

# CHARTER



## CITY OF EATON, OHIO

*Last Modified:  
November 7, 2000*

**CHARTER  
FOR  
THE CITY OF EATON, OHIO**

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***EDITOR'S NOTE:***

The Eaton Charter was originally adopted on May 2, 1961.

Dates appearing in parentheses following a heading indicate that those provisions were subsequently amendment, added or repealed on the date given.

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## **PREAMBLE**

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**We**, the people of the City of Eaton,  
Preble County, Ohio, in order to secure for  
ourselves the benefits of local self-government  
under the Constitution of the State of Ohio,  
do ordain and establish this Charter  
of the government of the  
Municipality of Eaton.

## **Article I**

### **INCORPORATION - FORM OF GOVERNMENT - POWERS**

#### **SECTION 1.01 INCORPORATION.**

The inhabitants of the City of Eaton, within the corporate limits now existing or as hereafter established in the manner provided by law, shall continue to be a Municipal body, politic and corporate in perpetuity, under the name of the City of Eaton.

#### **SECTION 1.02 FORM OF GOVERNMENT.**

The form of government provided under this Charter shall be known as the "Council - Manager Plan." It shall consist of a Council of five (5) citizens elected at large as hereinafter provided and a City Manager selected by the Council to carry out administrative functions as provided by this Charter.

#### **SECTION 1.03 POWERS.**

Except as prohibited by the Constitution of this State or restricted by this Charter, the City of Eaton shall have and may exercise all Municipal powers, functions, rights, 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 City 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 1.04 MANNER OF EXERCISING POWERS.**

All powers of the Municipal corporation shall be vested in an elective Council which shall enact local ordinances and resolutions, adopt budgets, determine general policies and appoint a Manager who shall see that the policies and legislation adopted by the Council are enforced. All powers of the Corporation shall be exercised in the manner prescribed by this Charter or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance or by General Law.



**Article II**  
**THE COUNCIL**

**SECTION 2.01 NUMBER, SELECTION AND TERM.**

The Council shall consist of five (5) members, elected at large, for four (4) year overlapping terms. At the first Municipal election after the adoption of this Charter, the three (3) candidates receiving the largest number of votes shall be elected to four (4) year terms of office and the two (2) candidates receiving the next highest number of votes shall be elected for a two (2) year term of office. Thereafter, all members of the Council shall be elected for a four (4) year term of office. All elections of Council members shall be on a non-partisan ballot.

**SECTION 2.02 QUALIFICATIONS.**

Any qualified elector, who has resided in the Municipality for one (1) year immediately prior to taking office, shall be eligible to serve as a member of Council when elected as hereinafter provided. No member of Council shall hold any other public elected office. No member of Council shall have any interest in any contract with the City of Eaton, nor hold any employment with said City. A Councilman who ceases to be a qualified elector or who accepts and enters upon the performance of the duties of an incompatible office, or who is absent, without excuse by the other members of Council, from meetings of the Council during two consecutive months, shall automatically vacate his office on the Council. (Amended 11-7-00.)

**SECTION 2.03 VACANCIES - HOW FILLED.**

Any vacancy on the Council shall be filled within thirty (30) days by vote of a majority of the remaining members of Council by the selection of a qualified elector who has resided in the City for at least one (1) year immediately preceding his appointment. Such person so chosen shall serve for the unexpired term. (Amended 11-8-66.)

**SECTION 2.04 BEGINNING OF TERM OF OFFICE.**

The term of office of Council members shall begin on the first Monday in December following the regular Municipal election, to be held in the odd numbered years, at the time fixed by State law.

## **SECTION 2.05 ORGANIZATION AND MEETINGS.**

Following each Municipal election, Council shall meet within five (5) days after the beginning of the term of office of the newly-elected members of Council for the purpose of organizing. At such meeting, the newly elected members of Council shall take the oath of office, and the Council shall proceed to elect a Mayor and Vice-Mayor, and transact such other business as may come before it. Thereafter, regular meetings shall be held as prescribed in the Council rules, but not less frequently than once each month. Additional meetings may be held upon call by the Mayor or any two members of Council by giving twenty-four (24) hours' notice to all members of Council at their usual place of residence. A majority of the members shall constitute a quorum at all meetings. All meetings of Council shall be open to the public, except that Council may meet in Executive Session, as provided by State Law, during such meetings and in accordance with the procedures contained therein to consider such matters as permitted by the applicable sections of the Ohio Revised Code. (Amended 11-7-00.)

## **SECTION 2.06 SALARY.**

The salary of the members of the first Council elected under this Charter shall be at the rate of ten dollars (\$10.00) for each regular meeting attended, not to exceed twelve (12) meetings per year. Thereafter, the Council may fix the compensation of its own members and determine the number of compensated meetings. Such action shall be by ordinance only. No change in salary shall ever take effect unless enacted by Council prior to 120 days before election to office. (Amended 11-7-00.)

## **SECTION 2.07 MAYOR AND VICE MAYOR.**

The Council shall select annually, from among its own members, one to serve as Mayor and one as Vice Mayor for a term of one (1) year and until their successors are chosen and qualified. The Mayor shall preside at Council meetings, when present, and shall have a vote on all matters which come before Council, but shall have no power of veto. He shall be the ceremonial head of the Municipality, but shall exercise no administrative authority. The Vice Mayor shall perform the duties of the Mayor when the Mayor is absent. The members of Council serving as Mayor and Vice Mayor shall receive no additional salary for such duties, but may be reimbursed for any expense incurred by them in the performance of such duties for and on behalf of the City of Eaton.

