

**ORDINANCE NO. 21-029**

**AN ORDINANCE PROVIDING FOR AMENDMENTS TO SECTIONS 3.04, 3.06, 3.08, 4.12, 4.14, 7.06, 8.02, 10.02, AND 12.02 OF THE CITY'S CHARTER; AUTHORIZING THE LAW DIRECTOR TO MAKE ARRANGEMENTS WITH THE FRANKLIN COUNTY AND FAIRFIELD COUNTY BOARDS OF ELECTIONS; AND DIRECTING THE CLERK OF COUNCIL TO DELIVER A CERTIFIED COPY OF THIS ORDINANCE TO THE FRANKLIN COUNTY BOARD OF ELECTIONS AND FAIRFIELD COUNTY BOARD OF ELECTIONS FOR PLACEMENT OF THE QUESTION OF THE CHARTER AMENDMENTS UPON THE BALLOT AT THE NOVEMBER 2, 2021 MUNICIPAL ELECTION FOR APPROVAL BY THE CITY'S ELECTORATE**

WHEREAS, the Charter of the Village of Canal Winchester was originally approved on November 7, 1995; and

WHEREAS, amendments to the Charter have been made from time to time, pursuant to Article XI, Section 11.06, the last amendment having been made November 2, 2010, in preparation for the transition from Village to City

WHEREAS, on January 21, 2020, the Mayor and Council appointed members to constitute the Charter Review Commission, pursuant to Article VII, Section 7.06 of the Charter; and

WHEREAS, on December 21, 2020, the Chairman of the Charter Review Commission submitted the Commission's findings and recommendations to Council; and

WHEREAS, on March 29, 2021, the Council Committee of the Whole considered all recommendations submitted by the Commission, and moved proposed amendments to Sections 3.04, 3.06, 3.08, 4.12, 4.14, 7.06, 8.02, 10.02, and 12.02 for further consideration by Council; and

WHEREAS, it is the desire of the Council that amendments to Sections 3.04, 3.06, 3.08, 4.12, 4.14, 7.06, 8.02, 10.02, and 12.02 as set forth on Exhibit "A" attached hereto and made a part hereof, be placed before the electorate of the City for approval at the Municipal Election held on November 2, 2021;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, OHIO AS FOLLOWS:

**SECTION 1.** The question of the amendment to the current Sections 3.04, 3.06, 3.08, 4.12, 4.14, 7.06, 8.02, 10.02, and 12.02 of the Charter of the City of Canal Winchester, as set forth on Exhibit "A", attached hereto and made a part hereof, be submitted as a single ballot question to the qualified electors of the City at the Municipal Election to be held on November 2, 2021 at the regular places and times of voting in the City.

**SECTION 2.** The ballot for said election shall conform to the election laws of the State of Ohio, and shall: (a) be entitled "City of Canal Winchester Charter Amendment Ballot," and shall be worded as follows: "Shall the Charter of the City of Canal Winchester be amended as set forth in Ordinance No. 21-\_\_ of the City of Canal Winchester, Ohio by amending Sections 3.04, 3.06, 3.08, 4.12, 4.14, 7.06, 8.02, 10.02, and 12.02 of the Charter?"; and (b) contain a statement that a majority affirmative vote is necessary for passage and approval of the amendments to Sections 3.04, 3.06, 3.08, 4.12, 4.14, 7.06, 8.02, 10.02, and 12.02 as proposed herein.

**SECTION 3.** The Law Director is hereby authorized and directed to make such arrangements with the Board of Elections of Franklin County and the Board of Elections of Fairfield County as are necessary for giving notice of said election and for placing the question on the ballot, and for printing the text of the proposed amendment for posting at polling places. In the event that either the Board of Elections of Franklin County, the Board of Elections of Fairfield County, or the Ohio Secretary of State determine that the ballot language must read differently than the language set forth in Section 2 above or that the reference to the proposed amended charter language should change for presentation on the ballot, then the Director of Law,

upon approval of the City Council President, may make such changes sufficient to permit the issue to be placed on the November 2, 2021 ballot; provided that the proposed change must be presented upon the ballot as a single ballot issue.


