

**CHARTER**  
**FOR THE**  
**CITY OF OAKWOOD**  
**IN**  
**MONTGOMERY COUNTY**  
**OHIO**

-----

EDITOR'S NOTE: The present Oakwood City Charter was approved by the voters at an election on May 3, 1960. It was amended by the voters at an election on November 8, 1988.

-----

**TABLE OF CONTENTS**

**PREAMBLE**

**ARTICLE I. INCORPORATION, POWERS, FORM OF GOVERNMENT**

- 1.01. Incorporation.
- 1.02. Powers.
- 1.03. Manner of Exercise of Powers.
- 1.04. Form of Government.

**ARTICLE II. THE CITY COUNCIL**

- 2.01. Numbers, Selection, Term.
- 2.02. Qualifications.
- 2.03. Vacancies, Creation of.
- 2.04. Vacancies, Filling of.
- 2.05. Salary of Council Members.
- 2.06. Election Contests.
- 2.07. Rules, Journal.
- 2.08. Powers of Council.
- 2.10. Mayor and Vice Mayor.
- 2.11. Clerk of Council.

**ARTICLE III. ORDINANCES AND RESOLUTIONS**

- 3.01. Action of Council.
- 3.02. Introduction of Ordinances.
- 3.03. Passage of Ordinances.
- 3.04. Effective Date.
- 3.05. Publication of Ordinances.
- 3.06. Initiative and Referendum.
- 3.07. Adoption of Ordinances by Reference.
- 3.08. Resolutions.

**ARTICLE IV. CITY MANAGER**

- 4.01. Appointment of City Manager.
- 4.02. Duties of the City Manager.
- 4.03. Absence or Disability of the City Manager.
- 4.04. Removal of the City Manager.
- 4.05. Council; Relation to City Manager.

**ARTICLE V. ADMINISTRATIVE DEPARTMENTS**

- 5.01. Creation of Departments.
- 5.02. Department Heads.
- 5.03. Departmental Divisions.
- 5.04. Administrative Code.
- 5.05. Central Purchasing.
- 5.06. Competitive Bidding.
- 5.07. Over-expenditures.
- 5.08. Personal Interest.
- 5.09. Illegal Contracts Voidable.
- 5.10. Qualifications of Director of Law.
- 5.11. Department of Finance.
- 5.12. Department of Safety.

**ARTICLE VI. FINANCE.**

- 6.01. Annual Tax Budget.
- 6.02. Public Inspection and Hearing on Tax Budget.
- 6.03. Tax Levies.
- 6.04. Revision of Tax Budget.
- 6.05. Annual Appropriation Ordinance.
- 6.06. Effect of Appropriation Ordinance.
- 6.07. Amendment of Appropriations.

**ARTICLE VII. BOARDS AND COMMISSIONS**

- 7.01. Planning Commission.
- 7.02. Board of Zoning Appeals.
- 7.03. Board of Health.

**ARTICLE VIII. PERSONNEL**

- 8.01. Merit System Established.
- 8.02. Exempt Positions.
- 8.03. Personnel Officer.
- 8.04. Personnel Appeals Board.
- 8.05. Duties of Personnel Appeals Board.
- 8.06. Candidacy for Partisan Office.
- 8.07. Assessments and Contributions.
- 8.08. Penalties.
- 8.09. Promotional Examinations.

**ARTICLE IX. BORROWING.**

- 9.01. Power to Incur Debt.
- 9.02. Mortgage Revenue Bonds.
- 9.03. Special Assessment Bonds.
- 9.04. Tax Anticipation Notes.

- 9.05. Emergency Borrowing.
- 9.06. Procedure in Bond Issues.

**ARTICLE X. NOMINATIONS AND ELECTIONS**

- 10.01. Municipal Elections.
- 10.02. Conduct of Elections.
- 10.03. Nominations.
- 10.04. Sponsors, Acceptances, Verifications.
- 10.05. Ballots.
- 10.06. Write-ins.
- 10.07. Watchers and Challengers.
- 10.08. Plurality, Tie Votes.
- 10.09. Public Information on Issues.
- 10.10. Recall.

**ARTICLE XI. GENERAL PROVISIONS**

- 11.01. Oath of Office.
- 11.02. Official Bonds.
- 11.03. Fees.
- 11.04. Removal from Office.
- 11.05. Enforcement of Subpoenas.
- 11.06. Amendments to the Charter.
- 11.07. Severability Clause.
- 11.08. Publication.
- 11.09. Fiscal Year.
- 11.10. Incorporation of General Law.

