 1969, and every fourth year thereafter. The Mayor shall be a qualified elector of the City AND a resident of the City for one year PRIOR TO THE DATE THE NOMINATION PETITION FOR THE OFFICE IS FILED. A MAYOR WHO CEASES TO BE A RESIDENT OR QUALIFIED ELECTOR OF THE CITY SHALL IMMEDIATELY FORFEIT THE OFFICE.

The Mayor shall be a member of Council. The Mayor shall have a right to vote as a member of Council but shall have no veto.

In addition to his power, rights and duties as a member of Council, the Mayor shall preside at all **Regular COUNCIL AND Special MEETINGS** and **Executive SESSIONS** of the Council and shall be recognized as the official head of the City for ceremonial purposes, by the Governor for military purposes and by the courts for the purpose of serving civil process. The Mayor shall perform all other duties prescribed for him in this Charter and such other duties as may be imposed by any measure of the Council.

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

A vacancy in the office of the Mayor shall be FILLED BY THE DEPUTY MAYOR UNTIL A SUCCESSOR IS ELECTED BY SPECIAL ELECTION SUBJECT TO THE SAME CONDITIONS AS PRESCRIBED IN Section 3.4 of the Charter. (2003).

*The Commission recommends these amendments to match the earlier recommendations on residency requirements. The amendment also clearly establishes three types of regular meetings: Committee of the Whole, Regular Council and Executive Sessions. The amendment also corrects a contradiction within the Charter for the temporary replacement of the Mayor.*

## **Amendment #5**

### **Section 3.8: Meetings.**

#### **Current Language**

Council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once a month. All meetings shall be open to the public, except executive sessions as authorized by State law and the ordinances of the City.

A Regular Organizational Meeting shall be held during the first week in January of each yearS A majority of the members elected to Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time.

Special Meetings may be called by the Mayor or any three (3) members of Council on twelve (12) hours notice served on each member personally, or left at his usual place of residence. The purpose of the Special Meeting shall be stated in the notice, and no other business shall be transacted at such meeting.

### **Section 3.8: Meetings.**

Council shall HOLD A REGULAR MEETING at such times as may be prescribed by its rules but not less frequently than once a month. All REGULAR MEETINGS, SPECIAL MEETINGS, AND COMMITTEE OF THE WHOLE MEETINGS shall be open to the public, except executive sessions as authorized by State law and the ordinances of the City.

A Regular Organizational Meeting shall be held during the first week in January of EVEN NUMBERED yearS. FOUR MEMBERS OF COUNCIL SHALL constitute a quorum to do business, but a lesser number may adjourn from time to time.

Special Meetings may be called by the Mayor or any three (3) members of Council on twelve (12) hours notice served on each member personally, or left at THE residence OF RECORD. The purpose of the Special Meeting shall be stated in the notice, and no other business shall be transacted at such meeting.(2003)

*The Commission recommends organizing the Council into committees in even numbered years to be more efficient. The Deputy Mayor is now appointed for two year terms. This amendment makes the Charter consistent.*

## **Amendment #6**

### **Section 4.4: Procedure of Passage of Ordinances.**

#### **Current Language**

Every ordinance shall be introduced in written form. Upon approval on its first reading in its entirety, a summary of the ordinance or A complete text shall be published by posting in not less than three (3) of the most public places in the City to be determined by the Council, At least three (3) correct copies of the ordinance in the form in which it was approved on the first reading, shall be made available to public inspection in the office of the City, together with a notation as to the time and place of its FIRST READING consideration for adoption.

The summary of the ordinance, to be published by posting as above set forth, shall describe the ordinance in brief and general terms, and state that the ordinance is available for public inspection in the office of the City, together with a notation as to the time and place of its consideration for final adoption. The publication by posting shall be at least one (1) week prior to the time set forth in the summary of the ordinance. (Amended 11-2-93).