SECTION 4. The Clerk of Council is directed to certify a copy of this Ordinance to the Board of Elections of Franklin County and the Board of Elections of Fairfield County, and to either cause the publication of the full text of the proposed amendment to the Charter as set forth above, once a week for not less than two consecutive weeks in a newspaper of general circulation within the City, with the first publication being at least fifteen days prior to the election, or to mail a copy of the proposed charter amendment to each elector whose name appears upon the poll or registration books of the last regular or general election held within the City, not less than thirty days prior to the election in accordance with Section 9 of Article XVIII, Ohio Constitution and Ohio Revised Code §731.211.

SECTION 5. This Ordinance shall be in full force and effect from and after the earliest period provided for by law.

DATE PASSED 7/6/21

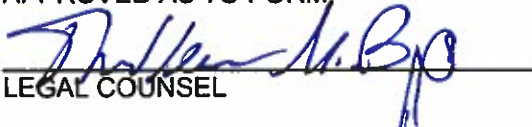
  
PRESIDENT OF COUNCIL

ATTEST   
CLERK OF COUNCIL

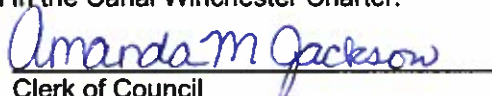
  
MAYOR

DATE APPROVED 7-7-21

APPROVED AS TO FORM:

  
LEGAL COUNSEL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

  
Clerk of Council

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**That Article III, Section 3.04, of the Charter of the City of Canal Winchester shall be amended as follows:**

**3.04 Clerk of Council.**

The Council shall appoint, by a majority vote of its members, a person to serve as the Clerk of Council. The Clerk of Council shall serve at the pleasure of the Council and may be removed without cause by a majority vote of the members of Council. The Clerk of Council may hold other office or position of employment in the Municipality. The Clerk of Council shall have those powers, duties and functions as are provided in this Charter, by the Rules of Council or by ordinance or resolution. Included in the duties of the Clerk of Council shall be the maintenance of a record of proceedings of the Council and a record of all ordinances and resolutions adopted by the Council. The Clerk of Council shall give notice of regular and special meetings of the Council to its members and to the public as may be provided by this Charter, the Rules of Council or by ordinance or resolution. The Clerk of Council shall be subject to the control of the officers of the Council and shall be responsible for other duties as assigned by Council. The Council may require the Clerk of Council to serve as the secretary of one or more boards and commissions provided for under this Charter.

**That Article III, Section 3.06, of the Charter of the City of Canal Winchester shall be amended as follows:**

**3.06 Council Organization and Rules.**

**(A)** The Council shall be a continuing body, but shall meet in the Council chamber at its first meeting in January of each year for the purpose of organization.

**(B)** Council shall adopt, by majority vote of its members, its own Rules which shall not conflict with this Charter and which shall remain in effect until amended, changed or repealed by a majority vote of the members of Council. The Rules shall go into immediate effect unless a later date is specified, and shall not be subject to initiative or referendum. The Rules of Council shall provide for the number, composition and manner of appointment of committees of Council, and such other matters as Council shall determine to be necessary for the proper functioning and government of Council.

**That Article III, Section 3.08, of the Charter of the City of Canal Winchester shall be amended as follows:**

**3.08 Council Vacancies.**

**(A)** A vacancy in the Council shall be filled by a majority vote of the remaining members of the Council. If the vacancy occurs subsequent to fifteen days before the date when candidates for the office of Council member must file their nominating petitions or if two years or less remain in the term of the incumbent who created the vacancy, the person elected by the Council shall serve for the unexpired term. If the vacancy occurs at least fifteen days prior to the date when candidates for the office of Council member must file their nominating petitions and more than two years remain in the term of the incumbent who created the vacancy, the person elected by the Council shall serve until a successor is elected at the next regular municipal election for the remainder of the unexpired term. The person elected for the unexpired term at the next regular municipal election shall take office on the first day of January following ~~the~~ his election.

**(B)** If the Council shall fail to elect a person to fill a vacancy in the Council under Division (A) of this Section within thirty days after the occurrence of the vacancy, its power to do so shall lapse and the Mayor shall appoint a person to serve for the time as provided in Division (A) of this Section.