**ARTICLE XII. TRANSITIONAL PROVISIONS**

- 12.01. Fiscal Succession.
- 12.02. Continuation of Ordinances.
- 12.03. Continuation of Officers.
- 12.04. Continuation of Employees.
- 12.05. Transfer of Records and Property.
- 12.06. Continuation of Contracts and Improvements.
- 12.07. Pending Actions and Proceedings.
- 12.08. When Charter Takes Effect.
- 12.09. Continuation of Council.
- 12.10. Transfer of Finance Functions.
- 12.11. Distribution of Personnel Functions.

**CHARTER  
FOR THE  
CITY OF OAKWOOD  
MONTGOMERY COUNTY  
OHIO**

---

**PREAMBLE**

We the people of Oakwood, Montgomery County, Ohio, desirous of securing for our City and for ourselves and our children the advantages of self-government conferred by the home rule provisions of the Ohio Constitution, do hereby ordain and establish the following Charter:

**ARTICLE I  
INCORPORATION, POWERS, FORM OF GOVERNMENT**

**SECTION 1.01. INCORPORATION.**

The inhabitants of the City of Oakwood, Montgomery County, Ohio, within the corporate limits as established at the time of the adoption of this Charter, or as thereafter established in the manner provided by law, shall be and continue to be a municipal corporation in perpetuity, under the name of "The City of Oakwood". The corporation will hereinafter be referred to as "the City".

**SECTION 1.02. POWERS.**

The City shall have and may exercise all municipal powers functions, rights, privileges, and immunities of every name and nature whatsoever, except as prohibited by the Constitution of the United States, or the Constitution of the State of Ohio, or as limited or restrained by this Charter or by the general statutes of the State of Ohio relating to matters of Statewide concern. The enumeration of specific powers in this Charter shall not be deemed exclusive, as it is intended that in addition to the powers enumerated herein or implied therefrom or appropriate to the exercise of such enumerated powers, the City shall have and may exercise all other and additional powers which it would be competent for this Charter specifically to enumerate.

**SECTION 1.03. MANNER OF EXERCISE OF POWERS.**

All powers of the City shall be vested in the officers provided for in this Charter. Where any existing or future acquired power is not assigned to a specific officer, it shall be deemed to be among the powers of the City Council. All powers shall be exercised in the manner prescribed in this Charter, or if the manner be not so prescribed, then in the manner prescribed by ordinance. If no procedure is established either by the Charter or by ordinance, then that provided by general State law shall be followed until the City Council shall provide a different procedure by ordinance.

**SECTION 1.04. FORM OF GOVERNMENT.**

The form of government provided for by this Charter shall be known as "the council-manager plan".

## **ARTICLE II THE CITY COUNCIL**

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

The City Council shall consist of five members, elected at large in the City, for four year overlapping terms, in the manner hereinafter provided. All elections of Council members shall be on a non-partisan ballot.

### **SECTION 2.02. QUALIFICATIONS.**

Any registered elector, who has lived in the City for two years prior to filing his petition of candidacy, shall be eligible to have his name placed on the ballot, if his petition is sufficient as hereinafter provided, and to serve as a member of the Council, if elected.

### **SECTION 2.03. VACANCIES, CREATION OF.**

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

- (1) by resignation, accepted by a majority of the other Council members; or
- (2) by removal of his permanent residence to a place outside the limits of the City; or
- (3) by ceasing to be a qualified elector; or
- (4) by absence, without excuse by the other members of Council, from meetings of the Council during three consecutive months; or
- (5) by the acceptance of and entering upon the duties of an incompatible office; or
- (6) by recall, as hereinafter provided; or
- (7) by removal from office from malfeasance, as provided by law; or
- (8) by death.

### **SECTION 2.04. VACANCIES, FILLING OF.**

Vacancies in the office of Council member shall be filled within sixty days by vote of a majority of the remaining Council members, by the selection of a person qualified as provided in Section 2.02 hereof. Such person so chosen shall serve until the next regular municipal election occurring not less than one hundred days after selection. At such election a successor shall be elected to serve for the unexpired term, if any; if not, for a full term.

### **SECTION 2.05. SALARY OF COUNCIL MEMBERS.**

The members of the Council in office at the time of the adoption of this Charter shall continue to receive the salary which was in effect on the effective date of this Charter. The

Council may, however, fix a different salary to be paid to their successors in office provided that no increase shall be paid unless the ordinance establishing it shall have been passed at least one hundred days before a regular municipal election, at which a majority of the Council members are to be elected. Members of Council may be reimbursed for reasonable expenses incurred in connection with their duties."

