

CHARTER OF THE MUNICIPALITY OF NEW LEBANON

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PREAMBLE

WE, the people of the Municipality of New Lebanon, Montgomery County, State of Ohio, grateful to Almighty God for our civil and religious freedom, and desiring to secure the benefits of that freedom for ourselves, our children and their children; for the safety of persons and property and the advantages of self-government, do hereby ordain and adopt this Charter for the Municipality of New Lebanon.

ARTICLE I: NAME AND BOUNDARIES

SECTION 1.01 NAME.

The Municipality now existing in the County of Montgomery, State of Ohio and known as the Municipality of New Lebanon, shall continue to be a corporate body.
(Amended, effective 12-30-93)

SECTION 1.02 BOUNDARIES.

The Municipality shall have the same boundaries as now exist, with the power and authority to change its boundaries and annex other territory in the manner authorized by the laws of the State of Ohio.

SECTION 1.03 FORM OF GOVERNMENT.

The municipal government provided by this Charter shall be known as the "Manager Form of Government".
(Amended, effective 12-30-93)

SECTION 1.04 POWERS OF THE MUNICIPALITY.

Except as prohibited by the Constitution of this State or restricted by this Charter, the Municipality of New Lebanon shall have and may exercise all Municipal powers, functions, right, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers in this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby or appropriate to the exercise of such powers, it is intended that the Municipality shall have and may exercise all powers which, under the Constitution of this State or under the laws of the State of Ohio, it would be competent for this Charter specifically to enumerate.

SECTION 1.05 MANNER OF EXERCISE OF POWERS.

All such powers shall be exercised in the manner prescribed in this Charter, or if not prescribed herein, in such manner as shall be provided by ordinance of the Council, and when not prescribed in this Charter or provided by ordinance of Council, then such powers shall be exercised in the manner provided by the general laws of the State of Ohio until the Council shall provide a different manner of exercising such powers.

SECTION 1.06 CONSTRUCTION.

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

SECTION 1.07 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 co-operation, 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 II: MAYOR AND COUNCIL

SECTION 2.01 POWERS, COMPOSITION AND TERM.

All legislative power shall be vested in a Mayor and six (6) council members. For purposes of this Charter, all references to "council" shall refer to the Mayor and six council members.

The Mayor and all council members shall be elected for a four (4) year term. The Mayor shall be elected in November, 1995. Three (3) council members shall be elected in November, 1993. Three (3) council members shall be elected in November, 1995.

The Council member shall be a qualified elector of the Municipality, and shall have been, immediately prior to the date of filing his declaration of candidacy, a continuous resident of the Municipality or any territory annexed thereto, for one (1) year. During their term of office, they shall continue to be a resident and qualified elector. If the Council member shall cease to possess any of the qualifications for such office, they shall forthwith forfeit their office.

(Amended, effective 12-30-93)

SECTION 2.02 COUNCEL AS A CONTINUING BODY.

The Council shall be a continuing body and proceedings, which have been lawfully begun by one

Council can be prosecuted by succeeding Councils until completed and made effective.

SECTION 2.03 COMPENSATION AND BONDS.

Compensation and bonds for Municipal officials and employees shall be established by ordinance of Council. This does not preclude the Municipal Administration's negotiating with municipal employee groups regarding wages and fringe benefits. Salaries of elected officials for the ensuing term shall be set at least forty-five (45) days prior to the last day for filing for candidacy and may not be changed during the term.

SECTION 2.04 MAYOR.

The Mayor shall preside at all meetings of Council, and shall be a voting member. When the Mayor is absent from the Municipality or unable to perform his duties, the Vice Mayor shall become Acting Mayor and shall have the same powers and perform the same duties as the Mayor, but shall retain voting rights on the Council.

(Amended, effective 12-30-93)

SECTION 2.05 VICE MAYOR.

The Vice Mayor of Council shall be elected by Council for a term of one (1) year and shall assume the duties of the Mayor during the Mayor's absence.

(Amended, effective 12-30-93)

SECTION 2.06 ORGANIZATION.

At the first Council meeting in January, Council shall organize itself and appoint from its membership a Vice Mayor. At each organizational meeting, the provisions of this Charter shall be reviewed by all elected officials and Department Heads so as to become familiar with the provisions thereof. In addition, Council shall appoint members of the Planning Commission, Board of Zoning Appeals, Personnel Board and of any board, commission, or committee created or authorized by this Charter or by Ordinance or resolution of Council.