**That Article IV, Section 4.12, of the Charter of the City of Canal Winchester shall be amended as follows:**

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**4.12 Adoption of Technical Codes.**

(A) Council may, by ordinance, adopt standard ordinances and codes prepared by the State or any department, board or other agency or subdivision of the State, or any standard or model ordinance or code prepared and promulgated by a public or private organization, including but not limited to codes and regulations pertaining to fire, fire hazards, fire prevention, plumbing, heating, electrical, ventilation, air conditioning, refrigeration machinery, state pressure piping, piping, boilers, buildings standards, housing standards, and such other matters as the Council may determine to be appropriate for adoption by reference, by incorporation by reference.

(B) The ordinance adopting any such standard ordinance or code shall make reference to the date and source of such standard ordinance or code without reproducing the same at length in the ordinance. In such cases, publication of the standard ordinance or code shall not be required, but at least two copies of such code shall be kept at all times in the office of the Clerk of Council, or elsewhere at City Hall, and available for reference by interested persons. If the standard ordinance or code is amended after its adoption by reference by the Council, the Council may adopt the amendment or change by incorporation by reference under the same procedure as is established herein for the adoption of the original standard ordinance or code.

**That Article IV, Section 4.14, of the Charter of the City of Canal Winchester shall be amended as follows:**

**4.14 Publication of Ordinances and Resolutions.**

(A) Ordinances and resolutions shall be published by posting copies thereof in not less than three public places in the municipal corporation, and on the municipal website, for a period of not less than fifteen days after their adoption. The public places for such posting shall be determined by the Council. The Council may, by ordinance or resolution, require that ordinances and resolutions be published by other means either in lieu of or in addition to the posting as required by this Division.

(B) The Clerk of Council shall make and retain a certificate as to the times and places where such postings are done and other means, if any, by which an ordinance or resolution is published; and that certificate shall be prima-facie evidence that the copies were posted and otherwise published as required by Division (A) of this Section. Failure to make or retain the certificate required by this Division shall not invalidate any ordinance or resolution.

(C) Failure to publish by posting or to maintain such posting, or to otherwise publish, as required by Division (A) of this Section shall not invalidate an ordinance or resolution, and in such events, the Clerk of Council may authorize publication by posting, and publication by other means if any such other means have been required pursuant to Division (A) of this Section, at a later date.

**That Article VII, Section 7.06, of the Charter of the City of Canal Winchester shall be amended as follows:**

**7.06 Charter Review Commission.**

On or before the last day of January in the year 2000 A.D. and each ~~ten~~ five years thereafter, the Mayor shall appoint five and the Council shall appoint six members of the Charter Review Commission. The Commission shall submit its findings and recommendations for revisions of the Charter to the Council no later than the last day of December of the year of their appointment. The terms of the members of the

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Commission shall end on the last day of December of the year of their appointment. The Council may, in its discretion, submit any, all or none of the recommendations of the Commission to the electors in the form of proposed amendments to Canal Winchester's Charter at an election established by the Council.

**That Article VIII, Section 8.02, of the Charter of the City of Canal Winchester shall be amended as follows:**

**8.02 Contracting Powers and Procedures.**

(A) Except as otherwise provided in this Section, the Mayor, or his designee, shall award and execute all contracts on behalf of Canal Winchester.

(B) Council, by ordinance, shall establish a threshold amount, notice provisions and other procedures for competitive bidding. When any contract for the construction of a public improvement or the purchase of equipment, supplies, non-professional services or materials is estimated to exceed the threshold established by Council, the contract shall be competitively bid unless exempted under 8.02(C). Council shall award a contract to the lowest and best bidder, provided that Council may reject any and all bids in whole or by items. No contract shall be divided to avoid the requirements of competitive bidding.

(C) By a vote of no less than five members, Council may waive the competitive bidding requirement if Council determines that an item is available and can be acquired only from a single source or if Council determines that a waiver of the competitive bidding requirement is in the best interest of the City.

(D) The Mayor shall select the project delivery method that in the Mayor's sole discretion is in the best interest of Canal Winchester and may include without limitation design-build, single-prime contracts, or any other method of project delivery.