#### **Proposed Language**

Every ordinance shall be introduced in written form. A complete text shall be published by posting in not less than three (3) of the most public places in the City to be determined by the Council AND ON THE CITY OF MORAINÉ WEBSITE, with a notation as to the time and place of its FIRST READING. A SUMMARY OF THE ACTION TAKEN BY THE ORDINANCE SHALL BE READ AS A FIRST READING.

The NOTICE OF SECOND READING AND CONSIDERATION FOR FINAL ADOPTION of the ordinance SHALL be published by posting as above set forth WITH THE COMPLETE TEXT OF THE ORDINANCE ATTACHED AND SHALL CONTAIN the time and place of its consideration for final adoption. The publication by posting shall be at least one (1) week prior to the time set forth in the summary of the ordinance. (2003).

*The Commission recommends the amendment to first take advantage of current technology and secondly to remove the reading of the complete text. The reading is time consuming and difficult to follow without a printed copy. By making the language available on the website and in the three areas, the public will have easy access to the legislation.*



## **Amendment #7**

### **Original Language**

#### **Section 5.1: Appointment.**

A Manager shall be appointed by the Council to serve at the will of the Council, the majority of all the members of the Council being required for his appointment.

#### **Section 5.2: Qualifications.**

The City Manager shall be chosen solely on the basis of his executive and administrative qualifications with actual experience and training in the accepted practices and duties of such office. At the time of his appointment, he need not be a resident and elector of the City or State but shall become a resident and an elector of the City within one hundred eighty (180) calendar days after his appointment. No Council Member nor Mayor shall receive such an appointment during the term for which he shall have been elected, nor within one (1) year after the expiration of his term. (Amended 11-3-98).

#### **Section 5.3: Powers and Duties.**

The City Manager shall be the Chief Executive Officer of the City, and shall be responsible to the Council for the proper administration of the City government. His duties shall be:

- a. To see that this Charter, the law, and the ordinances and resolutions of the City are faithfully observed and enforced.
- b. Except as provided in this Charter, to appoint or remove all officers and employees of the City, all such action to be upon merit and fitness alone, and subject to the merit service provisions.
- c. To exercise control over all departments created by Council. The City Manager shall not exercise control over the Director *AND EMPLOYEES* of the Department of Law or the Director *AND THE EMPLOYEES* of the Department of Finance.
- d. To recommend to Council such measures as he may deem necessary or expedient.
- e. To keep the Council fully advised as to the condition and needs of the City.
- f. To prepare and submit to Council such reports as may be required by that body.
- g. To submit to the Council as such date as Council shall designate, a budget which shall include:
  1. An itemized estimate of the expenses of conducting each department.
  2. Comparison of such estimates with the corresponding items of the expenditure for the last two complete years and with the expenses of the current fiscal year, plus an estimate of the expenditures necessary to complete the current fiscal year.
  3. Reasons for the proposed increases or decreases for such items as expenditures compared to the current fiscal year.
  4. A separate schedule of each department showing the things necessary for the department to do during the year, and the things to do if funds permit.

5. A statement of the amounts to be appropriated to pay the debts of the City.
6. Such other information as may be required by the Council.
- h. To prepare and submit to the Council at of the end of the fiscal year, a complete report on the administrative activities of the City for the preceding year.
- i. To be in charge of all purchases of the City.
- j. To execute and deliver all contracts for the City, except franchises for public utility service.
- k. To attend all meetings of the Council, with the right of discussion but without a vote.
- l. To perform such other duties as may be described by this Charter or required of him by ordinance or resolution of Council.
- m. To appoint, with the approval of Council, such advisory committees as he may deem necessary and to discharge them with the approval of Council, when their duties have been completely discharged.
- n. To exercise control over all official maps of the City and to keep such maps indexed to support legislation and otherwise current. (Amended 11-3-98).

### **Proposed Language**

#### **Section 5.1: Appointment.**

A Manager shall be appointed by the Council to serve at the will of the Council, the majority of all the members of the Council being required for appointment.