(Amended, effective 12-30-93)

SECTION 2.07 COUNCIL RULES AND JOURNAL.

The Council shall determine its own rules and order of business and shall provide a journal of its proceedings. This journal shall be kept by the Director of Finance and Records and shall be public record.

SECTION 2.08 VACANCEES.

If the office of Mayor becomes vacant, the Vice Mayor shall serve as Mayor. A vacancy in the office of the Vice Mayor shall be filled by the appointment of a Council member made by majority vote of the remaining Council members.

Vacancies in Council shall be filled by appointment of a qualified person, by majority vote of remaining Council members within thirty (30) days of the occurrence of the vacancy. The appointee shall serve until a successor is nominated and elected, subject to the provisions of Section 7.07 herein.

(Amended, effective 12-30-93)

SECTION 2.09 MEETINGS OF COUNCIL.

In each calendar month, the Council shall hold at least two (2) regular meetings, the time and place of which shall be prescribed by ordinance. A majority of council shall constitute a quorum to do business, but a lesser number may adjourn by majority vote from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance or resolution.

Each council member and the Mayor shall be required to attend at least seventy-five percent (75 %) of all regularly scheduled council meetings annually, and, failing to do so, shall be deemed to have resigned the position.

The Council shall be responsible to the electorate for the proper administration of the municipality and as such shall hold not less than one (1) public meeting per calendar quarter. At such time, the Manager and the Department Heads shall meet with the public for a discussion of the affairs of the Municipality.

Special meetings may be held on the call of the Mayor, or of a majority of the members of Council and, whenever practicable, upon no less than twenty-four (24) hours notice to each member. If a member cannot be located personally, a written notice of the time and date of the special meeting shall be left at his last known place of residence in the Municipality.

Emergency Meetings: When necessary for the preservation of the public peace, health and welfare or safety, the Council may hold an emergency meeting with a majority of the members elected constituting a quorum.

(Amended, effective 12-30-93)

SECTION 2.10 LEGISLATIVE PROCEDURE.

The legislative action of the Council shall be by ordinance or resolution, introduced in written or printed form, each of which shall contain no more than one (1) subject, which subject shall be clearly expressed in the title. Ordinances involving general appropriations, however, may contain the various subjects and accounts for which monies are appropriated. Any member of Council may introduce legislation and every ordinance or resolution introduced in the Council shall bear the name(s) of the person(s) sponsoring said ordinance or resolution. An affirmative vote of a majority of Council shall be required for the enactment of every ordinance or resolution, unless a larger number be required by the provisions of this Charter. On the passage of each ordinance or resolution, the voting shall be by roll call and the vote of each member shall be recorded in the Journal

SECTION 2.11 ORDINANCES AND RESOLUTIONS; PROCEDURE IN ADOPTION OF RESOLUTIONS.

Every action of the Council establishing any offense, providing for the levy of a fine or the imposition of a penalty, providing for the levy of any tax or assessment, authorizing the appropriation of public funds, contracting any indebtedness, determining to proceed with any public improvement, purchasing, leasing or transferring real property, as well as all actions so required by this Charter shall be taken by ordinance as hereinafter provided. All other actions of the Council may be taken by resolution or motion.

Resolutions shall be introduced in writing and together with motions may be adopted by a majority of Council upon introduction and without notice or waiting period. Resolutions shall take effect upon adoption or at such other time as the Council may provide and shall not require publication.

(Amended, effective 12-30-93)

SECTION 2.12 READING REQUIREMENTS.

Every ordinance shall be read at meetings of Council on three (3) different days. Ordinances shall be deemed to have been read if a written or printed copy of the ordinance has been furnished to each member of Council prior to its introduction and if the title thereof is fully read, provided that such ordinance shall be read in full at the request of any Council member. Council may suspend the rules for three readings on the affirmative vote of two-thirds (2/3) of

its members. The motion to suspend the rules shall include a statement of the reasons for the rule suspension.

(Amended, effective 12-30-93)

SECTION 2.13 EMERGENCY ORDINANCES.

When necessary for the preservation of the public peace, health and welfare or safety, the Council, by an affirmative vote of the majority of the members present, may adopt an emergency ordinance, which shall set forth and define the specific facts necessitating the emergency. Such emergency ordinances shall require no public hearings and shall take effect at the time indicated therein. Emergency ordinances shall remain in effect for the duration of such emergency. Emergency ordinances shall be published as other ordinances after passage.

SECTION 2.14 ACTIONS NOT PERMITTED AS EMERGENCES.