#### **SECTION 2.06. ELECTION CONTESTS.**

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

#### **SECTION 2.07. RULES, JOURNAL.**

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

#### **SECTION 2.08. POWERS OF THE COUNCIL.**

Among other powers the Council shall have the authority to:

- (1)adopt ordinances and resolutions on any subject within the scope of its powers, and to provide penalties for the violation thereof;
- (2)establish the internal organization, staffing and compensation of the departments, boards and commissions created by this Charter; set up such additional departments, boards or commission as it may deem necessary and determine their powers and duties;
- (3)adopt and modify the master plan for the City and an official map of the City;
- (4)regulate the use of private real estate in the City by establishing zones, limiting the uses in each zone, and limiting the height of buildings and the intensity of land use;
- (5)adopt a subdivision platting ordinance and approve subdivision plats which conform thereto;
- (6)enact a comprehensive building code;
- (7)authorize the levy of taxes and the issuance of bonds as provided in this Charter;
- (8)adopt an annual appropriation ordinance based on the annual budget, and delegate its enforcement to the City Manager;
- (9)appoint and remove the City Manager, establish his salary, and appoint an Acting City Manager when necessary to expedite public business;
- (10)inquire into the conduct of any City officer or employee in the performance of his public functions;

- (11)make investigations of any office, department or agency of the City;
- (12)grant public utility franchises by votes of 4/5 of Council;
- (13)appoint and remove the members of the City Planning Commission, the Zoning Board of Appeals, the Board of Health and any other board or commission created by ordinance;
- (14)employ a Certified Public Accountant to audit the accounts of the City or any officer or department thereof, whenever such audit is deemed necessary;
- (15)issue subpoenas for witnesses and to require the production of books and papers which may be necessary in the conduct of any hearing or investigation.

#### **SECTION 2.09. MEETINGS OF COUNCIL.**

The Council shall hold its first or organization meeting on the first Monday of January of each even numbered year, or, if such day falls upon a public holiday, then on the following day. At such meeting the newly elected members of Council shall take the oath of office and Council shall proceed to elect a Mayor and a Vice Mayor and may transact such other business as may come before it. Thereafter, meetings shall be held as prescribed in the Council rules, but not less frequently than every other month. All meetings of Council shall be open to the public, but portions of the meetings may be used for executive sessions to the extent allowed by Ohio statutes or by ordinance.

#### **SECTION 2.10. MAYOR AND VICE MAYOR.**

Council shall select biennially from among its 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 as such. 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 City, but shall exercise no administrative authority. The Vice Mayor shall preside over the meetings of Council when the Mayor is absent and shall perform such other duties as may be assigned to him by ordinance. The Mayor may be paid an allowance for expenses incurred in connection with his duties as Mayor, in addition to his salary as a member of Council, as may be fixed by ordinance.

#### **SECTION 2.11. CLERK OF COUNCIL.**

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

**ARTICLE III  
ORDINANCES AND RESOLUTIONS**

**SECTION 3.01. ACTION OF COUNCIL.**

Action of Council shall be by ordinance or resolution, except that non-legislative and procedural actions may be taken by oral motion recorded in the Council minutes. Every action of a general or permanent nature, or granting a franchise, or levying a tax, or appropriating money, or contracting an indebtedness to be evidence by the issuance of bonds or notes, or for the purchase, lease or transfer of public property, shall be taken formally by ordinance, in the manner provided.

**SECTION 3.02. INTRODUCTION OF ORDINANCES.**

No ordinance shall be passed without the concurrence of a majority of all members elected to Council, except that emergency ordinances, as hereinafter provided, shall require concurrence of three-fourths of all members elected to Council for passage. Before passage every ordinance shall be fully and distinctly read on two different days, unless an emergency is declared as hereinafter provided, or unless by three-fourths vote of all members elected to Council, a reading thereof in full on two different days is dispensed with, in which cases such ordinance may be read one time and passed on the day of such reading. Any ordinance may contain a number of separate legislative sections as long as they deal with the same general subject or with the same code within the Codified Ordinances, e.g., the Traffic Code or Building Code.

**SECTION 3.03. PASSAGE OF ORDINANCES.**

No ordinance shall be passed without the concurrence of a majority of all members elected to Council, except that emergency ordinances, as hereinafter provided, shall require concurrence of three-fourths of all members elected to Council for passage. Before passage, copies of every ordinance shall be made available to the audience; and the title of the ordinance shall be read on two different days unless an emergency is declared as provided in Section 3.04, or unless by three-fourths vote of all members of Council it is determined to read the ordinance by title only once, in which case the ordinance may be passed on that day.

