

The Proposed Charter of the

CITY OF WILMINGTON, CLINTON COUNTY, OHIO

Preamble

We, the people of the City of Wilmington, Clinton 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 for the government of the municipality of Wilmington.

Article I

INCORPORATION-FORM OF GOVERNMENT-POWERS

Section 1.01. INCORPORATION.

The present municipality, as its limits are now or may hereafter be established, shall be and continue to be a municipal corporation of the State of Ohio in perpetuity, under the name of the City of Wilmington.

Section 1.02. POWERS.

Except as prohibited by the Constitution of this State or restricted by this Charter, the City of Wilmington 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 1.03. MANNER OF EXERCISING POWERS.

All powers of the 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.

Section 1.04. FORM OF GOVERNMENT.

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

Article II

THE COUNCIL

Section 2.01. NUMBER, SELECTION, TERM.

The Cit7 Council shall consist of seven members, elected at large, for four (4) year overlapping terms. At the first municipal election after the adoption of this Charter the four (4) candidates receiving the largest number of votes shall be elected to four year terms of office. and the three (3) candidates receiving the next highest number of votes shall be elected for a two (2) year term of office. Thereafter all members of 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 is a resident of the municipality, shall be eligible to serve as a member of Council when elected as hereinafter provided. No member of Council shall hold any other public office other than Notary Public or member of the National Guard or Reserve in the Armed Forces. 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 (2) consecutive months, shall automatically vacate his office on the Council.

Section 2.03. VACANCIES — FILLING OF.

Any vacancy in 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 municipality for at least two (2) years immediately preceding his appointment. Such person so chosen shall serve the balance of the unexpired term.

Section 2.04. BEGINNING OF TERM OF OFFICE.

The term of office of Council members shall begin on the 1st Monday in December following the regular municipal election, to be held the first Tuesday after the first Monday in November in the odd numbered years.

Section 2.05. SALARY.

The salary of Council members, other than the Mayor, shall be at the rate of \$300 per annum until changed by ordinance. No change in salary shall ever take effect unless enacted by Council prior to ninety (90) days before election to office.

Section 2.06. 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 twice each month. All meetings of Council shall be open to the public, except that the Council may, by a majority vote of all of the members present, enter into an executive session only for those purposes permitted by the general laws of the State of Ohio. A majority of the members shall constitute a quorum at all meetings.

Section 2.07. MAYOR AND VICE-MAYOR.

The Council shall select biennially, from among its own members, one to serve as Mayor and one as Vice-Mayor for a term of two years 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.

Section 2.08. SALARY OF MAYOR.

The Mayor shall be paid a salary at the rate of \$400 per annum, until changed by ordinance.

Section 2.09. 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 Auditor, appointed pursuant to the provisions of this Charter, shall also 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 2.10. 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 2.11. POWERS OF COUNCIL.

Council shall have authority to:

- Adopt ordinances and resolutions on any subject within the scope of its powers and provide penalties for the violation thereof;

- Establish the internal organization, staffing and compensation of the departments, boards and commissions created by this Charter;
- Set up such additional departments, boards, or commissions as it may deem necessary and determine their powers and duties;
- Adopt and modify the master plan and official map of the municipality;
- 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;
- Adopt a subdivision platting ordinance and approve subdivision plats which conform thereto;
- Enact a comprehensive building code;
- Adopt an annual appropriation ordinance based upon the annual budget;
- Appoint and remove the City Manager, establish his salary, and appoint an acting Village Manager when necessary;
- Appoint and remove the Auditor and establish his salary;
- Appoint and remove the City Attorney and establish his salary.
- Inquire into the conduct of any municipal officer or employee in the performance of his public functions;
- Make investigations of any office, department or agency of the municipality;
- Employ a public accountant to make an audit of the financial affairs of the City whenever such audit is deemed necessary;
- Provide for the employment of engineering and other professional services on a consulting basis when deemed necessary;
- Issue subpoenas for witnesses and the production of books and papers which may be necessary in the conduct of any hearing or investigation.

