

CHARTER
OF THE
CITY OF LIMA, OHIO

EDITOR'S NOTE: The original Charter became effective November 8, 1932. Dates appearing in parentheses indicate that the section was amended or enacted on the date given.

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CHARTER
OF THE
CITY OF LIMA, OHIO

CORPORATE POWERS, RIGHTS AND PRIVILEGES

SECTION 1. NAME, BOUNDARIES AND POWERS.

The inhabitants of the City of Lima, Ohio, as its limits now are, or may be hereafter, shall be a body politic and corporate by the name The City of Lima, Ohio, and as such shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property, lease, or lease with privilege to purchase; may sell, lease, hold, manage, and control such property, and make any and all rules and regulations by ordinance or resolution which may be required to carry out fully all the provisions of any conveyance, deed, or will, in relation to any gift or bequest, or the provisions of any lease by which it may acquire property; may acquire, construct, own, lease and operate and regulate public utilities; may assess, levy and collect taxes for general and special purposes on all the subjects or objects which the City may lawfully tax under the provisions of this Charter; may levy and collect assessments for local improvements; may borrow money on the faith and credit of the City by the issue or sale of bonds or notes of the City; may appropriate the money of the City for all purposes lawful under the provisions of this Charter and laws of Ohio; may create, provide for, construct, regulate and maintain all things of the nature of public works and improvements; may license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade; may by ordinance passed by the Council, define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City, and all nuisances and causes thereof; may do all things necessary to promote the health, convenience, comfort and welfare of its citizens and advance the moral, social, physical and intellectual standard of its citizenship, and for such purposes it may exercise any or all of the powers conferred in this section; may regulate and limit the height and bulk of buildings hereafter erected, and may regulate and prescribe the construction and the material used in all buildings and the maintenance and occupancy thereof, and regulate and determine the area of yards, courts, and other open places, and may divide the City into districts of such number, space and area as may be deemed best suited to carry out these purposes; may regulate and restrict the location of trades and industries, and the location of buildings designed for specified uses, and may divide the City into districts of such number, shape and area as may be deemed best suited to carry out these purposes; may regulate and control the use, for whatever purposes, of the streets and other public places; may create, establish, abolish and organize offices

and fix the salaries and compensations of all officers and employees of the City of Lima; may make and enforce local police, sanitary and other regulations; may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof. The City shall have all powers that now are or hereafter may be granted to municipalities by the Constitution or laws of Ohio; and all powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this Charter, or when not prescribed herein, in such manner as shall be provided by ordinance or resolution of the Council, and when not prescribed by this Charter or amendments thereto, or by ordinance or resolution of the Council, then said powers shall be exercised in the manner prescribed by the laws of the State of Ohio.

SECTION 1.5. LIMITATION ON THE RATE OF TAXATION.

The total tax rate which may be levied without a vote of the people for the current operating expenses of the City of Lima upon the tax list and duplicate of property assessed and listed for taxation according to value for the tax year 1965 and each year thereafter shall not exceed 3.90 mills per dollar of assessed valuation, provided that said 3.90 mills shall be reduced in each year by that number of mills, including fractional parts thereof, which are levied in the respective year by the City within the ten mill limitation imposed by Article XII, Section 2, of the Ohio Constitution, for the purpose of paying interest on and principal of obligations issued without a vote of the people.

The limitation of this section of the Charter shall not operate as a limitation upon the power of the Council to levy taxes upon such other subjects and for such other purposes as may be lawful under the Constitution and laws of the State of Ohio, nor shall this section be deemed to be a limitation upon the power of the Council to incur indebtedness for all lawful purposes within applicable constitutional and statutory limitations.

(Amended 5-4-65)

SECTION 2. ENUMERATED POWERS NOT EXCLUSIVE.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the City shall have and may exercise all other powers which, under the Constitution and laws of Ohio, it would be competent for this Charter specifically to enumerate.