## **SECTION 2.08 CLERK OF COUNCIL.**

There shall be a Clerk of Council whose duty it will be to give notice of Council meetings, keep the Journal, advertise public hearings, record in separate books all ordinances and resolutions enacted by Council and have the same published in the manner provided by this Charter. The Finance Director, appointed pursuant to the provisions of this Charter shall serve as Clerk of Council and shall perform the duties of that office hereinbefore designated and such other duties as may be assigned to him by this Charter or by ordinance.

## **SECTION 2.09 RULES AND JOURNAL.**

The Council shall be the sole judge of the election and qualifications of its own members. The Council shall determine its own rules of procedure in conformity with the provisions of this Charter and shall keep a Journal of its proceedings which shall be a public record.

## **SECTION 2.10 POWERS OF COUNCIL.**

Council shall have authority to:

- (a) Adopt ordinances and resolutions on any subject within the scope of its powers and provide penalties for the violation thereof;
- (b) Establish the internal organization, staffing and compensation of the Departments, Boards and Commissions created by this Charter;
- (c) Create and abolish such Departments, Boards or Commissions in addition to those established by this Charter, as it may deem necessary, and determine their powers and duties;
- (d) Adopt and modify the master plan and official map of the Municipality;
- (e) Regulate the use of private real estate in the Municipality by establishing zones, limiting the uses in each zone, and limiting the height of buildings and the intensity of land use;
- (f) Adopt a subdivision platting ordinance and approve subdivision plats which conform thereto;
- (g) Enact a comprehensive building code;
- (h) Adopt an annual appropriation ordinance based upon the annual budget;
- (i) Appoint and remove the City Manager, establish his salary, and appoint an acting City Manager, when necessary;
- (j) Appoint and remove the Director of Finance and the Director of Law and establish their salaries;
- (k) Inquire into the conduct of any Municipal officer or employee in the performance of his public functions;

(Section 2.10 Powers of Council cont.)

- (l) Make investigations of any office, department or agency of the Municipality;
- (m) Employ a public accountant to make an audit of the financial affairs of the City whenever such audit is deemed necessary;
- (n) Provide for the employment of engineering and other professional services on a consulting basis when deemed necessary;
- (o) Issue subpoenas for witnesses and require the production of books and papers which may be necessary in the conduct of any hearing or investigation.

(Amended 11-7-00)

**Article III**  
**ORDINANCES AND RESOLUTIONS**

**SECTION 3.01 ACTION OF COUNCIL.**

The action of Council shall be by ordinance or resolution. On all matters of a general or permanent nature or granting a franchise or levying a tax or appropriating money or contracting an indebtedness or issuing bonds or notes or for the purchase, lease or transfer of property, action shall be taken formally, by ordinance, in the manner hereinafter provided. Action on all other matters of a temporary or informal nature may be taken by resolution.

**SECTION 3.02 ENACTMENT OF ORDINANCES.**

Section 3.02 was repealed by the voters on November 8, 1983.

**SECTION 3.021 FORMAT OF ORDINANCES.**

Each ordinance proposed for consideration by Council shall be introduced in written form. Each ordinance shall contain one (1) subject only. The ordinance shall be identified by a number and include a summary of the provisions of the ordinance and a body of the ordinance. The body shall state clearly and fully the proposed action. In the body, a statement of the actions being taken shall be preceded by a clause reading as follows: "Be It Ordained by the Council of the City of Eaton, Ohio." (Enacted 11-8-83.)

**SECTION 3.022 PROCEDURES FOR ENACTMENT OF ORDINANCES.**

An ordinance introduced in Council shall be read before Council on two (2) different days prior to its enactment, unless there is a suspension of the rules or an emergency is declared, as hereinafter provided. An ordinance may be read by number designation and summary only, unless a member of Council present requests a reading of the ordinance in full. The adoption of an ordinance after a second reading requires the affirmative vote of a majority of all members elected to Council. Final passage of all ordinances and resolutions shall be certified by the Mayor or Vice Mayor and the Clerk of Council. (Enacted 11-8-83.)

**SECTION 3.023 EMERGENCY PASSAGE.**

Council may, with an affirmative vote of not less than four (4) members, pass an emergency ordinance to take effect immediately upon passage or at the time indicated therein in order to preserve the public peace, health, safety, morals or welfare or to meet an emergency in the operating of the City government. Each emergency ordinance shall contain therein a separate section setting forth the reason for the emergency. No ordinance granting a franchise or fixing a rate to be charged by a public utility shall be passed as an emergency measure. (Enacted 11-8-83.)

**SECTION 3.03 EFFECTIVE DATE.**

Ordinances shall take effect thirty (30) days after passage, except for emergency ordinances as provided in Section 3.024. Such emergency ordinances, as well as ordinances providing for appropriations for current expenses of the City, or ordinances for public improvements petitioned for by owners of a majority of the foot frontage of property benefited who are to be especially assessed for the cost thereof, or ordinances for raising revenue, shall become effective immediately upon passage or at such date as may be provided therein, and shall not be subject to referendum. (Amended 11-8-83.)

**SECTION 3.04 PUBLICATION OF ORDINANCES.**

All ordinances shall be published one (1) time in full, or in summary form, in a newspaper or newspapers with publication offices in the City of Eaton with a general circulation in the City of Eaton or, if there is no office of publication in the City, then in a newspaper of general circulation in the City. However, when Council, by ordinance, authorizes the revision and codification of City ordinances to be published in book form and certified as correct by the Clerk of Council and Mayor, such publication shall be as sufficient publication. Any new matter contained in a codification of ordinances shall be published in summary form as provided under Ohio Revised Code Section 731.23. (Amended 11-8-83.)