No ordinance authorizing the surrender or joint exercise of its powers; or in establishing new positions in the classified service of the Municipality; or regulating the rate charged by any public utility; or in the adoption, amendment or repeal of any ordinance relating to zoning or to the use and occupancy of land or structure thereon; or in authorizing any changes in the boundary of the Municipality, shall be adopted as an emergency measure.

SECTION 2.14 AUTHENTICATION OF ORDINANCE AND RESOLUTIONS.

Each ordinance shall be authenticated by the signature of the Mayor or other presiding officer, and the Director of Finance and Records. The failure or refusal of such officers to sign such ordinances or resolutions shall not invalidate an otherwise properly enacted ordinance or resolution.

(Amended, effective 12-30-93)

SECTION 2.15 EFFECTIVE DATE OF ORDINANCES.

Ordinances raising revenue, those appropriating money for current operations, those directing an election or a question to the electorate, and those declared to be emergency ordinances as provided in Section 2.16 of this Charter shall be effective upon passage and publication. All other ordinances shall take effect on the twentieth (20th) day following publication in order to afford an opportunity during that period for the filing of referendum petitions thereon.

(Amended, effective 12-30-93)

SECTION 2.16 PUBLIC NOTICE BEFORE FINAL ENACTMENT.

No action of Council authorizing the surrender or joint exercise of any of its powers, or in the granting of any franchise, or in the enactment, amendment or repeal of any zoning or building resolution or ordinance, or in the authorizing of any change in the boundaries of the Municipality, shall be enacted unless the title and summary of the ordinance or resolution has been published in a newspaper of general circulation, or by posting in five (5) conspicuous places within the Municipality at least seven (7) days before enactment by Council. Those

actions of Council, which require public hearings under the general laws of Ohio, shall require public hearing under this Charter.

SECTION 2.17 PUBLICATION OF RESOLUTIONS AND ORDINANCES.

All resolutions and ordinances must be published after enactment by title, number, and summary in a newspaper of general circulation or by posting in five (5) conspicuous places within the Municipality. Such publishing or posting shall announce that a copy of the resolution or ordinance is available at the Municipal Office.

SECTION 2.18 COUNCIL RELATIONSHIP TO ADMINISTRATIVE OFFICERS.

Neither Council, nor its committees, shall in any manner take part in the discipline of, nor give orders to, any subordinates and employees in the administrative service of the Municipality responsible to the Manager, but must deal directly with the Manager. Council may inquire into the conduct of any office or department or any affairs of the Municipality.

(Amended, effective 12-30-93)

SECTION 2.19 PASSAGE OF ORDINANCES BY REFERENCE.

The Council may pass, with or without amendment, standard ordinances and codes prepared by public or private agencies on such matters as fire prevention, building construction, electric wiring, plumbing, heating, ventilating and air conditioning, housing, health, and other similar matters by reference to the date and source of the code and without reproducing the same at length in the ordinance. In all such cases, publication of the code at length shall not be required. At least three copies of each code shall be kept in the office of the Director of Finance and Records for references by interested persons and additional copies be kept available for sale by the Director of Finance and Records.

(Amended, effective 12-30-93)

SECTION 2.20 BOARDS, COMMISSION, AND COMMITTEES.

All members of boards, commissions and committees shall be appointed pursuant to Section 2.06.

(Amended, effective 12-30-93)

ARTICLE III: THE MAYOR

SECTION 3.01 QUALIFICATIONS.

During the term of office as Mayor of New Lebanon, the Mayor shall not otherwise be an employee of the Municipality.

The Mayor shall be a qualified elector of the Municipality, and shall have been, immediately prior to the date of filing his declaration of candidacy, a continuous resident of the Municipality or any territory annexed thereto, for one (1) year. During his term of Office, he shall continue to be a resident and qualified elector. If the Mayor shall cease to possess any of the qualifications for such office, he shall forthwith forfeit his office.

SECTION 3.02 CEREMONIAL DUTIES.

The Mayor shall be recognized as the official and ceremonial head of the government by the Governor for military purposes and by the Courts for the purpose of serving civil processes. The Mayor or his designee shall be responsible for the following:

- (1) Attend ceremonial functions;
- (2) Represent the Municipality at The Miami Valley Regional Planning Commission, or any successor thereof;
- (3) Represent the Municipality at the Mayors and Managers of Montgomery County.
(Amended, effective 12-30-93)

ARTICLE IV. MUNICIPAL MANAGER

SECTION 4.01 MUNICIPAL MANAGER; QUALIFICATIONS.