NOMINATIONS AND ELECTIONS

SECTION 3. WHEN REGULAR MUNICIPAL ELECTIONS HELD; OTHER ELECTIONS.

A general election for the choice of elective officers provided for in this Charter shall be held on the first Tuesday after the first Monday in November in odd numbered years. Elections so held shall be known as regular Municipal elections. Such other elections shall be held as may be required by law, or provided for in this Charter.

SECTION 4. NOMINATIONS.

Candidates for all offices to be voted for at any Municipal election under the provisions of this Charter shall be nominated at a non-partisan primary election to be held at the time provided by the general election laws of the State. Any matters which by the terms of the Charter may be submitted to the electors of the City at any special election may be submitted at a primary election or at a regular election.

SECTION 5. NOMINATING PETITIONS - SIGNATURES REQUIRED.

The name of any elector of the City shall be printed upon the ballot when a petition in the form hereinafter prescribed shall have been filed in his behalf with the election authorities. Such petition shall be signed by at least two hundred (200) electors of the City, if for the nomination of a candidate for an office filled by election from the City at large, and by at least fifty (50) electors of the ward if for the nomination of a candidate for an office to be filled by election from a ward.

SECTION 6. SAME - METHOD OF SIGNING.

The signatures to a nominating petition need not all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof stating that each signature appended thereto was made in his presence and he believes it is the genuine signature of the person whose name it purports to be. Each signer of a petition shall sign his name in ink or indelible pencil, and shall place on the petition after his name his place of residence by street and number, or other description sufficient to identify the place, and give the date when his signature was made.

SECTION 7. SAME - FORM.

The form of nominating petition papers shall be substantially as follows:
"We, the undersigned qualified electors of the City of Lima (or _____ ward of the City of Lima), and residing at the places set opposite our respective names, do hereby request that the name of _____ be placed upon the primary election ballot as a candidate for nomination for the office of _____ at the primary election to be held in said City (or in said ward) on the _____ day of _____ 19 ____

Names of Qualified Electors	Residence Address	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____

State of Ohio) ss.
County of Allen)

The undersigned, being first duly sworn, deposes and says that he (or she) is the circulator of the foregoing petition paper and that the signatures appended thereto were made in his (or her) presence and that he (or she) believes they are the genuine signatures of the persons whose names they purport to be.

Subscribed and sworn to before me this _____ day _____ of 19__

Notary Public

SECTION 8. SAME - FILING AND VERIFICATION.

All separate papers comprising a nominating petition shall be assembled and filed with the election authorities as one instrument not later than 4:00 p. m. of the ninetieth day before the date of the primary election at which such nominations are to be made. Within ten (10) days after the filing of a nominating petition but not later than eight-five (85) days prior to the date of the primary election, the election authorities shall notify the persons named therein as a candidate of the sufficiency or insufficiency of the petition. If such petition is insufficient, the person named therein as a candidate may amend said petition by filing additional petition papers with the election authorities not later than 4:00 p. m. of the eightieth (80th) day before the date of the primary election. Within five (5) days after the filing of the additional petition papers, the election authorities shall notify the person named therein as a candidate whether the amended petition is found to be signed by the required number of qualified electors.
(Amended 11-2-65)

SECTION 9. ACCEPTANCE OF NOMINATION.

Any eligible person placed in nomination as hereinbefore provided shall have his name printed on the ballots, if, within five days after the notification provided for in the preceding section, he shall have filed with the election authorities a written acceptance of the nomination.

SECTION 10. SELECTION OF CANDIDATES.

The number of candidates for any office at any regular Municipal election, in the City at large or in each ward, as the case may be, shall be the two candidates on the primary election ballot receiving the highest number of votes at the primary election. In case there shall not be for any office more than two persons who shall have filed petitions as provided for in this Charter, then said persons shall be the candidates at the regular Municipal election and the primary for the particular office shall not be held.

The name of each person who is nominated in compliance herewith shall be printed on the official ballot at the general election, and the names of no other candidates shall be printed thereon.