### **SECTION 3.05 INITIATIVE AND REFERENDUM.**

The initiative and referendum powers, reserved to the people under the Ohio Constitution, shall be exercised in the manner provided by General Law under Sections 731.28 to 731.40 of the Revised Code or as the same may be hereafter modified, except that:

- (a) any initiative or referendum petition filed with the Finance Director of the City of Eaton shall contain the signatures of not less than ten percent (10%) of the number of voters at the next preceding election for the office of Governor;
- (b) when a petition, having the required number of signatures, is filed with the Finance Officer, it shall be held in that office for a period of fifteen (15) days before certification of the text of the proposed ordinance is made to the Board of Elections;
- (c) that the committee designated by the petitioners to file said petition shall consist of five (5) members.

In all other respects the procedure with reference to initiative and referendum petitions shall be the same as that provided in the General Law Sections referenced above then in effect. Whenever the Council is required to pass more than one (1) ordinance or resolution to complete the legislation necessary to complete and pay for any public improvement, the referendum shall apply only to the first ordinance or resolution to be passed and not to any subsequent ordinance or resolution in the series relating thereto.

(Amended 11-8-83.)

### **SECTION 3.06 ADOPTION OF STANDARD CODES BY REFERENCE.**

The Council may adopt model or standard codes prepared and published by public or private agencies on such matters as building construction, plumbing, heating, ventilating, air conditioning, electric wiring, smoke regulation, fire prevention and other similar regulatory subjects by reference to the date and source of the code without reproducing the same in full in the ordinance. At least six (6) copies of all such codes shall be kept in the office of the City Manager for reference and consultation by interested persons during regular office hours and additional copies shall always be available for sale, at cost, by the City Manager. Any standard code adopted in this manner shall not be required to be published at length.

**Article IV**  
**CITY MANAGER**

**SECTION 4.01 APPOINTMENT OF MANAGER.**

The Council shall appoint, by majority vote of all the members elected thereto, an officer of the City who shall have the title of City Manager. The City Manager shall be chosen by the Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in or his knowledge of accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, the Manager need not be a resident of the City or State, but, during his tenure of office, he shall reside within the City or within one (1) mile of the corporate limits thereof, provided that suitable residential accommodations are not available within the City limits. No Council member or member of the Charter Commission shall be eligible for appointment as City Manager or head of a Department during the term for which he has been elected or for two (2) years thereafter.

**SECTION 4.02 MANAGER'S RESPONSIBILITIES AND DUTIES.**

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

- a. Appoint and remove all officers and employees of the Municipality, except as otherwise provided by this Charter;
- b. Prepare a budget annually and submit it to Council and be responsible for its administration after adoption;
- c. Prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the Municipality for the preceding year and such additional reports as the Council may require during the fiscal year;
- d. Keep the Council advised of the financial condition and future needs of the Municipality and make such recommendation as may seem desirable to him;
- e. See that all laws, ordinances and provisions of this Charter are enforced;
- f. Attend all meetings of Council with the right to take part in discussions, but having no vote;



(Section 4.02 Manager's Responsibilities and Duties cont.)

- g. Perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with this Charter;
- h. Be in charge of and personally responsible for all purchasing made for the City;
- i. Formulate and arrange contracts, franchises, and agreements subject to the approval of Council;
- j. Sign all contracts, bonds and notes on behalf of the City;
- k. Serve as an ex-officio member (without vote) of all Boards and Commissions authorized under this Charter, except the Civil Service Commission.

#### **SECTION 4.03 ABSENCE OR DISABILITY OF MANAGER.**

The Manager may designate, by letter filed with the Clerk of Council, any qualified administrative officer of the City to perform his duties during his temporary absence or disability. If such designation has not been made and the Manager is unable to perform his duties or to make such designation or the absence extends beyond 30 days, the Council may, by resolution, appoint any qualified administrative officer of the City to perform the duties of the Manager until he shall return or the disability cease. (Amended 11-7-00.)

#### **SECTION 4.04 PROVISIONS FOR DISMISSAL OR REMOVAL OF THE MANAGER.**

The City Manager shall serve for an indefinite term, subject to removal by the Council at any time by a majority vote of all the members elected thereto. Should such removal become necessary, Council shall, thirty (30) days before the effective date thereof, notify the City Manager of such intent, stating the cause for removal, immediately suspend him from office and appoint an officer of the City to perform the duties of the Manager during his suspension. The City Manager may, within one (1) week after notice of suspension, reply in writing and request an appearance before Council. Council shall grant such request within two (2) weeks after a reply is received. After such hearing, if one is requested and after full consideration, Council, by resolution, may declare the City Manager removed from office and the decision of Council shall be final. In any case of removal, the former Manager shall receive one (1) month severance pay unless such removal is due to a felony or other crime involving moral turpitude. In the case of voluntary resignation of the Manager, the Council and the Manager shall agree upon the effective date of the resignation.

**SECTION 4.05 RELATIONS BETWEEN COUNCIL AND MANAGER.**

Except for the purpose of inquiry or investigation, the members of Council shall deal with the administrative employees of the Municipality solely through the Manager. No member of the Council shall take the initiative in the appointment or removal of officers or employees subordinate to the Manager. In the event any member of Council is found by the Council to have violated this Section, Council shall declare his seat vacant.