**SECTION 3.04. EFFECTIVE DATE.**

Ordinances providing for appropriations for current expenses of the municipality, or for public improvements petitioned for by the owners of a majority of the foot frontage of property 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. An emergency ordinance must contain therein a separate section setting forth the reason for the emergency. No ordinance granting a franchise or fixing a rate to be charged by a public utility shall be passed as an emergency ordinance.

### **SECTION 3.05. PUBLICATION OF ORDINANCES.**

After passage, ordinances of a general nature, or providing for public improvements, shall be published in summary form one time, in a newspaper of general circulation in the City, within ten days after passage. Such summary shall consist of a brief statement of the purpose and effect of the ordinance. Provided, however, the Council may provide, by ordinance, in lieu of the aforesaid publication in summary form, that all such ordinances, or any particular such ordinance, may be published in one of the following ways:

- (1) By publication at length, in a code of revised ordinances which is made available to the public in the office of the Clerk of Council.
- (2) In the case of appropriation ordinances, by reproduction and distribution to the members of Council, to department heads, to City boards and commissions, and to all citizens who may apply for copies at the office of the Clerk of Council.

(See CHTR.11.08 which defines what constitutes sufficient publication.)

### **SECTION 3.06. INITIATIVE AND REFERENDUM.**

Except as otherwise provided in this Charter, ordinances may be proposed and submitted to popular vote by initiative and referendum under the procedure set forth in Sections 731.28 to 731.40 of the Ohio Revised Code. Whenever 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 3.07. ADOPTION OF ORDINANCES BY REFERENCE.**

Council may adopt model or standard codes prepared and published by public or private agencies on such matters as fire prevention, building construction, electrical wiring, plumbing, heating, ventilating, air conditioning and other similar topics by reference to the date and source of the code without reproducing it at length in the ordinance. However, if Council desires to modify, add to or eliminate from any such code any section or part thereof, such addition, modification or omission shall be clearly stated in the ordinance. In all cases in which such a code shall be adopted by reference, publication of the code, at length, by the City, shall not be required. One copy of each such code must be kept in the administrative offices of the City for review by interested persons during regular hours, and additional copies may be purchased through the City, at cost.

### **SECTION 3.08. RESOLUTIONS.**

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

**ARTICLE IV  
CITY MANAGER**

**SECTION 4.01. APPOINTMENT OF CITY MANAGER.**

The Council shall appoint, by majority vote of all members elected thereto, an officer of the City who shall have the title of City Manager. The City Manager shall be chosen by Council solely on the basis of his executive and administrative qualifications in the profession of city management, as judged by the adequacy of his technical training and his successful experience in public administration. At the time of his appointment he need not be a resident of the City or State, but during his tenure of office he shall reside in the City. No Council member shall be eligible for appointment as City Manager during the term for which he has been elected, or for one year thereafter. The residency requirement may be suspended by the Council for a temporary period when a City Manager is first hired.

**SECTION 4.02. DUTIES OF THE CITY MANAGER.**

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

- (1) see that this Charter and the ordinances and resolutions of the City are faithfully observed and enforced;
- (2) appoint, and when necessary for the good of the service, remove all officers and employees of the City, not selected or appointed by Council, in the manner provided in this Charter;
- (3) prepare the tax budget and the annual budget, submit them to Council for approval, and administer the appropriations made by Council;
- (4) prepare and submit to Council and to the public annually, not later than March 31, a complete report on the finances and administrative activities of the City for the preceding year; this report shall be deemed to satisfy the requirements of Section 117.19 of the Ohio Revised Code without separate publications of the financial statement;
- (5) keep Council informed of the current financial condition and future needs of the City;
- (6) sign all contracts, bonds and notes on behalf of the City;
- (7) serve as an ex officio member, (without vote) of the Planning Commission and the Board of Health;
- (8) appoint such citizen advisory committees as seem to him desirable and discharge them when in his judgment their function has been completely served;
- (9) delegate to subordinate officers and employees of the City any duties conferred upon him by this Charter or by action of Council, and hold them responsible for the faithful discharge of such duties; and

(10)perform such other duties, not inconsistent with this Charter, as may be required by Council.

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

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

#### **SECTION 4.04. REMOVAL OF THE CITY MANAGER.**

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

#### **SECTION 4.05. COUNCIL; RELATION TO CITY MANAGER.**

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

**ARTICLE V  
ADMINISTRATIVE DEPARTMENTS**

**SECTION 5.01. CREATION OF DEPARTMENTS.**

The activities of the City shall be carried on by such departments as the Council may create by ordinance, after consultation with the City Manager.