#### **Section 5.2: Qualifications.**

The City Manager shall be chosen solely on the basis of executive and administrative qualifications with actual experience and training in the accepted practices and duties of such office. At the time of appointment, THE CITY MANAGER need not be a resident and elector of the City or State but shall become a resident and an elector of the City within one hundred eighty (180) calendar days after appointment. No Council Member nor Mayor shall receive such an appointment during the ELECTED term nor within one (1) year after the expiration of THE term. (Amended 11-3-98).

#### **Section 5.3: Powers and Duties.**

The City Manager shall be the Chief Executive Officer of the City, and shall be responsible to the Council for the proper administration of the City government. THE duties shall be:

- A. To see that this Charter, the law, and the ordinances and resolutions of the City are faithfully observed and enforced.
- B. Except as provided in this Charter, to appoint or remove all officers and employees of the City, all such action to be upon merit and fitness alone, and subject to the merit service provisions.
- C. To exercise control over all departments created by Council. The City Manager shall not exercise control over the Director *AND EMPLOYEES* of the Department of Law or the Director *AND EMPLOYEES* of the Department of Finance.

- D. To recommend to Council such measures as may be deemed necessary or expedient.
- E. To keep the Council fully advised as to the condition and needs of the City.
- F. To prepare and submit to Council such reports as may be required by that body.
- G. To submit to the Council as such date as Council shall designate, a budget which shall include:
  - 1. An itemized estimate of the expenses of conducting each department.
  - 2. Comparison of such estimates with the corresponding items of the expenditure for the last two complete years and with the expenses of the current fiscal year, plus an estimate of the expenditures necessary to complete the current fiscal year.
  - 3. Reasons for the proposed increases or decreases for such items as expenditures compared to the current fiscal year.
  - 4. A separate schedule of each department showing the things necessary for the department to do during the year, and the things to do if funds permit.
  - 5. A statement of the amounts to be appropriated to pay the debts of the City.
  - 6. Such other information as may be required by the Council.
- H. To prepare and submit to the Council as of the end of the fiscal year, a complete report on the administrative activities of the City for the preceding year.
- I. To be in charge of all purchases of the City.
- J. To execute and deliver all contracts for the City, except franchises for public utility service.
- K. To attend all meetings of the Council, with the right of discussion but without a vote.
- L. To perform such other duties as may be described by this Charter or required by ordinance or resolution of Council.
- M. To appoint, with the approval of Council, such advisory committees as may BE deemED necessary and to discharge them with the approval of Council, when their duties have been completely discharged.
- N. To exercise control over all official maps of the City and to keep such maps indexed to support legislation and otherwise current. (2003).

*Subsection C is the only major change, and it is simply a clarification. The remainder of the proposed changes in this section make the Charter gender neutral.*

## **Amendment #8**

### **Section 6.9: Municipal Clerk.**

#### **Current Language**

The Council shall appoint a Municipal Clerk, also known as the Clerk of Council, for an indefinite term whose duty it shall be to keep the journal and other records of the Council and to perform such other duties as the Council may require. (Amended 11-3-98).

#### **Proposed Language**

The Council shall appoint a Municipal Clerk, also known as the Clerk of Council, for an indefinite term whose duty it shall be to keep the journal and other records of the Council and to perform such other duties as the Council OR THE CITY MANAGER may require. (2003).

*The City Manager requested that the language be added to reflect the current practice.*

## **Amendment #9**

### **Section 7.3: Appeals from Planning Commission to Council.**

#### **Current Language**

Any person, firm, corporation, or any officer, department, board or agency of the City, or any elector of the City who has been affected by any final decision of the Planning Commission in regard to its platting and subdivision duties or its duties to approve and implement a comprehensive general plan may appeal from such final decision to the Council of the City by filing a petition with the Clerk of Council within fifteen (15) days from the date of the decision and setting forth the facts of the case.