**Article V**  
**ADMINISTRATIVE DEPARTMENTS**

**SECTION 5.01 CREATION OF DEPARTMENTS.**

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

**SECTION 5.02 DEPARTMENT HEADS.**

Each Department of the City government shall be headed by a full-time or part-time Director. The heads of the Department of Finance and the Department of Law shall be appointed by the Council for an indefinite term and removed by the Council in accordance with the provisions of this Charter. The heads of all other departments shall be appointed by the City Manager with the concurrence of the majority of the members elected to Council, and removed by the City Manager. Each department head shall be an administrative officer of the City. Two or more departments, other than the Department of Finance and the Department of Law, may be headed by the same person and the City Manager may serve as the Director of one or more departments in addition to his duties as Manager, when approved by the Council. (Amended 11-7-00)

**SECTION 5.03 DEPARTMENTAL DIVISIONS.**

Subject to the provisions of this Charter, Council may, by ordinance or resolution, distribute the work of each department among divisions of the municipality or other sub-units and define the powers and duties and functions of each organizational unit, after consultation with the City Manager. The heads of such divisions when designated by the title of Chief or Superintendent shall be appointed by the City Manager with the concurrence of the majority of the members elected to Council, and removed by the City Manager. (Amended 11 -7-00)

**SECTION 5.04 ADMINISTRATIVE CODE.**

Subject to the provisions of this Charter, and after consultation with the City Manager, the Council shall adopt an Administrative Code which shall provide in detail the organization of the municipal government, define the powers and duties of each organizational unit and

(Section 5.04 Administrative Code cont.)

determine the administrative procedures to be followed. Amendments to and revisions of the Administrative Code shall be made by the Council only after consultation with the City Manger. Where the Administrative Code is silent, the officers and employees of the City shall have and may exercise all powers and duties provided for similar officers and employees by the State Law. However, provisions of the Administrative Code shall supersede those of the State Law in case of conflict.

#### **SECTION 5.05 DEPARTMENT OF LAW.**

The head of the Department of Law shall be known as the Director of Law. He shall be an attorney-at-law and duly admitted to practice law in the State of Ohio. He shall serve the City Manager, the Mayor, the Council, the Administrative Departments and the officers, Boards and Commissions of the City as legal counsel in connection with all Municipal matters and, subject to the direction of the Council and the City Manager, shall represent the City in all proceedings in court or before any Administrative Board. He shall perform all other duties now or hereafter imposed upon City Solicitors under the General Laws of Ohio, unless otherwise provided for by ordinance of the Council, and he shall perform such other duties consistent with his office, as the City Manager or Council may request. (Amended 11-7-00.)

#### **SECTION 5.051 PROVISIONS FOR DISMISSAL OR REMOVAL OF THE DIRECTOR OF LAW.**

The Director of Law shall serve for an indefinite term, subject to removal by the Council at any time by a majority vote of all the members elected thereto. Should such removal become necessary, Council shall, thirty (30) days before the effective date thereof, notify the Director of Law of such intent, stating the cause for removal, immediately suspend him from office and appoint a qualified person to perform the duties of the Director of Law during his suspension. The Director may, within one (1) week after notice of suspension, reply in writing and request an appearance before Council. Council shall grant such request within two (2) weeks after a reply is received. After such hearing, if one is requested and after full consideration, Council, by resolution, may declare the Director of Law removed from office and the decision of Council shall be final. In any case of removal,

(Section 5.051 Provisions for Dismissal or Removal of the Director of Law cont.)

the former Director of Law shall receive one (1) month's severance pay unless such removal is due to a felony or other crime involving moral turpitude. In the case of voluntary resignation of the Director of Law, the Council and the Director shall agree upon the effective date of the resignation. (Enacted 11-7-00.)

#### **SECTION 5.06 DEPARTMENT OF FINANCE.**

The Department of Finance shall perform those functions customarily performed by the City Auditor and the City Treasurer under the General Laws of Ohio. The head of the Department shall be assigned the title of Director of Finance. The Director of Finance shall be appointed by the Council for an indefinite term of office. He shall be the fiscal officer of the City, shall be responsible for the accounting, collection and custody of public funds and shall control disbursement. He shall countersign all bonds and notes issued by the City and shall perform such other functions as may be assigned by ordinance or by order of the City Manager. The Director of Finance shall serve as Clerk of Council and may, when authorized by Council, also serve as Clerk to the City Manager. The Council may, by ordinance, provide for necessary additional employees in the Department of Finance. The Director of Finance shall appoint and remove the employees in his Department.

#### **SECTION 5.07 DIRECTOR OF FINANCE QUALIFICATIONS.**

The Director of Finance shall have had a minimum of two (2) years working experience in an accounting position. (Amended 11-7-00.)

#### **SECTION 5.071 PROVISIONS FOR DISMISSAL OR REMOVAL OF THE DIRECTOR OF FINANCE.**

The Director of Finance shall serve for an indefinite term, subject to removal by the Council at any time by a majority vote of all the members elected thereto. Should such removal become necessary, Council shall, thirty (30) days before the effective date thereof, notify the Director of Finance of such intent, stating the cause for removal, immediately suspend him from office and appoint a qualified person to perform the duties of the Director of Finance during his suspension. The Director may, within one (1) week after notice of suspension, reply in writing and request an appearance before Council. Council shall grant such request within two (2) weeks after a reply is received. After such hearing, if one is

(Section 5.071 Provisions for Dismissal or Removal of the Director of Finance cont.)

requested and after full consideration, Council, by resolution, may declare the Director of Finance removed from office and the decision of Council shall be final. In any case of removal, the former Director of Finance shall receive one (1) month severance pay unless such removal is due to a felony or other crime involving moral turpitude. In the case of voluntary resignation of the Director of Finance, the Council and the Director shall agree upon the effective date of the resignation. (Enacted 11 -7-00.)

#### **SECTION 5.08 DEPARTMENT OF SAFETY.**

The Department of Safety consists of three (3) divisions, including the Police Division, the Fire Division and the Emergency Squad. The Department shall perform such functions relative to police and fire protection and emergency medical service as may be assigned by ordinance or by order of the City Manager. The head of this Department shall be designated by the Director of Safety. (Amended 11-7-00.)