(E) Notwithstanding any provision of general law, contractors and vendors shall not be entitled to receive interest on funds temporarily retained on a contract pending final acceptance of work performed or goods supplied, nor shall Canal Winchester be required to maintain a separate escrow account from which to pay any contractor or vendor.

(F) Contracts for professional services, including design and engineering contracts, shall not be subject to the competitive bidding requirements of this Section and shall not require authorization by Council if the current operating budget provides sufficient funding for the scope of services in any such contract.

(G) Council shall establish procedures for alterations or modifications of contracts. Modifications or alterations of contracts shall not require competitive bidding.

(H) No contract involving the expenditure of money shall be entered into or authorized by the Mayor unless the Director of Finance or designee shall first certify that:

(1) funds required for the contract are in the ~~Village's~~ City's treasury or in the process of collection; and

(2) funds have been appropriated by Council and remain unencumbered.

(I) The Director of Finance shall file and record the certification of availability and appropriation of funds in the accounting records of the ~~Village~~ City and shall furnish a copy to the vendor or contractor. Without the certification, a contractual obligation shall be void and unenforceable against the ~~Village~~ City unless recognized by Council as a moral obligation.

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**That Article X, Section 10.02, of the Charter of the City of Canal Winchester shall be amended as follows:**

**10.02 Recall.**

(A) The electors shall have the power to remove from office by a recall election any elected official of Canal Winchester in the manner provided in this Section.

(B) If the elected official shall have served six months of his or her term, an elector or electors of Canal Winchester may serve written notice upon the Clerk of Council of their intent to circulate petitions for the recall of a named elected official or officials. No petitions for the recall of an elected official may be circulated until such written notice of intent is served upon the Clerk of Council. Not later than thirty days after service of such notice of intent on the Clerk of Council, such persons may file, with the Clerk of Council, a petition demanding the removal of an elected official. Separate petitions shall be filed for each elected official sought to be removed by recall. The Clerk shall note thereon the name and address of the person filing the petition and the date of such filing, and deliver to such person a receipt therefore and attach a copy thereof to said petition. Such petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain the name and office of the person whose removal is sought. Such petition shall be signed by at least that number of electors which equals fifteen percent in number of the electors voting at the last preceding regular municipal election.

(C) Within ten days after the day on which such petition is filed, the Clerk of Council shall determine whether or not it meets the requirements hereof. If the Clerk of Council shall find the petition insufficient, the Clerk shall promptly certify the particulars in which the petition is insufficient, deliver a copy of the certificate to the person who filed the petition and make a record of such delivery. Such person shall be allowed a period of ten days after the day on which such delivery was made in which to make the petition sufficient. If the Clerk of Council shall find the petition sufficient, the Clerk shall promptly so certify to Council and shall deliver a copy of such certificate to the person whose removal is sought within five days and make a record of such delivery.

(D) If the person whose removal is sought shall not resign within ten days after the day on which the Clerk's certificate shall have been delivered, Council shall, by ordinance or resolution, fix a day for holding a recall election, not less than thirty days nor more than forty-five days after the date of the Clerk's certification of sufficiency to the Council, and shall cause notice of such recall election to be published on the same day of each week for two consecutive weeks in a newspaper of general circulation in Canal Winchester, and on the City website. At such recall election, this question shall be placed upon the ballot: "Shall (naming the person whose removal is sought) be allowed to continue as (naming the office)?" with the provision on the ballot for voting affirmatively or negatively. In the event a majority of the vote is negative, such person shall be removed, the office shall be vacant, and such vacancy shall be filled as provided in Section 3.08 of this Charter. If the person is not removed at such recall election, no further recall petitions shall be filed against him or her for a period of one year following such election.

**That Article XII, Section 12.02, of the Charter of the City of Canal Winchester shall be amended as follows:**

**12.02 Effective Date of 2010 Amendments to Charter.**

The amendments to this Charter proposed by Ordinance No. 28-10, adopted on July 19, 2010, if such amendments are approved by a majority of the persons voting at the election held on November 2, 2010, shall take effect thirty (30) days after issuance of a proclamation by the Ohio Secretary of State, pursuant to Section 703.06 of the Revised Code, stating that the population of eCanal Winchester is more than five thousand (5000).