SECTION 11. BALLOTS.

All ballots used in elections held under the authority of this Charter shall be without party marks or designations. Ballots used for the election of candidates at the general election and at primary elections when such elections are required to be held, shall contain a complete list of the offices to be filled and the names of candidates for each office shall be arranged under the title thereof. These ballots shall be so printed as to give each elector a clear opportunity to designate by a cross mark (X) in a blank enclosed

space on the left and before the name of each candidate his choice of particular candidate for each office to be filled at the election. The electors shall use a cross mark (X) in voting. (Amended 11-7-44)

SECTION 12. ROTATION OF NAMES.

In addition to the provisions contained in Section 11, the ballots used for the nomination or election of candidates shall be printed and prepared and the names of the candidates printed in rotation in accordance with the State Code of Ohio. (Amended 11-7-44)

SECTION 13. BLANK SPACE ON BALLOTS.

One blank space on the general election ballot shall be left at the end of the list of candidates for each office in which the elector may write the name of any eligible person not printed on the ballot for whom he desires to vote for such office, and votes cast for such person shall be counted and entered on the tally sheet. (Amended 11-7-44)

SECTION 14. RULES FOR COUNTING BALLOTS.

In counting the ballots cast at every election held under the authority of this Charter, the precinct election officers shall enter the total number of votes on a tally sheet provided therefor. They shall also enter on such tally sheet the number of votes cast for each candidate for the office for which he is a candidate and make return thereof to the election authorities as provided by general law. The candidate having the largest number of votes for each office voted upon at the regular Municipal election shall be declared elected to such office. In case it cannot be determined which of two or more candidates shall be declared elected, by reason of the fact they have received the same number of votes, the election authorities shall determine by lot which of said candidates shall be declared elected.

SECTION 15. GENERAL LAWS TO APPLY; VOTING MACHINES AND COUNTING DEVICES; CORRUPT PRACTICES.

All elections provided for by this Charter, whether for the choice of officers or the submission of a question to the voters, shall be conducted by the election authorities prescribed by general law; and the provisions of the general election laws of the State shall apply to all such elections except as provision is otherwise made by this Charter, and except further that the Council may, by ordinance, provide measures to promote and insure the purity and integrity of the ballot, and against corrupt practices in elections.

The Council shall have power to provide for the use of mechanical or other devices for marking and sorting the ballots and tabulating the results, and to modify the form of the ballot, the directions to voters, and the details in respect to the method of counting ballots accordingly; provided, however, that no change shall be made which will alter the principles of the voting or of the counting.

SECTION 16. RECALL PETITION PAPERS.

The Mayor, any member of the Council or any other elective officer may be removed from office by the electors. The procedure for effecting such a removal shall be as follows:

In order to secure recall petition papers it shall be necessary for at least ten (10) electors of a ward in the case of a ward office and for at least one hundred (100) electors of the City, not less than ten (10) of which shall be from each ward of the City, in the case of a Citywide office to make and file with the Clerk of the Council affidavits stating the name of the officer whose removal is sought and the specific grounds, in not less than two hundred (200) words, claimed to justify the removal of the officer in question. The Clerk shall thereupon deliver to the electors making the affidavits copies of petition papers for demanding such a removal, printed copies of which shall be kept on file for distribution as herein provided. The circulator of each petition paper shall be an elector of the City. Each petition paper distributed by the Clerk upon presentation of the required number of affidavits shall contain the name of the official for whom removal is sought and the grounds for his removal stated in not less than two hundred (200) words. In issuing any such petition paper, the Clerk shall enter in a record to be kept in his office the name of the elector to whom issued, the date of issuance, and the number of papers issued, and shall certify upon each paper the name of the elector to whom issued and the date of issuance.