#### **SECTION 5.09 DEPARTMENT OF SERVICE.**

The Department of Service shall consist of two (2) divisions, including the Division of Public Works and Division of Public Maintenance. The Department of Service shall have the custody, care, and maintenance of the public buildings, grounds, streets, sewers, Municipal utilities, and cemeteries owned by the City. The head of this Department shall be known as the Director of Service. He shall perform such functions and duties with reference to the Service Department as may be assigned by ordinance or by order of the City Manager, in addition to those prescribed in the Administrative Code. (Amended 11-7-00.)

#### **SECTION 5.10 SALE OF MUNICIPALLY OWNED UTILITY.**

No utility owned by the City shall ever be sold without first submitting the question of such sale to the electors for approval. If the majority of the electors voting, vote in favor of selling such utility, the Council may proceed with the sale.

**SECTION 5.11 CITY MANAGER TO ACT AS SAFETY-SERVICE DIRECTOR.**

Until otherwise directed by ordinance, the City Manager shall be the Director of the Department of Safety and the Department of Service and, as Director of said departments, shall have supervision over the fire, police, street, utilities and other divisions within the two (2) departments.

**Article VI**  
**TAXATION AND BORROWING**

**SECTION 6.01 LEVYING TAXES.**

The power of Council to levy taxes shall be subject to the limitations provided by the Constitution and Laws of Ohio, except as hereinafter provided by this Charter. Nothing contained in this Charter shall be construed to authorize the levy of additional taxes in excess of said limitations without a vote of the people. (Amended 11-8-66.)

**SECTION 6.02 SUBMISSION OF EXTRA LEVY TO VOTE.**

At any time prior to a date determined by the County Board of Elections in any year, the Council may declare, by resolution adopted by a vote of four (4) members thereof, that, within the limitations of this Charter, the amount of taxes which may be raised from taxes levied on any taxable property, assessed and listed for taxation according to value, will be insufficient to provide an adequate amount for the necessary requirements of the City for current operating expenses, other expenses payable from the General Fund of the City, and such permanent improvements and equipment as shall have an estimated useful life of five (5) years or more and declare that it is necessary to levy taxes in excess of such limitation. Such resolution shall specify the additional rate which it is necessary to levy, the Municipal purpose or purposes thereof, the number of years during which such rate shall be in effect and the date of the proposed election thereon. Such resolution shall be effective upon its adoption and shall be certified within five (5) days thereafter to the election authorities who shall place such question upon the ballot at the next succeeding November election. If a majority of those voting thereon vote for the approval of such additional levy, the Council shall, for a period not in excess of that prescribed in such resolution, make such levy, or such part thereof as it finds necessary, pursuant to such approval and certify the same to the County Auditor, to be placed on the tax list and collected as other taxes.

**SECTION 6.03 POWER TO INCUR DEBT, ISSUE BONDS OR NOTES.**

Council may, by ordinance, authorize and issue any and all types of bonds or notes for any purpose permitted by the Constitution and General Laws of Ohio then in effect. In issuing such bonds or notes, Council shall be bound by the definitions, limitations and procedures prescribed by the Constitution and General Laws of Ohio then in effect, except as otherwise provided in this Charter.



**SECTION 6.04 MORTGAGE REVENUE BONDS.**

The Council may, by ordinance, issue mortgage revenue bonds for any purpose and in any total amount authorized by the State Constitution or Laws of Ohio.

**SECTION 6.05 SPECIAL ASSESSMENTS.**

Special assessments may be levied by Council to pay any part of the cost of any public work or improvement authorized by ordinance or resolution. Such assessments shall be made and levied in accordance with the provisions and subject to the limitations prescribed by the Constitution and General Laws of Ohio then in effect.

**SECTION 6.06 TAX ANTICIPATION NOTES.**

The Council may, by ordinance, issue notes in anticipation of the collection of taxes on whatever conditions may seem reasonable. Such notes shall be paid from the tax receipts of the year in which they are issued.

**SECTION 6.07 EMERGENCY BORROWING.**

The Council may, by ordinance, borrow money and issue notes in case of public emergency. (Amended 11-7-00.)

**SECTION 6.08 PROCEDURE IN BOND ISSUES.**

The procedure followed in authorizing and issuing bonds and notes and applying the proceeds shall be in accordance with the provisions of the Uniform Bond Law of the State of Ohio in effect at the time.

**SECTION 6.09 ADDITIONAL LEVIES.**

The authority of the Council to submit additional levies to a vote of the people under authority of the Constitution or Laws of the State of Ohio shall not be deemed impaired or abridged by reason of any provision contained in this Charter.

## **Article VII**

### **FINANCE**

#### **SECTION 7.01 ANNUAL TAX BUDGET.**

On or before the 1st day of July in each year, the City Manager shall submit to the Council a tax budget for the ensuing fiscal year. For that purpose, at such time as he shall determine, he shall obtain from the head of each Department or agency of the City plans for the work to be undertaken by such Department during the next fiscal year, together with estimates of the cost of performing such work. The Department of Finance shall supply him with estimates of available revenue. From these data, the City Manager shall prepare the consolidated estimates and adopt them, with or without amendments, as the tax budget for the City for the ensuing year and transmit them on or before the 15th day of July to the County Budget Commission in the form required by law. (Amended 11-8-66)

#### **SECTION 7.02 REVISION OF TAX BUDGET.**

The City Manager shall prepare and submit to the Council each year a budget so revised that the total contemplated work program and expenditures from each fund during the ensuing fiscal year shall not exceed the total recommended appropriations from each fund and the total estimated resources certified by the County Budget Commission and the County Auditor. Such revised budget shall serve as the basis for the annual appropriation ordinance.

#### **SECTION 7.03 OTHER PROCEDURES.**

In all other respects the procedure for the preparation, hearing, advertising and adoption of the budget and the appropriation of Municipal funds shall be governed by the General Laws of the State of Ohio pertaining to such matters.