**SECTION 5.02. DEPARTMENT HEADS.**

At the head of each department there shall be a full time or part time director appointed by the City Manager with the approval of Council. Each director shall be an administrative officer of the City. He shall have supervision and control of the department heads subject to the direction of the City Manager. 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 City Manager, if the Council approves.

**SECTION 5.03. DEPARTMENTAL DIVISIONS.**

The work of each department shall be distributed among such divisions thereto as may be established by the administrative code. Pending the adoption of such a code by 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 Manger, 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. Council may delegate to the City Manager and he to the heads of departments, power to make rules and regulations to govern management practices, consistent with the administrative code. Amendments to and revisions of the administrative code shall be made by Council only after consultation with the City Manager. 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 State law. However, provisions of the administrative code shall supersede those of State law in case of conflict.

**SECTION 5.05. CENTRAL PURCHASING.**

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

**SECTION 5.06. COMPETITIVE BIDDING.**

Purchase of all supplies, materials and equipment for the City shall be made through competitive procedures provided by ordinance, subject to exceptions in cases of public emergency declared by four-fifths vote of Council.

#### **SECTION 5.07. OVER-EXPENDITURES.**

No officer, department or agency of the City shall expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money on behalf of the City for any purpose in excess of the amounts appropriated for such expenditures and obligations. The officer or employee who knowingly attempts or purports to create such an obligation shall be guilty of malfeasance in office and upon conviction thereof shall be removed from office. However, nothing in this section shall prevent the making of contracts not to be fully performed within the fiscal year when specifically authorized by Council.

#### **SECTION 5.08. PERSONAL INTEREST.**

The Ohio ethics laws and other state statutes as to conflicts of interest shall be the minimum standards applying to all contracts with the City and all sales to the City of any materials, supplies, equipment, land or any interest in land.

#### **SECTION 5.09. ILLEGAL CONTRACTS VOIDABLE.**

Whenever any contract is found to be illegal, for the reasons stated in Sections 5.07 or 5.08 and the City has received the goods or property involved, Council may, by resolution, elect to rescind the contract, and return the goods or property or retain them, paying for them not at the contract price, but at their fair value, provided such value is not in excess of the contract price. If payment has already been made, the City shall be entitled to recover the excess, if any, over the fair value.

#### **SECTION 5.10. QUALIFICATIONS OF DIRECTOR 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 before the Supreme Court of Ohio, and in good professional standing. 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.

#### **SECTION 5.11. DEPARTMENT OF FINANCE.**

The Department of Finance shall perform those functions customarily performed by the auditor and the treasurer under State law. The Director of Finance shall be the fiscal officer of the City and shall be responsible for accounting, collection and custody of public funds, and control over 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 5.12. DEPARTMENT OF SAFETY.**

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

**ARTICLE VI  
FINANCE**

**SECTION 6.01. ANNUAL TAX BUDGET.**

On or before the first day of June in each year the City Manager shall submit to Council a tax budget for the ensuing fiscal year. For that purpose, at such date 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 agency 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 for the annual tax budget. Council shall consider these estimates and adopt them, with or without amendments, as the tax budget of 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.

**SECTION 6.01. PUBLIC INSPECTION AND HEARING ON TAX BUDGET.**

At least two copies of the tax budget estimates shall be placed on file in the office of the Director of Finance for public inspection. Council shall hold at least one public hearing on the tax budget, of which notice shall be given by publication not less than ten days prior to the hearing.

**SECTION 6.02. TAX LEVIES.**

Upon receipt of advice of action by the County Budget Commission and the Certificate of the County Auditor as to estimated resources, Council shall pass and certify to the County Auditor an ordinance levying the necessary taxes to be placed upon the tax duplicate.

**SECTION 6.04. REVISION OF TAX BUDGET.**

The City Manager shall prepare and submit to 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. This revised budget shall serve as the basis for the annual appropriation ordinance.

**SECTION 6.05. ANNUAL APPROPRIATION ORDINANCE.**

At the meeting of Council at which the revised budget estimates for the appropriation ordinance are submitted, Council shall adopt the estimates as submitted, or as amended, as the appropriation ordinance of the City for the ensuing fiscal year.

**SECTION 6.06. EFFECT OF APPROPRIATION ORDINANCE.**

Upon adoption, the appropriation ordinance shall become effective as of the first day of January and shall constitute an appropriation of the several items and approval of the work projects without further legislation.

**SECTION 6.07. AMENDMENT OF APPROPRIATIONS.**

Council, on recommendation of the City Manager, may at any time, by ordinance, transfer any unencumbered balance of an appropriation from one item or project to another under the same fund, or reduce or increase any item, provided the ordinance as amended does not authorize the expenditure of more money than is estimated will be available.