Council shall hold a public hearing on such appeal not later than thirty (30) days after such appeal has been filed with its Clerk. Council by an affirmative vote of four (4) of its members shall decide the matter, and their decision shall be final.

#### **Proposed Language**

Any person, firm, corporation, or any officer, department, board or agency of the City, or any elector of the City who has been affected by any final decision of the Planning Commission in regard to its platting and subdivision duties or its duties to approve and implement a comprehensive general plan may appeal from such final decision to the Council of the City by filing a petition with the Clerk of Council within fifteen (15) days from the date of the decision and setting forth the BASIS FOR THE APPEAL.

Council shall hold a public hearing on such appeal not later than FORTY-FIVE (45) days after such appeal has been filed with its Clerk. THE COUNCIL SHALL CAUSE TO BE POSTED, IN NOT LESS THAN THREE (3) OF THE MOST PUBLIC PLACES IN THE CITY AS DETERMINED BY THE COUNCIL AND ON THE CITY OF MORaine WEBSITE, A NOTICE FOR THE PUBLIC HEARING. SUCH NOTICE SHALL BE POSTED AT LEAST TEN (10) DAYS PRIOR TO THE PUBLIC HEARING AND SHALL CONTAIN THE TIME AND PLACE OF THE PUBLIC HEARING AS WELL AS A DESCRIPTION OF THE ACTION BEING APPEALED. Council by an affirmative vote of four (4) of its members shall decide the matter, and their decision shall be final.

*The Commission believes notice should be provided for appeals to Council. The notice enables the public to attend if they so desire.*

## ***Amendment #10***

### **Section 7.5: Removal of Members of Planning Commission and Board of Zoning Appeals.**

#### **(a) Current Language**

By concurrence of four (4) or more of its members, Council shall have the power to remove members of the above Commission or Board 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.

#### **Proposed Language**

### **Section 7.12: Removal of Members of BOARDS AND COMMISSIONS**

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

*The Commission believes that the ability to remove members should exist for all boards and commissions. This addition allows the Council the discretion to remove members when necessary.*

## **Amendment #11**

### **Current Language**

#### **Section 7.8: The Classified Service.**

It shall include only the following full-time employees of the City:

- (a) Members, including officers, of the Department of Public Service and the Department of Public Safety and all divisions created thereunder, other than the directors and assistants of the departments; and the chiefs and assistants of the divisions thereof.
- (b) Employees of the utility operated by the City requiring an operator's license, except that of a chauffeur's license, in the performance of their duties.
- (c) Office help, mechanics, and all positions not specifically included by this Charter in the unclassified service. (Amended 11-3-98).

#### **Section 7.9: Unclassified Service.**

The unclassified service shall include:

- (a) All officers elected by the people.
- (b) All department directors and their assistants, and the chiefs of divisions and their assistants, created by this Charter or by Council.
- (c) The City Manager.
- (d) Members of boards and commissions.
- (e) Clerk of Council.
- (f) Secretary to the Mayor, secretary to the City Manager, and secretary to each department head, and secretary to each board and commission.
- (g) Unskilled labor.
- (h) Persons appointed to fill vacancies in elective offices.
- (i) All officers and employees appointed by the Council.
- (j) Provisional employees whose employment shall not exceed one hundred twenty (120) days.
- (k) Any office or position requiring peculiar or exceptional qualification. (Amended 1-8-80).

### **Proposed Language**

#### **Section 7.8: The Classified Service.**

THE CLASSIFIED SERVICE shall include only the following full-time employees:

- (a) Members, including officers of the following departments and divisions:
  - 1. Division of Streets
  - 2. Division of Building and Parks Maintenance

3. Department of Public Safety
- (b) Specifically excluded from the classified service are the following positions within the above departments and divisions:
1. Chiefs and Deputy Chiefs
  2. Directors and Assistant Directors
  3. Clerks, Secretaries and Receptionists
  4. Unsworn Community Services Officer
  5. Superintendents and their assistants