#### **SECTION 7.04 FISCAL YEAR.**

The fiscal year of the City shall be the calendar year, beginning January 1st and ending December 31st each year.

**Article VIII**  
**BOARDS AND COMMISSIONS**

**SECTION 8.00 BOARDS AND COMMISSIONS.**

Council shall appoint members of all Boards and Commissions upon a majority vote of members elected to Council. Members of such Boards and Commissions shall have been residents of the City for at least two (2) years prior to their appointments. Unless otherwise stated in this Charter, citizen appointments shall be for a term of four (4) years and members shall be eligible for reappointment. Full terms of all Board and Commission members shall commence on January 1st.

Citizen members of Boards and Commissions shall hold no other City office or full-time City employment and shall serve without compensation for Board service unless a rate of compensation is adopted by Council by ordinance.

Members of Council appointed to such Boards and Commissions shall be appointed for a term of one (1) year and shall be eligible for reappointment.

No member of City Council nor any City employee or appointee is eligible to be a member of the Civil Service Commission.

Council may, upon a four-fifths (4/5) vote of the members elected to Council, remove any member of a Board or Commission.

Vacancies on any Board or Commission shall be filled by Council upon a majority vote of members elected to Council.

The various Boards and Commissions may each adopt rules of procedure and shall keep a record of their proceedings.

The City Manager shall appoint a Secretary to serve as Clerk of the various Boards and Commissions. (Enacted 11 -7-00.)

## **SECTION 8.01 CIVIL SERVICE.**

All compensated positions in the service of the City shall be in the classified service, except as herein defined, and shall be appointed and promoted, as far as practicable, pursuant to competitive examinations and in accordance with the rules and regulations established by the Civil Service Commission.

Unclassified Service. The following positions shall comprise the unclassified service:

- (a) Members of Council.
- (b) The Clerk of Council and other employees of the Council.
- (c) The City Manager.
- (d) Assistants to the Manager.
- (e) The Directors of Departments, Division Heads, and the assistants to each.
- (f) Members of Boards and Commissions.
- (g) Any office or position requiring exceptional or professional qualifications.
- (h) Seasonal and part-time employees.
- (i) Unskilled laborers as designated by the Commission.
- (j) Any employee employed under a state or federally funded program as approved by the Civil Service Commission.
- (k) Positions created by Council and designated as unclassified as approved by the Civil Service Commission.
- (l) Positions determined and designated by the Civil Service Commission as being impractical to test.

Classified Service. The classified service shall comprise all positions not specifically included in this Charter in the unclassified service as exempt positions. (Amended 11-7-00)

## **SECTION 8.02 THE CIVIL SERVICE COMMISSION.**

There shall be a Civil Service Commission consisting of three (3) electors of the City of Eaton, who shall be appointed by a majority of members elected to Council, for a term of six (6) years. (Amended 11-7-00.)

### **SECTION 8.03 CIVIL SERVICE COMMISSION POWERS AND DUTIES.**

The Commission shall have the power to adopt procedures, rules and regulations concerning the selection, promotion, demotion, discipline and removal of employees within the classified service of the City, which procedures, rules and regulations may modify, supplement or supersede the laws of the State of Ohio, and in case of conflict shall prevail over the laws of the State of Ohio as a matter of local concern.

### **SECTION 8.04 PROMOTION.**

The Civil Service Commission shall provide for promotion to all positions in the classified service based upon competitive examination. Examinations may include written tests, oral tests and/or assessments centers or an evaluation of training and experience a credit allowance for seniority as established by Commission rule. Promotions will be made from one of the three highest standing persons on the Eligibility List certified by the Commission. Promotional exams may be restricted to present employees, or if recommended by the Manager, they may be opened to qualified candidates from outside the City service, by resolution of the Council.

### **SECTION 8.05 PROBATION PERIOD.**

DELETED 11-7-00.

### **SECTION 8.06 PLANNING, ZONING AND BUILDING BOARD.**

Council shall appoint seven (7) members to a Planning, Zoning and Building Board. One (1) member shall be a member of Council and six (6) shall be City electors. (Amended 11-7-00.)

### **SECTION 8.07 POWERS AND DUTIES.**

The Planning, Zoning and Building Board shall exercise such powers as may be conferred upon it by Council concerning the plan, design, location, removal, relocation, widening, extension and vacation of streets, parkways, playgrounds, sewer systems, water lines, supplies and associated services, lighting facilities and other public places and services; by Council and associated ordinances pertaining to Zoning Laws; by Council and associated ordinances pertaining to building codes and laws. The Board shall, in addition to the foregoing, exercise such additional powers as provided by General Law. (Amended 11-8-86.)

### **SECTION 8.08 PLANNING, ZONING AND BUILDING BOARD RULES AND PROCEDURES.**

DELETED 11-7-00.

**SECTION 8.09 PLANNING, ZONING AND BUILDING APPEALS BOARD.**

Council shall appoint five (5) members to a Planning, Zoning and Building Appeals Board. One (1) member shall be a member of the Planning, Zoning and Building Board, one (1) member shall be a member of Council and three (3) members shall be City electors. Citizen members of the Planning, Zoning and Building Appeals Board shall serve five (5) year terms. (Amended 11-7-00.)