**ARTICLE VII  
BOARDS AND COMMISSIONS**

**SECTION 7.01. PLANNING COMMISSION.**

There shall be a City Planning Commission consisting of five members, four of whom shall be citizens who hold no other City office or employment, selected by Council one each year for overlapping terms of four years and one of whom shall be a member of Council, designated annually by Council. The Commission shall adopt its own rules, and elect its own officers annually. It shall have all the power and authority conferred upon city planning commissions by State law and such other duties as may be imposed upon it by the administrative code. Its members shall serve without compensation.

**SECTION 7.02. BOARD OF ZONING APPEALS.**

There shall be a Board of Zoning Appeals consisting of five members who shall be citizens who hold no other City office or employment, selected by Council one each year for overlapping terms of five years. The Board shall adopt its own rules and elect its own officers annually. It shall have all the power and authority conferred upon boards of zoning appeals by State law and such other duties as may be imposed upon it by ordinance. Its members shall serve without compensation.

**SECTION 7.03. BOARD OF HEALTH.**

There shall be a Board of Health of the City Health District composed of five members who shall be citizens who hold no other public office or employment selected by Council one each year for overlapping terms of five years. At least one members shall be a physician admitted to practice in Ohio and in good professional standing. The Board shall adopt its own rules and elects its own officers annually. It shall have all the power and authority conferred upon city boards of health by State law and such other duties as may be imposed upon it by the State sanitary code and the City ordinances. Its members shall serve without compensation.

**ARTICLE VIII  
PERSONNEL**

**SECTION 8.01. MERIT SYSTEM ESTABLISHED.**

Appointments 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 examinations.

**SECTION 8.02. EXEMPT POSITIONS.**

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

- (1)members of Council;
- (2)the Clerk of Council;
- (3)the City Manager;
- (4)the directors of departments;
- (5)the secretary of the City Manager;
- (6)the assistant to the City Manager;
- (7)members of boards and commissions appointed by Council, and advisory committees appointed by the City Manager.
- (8)temporary employees of exceptional, professional or scientific qualifications engaged as consultants;
- (9)unskilled laborers; and
- (10)seasonal and part time employees.

Council may act by ordinance to designate other positions which may be filled (by original appointment or by promotion) without necessity of such examinations.

**SECTION 8.03. PERSONNEL OFFICER.**

The City Manager shall appoint a suitably qualified person to serve part or full time as Personnel Officer. He shall:

- (1)conduct recruitment of qualified persons;
- (2) prepare, schedule and hold examinations;
- (3) create eligible lists from results of examinations;
- (4)certify eligibles to appointing officers;

- (5) classify positions and establish job specifications;
- (6) certify payrolls;
- (7) develop and conduct training programs;
- (8) prepare and recommend to the City Manager for approval and publication, necessary rules to establish and maintain the merit system in the City; and
- (9) perform such other duties relating to personnel as the City Manager may direct.

**SECTION 8.04. PERSONNEL APPEALS BOARD.**

There shall be a Personnel Appeals Board consisting of three members who shall be selected by Council, one each year for an overlapping term of three years. Each member of the Personnel Appeals Board shall be a qualified elector, known to be in sympathy with the merit principle as applied to the civil service, shall neither hold nor be a candidate for any public office or employment and shall not be a member of any local, state or national committee of a political party or an officer in any partisan political club or organization.

**SECTION 8.05. DUTIES OF PERSONNEL APPEALS BOARD.**

The Personnel Appeals Board shall hear appeals from City employees in the non-exempt service who are not part of a grievance procedure under a labor contract and who have been suspended, demoted in position or compensation, or discharged. The Board shall have such other powers and duties as may be assigned by ordinance. The Board shall make its own rules, choose its own officers, and have authority to subpoena witnesses and to require the production of records.

**SECTION 8.06. CANDIDACY FOR PARTISAN OFFICE.**

No officer or employee in the non-exempt service of the City shall continue therein after becoming a candidate for nomination or election to any partisan public office.

**SECTION 8.07. ASSESSMENTS AND CONTRIBUTIONS.**

No person shall orally or in writing solicit or be in any manner concerned with the soliciting of any assessment, subscription or contribution of any type for any political party or partisan political purpose whatsoever from any person holding a position in the non-exempt service of the City. No person holding a position in the non-exempt service of the City shall make any contribution to the campaign funds of any political party or any candidate for nomination or election to any partisan political office, or take any part in the management, affairs or campaign of any political party further than in the exercise of his right as a citizen to express his opinion and cast his vote.