### **Section 7.9: Unclassified Service**

The unclassified service shall include:

- (A) All officers elected by the people.
- (B) ALL PART-TIME AND SEASONAL PERSONNEL
- (C) ALL POSITIONS NOT SPECIFICALLY INCLUDED BY THIS CHARTER IN THE CLASSIFIED SERVICE

*This language is recommended to conform the Charter to the practice of the City. Many of the job titles have changed, and additional positions have been created, such as the Records Clerk in the Police Division. This language conforms to the practice within the City. The elimination of job titles allows greater flexibility in the creation or reassignment of job functions. Additionally, any new positions created in departments other than those listed in the Classified Service will automatically be unclassified.*



## **Amendment #12**

### **Section 7.12: Personnel Appeals Board and Duties.**

#### **Current Language**

- (a) **Personnel Appeals Board.** There shall be a Personnel Appeals Board consisting of five (5) members who shall be selected by a majority vote of 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 (1) member shall expire annually thereafter.
- (b) **Duties.** The Personnel Appeals Board shall hear appeals when any official, departmental or division head or full time employee of the City in the unclassified service is suspended, reduced or removed, and requests a hearing. Requests for a hearing shall be filed with the Clerk of Council within thirty (30) calendar days of exhaustion of the City grievance procedure. The Board shall make its own rules, concerning procedure, choose its own officers, and have authority to subpoena witnesses and to require the production of records. The Board shall be required to make findings and issue recommendations to the deciding authority.
- (c) The members of the Personnel Appeals Board shall serve without compensation and shall avoid all conflict of interest and specifically, no member shall participate or vote on any matter involving a relative of the member. (Amended 11-3-98).

#### **Proposed Language**

*The Commission recommends the deletion of this entire section. The PAB is non-binding and places citizens in the awkward position of judging a public employee. The PAB is redundant as well; a hearing prior to reduction, suspension, or removal must be held by a neutral manager. The hearing is mandated by federal law.*

## **Amendment #13**

### **Section 9.3: Recall.**

#### **Current Language**

The electors shall have the power to remove from office by recall election any elected officer of the City. In an elected officer shall have served for six months of his term, a petition demanding his removal may be filed with the Board of Elections who shall note thereon the name and address of the person filing the petition and the date of such filing. Such petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain the name and office of the person whose removal is sought and a statement in not more than two hundred words of the grounds for removal. Such petition shall be signed by the number of electors which equals thirty percent of the total number electors voting for the candidates at large in the case of the proposed removal of a Council Member-at-large or Mayor, or the number of electors which equals thirty percent of the total number of electors voting for the candidates for a particular district in the case of the proposed removal of a Council Member from a district. Within ten days after the day on which such petition is filed, the Board of Elections shall determine whether or not it meets the requirements hereof. If the Board of Elections shall find the petition insufficient, they shall promptly certify the particulars in which the petition is defective, deliver a copy of their certificate to the person who filed the petition with the, and make a record of such delivery. Such person shall be allowed a period of twenty days after the day on which such delivery was made in which to make the petition sufficient. If the Board of Elections shall find the petition sufficient, they shall promptly so certify the Council, shall deliver a copy of such certificate to the officer whose removal is sought, and shall make a record of such delivery. If such officer shall not resign within five days after the day on which such delivery shall have been made, the Council shall thereupon fix a day for holding a recall election, not less than sixty days nor more than seventy-five days after the date of such delivery. At such recall election this question shall be placed on the ballot: "Shall (naming the officer) be allowed to continue as (naming the office) ?" with the provision on the ballot for voting affirmatively or negatively on such question. If a majority of the votes cast as such election shall be voted affirmatively, such officer shall remain in office. If a majority of votes cast shall be voted negatively, such officer shall be considered as removed, his office shall be deemed vacant, and such vacancy shall be filled as provided in this Charter. The officer removed by such recall election shall not be eligible for appointment to the vacancy thereby.