The Manager shall be chosen by the Council on the basis of its judgment of such person's executive and administrative qualifications and abilities as evidenced by such person's training and experience in public administration or otherwise. At the time of such person's appointment, the Manager need not be a resident of the Municipality or state, but within six months after appointment shall become and remain a resident of the New Lebanon Local School District for the duration of such person's employment.

(Amended, effective 12-30-93)

SECTION 4.02 MUNICIPAL MANAGER; POWERS AND DUTIES.

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

- (1) Appoint and, when necessary, remove any of the exempt and non-exempt officers and employees of the Municipality, except elected officials;
- (2) Prepare and submit to the Council annual appropriations budget estimates and lawfully administer the budget adopted by Council;
- (3) Prepare and submit to the Council and to the public an annual report including, but not limited to, the financial and administrative affairs and activities of the Municipality for the preceding year;
- (4) Inform the Council of the current financial condition and future financial needs of the Municipality;
- (5) Appoint such temporary advisory committees as are necessary and desirable;
- (6) Delegate to subordinate officers and employees of the Municipality such duties conferred upon the Manager by this Charter or by action of the Council as are necessary or appropriate to the efficient and effective operation of the Municipality;
- (7) Perform such other duties, not inconsistent with this Charter, as may be required by the Council; and,
- (8) Execute, upon authorization of the Council, contracts, leases, deeds, easements, conveyances and agreements as are necessary and appropriate to the efficient and effective operation of the Municipality.

(Amended, effective 12-30-93)

SECTION 4.03 MUNICIPAL MANAGER; ABSENCE OR DISABILITY.

The Manager may designate, by letter filed with the Director of Finance and Records and the Mayor, any qualified administrative officer of the Municipality to perform the duties of the Manager during a disability or specific period of absence. The person so designated shall have during such period such power and authority of the Manager as is necessary and appropriate.

Council may, by resolution, alter or amend the designation made by the Manager or may appoint a qualified administrative officer of the Municipality to perform such duties in the event that the Manager does not make a designation as provided herein.

(Amended, effective 12-30-93)

SECTION 4.04 ADMINISTRATIVE DEPARTMENTS.

The Council shall have the authority to create, abolish and combine departments of government and specify their functions and duties for the Municipality as Council determines to be necessary and appropriate and such authority shall be exercised by ordinance after consultation with the Manager.

(Amended, effective 12-30-93)

SECTION 4.05 MUNICIPAL DEPARTMENTS.

The Administrative Branch of the Municipality shall contain the Departments of Finance and Records; Public Service; Fire; Police; and Personnel and such other departments as may be appropriate and created from time to time by Council pursuant to Section 4.04 herein.

At the head of each department shall be a Director, responsible to and appointed by the Manager with the approval of the Council and who shall be an exempt officer of the Municipality. The Director shall have supervision and control, subject to the direction of the Manager, of the department and shall faithfully discharge those duties of the office and observe and enforce the provisions of this Charter and the ordinances of this Municipality. Two or more departments may be headed by the same officer and the Manager may serve as head of one or more departments in addition to serving as Manager, if approved by Council.

(Amended, effective 12-30-93)

SECTION 4.06 DIRECTORS AND DEPARTMENT HEADS.

Every director and/or department head shall be a resident of the New Lebanon Local School District or shall become a resident within six (6) months after his appointment and shall remain a resident throughout his employment; however, the Law Director need not be a resident.

(Amended, effective 12-30-93)

SECTION 4.07 LAW DIRECTOR

The Manager shall recommend a person to be appointed as Law Director for the Municipality. The Council shall appoint a Law Director and said Law Director shall be directly answerable to the Council and shall not be deemed to be a subordinate or employee of the Administrative Service. The Mayor or Vice Mayor shall act as liaison to the Law Director. The Law Director must be an attorney in good standing and need not be a resident of the municipality.

(Amended, effective 12-30-93)

SECTION 4.08 JUDICIAL PROCESS.

Matters relating to the enforcement of state and municipal ordinances within the Municipality and municipally owned property shall be referred to the Montgomery County District Court for the purpose of legal process until such time as Council takes action under the following:

Council shall have the authority to create a Municipal Court for assuming jurisdiction of criminal matters relating to the enforcement of State and Municipal ordinances, as well as civil matters that meet the jurisdictional requirement set forth under the Ohio Rules of Civil Procedure.

ARTICLE V. PERSONNEL

SECTION 5.01 GENERAL PROVISIONS.