Article III

ORDINANCE 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.

Each proposed ordinance shall be introduced in writing by a member of the Council, and, in addition to the title, shall contain an opening clause substantially reading as follows, "Be it ordained by the Council of the City of Wilmington, Ohio." The action proposed to be taken shall be fully and clearly set forth in the body of the ordinance. Each ordinance shall contain one subject only, which shall be clearly stated in the title. No ordinance shall be passed without the

concurrence of a majority of all the members elected to Council, except that emergency ordinances, as hereinafter provided, shall require concurrence of five (5) members elected to Council for passage. Absent a declaration of emergency, the title of every ordinance shall be read aloud at a regular or special meeting of Council on two different days before passage of the ordinance, but the ordinance may be passed at the same meeting during which the second reading takes place. If an emergency is declared as hereinafter provided, or if by a vote of five (5) members elected to council the reading on two different days is dispensed with, the title of the ordinance may be read one time and passed on the day of such reading. Final passage of all ordinances and resolutions shall be certified by the Mayor or Vice Mayor and the Clerk of Council. No ordinance passed by this Council before the effective date of this section shall be declared invalid, ineffective, or unenforceable for the sole reason that only the title was read, or it was not otherwise "fully and distinctly read" in full, whether once or twice, as set forth in the prior section 3.02 of this Charter.

Section 3.03. EFFECTIVE DATE.

Ordinances provided for appropriations for current expenses of the municipality, or for public improvements petitioned for by the owners of a majority of the foot frontage of property benefitted and to be specially assessed for the cost thereof, or for raising revenue, or ordinances wherein an emergency is declared to exist, shall become effective immediately upon passage or at such later date as may be provided therein, and such ordinances shall not be subject to referendum. All other ordinances shall take effect thirty days after passage. An emergency ordinance as referred to herein is one which must be passed and made effective at once or in less than thirty days to meet an emergency in the operation of the City government, or which is necessary for the immediate preservation of the public peace, health, safety, morals or welfare. Each emergency ordinance must contain therein a separate section setting forth the reason for the emergency. No ordinance granting a franchise or fixing a rate to be charged by a public utility shall be passed as an emergency measure.

Section 3.04. PUBLICATION OF ORDINANCES.

After passage, ordinances required by law to be published shall be published in summary form, one time, in a newspaper of general circulation in the City. Such summary shall consist of a brief statement of the purpose and effect of the ordinances. A copy of each ordinance shall be posted fifteen (15) days in a public place in the City hall to be designated by Council.

Section 3.05. INITIATIVE AND REFERENDUM.

Except as otherwise provided in this Charter ordinances may be proposed and submitted to popular vote by initiative and referendum under the procedure set forth in Sections 731.28 to 731.40, both inclusive, of the Revised Code of Ohio.

Whenever the Council is required to pass more than one ordinance or resolution to complete the legislation necessary to complete and pay for any public improvement, the referendum shall

apply only to the first ordinance or resolution to be passed and not to any subsequent ordinance or resolution in the series relating thereto.

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 copies of all such codes shall be kept in the office of the Clerk of Council for reference and consultation by interested persons during regular office hours and additional copies shall always be available for sale, at cost, by the Clerk of Council. 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 Manager. The Manager shall be chosen solely on the basis of his executive and administrative qualifications, as judged by the adequacy of his training and experience. For the period of five (5) years after the effective date of this Charter, the person selected as manager, shall, at the time of his appointment be an elector, and must have resided for one year within an area extending not more than three (3) miles outside the corporation limits of the City of Wilmington. Thereafter, 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 in the municipality. No Council member or member of the Charter Commission shall be eligible for appointment as Manager or head of a department during the term for which he has been elected or for two years thereafter.

Section 4.02. MANAGER'S DUTIES.