#### **Article II. Proposed Language**

The electors shall have the power to remove from office by recall election any elected officer of the City who has served at least six months of the elected term.

The petition to recall an elected officer shall meet the following requirements:

- (A) The petition shall be on 8½" by 14" paper, and each page shall be printed on both sides and shall include a Montgomery County Board of Elections Certificate of Validity at the bottom of the second side.

- (B) The title of the petition shall include the name and office of the person whose removal is sought as well as a statement of not more than two hundred words of the grounds for removal.
- (C) The title, as described above, shall appear on every page. Pages may be circulated separately, but the separate pages must be bound together and filed as a single instrument.
- (D) The petition shall be signed by not less than the number of qualified electors equal to thirty percent of the ballots cast in the election of the officer whose removal is sought.
- (E) All qualified electors may sign the petition, regardless of whether they voted in the election of the officer whose removal is sought.
- (F) The signature section of the petition shall be divided into the following four columns in this specific order: printed name, printed address, signature and date.
- (G) The petition shall include the following warning: "Whoever commits election falsification is guilty of a felony of the fifth degree."
- (H) The petition shall include the following circulator statement: "I, \_\_\_\_\_, declare under penalty of election falsification that I am a qualified elector of the State of Ohio and I reside at the address appearing below my signature; that I am the circulator of the foregoing petitions containing \_\_\_\_\_ signatures; that I witnessed the affixing of signature; that all signers were to the best of my knowledge and belief qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be.

Prior to circulation, the petition for recall shall be submitted to the Clerk of Council for review. The Clerk of Council shall approve the petition as to form and shall certify that the petition meets the above criteria as to form within two business days of the receipt of said petition. If the Clerk of Council determines the petition does not meet the required criteria as to form, the Clerk shall notify the person who submitted the petition of the specific defects of said petition. The Clerk shall make a record of such determination and notification.

The completed and approved petition for recall shall be filed with the Montgomery County Board of Elections. The Board of Elections shall note thereon the name and address of the person filing the petition and the date of such filing. Within ten business days of the receipt of said petition for recall, the Montgomery County Board of Elections shall certify the number of valid signatures of qualified electors contained on the petition for recall and shall determine if the completed petition meets the requirements of Section 9.3(D). The Board of Elections shall deliver a copy of their certificate to the person who filed the petition for recall and shall make a record of such delivery. If the Board of Elections determines the number of valid signatures of qualified electors on the petition is insufficient, the person who filed the petition shall be allowed a period of twenty days from the date such determination is delivered to make the petition sufficient.

If the Board of Elections shall find the petition contains a sufficient number of valid signatures of qualified electors, they shall promptly so certify to the Council, shall deliver a copy of such certificate to the officer whose removal is sought, and shall make a record of such delivery. If the officer whose removal is sought does not resign within five days of the date said delivery is made, the Clerk of Council shall schedule a recall

election. The recall election shall occur not less than seventy-five days and not more than one hundred days following said five day period. The following question shall be placed on the ballot at a recall election: "Shall (naming the officer) be allowed to continue as (naming the office)?" The ballot shall also contain the provision for voting "Yes" or "No." If the majority of the votes cast are in the affirmative, the officer shall remain in office and shall not be subject to recall for a period of one (1) year from the date of such recall election. If the majority of the votes cast are in the negative, the office shall immediately be deemed vacant. Such vacancy shall be filled as described in Section 3.4 of this Charter, provided that the officer removed by the recall election shall not be eligible for appointment to the vacancy created.