The Municipal Personnel Rules are dominant and have authority over State and Federal Civil Service Rules.

SECTION 5.02 MERIT SYSTEM ESTABLISHED.

Appointments and promotions in the administrative service of the Municipality shall be made according to merit, to be ascertained, so far as practicable, by open competitive examination.
(Amended, effective 12-30-93)

SECTION 5.03 EXEMPT POSITIONS.

All positions in the service of the Municipality shall be filled pursuant to open competitive examinations except:

- (1) Members of the Council.
- (2) The Mayor.
- (3) The Vice Mayor.
- (4) The Manager.
- (5) The directors of departments.
- (6) The Assistant to the Manager.
- (7) The Secretary to the Manager.
- (8) Members of boards and commissions appointed by the Council.
- (9) Seasonal, temporary and part-time employees.
- (10) The Chief Building Inspector.
(Amended, effective 12-30-93)

SECTION 5.04 PERSONNEL DEPARTMENT.

There shall be established a Personnel Department and until such time as the Municipality shall appoint a full time Director, the Manager shall act as Director of Personnel who shall:

- (1) Recruit qualified persons;

- (2) Prepare, schedule and hold examinations;
- (3) Create eligible lists;
- (4) Certify eligibles to the Manager, as the appointing authority, for appointment;
- (5) Classify positions and establish job qualifications;
- (6) Certify payrolls;
- (7) Develop and conduct training programs;
- (8) Prepare and recommend to Council, through the 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 matters as the Manager may direct.
(Amended, effective 12-30-93)

SECTION 5.05 PERSONNEL APPEALS BOARD.

There shall be a Personnel Appeals Board consisting of three (3) members, who shall be appointed by a two-thirds (2/3) vote of Council. If no appointment is made within thirty (30) days of a vacancy, the Mayor shall appoint the member. Among the members first appointed, one shall serve for a term of three (3) years, one for a term of two (2) years, and the third for a term of one (1) year. Council shall appoint a new member at the first regular session in January of each succeeding year for a term of three (3) years. Council shall also make appointment of persons to fill any vacancy. Each member of the Personnel Appeals Board shall be a qualified elector, known to be in sympathy with the merit principle as applied to the civil service, shall neither hold nor be a candidate for any other 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.

(Amended, effective 12-30-93)

SECTION 5.06 DUTIES OF PERSONNEL APPEALS BOARD.

The Personnel Appeals Board shall serve without compensation and shall hear appeals (1) whenever any officer or employee in the competitive service feels aggrieved by any action of the appointing authority or is suspended, reduced, or removed, and requests such hearing or (2) whenever otherwise required by law to do so. The Board shall have power to subpoena witnesses and require the production of records. The decision of the Personnel Appeals Board shall be binding upon the parties to the dispute.

(Amended, effective 12-30-93)

SECTION 5.07 PROHIBITIONS.

No officer or employee in the non-exempt service of the Municipality shall continue therein after becoming a candidate for nomination or election to any incompatible public office. No person shall orally, or in writing, solicit or be in any manner concerned with soliciting any assessment, subscription or contribution of any type for any political party or political purpose whatsoever from any person holding a position in the nonexempt service of the Municipality. No employee shall make, solicit, or receive any contribution to the campaign funds of any candidate for Municipal office, or take part in the political campaign of any candidate for Municipal office, or participate in any political campaign whatsoever during working hours. Any person who violates any of the provisions of this section shall for a period of five years be ineligible for appointment to or employment in any position in the Municipal service and shall, if an officer or employee of the Municipality, be guilty of malfeasance in office and upon conviction, shall forfeit the office or position held.

(Amended, effective 12-30-93)

ARTICLE VI: TAXATION AND FINANCE

SECTION 6.01 FISCAL YEAR.

Unless modified by Council, the fiscal year of this Municipality shall be the calendar year.

SECTION 6.02 PREPARATION AND SUBMISSION OF BUDGET ESTIMATES.

The Manager, on or before June 1 of each year, shall submit to the Council a budget estimate and an explanatory budget message after consultation with the head of each department or agency who shall fully cooperate with the Manager in assisting in the preparation of the budget estimate and message. In addition, the Manager shall prepare, at such time as Council directs, descriptions and budget estimates of needed capital expenditures. The Department of Finance shall furnish statements of balances available for appropriation, estimates of probable revenues from all sources and expenditure estimates for debt service and other fixed items. The Manager shall prepare, revise and adjust the budget estimates for the Council as may be required in order to produce a balanced budget. Said budgets shall be submitted to Montgomery County in accordance with the laws of the State of Ohio.