No petition paper shall be accepted as a part of a petition unless it bears such certificate of the Clerk, unless at the end thereof is the affidavit of the circulator thereof stating the number of signers to such petition paper, that the circulator is an elector of the City, that the signatures on the petition paper were affixed in the presence of the circulator, and that the circulator believes each signature appended to the paper is the genuine signature of the person whose name it purports to be, unless all provisions of this section are complied with, unless the circulator of said petition is an elector of the City and unless filed as hereinafter provided.
(Amended 11-5-63)

SECTION 17. FILING RECALL PETITION.

A petition demanding the removal of the Mayor, any member of Council or any other elective officer, shall be known as a recall petition. A recall petition to be effective must be returned and filed with the City Clerk within thirty (30) days after the issuance of the original petition papers as provided in the next preceding section, and to be sufficient, must bear, in the case of a ward office, signatures of electors of that ward equal in number to twenty-five percent (25%) of the total vote cast in that ward in the last preceding regular Municipal election of the City, and in the case of a City-wide office, signatures of electors of the City equal in number to twenty-five percent (25%) of the total vote cast in the last preceding regular Municipal election of the City. Within ten (10) days from the date of the filing of such petition, the Clerk shall determine the sufficiency thereof and attach thereto a certificate showing the result of his examination. If the Clerk shall certify that the petition is insufficient he shall set forth in the certificate the particulars in which the petition is defective, and shall return a copy of the certificate to the person designated in such petition to receive it. Such recall petition may be amended at any time within twenty (20) days after the return of a copy of the certificate of insufficiency

by filing a supplementary petition upon additional petition papers, issued upon the original affidavits, signed and filed as provided herein for the original petition. The Clerk shall, within ten (10) days after such amendment is filed, make like examination of the amended petition, and if his certificate shall show the same to be still insufficient, he shall return it to the person designated in such petition to receive it, without prejudice, however, to the initiating of a new petition for the same purpose.

(Amended 11-5-63)

SECTION 18. RECALL ELECTION ORDERED.

If a recall petition, or amended petition, shall be certified by the Clerk to be sufficient he shall at once submit it to the Council with his certificate to that effect and shall notify the person whose removal is sought by such action. If the person whose removal is sought does not resign within five (5) days after such notice, the Council shall thereupon provide for the holding of a recall election. Such recall election shall be held on the day designated by State law for the holding of a primary or general election, except that Council may, by a vote of two-thirds of its members, order and fix a day for holding such recall election as a special election, in which event such special election shall be not less than forty (40) nor more than sixty (60) days after the petition has been presented to the Council. (Amended 11-5-63)

SECTION 19. WHEN SEPARATE PETITIONS AND BALLOTS REQUIRED IN RECALL ELECTIONS.

The question of recalling the Mayor, Auditor or City Solicitor, and any number of members of the Council may be submitted at the same election, but as to each person whose removal is sought a separate petition shall be filed and provision shall be made for an entirely separate ballot.

SECTION 20. BALLOTS IN RECALL ELECTIONS.

Ballots used at a recall election shall conform to the following requirements: With respect to the officer whose removal is sought the question shall be submitted, "Shall (name of person) he removed from the Council (or from the office) by recall?" Immediately below such question there shall be printed on the ballots, the two following propositions, one above the other, in the order here indicated:

"For the recall of (name of person)."

"Against the recall of (name of person)."

Immediately at the left of each proposition there shall be a square in which the elector by making a cross mark (X) may vote for either of such propositions.

SECTION 21. RESULT OF RECALL ELECTION.

If a majority of the votes cast on the question of recalling a member of the Council or elective officer of City shall be against his recall he shall continue in office for the remainder of his unexpired term, but subject to recall as before. If a majority of such votes be for the recall of the member indicated on the ballots he shall regardless of any defect in the recall petition, be deemed removed from office. When a person is removed from office by recall, Council shall immediately provide for the nomination and election of his successor for the unexpired term by fixing the time of the elections. The nomination and election of a person to succeed a person so removed shall be held within one hundred and twenty days after the date of recall election and shall be conducted in the same manner as provided for regular Municipal elections.