**SECTION 8.091 POWERS AND DUTIES.**

The Planning, Zoning and Building Appeals Board shall have the power to hear and determine appeals where it is alleged there is error in any order, requirement, decision or determination made by the enforcing officer in the enforcement of the Zoning Code. The Planning, Zoning and Building Appeals Board shall also have the power to determine similarity of uses under the Zoning Code; to determine zoning district boundaries; to permit, in individual cases, exceptions to and variations from the zoning regulations as may be required to afford justice and avoid unreasonable hardship to property owners. The standards to be applied by the Board shall be established in the Planning and Zoning Code or by ordinance of Council. Any resolution overruling an action under or interpretation of the zoning ordinance by any Administrative Officer of the City must have the affirmative vote of four (4) members of this Board. Other determinations made by the Planning, Zoning and Building Appeals Board shall be implemented only upon an affirmative vote of a majority of those members appointed to the Board. (Enacted 11-7-00.)

**SECTION 8.10 PARKS AND RECREATION BOARD.**

Council shall establish a Parks and Recreation Board consisting of five (5) members, one (1) to be appointed annually from its own membership, one (1) to be appointed annually by the Board of Education of the Eaton City School District from among its membership and three (3) City electors to be appointed by Council for three (3) year terms. (Amended 11-7-00.)

**SECTION 8.11 POWERS AND DUTIES.**

The Parks and Recreation Board shall act in an advisory capacity only, making such recommendations and reports to the City Manager and Council as it deems advisable regarding the acquisition, development maintenance and operation of the parks, playgrounds and recreational facilities and programs of the City. The Board may cooperate with organized groups concerned with recreation programs and may stimulate citizen interest in the care and preservation of parks and historical and scenic sites. (Amended 11-7-00.)

**SECTION 8.12 OTHER BOARDS AND COMMISSIONS.**

In addition to the foregoing Boards and Commissions, Council may create and abolish such other advisory Boards, Commissions and Committees as may be deemed necessary.

**SECTION 8.13 MANAGER, EX OFFICIO MEMBER.**

The City Manager shall be an ex officio member without vote of all Boards and Commissions, created by or under authority of this Charter, except the Civil Service Commission.

**SECTION 8.14 CHARTER REVIEW COMMISSION.**

Every ten (10) years, Council shall consider establishing a Charter Review Commission. The Commission shall consist of nine (9) members: two (2) members of Council, one (1) member from the Planning, Zoning and Building Board, one (1) member from the Planning, Zoning and Building Appeals Board, and five (5) City electors appointed by Council. A Charter Review Commission shall review the Charter of the City of Eaton and, within the time limit set by Council at the time Commission members are appointed, recommend to Council such alterations, revisions and amendments to the Charter as the Commission deems appropriate. Upon submission of its recommendations, the Charter Review Commission shall be dissolved and Council, if it chooses, shall proceed under Section 10.05 of this Charter. (Enacted 11-7-00.)

**Article IX**  
**NOMINATIONS AND ELECTIONS**

**SECTION 9.01 MUNICIPAL ELECTIONS.**

The regular election for the choice of members of the Council and Judge of Eaton Municipal Court shall be held on the first Tuesday after the first Monday in November in the odd numbered years. This shall be known as the Municipal election. The Council may, by resolution, order a special election at any time, the purpose of which shall be set forth in the resolution.

**SECTION 9.02 CONDUCT OF ELECTIONS.**

Both regular and special Municipal elections shall be conducted by the Board of Elections of Preble County, Ohio, under the provisions of this Charter. Where the Charter is silent, the provisions of the State Election Law shall be followed.

**SECTION 9.03 NOMINATIONS.**

No primary election shall be held for the nomination of candidates for Municipal offices. Nominations for Municipal offices shall be made by petition signed by not fewer than twenty-five (25) electors. Petitions shall be the standard forms for the nomination of individual non-partisan candidates for such office. The signature of the candidate indicating his acceptance of the nomination and willingness to accept the office, if elected, shall appear on each copy of this petition. Petitions shall be filed with the Board of Elections in accordance with a date determined by the County Board of Elections in any year. (Amended 11-7-00.)

**SECTION 9.04 BALLOTS.**

The names of all candidates nominated for election to office in the Municipality shall be printed on the official ballot without any party designation. Except as otherwise provided in this Charter, the Laws of the State of Ohio shall govern the nominations and election of elective officers of this Municipality. (Amended 11 -7-00.)

**SECTION 9.05 ELECTION.**

The candidates for member of Council at the regular Municipal election, equal in number to the places to be filled on Council, who received the highest number of votes, shall be declared elected.



## **SECTION 9.06 RECALL.**

Any member of Council may be removed from office before the expiration of his term, by recall election, by the qualified electors of the City. A petition demanding the removal of an elected Council member shall be filed with the Clerk of Council who shall note thereon the name and address of the elector filing the petition and the date of such filing. Petitions 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 of the Council member whose removal is sought and shall include a statement in not more than two hundred (200) words of the grounds for removal. Such petition shall be signed by the number of qualified electors which equals twenty-five per cent (25%) of the total number of electors voting at the last regular Municipal election. Within ten (10) days after the date on which such petition is filed, the Clerk of Council shall transmit the petition to the Preble County Board of Elections. That Board shall examine the validity of the signatures and return the petition to the Clerk of Council within ten (10) days of receipt with a statement attesting to the number of qualified voters who signed the petition. The Clerk of Council shall then determine whether or not the petition meets the requirements of this section.

If the Clerk of Council finds the petition insufficient, the Clerk shall certify the particulars in which the petition is defective, deliver a copy of the certificate to the person who filed the petition, and make a record of such delivery. The person so notified shall be allowed a period of twenty (20) days, after the date of notification in which to make the petition sufficient by amendment. If the Clerk of Council shall find the petition, or an amended petition, sufficient, the Clerk shall promptly so certify to the Council and shall deliver a copy of such certificate to the Council member whose removal is sought recording date and time of such delivery. If the Council member sought to be recalled shall not resign within five (5) days after the delivery of such certification, the Council shall fix a day for holding a recall election, not less than sixty (60) days nor more than seventy-five (75) days after the date of delivery of the notice to the Council member sought to be recalled.