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

1. Insure that this Charter and the ordinances and resolutions of the City are faithfully observed and enforced;
2. Appoint and remove all officers and employees of the City except those selected or appointed by Council, as otherwise provided in this Charter;

3. Prepare the tax budget and annual budget, submit them to the Council for approval, and administer the appropriations made by the Council;
4. Prepare and submit monthly reports to the Council. Prepare and submit to the Council and the public annually, not later than March 31st, a complete report on the finances and administrative activities of the municipality for the preceding year; which report shall be deemed to satisfy the requirements of Section 117.19, R.C. of Ohio without separate publication of the financial statement. Such annual report shall be published in the manner provided by ordinance.
5. Formulate and arrange contracts, franchises and agreements subject to the approval of Council. Sign all contracts, bonds and notes on behalf of the City.
6. Attend meetings of Council. He shall have the right to participate in the discussion of all matters coming before Council but shall have no vote.
7. Serve as an ex-officio member (without vote) of all boards and commissions authorized under this Charter, except the Civil Service Commission.
8. Delegate to subordinate officers and employees of the municipality any duties conferred upon him by this Charter or by action of Council and hold them responsible for the faithful discharge of such duties.
9. Perform such other duties, not inconsistent with this Charter, as may be required by the Council.

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 Village 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, the Council may, by resolution, appoint any qualified administrative officer of the municipality to perform the duties of the Manager until he shall return or his disability cease.

Section 4.04. 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. At least thirty (30) days before such removal shall become effective the Council shall adopt a preliminary resolution stating the reasons for the removal. The Manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of the request, before the full Council. After such public hearing, if one is requested, and after full consideration, the Council may adopt a final resolution of removal. The Council may, at the time the preliminary resolution is passed, suspend the Manager from duty and designate an Acting Manager, but shall cause forthwith the payment of any salary due the Manager to the date of his suspension. Unless such suspension and removal is for misconduct of the Manager involving moral turpitude, he shall be paid his salary for the period of suspension and thirty (30) days following the removal from office. 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 ordinance, after consultation with the Manager.

Section 5.02. DEPARTMENT HEADS.

Each City department shall be headed by a full time or part time director. With the exception of the Departments of Finance and Law the Manager shall appoint and remove all department heads, subject to the approval of the Council. The head of the Departments of Finance and Law shall be appointed by the Council in accordance with the provisions of this Charter. Each department head shall be an administrative officer of the City. Two or more departments 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 Council.

Section 5.03. DEPARTMENTAL DIVISIONS.

The work of each department shall be distributed among such divisions thereof as may be established by the administrative code. Pending the adoption of such a code of the Council, the City Manager may establish temporary divisions by administrative order.

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 organization unit and 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 Manager. Where the administrative code is silent the officers and employees of the Village 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 Director of the Department of Law shall be known as the City Attorney. He shall be an attorney-at-law, admitted to practice law in the State of Ohio. He shall perform such duties as may be assigned to the office of city solicitor by law, as well as those imposed by the administrative code. The City Attorney shall be appointed by Council for an indefinite term of office.

Section 5.06. DEPARTMENT OF FINANCE.

The Department of Finance shall perform those functions customarily performed by the auditor and the treasurer under the general laws of Ohio. The director of the Department of Finance shall be assigned the title of City Auditor. The City Auditor shall be appointed by 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 disbursements. 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.

Section 5.07. DEPARTMENT OF SAFETY.

The Department of Safety shall have and perform such functions relative to police and fire protection as may be assigned by ordinance or by order of the City Manager. Notwithstanding any provisions of state law, the Council may establish a unified police and fire service in which both types of service are rendered by the same personal. The head of this department shall be designated as the Director of Safety.

Section 5.08. DEPARTMENT OF SERVICE.

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 departments as may be assigned by ordinance or by order of the City Manager, in addition to those prescribed in the administrative code.

Section 5.09. SALE OF MUNICIPALLY OWNED UTILITY.

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

Article VI

TAXATION AND BORROWING

Section 6.01. LEVYING TAXES.

The Council shall have the power to levy taxes in the manner provided by the Constitution and general laws of Ohio, subject to the limitations provided therein.