**SECTION 8.08. PENALTIES.**

Any person who violates the provisions of Section 8.06 or 8.07 of this Charter shall be guilty of a misdemeanor and shall, if an officer or employee of the City be guilty of malfeasance in office and upon conviction shall be removed from the office or position he holds and shall be ineligible for election or appointment to any position in the City service for a period of five years.

## **SECTION 8.09. PROMOTIONAL EXAMINATIONS.**

Whenever a vacancy occurs in any position in the service of the City, which is not exempted under the provisions of Section 8.02 of this Charter it shall be filled in the manner provided in the personnel ordinance. Promotional examinations may be restricted to present employees, or if recommended by the City Manager, they may be opened to qualified candidates from outside the City service, by resolution of Council. The names of the three eligibles standing highest on the promotional list shall be certified to the appointing authority and he shall appoint one of the three so certified, as may be provided by ordinance.

## **ARTICLE IX BORROWING**

### **SECTION 9.01. POWER TO INCUR DEBT.**

Council may, by ordinance, issue general bonds to an amount not exceeding two and one-half percent of the assessed valuation of real, personal, and public utility property within the City, for any purpose for which bond issues are authorized by State law. Issuance of general obligation bonds beyond two and one-half percent and up to seven and one-half percent of the assessed valuation shall be dependent upon the approval of such issuance by the voters, as provided by law. Mortgage revenue bonds and special assessment bonds shall not be included in calculating the above percentages of the net debt.

### **SECTION 9.02. MORTGAGE REVENUE BONDS.**

Council may, by ordinance, issue mortgage revenue bonds for any purpose and in any total amount authorized by State law, following the procedure established by statute.

### **SECTION 9.03. SPECIAL ASSESSMENT BONDS.**

Council may, by ordinance, determine to proceed with a public improvement, all or part of the cost of which is to be assessed against real property specially benefitted thereby. Council may establish by ordinance, the procedure to be followed in making such assessment and may in any case determine the proportion of the cost of such improvement which shall be paid from general receipts, taxes, bond or note issues and that which shall be assessed. It may also fix the manner and duration of the payment of special assessments.

### **SECTION 9.04. TAX ANTICIPATION NOTES.**

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 9.05. EMERGENCY BORROWING.**

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 9.06. PROCEDURE IN BOND ISSUES.**

The procedure followed in authorizing and issuing bonds 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 X  
NOMINATIONS AND ELECTIONS**

**SECTION 10.01. MUNICIPAL ELECTIONS.**

The regular election for the choice of members of 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. Council may, by resolution, order a special election at any time, the purpose of which shall be set forth in the resolution.

**SECTION 10.02. CONDUCT OF ELECTIONS.**

Both regular and special municipal elections shall be conducted by the Board of Elections of Montgomery County, Ohio, under the provisions of this Charter. Where the Charter is silent, the provisions of the State election law shall be followed.

**SECTION 10.03. NOMINATIONS.**

No primary election shall be held for the nomination of candidates for Council. Nominations for the office of Council member shall be made by petition signed by not less than seventy five nor more than 150 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 days before the day of the election. An elector may sign only as many petitions as there are Council members to be elected at the municipal election for which the nominations are made.

**SECTION 10.04. SPONSORS, ACCEPTANCE, VERIFICATION.**

Each candidate shall have a sponsoring committee of five qualified voters, whose names and addresses shall appear on each copy of his petition. The signature of the candidate indicating his acceptance of the nomination and his willingness to serve if elected shall appear on each copy of his petition. The petition may be a number of parts, but each part shall be verified under oath by the circulator, as required by law.

**SECTION 10.05. 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. If voting machines are used, the names shall be rotated by precincts, as provided by law.

**SECTION 10.06. WRITE-INS.**

Only in the event that fewer candidates are nominated by petition than there are Council members to be elected at the ensuing election, space shall be provided on the ballot for the writing in at the election of the names of additional persons.

**SECTION 10.07. WATCHERS AND CHALLENGERS.**

At each municipal election, each regularly nominated candidate shall be entitled, on written application to the Board of Elections, at least ten days before the election, to appoint one person and one alternate to represent him as a watcher and challenger at each polling place during the casting and counting of ballots, and one person and one alternate to represent him as watcher and challenger during the canvass of votes at the Board of Elections.

**SECTION 10.08. PLURALITY, TIE VOTES.**

A plurality of valid votes cast shall be sufficient to elect. In case of a tie vote, the election shall be decided in the manner provided by law.