At such recall election, conducted by the Board of Elections of Preble County, Ohio, this question shall be placed on the ballot: "Shall (naming the Council member) be allowed to continue as Council member of the City of Eaton?" with provisions on the ballot for voting affirmatively or negatively on such question. If a majority of the votes cast at such election shall be voted affirmatively, such Council member shall remain in office. If a majority of the

(Section 9.06 Recall cont.)

votes cast at such election shall be voted negatively after certification by said Board of Elections of the election's results, such Council member shall be considered as removed, his office shall be deemed vacant, and such vacancy shall be filled as provided in this Charter. The Council member removed by such recall election shall not be eligible for appointment to the vacancy thus created.

**Article X**  
**GENERAL PROVISIONS**

**SECTION 10.01 OATH OF OFFICE.**

Every officer and administrative employee of the City shall, before entering upon his duties, take and subscribe to the following oath or affirmation which shall be filed and kept in the office of the Clerk of Council: "I solemnly swear (or affirm) that I will support the Constitution of the United States and of the State of Ohio and will obey the laws thereof and that I will, in all respects, uphold and enforce the provisions of the Charter and Ordinances of this City, and will faithfully discharge the duties of..... upon which I am about to enter." (Amended 11-7-00.)

**SECTION 10.02 OFFICIAL BONDS.**

All officers and employees of the City, whose duties require them to handle Municipal and other public money or property, shall furnish a corporate surety bond issued by a company authorized to do business in Ohio, to protect the City against loss due to their acts. The amount of the bond in each case shall be determined by Council and the premium on such bonds shall be paid from the funds of the City. All such bonds shall be filed with the Clerk of Council.

**SECTION 10.03 PERSONAL INTEREST.**

No member of the Council or any officer or employee of the City shall have any financial interest, direct or indirect, in any contract with or sale to the City of any materials, supplies, or services, or any land or interest in land. A person who knowingly and willfully violates this SECTION shall be guilty of malfeasance in office and, upon conviction thereof, shall be removed from office. Any contract or agreement made in violation of this Section shall be voidable at the election of the Council,

**SECTION 10.04 REMOVAL FROM OFFICE: DISQUALIFICATION.**

Whenever in this Charter certain acts on the part of City officials are described as constituting malfeasance in office, the procedure for complaint, trial and judgment thereon shall be that prescribed in applicable law. (Amended 11-7-00)

**SECTION 10.05 AMENDMENTS TO THE CHARTER.**

Any section of this Charter may be amended as provided in Article XVIII, Section 9, of the Ohio Constitution, by submission of proposed amendments to the electors of the Municipality. Such amendments may be initiated either by a two-thirds (2/3) vote of the Council or by petition to the Council of ten percent (10%) of the electors of the Municipality.

**SECTION 10.06 SEVERABILITY CLAUSE.**

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter, which would have been adopted without the invalid portion if such invalidity could have been known at the time of its original adoption.

**Article XI**  
**TRANSITIONAL PROVISIONS**

**SECTION 11.01 FISCAL SUCCESSION.**

The City of Eaton, under this Charter, is hereby declared to be the only legal successor of the City of Eaton under the General Law and, as such, the City has title to all property, real and personal, owned by its predecessor, including all moneys on deposit and all taxes in the process of collection together with all accounts receivable and rights of action. The City is also liable for all outstanding orders, contracts and debts of its predecessor and for any other obligations for which it may be held liable, as such successor, by any court of competent jurisdiction.

**SECTION 11.02 CONTINUATION OF ORDINANCES.**

All ordinances of the City of Eaton in effect at the time of the adoption of this Charter shall remain in effect, except as superseded by the provisions of this Charter, until they are amended or repealed.

**SECTION 11.03 CONTINUATION OF OFFICERS.**

All persons holding office at the time this Charter takes effect shall continue in office and in the performance of their duties until provision shall have been made, in conformity with the Charter, for the performance of such duties by a successor, or the office is abolished.

**SECTION 11.04 CONTINUANCE OF EMPLOYEES.**

Every employee of the City government when this Charter takes effect shall be retained in his employment and shall thereafter be subject in all respects to the provisions of this Charter.

**SECTION 11.05 TRANSFER OF RECORDS AND PROPERTY.**

All public records and property in the custody of officers and employees of the City shall be transferred and delivered promptly to their successors upon termination of tenure of office or employment.

**SECTION 11.06 CONTINUANCE OF CONTRACTS AND PUBLIC IMPROVEMENTS.**

All contracts entered into by the City or for its benefit, prior to the taking effect of this Charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws existing at the time this Charter takes effect shall be completed, as nearly as practicable, under the provisions of such laws.

**SECTION 11.07 PENDING ACTIONS AND PROCEEDINGS.**

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

**SECTION 11.08 WHEN CHARTER TAKES EFFECT.**

This Charter shall be voted upon at the special election held, on the 2nd day of May 1961. If approved by the voters, the Charter shall go into effect, for the purpose of electing the first Council hereunder, on July 1, 1961. The first Council shall be nominated under the provisions of this Charter and shall be elected on the first Tuesday after the first Monday in November 1961. At the first election, the three (3) candidates for Council receiving the highest number of votes shall be elected to serve until the first Monday in December 1965.

The two (2) candidates receiving the next highest number of votes shall be elected to serve until the first Monday in December 1963. At the expiration of the terms of office of the first Council members elected under this Charter, the term of office of the Council members shall be four (4) years. The term of office of the members of Council and other officials elected at the Municipal election in November 1959, shall cease and terminate on the first Monday in December 1961, at which time the first Council elected under this Charter shall take office and this Charter shall go into effect for all Municipal purposes.