Section 6.02. SUBMISSION OF EXTRA LEVY TO VOTE.

The Council may, at any time prior to the 15th day of September in any year, declare by resolution, adopted by a vote of two-thirds (2/3) of all the members thereof, that the amount of taxes which may be raised within the limitations of this Charter will be insufficient to provide an adequate amount for the necessary requirements of the City for current operating expenses, and 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. Such resolution shall declare that it is necessary to levy taxes in excess of such limitation, in addition to the levies authorized and limited by this Charter, for the municipal purpose or purposes specified in such resolution. Such resolution shall specify the additional rate which it is necessary to levy, the purpose or purposes thereof, the number of years during which such rate shall be in effect and the date of the proposed election thereof. 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 then 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 as authorized by Section 133.29 of the Ohio Revised Code.

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.

Article VII

FINANCE

Section 7.01. ANNUAL TAX BUDGET.

On or before the first day of June 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 [i.e., the City Manager] shall prepare the consolidated estimates for the annual tax budget. The Council shall consider these estimates and adopt them, with or without amendments, as the tax budget of the Village 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.

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 Village shall be the Calendar year, beginning January 1st and ending December 31st each year.

Article VIII

BOARDS AND COMMISSIONS

Section 8.01. CIVIL SERVICE.

Appointment and promotions in the administrative service of the City shall be made according to merit, to be ascertained, so far as practicable, by open competitive examination.

Exempt Positions.

1. All officers elected by the people.
2. Clerk of Council.
3. The City Manager.
4. The Secretary to Manager.
5. The Directors of Departments.
6. The Secretary to the Directors.
7. Chief of Police.
8. Fire Chief.
9. Members of Boards and Commissions appointed by the Council.
10. Unskilled labor.
11. Temporary employees of exceptional professional or scientific qualifications engaged as consultants for special work by the City.
12. Seasonal and part time employees.

Classified Service. The classified service shall comprise all positions not specifically included in this Charter in the unclassified service as exempt positions.

Section 8.02. THE CIVIL SERVICE COMMISSION.

There shall be a Civil Service Commission consisting of three members, not more than two (2) of whom shall belong to the same political party, who shall be appointed by the Council. Of the members first appointed, one shall hold office for a term of two (2) years, one for a term of four (4) years, and the other for a term of six (6) years. Their successors shall be appointed for terms of six years. The Council shall fill all vacancies by appointment for the unexpired term.

Section 8.03. RULES AND REGULATIONS.

No officer or employee in classified service shall be demoted or removed except for cause and after hearing. The Council shall provide by ordinance for the enforcement of this provision and also for appeals to the Civil Service Commission from suspensions, demotions and removals by the Manager. The Commission shall provide rules for the determination of merit and fitness as the basis for appointment and promotion of classified personnel covered by civil service.

Section 8.04. PROMOTION.

The Commission shall provide for promotion to all positions in the classified service based on competitive examination and on records of merit, efficiency, character, conduct and seniority. Promotional examinations 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.

An original appointment of a new employee shall not be deemed complete until a period of probation not to exceed six (6) months has elapsed. Such probationary employee may be discharged at any time within the said period of six (6) months upon the recommendation of the head of the department in which said probationer is employed, with the approval of the Manager.

Section 8.06. PLANNING COMMISSION.

There shall be a City Planning Commission consisting of five (5) members, one of whom shall be the Mayor, and four citizen members who have resided in the City for a period of two (2) years, to be appointed by Council from among the qualified electors of the City. The four (4) citizen members shall serve four year overlapping terms of office. The first appointments to the four (4) year term of office under this Charter shall be made as follows: two members shall be appointed to a two (2) year and two (2) members to a four (4) year term; thereafter the four (4) citizen members shall be appointed for a four (4) year term of office.

Section 8.07. POWERS AND DUTIES.