*The Commission would like to clarify recall procedures. Any citizen should be able to pick up the charter and begin a recall without assistance from an attorney. Further, the Commission believes that a citizen should be able to produce the required formats without purchasing specialized forms or paper. In addition, by specifying the format, the Board of Elections no longer will have the authority to interpret questions of form. That responsibility now resides in the clerk's office. This particular passage and requirements are a hybrid of many local charters. By requiring approval prior to circulation, citizens will not be forced to "re-do" a petition. The Commission hopes to avoid the pitfalls of the last recall attempts through these amendments.*

## **Amendment #14**

### **Section 10.5: Amendment.**

#### **Current Language**

This Charter may be amended as provided in the Constitution of the State of Ohio; that is, by action of the voters of the City. The proposed amendment to be submitted to the voters either by:

- (1) Concurrence of two-thirds (2/3) of the members of Council, or
- (2) Petition of ten percent (10%) of the electors of the City.

At the first meeting of the Council in January, 1973, and every five (5) years thereafter, Council shall appoint a commission of fifteen (15) electors of the City. It shall be duty of the Commission to review the existing Charter and make such recommendations as it may see fit for revision. The Commission shall conduct its affairs pursuant to "Roberts Rules of Order." The Commission shall submit its report to Council not later than August 1 of the same year. Thereupon, Council may take such action as it deems warranted with respect to such recommendation. (Amended 11-8-88).

#### **Proposed Language**

This Charter may be amended as provided in the Constitution of the State of Ohio; that is, by action of the voters of the City. The proposed amendment to be submitted to the voters either by:

- (3) Concurrence of two-thirds (2/3) of the members of Council, or
- (4) Petition of ten percent (10%) of the electors of the City.

At the first meeting of the Council in January, 1973, and every five (5) years thereafter, Council shall appoint a CHARTER REVIEW Commission of NOT LESS THAN NINE (9) electors of the City. It shall be duty of the Commission to review the existing Charter and make such recommendations as it may see fit for revision. The Commission shall conduct its affairs pursuant to "Roberts Rules of Order." The Commission shall submit its report to Council not later than August 1 of the same year. Thereupon, Council may take such action as it deems warranted with respect to such recommendation. (Amended 11-8-88).

*The Commission recognizes the difficulty of maintaining such a large membership. By altering the language to "not less than," the Council is not limited to a specific number. Rather, they can appoint however many members they see fit (beyond the minimum nine).*

## ***Amendment #15***

### **Section 10.6: General Powers.**

#### **Current Language**

The City shall have and may exercise any or all powers, either expressed or implied, which under the Constitution of the State of Ohio, it would be competent for this Charter to enumerate, as fully and completely as though such powers specifically were included herein. Without limitation of the foregoing, the Council may by ordinance make provisions differing from the general law with respect to:

- (a) The making, advertising and awarding of contracts,
- (b) Such other general regulations as the Council may deem necessary. (Amended 11-3-98).

#### **Proposed Language**

The Municipality shall have and may exercise, any or all powers, either expressed or implied, which under the Constitution of Ohio, it would be competent for this Charter to enumerate, as fully and completely as though such powers specifically were included herein.

*The Commission felt the additional language was cumbersome. Mr. Carney advised that the proposed language is the same in both the Kettering Charter and the West Carrollton Charter.*

## **Amendment #16**

### **Section 7.6 Merit System Commission**

#### **Current Language**

The Merit System Commission shall consist of five (5) electors of the City not holding other public office, appointment or employment at the City and shall be appointed by the Council in staggering terms. Thereafter, members shall be appointed for a term of two (2) years and until their successors have been appointed and qualified. The Members of the Merit System Commission shall serve without compensation and shall avoid all conflicts of interest and specifically no member shall participate or vote on any matter involving a relative of such member.

#### **Proposed Language**

The Merit System Commission shall consist of five (5) electors of the City shall be appointed by the Council in staggering terms. Thereafter, members shall be appointed for a term of two (2) years and until their successors have been appointed and qualified. The Members of the Merit System Commission shall serve without compensation and shall avoid all conflicts of interest and specifically no member shall participate or vote on any matter involving a relative of such member.

*The Commission recommends the deletion of the prohibition of serving on other public commissions or boards. Mr. Carney researched the matter before relaying that no such prohibition exists in the Ohio Revised Code or Constitution.*