(Amended, effective 12-30-93)

SECTION 6.03 APPROPRIATION BUDGET.

The Manager shall prepare and submit on or before November 1, (or thirty (30) days after the receipt of the County Certificate, whichever occurs later) to the Council each year an appropriation budget so revised that the total contemplated work program and expenditures during the ensuing fiscal year shall not exceed the total estimated income certified by the County Budget Commission and the County Auditor. This revised appropriation budget shall serve as the basis for the annual appropriation ordinance. Included within this budget shall be statements of balances available for appropriation, estimates of probable revenues from all sources, and expenditure estimates for debt service and other fixed items.

(Amended, effective 12-30-93)

SECTION 6.04 ANNUAL APPROPRIATION ORDINANCE.

At the meeting of the Council at which the appropriation budget estimates for the appropriation ordinance are submitted, the Council shall adopt the estimates as submitted, or as amended, as the appropriation ordinance of the Municipality for the ensuing fiscal year. All requirements of the State of Ohio shall be followed with respect to the adoption of the Appropriation Ordinance. *(Amended, effective 12-30-93)*

SECTION 6.05 BUDGET AS AN APPROPRIATION.

Upon adoption, the appropriations budget ordinance shall become effective as of the first day of the budget year and shall constitute an appropriation of the items therein without further

legislation. A copy of the budget ordinance, certified as correct by the Manager shall be filed with the Director of Finance and filed as may otherwise be required by law.
(Amended, effective 12-30-93)

SECTION 6.06 DATE OF FINAL ADOPTION; FAILURE TO ADOPT.

The appropriations budget ordinance for the ensuing fiscal year shall be adopted not later than December 26 of the current fiscal year. Should the Council fail to adopt said budget ordinance or an interim budget ordinance by such date, the budget shall be deemed to have been adopted finally by the Council as submitted by the Manager.
(Amended, effective 12-30-93)

SECTION 6.07 TRANSFERS OF APPROPRIATIONS.

The Council, after consultation with the Manager, may by resolution transfer any unencumbered balance of an appropriation or revenue in excess of those estimated in the budget as it deems necessary and proper. Further, the Council may at any time amend or revise the budget by ordinance provided the budget as amended does not authorize the expenditure of more revenue than will be available.
(Amended, effective 12-30-93)

SECTION 6.08 LAPSE OF APPROPRIATIONS.

Appropriations expire at the end of the fiscal year. Residual balances shall remain in the fund for which it was appropriated to be available as a resource for appropriation in the next fiscal year. *(Amended, effective 12-30-93)*

SECTION 6.09 CAPITAL PROGRAM.

- (a) Submission to Council. The Manager shall prepare and submit to the Council a five (5) year capital program at least three (3) months prior to the final date for submission of the budget to the Council.
- (b) Contents. The capital program shall include:
 - (1) A clear, general summary of its contents;
 - (2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
 - (3) Cost estimates, method of financing and recommended time schedules for each such improvement; and
 - (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised by the Manager and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

- (c) Adoption of the Council. The Council by resolution shall adopt the capital program with or without amendment prior to adoption of the budget.
(Amended, effective 12-30-93)

SECTION 6.10 COMPETITIVE BIDDING.

Purchase of supplies, materials and equipment and the construction of public improvements for the Municipality shall be made pursuant to specifications and through open competitive bidding under such procedures, consistent with this Charter, as the Council shall determine by Ordinance. The acquisition of professional services and the purchase of used equipment may be, but are not required to be, obtained by competitive bidding. Competitive bidding and public opening and tabulation of bids shall be required where such purchases and construction are estimated to be equal to or greater than the amount required of the State for competitive bidding.

The Manager and Director of Finance shall open all bids at the designated place and time and shall make a recommendation to the Council, who shall then award or reject any bids.
(Amended, effective 12-30-93)

SECTION 6.11 EMERGENCY APPROPRIATIONS.

At any time during the fiscal year, the Council may make an appropriation to meet emergency needs for the protection of the public health, safety, or welfare of the inhabitants of the Municipality without advertising for bids as may otherwise be required, even though such appropriation is in excess of available revenues. Such appropriation may be made only by the favorable votes of at least six of the members of Council and the ordinance shall set forth explicitly the character of the emergency and shall indicate clearly the source of the funds from which the expenditure is to be financed.
(Amended, effective 12-30-93)

SECTION 6.12 FEES.