**SECTION 10.09. PUBLIC INFORMATION ON ISSUES.**

Council shall have power to appropriate and expend public funds to pay the cost of providing information to the public in connection with elections on tax levies, bond issues and other public questions.

**SECTION 10.10. RECALL.**

Any member of Council may be removed from office before the expiration of his term by the qualified voters of the City. The procedure for such recall shall be that provided in Section 705.92 of the Ohio Revised Code.

**ARTICLE XI  
GENERAL PROVISIONS**

**SECTION 11.01. 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 to be filled 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 11.02. OFFICIAL BONDS.**

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

**SECTION 11.03. FEES.**

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

**SECTION 11.04. REMOVAL FROM OFFICE.**

Whenever in this Charter certain acts on the part of City officials or employees 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 11.05. ENFORCEMENT OF SUBPOENAS.**

Whenever in this Charter the Council or any other agency of the City government is given authority to issue subpoenas or to require attendance of witnesses or the production of books, ballots, papers and records, the same shall be issued and enforced in the manner provided in Section 705.21 of the Ohio Revised Code.

**SECTION 11.06. AMENDMENTS TO THE CHARTER.**

Any provision of this Charter may be amended as provided in Article XVIII, Section 9 of the Ohio Constitution, by submission of a proposed amendment to the voters of the City and approval by a majority of those voting on the question of its adoption. Such amendment may be initiated either by a two-thirds vote of Council, or by petition to Council signed by ten percent of the electors.

#### **SECTION 11.07. SEVERABILITY CLAUSE.**

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

#### **SECTION 11.08. PUBLICATION.**

Whenever publication of an ordinance, resolution, notice or other official document is required by the provisions of this Charter or by any ordinance passed thereunder, it shall be sufficient compliance with such requirement if the publication is made in a daily or weekly newspaper published in the City or in an adjacent municipality which has no actual circulation in the City. For purposes of publication, an official City bulletin mailed or delivered at least once a month to each Oakwood property having a separate water meter shall be deemed a newspaper of general circulation in the City, except to the extent an ordinance prohibits use of the bulletin for some particular type of publication. Such official bulletin may be reproduced by letterpress, offset or any other suitable method and the cost of its reproduction and distribution shall be paid from public funds. Whenever Council so determines, official notice may also be given by radio or television news services.

#### **SECTION 11.09. FISCAL YEAR.**

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

#### **SECTION 11.10. INCORPORATION OF GENERAL LAW.**

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

**ARTICLE XII  
TRANSITIONAL PROVISIONS**

**SECTION 12.01. FISCAL SUCCESSION.**

The City of Oakwood, under this Charter, is hereby declared to be the only legal successor to the City of Oakwood under Chapter 705 of the Ohio Revised Code, and as such the City has title to all property, real, personal and mixed, owned by its predecessor, including all monies on deposit and all taxes in the process of collection together with all accounts receivable and all 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, in any court of competent jurisdiction.

**SECTION 12.02. CONTINUATION OF ORDINANCES.**

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

**SECTION 12.03. CONTINUATION OF OFFICERS.**

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

**SECTION 12.04. CONTINUATION OF EMPLOYEES.**

Every employee of the City when this Charter takes effect shall be retained in his employment with the same status, rights and privileges as before.

**SECTION 12.05. TRANSFER OF RECORDS AND PROPERTY.**

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

**SECTION 12.06. CONTINUATION OF CONTRACTS AND IMPROVEMENTS.**

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

**SECTION 12.07. PENDING ACTIONS AND PROCEEDINGS.**

No action or proceeding, civil or criminal, pending in any court at the time this Charter takes effect, brought by or against the 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 12.08. WHEN CHARTER TAKES EFFECT.**

This Charter shall be voted upon at a special election to be held on May 3, 1960. If approved by the voters, this Charter shall go into effect on July 1, 1960.

**SECTION 12.09. CONTINUATION OF COUNCIL.**

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

**SECTION 12.10. TRANSFER OF FINANCE FUNCTIONS.**

The functions performed by the City Auditor and City Treasurer under the optional law shall be transferred under this Charter to the Department of Finance on July 1, 1960, and the offices of City Auditor and City Treasurer shall be abolished as independent offices as of that date.

**SECTION 12.11. DISTRIBUTION OF PERSONNEL FUNCTIONS.**

The functions performed by the Civil Service Commission shall be divided between the Personnel Officer and the Personnel Appeals Board created by this Charter, effective July 1, 1960, and the Civil Service Commission, as it existed under the optional law form of City government shall be abolished.

-----  
END OF CHARTER  
-----