The Planning Commission may act as the Platting Commission of the municipality. As such, it shall provide for planning and regulations covering the platting of all lands which are subject to

control by the municipality, and shall cause an official map of such territories to be made. The Commission shall carry out the municipal planning function, including the preparation of a master plan, and make such investigations, reports and recommendations relating to planning and the physical development of the City as it finds necessary and desirable. Regular meetings shall be held at least once each month.

Section 8.08. BOARD OF ZONING APPEALS.

The Council may appoint a Board of Zoning Appeals to consist of three electors of the City to serve for a term of three years. Of those first appointed under this Charter, one shall serve one (1) year, one shall serve two (2) years, and one shall serve three (3) years. The Board shall establish its own rules of procedure and keep a record of its proceedings in all matters coming before the Board. No resolution overruling an action under or interpretation of the zoning ordinance by any administrative officer of the City shall be adopted except by the affirmative vote of three (3) members of this Board.

Section 8.09. POWERS AND DUTIES.

The Board shall have the power to hear and determine appeals from refusal of building permits and to permit exceptions to and variations from the zoning regulations in individual cases as may be required to afford justice and avoid unreasonable hardship to property owners. The standards in all instances to be applied by the Board shall be established by ordinance of Council.

Section 8.10. RECREATION BOARD.

There shall be a Recreation Board established by the City Council.

Section 8.11. OTHER BOARDS AND COMMISSIONS.

Council may create or abolish such other advisory boards, commissions and committees as may be deemed necessary.

Section 8.12. MANAGER — EX OFFICIO MEMBER.

The City Manager shall be an ex officio member of all boards and commissions created by or under authority of this Charter, except the Civil Service Commission.

Article IX

NOMINATIONS AND ELECTIONS

Section 9.01. MUNICIPAL ELECTIONS.

The regular election for the choice of members of the Council 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 Clinton 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 the Council. Nominations for the office of Council member shall be made by petition signed by not less than fifty (50) nor more than one hundred (100) electors of the City. Petitions shall be the standard forms for the nomination of individual non-partisan candidates for such office. Group petitions shall not be used. Petitions shall be filed with the Board of Elections at least ninety (90) days before the day of the election.

Section 9.04. BALLOTS.

The full names of all candidates nominated shall be printed on the official ballot without party designation. If two candidates with the same surname, or with names so similar as to be likely to cause confusion, are nominated, the addresses of their places of residence shall be placed below their names on the ballot. The names of all candidates shall be rotated on the ballot as provided by law.

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 the qualified voters of the Village. The procedure for such recall shall be that provided in Section 705.92 of the Ohio Revised Code.

Article X

GENERAL PROVISIONS

Section 10.01. OATH OF OFFICE.

Every officer and 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."

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 Village. 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 Village officials are described as constituting malfeasance in office, the procedure for complaint, trial and judgment thereon shall be that prescribed in Sections 733.72 to 733.77 of the Ohio Revised Code.

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 (10) percent of the electors.

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 Wilmington, under this Charter, is hereby declared to be the only legal successor of the City of Wilmington 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 Wilmington 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 Village 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 **October 4th, 1960**. 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 four (4) candidates for Council receiving the highest number of votes shall be elected to serve until the **1st Monday in December 1965**. The three (3) candidates receiving the next highest number of votes shall be elected to serve until the **1st 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 members of Council shall be four (4) years. The term of office of the Council members and other City officials elected at the municipal election in **November 1959** shall cease and terminate on the **1st 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.

We the undersigned regularly elected and qualified members of the Charter Commission of the City of Wilmington, State of Ohio, hereby approve the foregoing Charter and submit it to the voters of the City of Wilmington at the special election to be held on **October 4, 1960**, pursuant to the provisions of Article XVIII, Section 8, of the Constitution of the State of Ohio.

Done in the City of Wilmington, this **Eleventh day of July in the year 1960**.

IN WITNESS WHEREOF, we have hereunto subscribed our names:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

8. _____
9. _____
10. _____
11. _____
12. _____
13. _____ (Chairman)
14. _____ (Vice-Chairman)
15. _____ (Secretary)

DRAFT