All fees received by any official, officer or employee of the Municipality in connection with such person's employment or under color of such person's office with the Municipality shall be accounted for and paid immediately into the General Fund of the Municipality unless otherwise provided by this Charter or by law.
(Amended, effective 12-30-93)

SECTION 6.13 ANNUAL AUDITS.

Council may authorize a financial audit of any or all affairs of the Municipality. This may be in addition to audits by the State of Ohio and shall be made by a Certified Public Accountant

and who is not in the employ of the Municipality or financially interested in any transaction to be audited.

***ARTICLE VII. NOMINATION, ELECTIONS, QUALIFICATIONS, INITIATIVE,
REFERENDUM AND RECALL***

SECTION 7.01 GENERAL PROVISIONS.

Except as otherwise provided in this Charter, the general laws of Ohio shall govern all matters pertaining to nomination of candidates, elections, assumption of office by elected officers, and conduct of elected officers of the Municipality.

All citizens qualified by the Constitution and Laws of the State of Ohio to vote in the Municipality, and who satisfy the requirements for registration prescribed by law shall be qualified electors of the Municipality within the meaning of this Charter.

SECTION 7.02 DEFINITIONS.

The term "elected officers" as used in this article shall be construed to include all persons, legislative and executive, who by the terms of this Charter are required to be elected by vote of the electors.

SECTION 7.03 QUALIFICATIONS OF ELECTED OFFICERS.

Each elected officer of the Municipality shall be an elector of the Municipality, and shall have resided therein or in a territory annexed thereto for a period of at least one (1) year prior to nomination for such office and shall continue to reside therein during the term of office.

Any elected officer who ceases to possess such qualifications shall forfeit his office.

SECTION 7.04 VOTING DISTRICTS.

All matters pertaining to voting districts within the Municipality, including their designation, number, apportionment and reapportionment, shall be governed by the general laws of Ohio.

SECTION 7.05 ELECTIONS.

Primary and regular Municipal elections shall be held at the times prescribed by the general laws of Ohio, except as otherwise provided in this Charter.

SECTION 7.06 BEGINNING OF TERM OF OFFICE.

The term of office for an elected officer shall begin on January 1 next following a regular Municipal election.

SECTION 7.07 ELECTION AND APPOINTMENT TO FILL AN UNEXPIRED TERM.

If a vacancy occurs within the Council at any time prior to the ninetieth (90) day before any general election to occur when the unexpired term of such office is more than one (1) year, an election to fill such vacancy shall be held at such general election. Candidates to fill such vacancy shall be nominated by petition in the manner provided by general law, except that such petition shall be filed not later than the sixtieth (60) day before the election. The candidate receiving the largest number of votes at such election shall assume the office on the first day of January next following the election, and shall serve for the balance of the unexpired term. Within thirty (30) days after any such vacancy occurs, Council shall by majority vote of the remaining members appoint a qualified person to fill the vacancy on a temporary basis until a successor is elected and qualified.

If a vacancy occurs within the Council at any time after the date specified in the preceding paragraph, the vacancy shall be filled until the general election of the following year.

In the event the Council fails to fill any vacancy within thirty (30) days as provided in this section, the Mayor shall make such appointment.

(Amended, effective 12-30-93)

SECTION 7.08 INITIATIVE AND REFERENDUM.

The powers of initiative and referendum are reserved to the people. Ordinances and other measures may be proposed by initiative petition and adopted by election, and ordinances and other measures adopted by the Council shall be subject to referendum, to the extent and manner now or hereafter provided by the general laws of Ohio, except as otherwise provided in this Charter.

Whoever seeks to propose an ordinance or measure by initiative petition or files a referendum petition against any ordinance or measure adopted by Council, shall, before circulating such petition, file a verified copy of the proposed ordinance or measure with the Director of Finance and Records. Initiative and referendum petitions shall be filed with the Director of Finance and Records, who shall certify such petitions within the time prescribed by the general laws of Ohio.

SECTION 7.09 RECALL.

The power of recall of elected officials is reserved to the people. The procedure to be followed shall be as provided by Section 705.92 of the Revised Code of Ohio, as that Section may be amended or revised, or if that Section shall be repealed or the Section number shall be changed, than as repealed or the Section number shall be changed, than as provided by any other general law applicable to non-charter municipalities.

ARTICLE VIII. GENERAL PROVISIONS

SECTION 8.01 CONFLICT OF INTEREST.

No elected or appointed official of the Municipality shall be, at the same time, an employee, in any capacity, of the Municipality.

No elected or appointed officer of the Municipality shall hold any incompatible office. The general laws of Ohio pertaining to conflicts of interest of municipal officials shall be applicable to all officers of the Municipality elected and appointed under this Charter.

SECTION 8.02 PERSONAL INTEREST.

No member of the Council or any officer or employee of the Municipality shall have any financial interest, direct or indirect, in any contract with or sale to the Municipality of any materials, supplies or services, or any land or interest in land. A person who knowingly violates this section shall be guilty of having an unlawful interest in a public contract, and upon conviction thereof shall be fined in accordance with law prescribing the penalty for such offense, and shall be removed from any office. Any contract or agreement made in violation of this section shall be voidable at the election of council.

(Amended, effective 12-30-93)

SECTION 8.03 CHARTER AMENDMENT.

This Charter may be amended at any time in the manner provided by the Constitution and laws of the State of Ohio.

SECTION 8.04 CHARTER REVIEW.

A Charter Review Commission consisting of at least eleven (11) members from the Municipality at large, may be appointed at any time, and during the month of January 2003, and every tenth (10th) year thereafter shall be appointed by ordinance of the Council. Amendments to this Charter proposed by a Charter Review Commission shall be submitted to the electors in the manner prescribed in the Constitution and Laws of the State of Ohio.

(Amended, effective 12-30-93)

SECTION 8.05 SEPARABILITY.

If any provision of this Charter is held invalid by a Court of competent jurisdiction, the other provisions of this Charter shall not be invalidated thereby.

SECTION 8.06 INTERPRETATION.

The Article and Section headings herein have been inserted for convenience in reference and are not intended to define or limit the scope of, or otherwise affect, any provision of this Charter.

Except as otherwise expressly provided in this Charter, or as the context otherwise requires, the masculine term or pronoun includes the feminine, the singular term includes the plural, and the plural term includes the singular.

The time within or by which any act or thing is required to be done by any of the provisions of this Charter shall be computed by excluding the first day and including the last day, except that when the last day falls on Saturday, Sunday, or a legal holiday, then the act may be done on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

SECTION 8.02 PERSONAL INTEREST.

No member of the Council or any officer or employee of the Municipality shall have any financial interest, direct or indirect, in any contract with or sale to the Municipality of any materials, supplies or services, or any land or interest in land. A person who knowingly violates this section shall be guilty of having an unlawful interest in a public contract, and upon conviction thereof shall be fined in accordance with law prescribing the penalty for such offense, and shall be removed from any office. Any contract or agreement made in violation of this section shall be voidable at the election of council.

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SECTION 8.07 OATH OF OFFICE.

Any officer or employee of the Municipality who is required by law to take an oath of office shall also be required to pledge his support of the Charter and the ordinances of the Municipality of New Lebanon.

ARTICLE IX TRANSITION

SECTION 9.01 OFFICERS AND EMPLOYEES.

The amendment to the Charter shall take effect December 30, 1993. Each employee and official of the Municipality at that time shall remain in his position, but shall thereafter be subject to the provisions of this Charter, with the following stipulations:

- (a) Council Members. To implement the provisions of Section 2.01 of this Charter only the three (3) candidates receiving the highest number of votes for Council as elected on November 2, 1993, shall take office. The remaining three (3) incumbent council members shall remain in office for their full term. The Mayor shall remain in office for his full term subject to his modified duties and powers as set forth herein.
(Amended, effective 12-30-93)

SECTION 9.02 TRANSITION OF DEPARTMENTS, OFFICES AND AGENCIES.

If a Department, Office or Agency is abolished by this Charter, the powers and duties given to it by law shall be transferred to the Department, Office or Agency designated in this Charter, or if the Charter makes no provision as designated by Council.

SECTION 9.03 PENDING MATTERS.

All rights, claims, action, orders, contracts, and legal or administrative proceedings shall continue, except as modified by the provisions of this Charter, and each case shall be maintained, carried on, or dealt with by the Department. Office of Agency appropriate under this Charter.

SECTION 9.04 EXISTING LAWS.

All existing ordinances, resolutions and other acts of the Municipality which are not inconsistent with this Charter shall remain in effect until amended or repealed by Council.

SECTION 9.05 TRANSFER OF RECORDS AND PROPERTY.

All public records and property in the custody of officers and employees of the Municipality shall be transferred and delivered promptly to their successors when designated.
(Amended, effective 12-30-93)