SECTION 22. ELECTION WHEN MEMBER RESIGNS.

If the officer or officers or a member of the Council in regard to whom a recall petition is submitted to the Council shall resign within five days after notice thereof, the successor for the unexpired term shall be nominated and elected as hereinbefore provided and the recall election shall not be held.

SECTION 23. LIMITATIONS ON RECALL PETITIONS.

No recall petition shall be filed against any elective officer or a member of the Council within six (6) months after he takes office nor, in case of a person subjected to a recall election and not removed thereby, until at least six (6) months after that election. (Amended 11-5-63)

THE COUNCIL**SECTION 24. POWERS, TERMS, VACANCIES.**

The legislative powers of the City, except as reserved to the people by this Charter, shall be vested in a Council, one elected at large from the City who shall be the President of the Council and one from each ward.

Commencing with the Municipal election held in November, 1973, all Councilmen to be elected from a ward designated by an even number shall be elected for a term of two (2) years and shall serve until their successors are chosen and have qualified; thereafter, and beginning with the Municipal election held in November, 1975, all said Councilmen shall be elected for a term of four (4) years and shall serve until their successors are chosen and have qualified.

Commencing with the Municipal election held in November, 1973, all Councilmen to be elected from a ward designated by an odd number shall be elected for a term of four (4) years and shall serve until their successors are chosen and have qualified.

Commencing with the Municipal election held in November, 1971, the President of the Council shall be elected for a term of four (4) years and shall serve until his successor is chosen and has qualified.

If at any time, the office of a member of Council is vacant by reason of non-election, death, resignation, removal of residence from the ward or City represented or from any other cause whatsoever, except when the vacancy is caused by a recall election, such vacancy shall be filled by the Council for the unexpired term. (Amended 11-4-69)

SECTION 25. REDIVIDING CITY INTO WARDS.

Immediately after the proclamation by the Secretary of State stating the population of the cities of Ohio, as determined by the Federal census decennially taken, the Council shall redivide the City into wards upon the basis of one ward for each seven thousand (7,000) population or major portion thereof. Wards so formed shall be as nearly equal in population as may be composed of contiguous and compact territory, and bounded by natural boundaries or street lines. When any territory is annexed to the City the Council shall by ordinances declare it a part of the adjacent ward or wards. But if the highest vote cast in any such annexed territory at the last preceding regular

election for any State, County or Municipal office exceeded two thousand (2, 000) then such annexed territory shall become and remain a separate ward or wards, entitled to elect one Councilman for each ward having a population of approximately seven thousand (7, 000) persons, until the City is next redivided into wards. If at the time of the adoption of this Charter, or thereafter, there is any territory within the City of Lima not assigned to or included in any ward, then the Council shall by ordinance declare such territory a part of the adjacent ward or wards. The division of the City into wards existing at the time of the adoption of this amendment, shall continue until changed by the Council as provided herein.

SECTION 26. QUALIFICATIONS OF MEMBERS OF THE COUNCIL.

Members of Council shall be electors of the City. A member of Council elected from a particular ward, shall in addition, be a resident of that ward for at least six (6) months prior to the filing of his or her nominating petition. Provided, however, that candidates who have resided in an area newly annexed to the City of Lima for six months shall be eligible to be candidates for Council immediately upon the completion of said annexation. A member of Council, who, at the time of his election was a resident of the ward which he represents, shall forfeit his office if he removes therefrom. Members of the Council shall not hold any other public office, except that of notary public or member of the State militia, and shall not be directly or indirectly interested in the profits or emoluments of any contract, job, work or service of the Municipality. Any member who shall cease to possess any of the qualifications herein required shall forthwith forfeit his office and any such contract in which any member is or may become interested, may be declared void by the Council. No member of the Council shall, except insofar as is necessary in the performance of the duties of his office, directly or indirectly interfere in the conduct of an administrative department or directly or indirectly take any part in the appointment, promotion, or dismissal of any officer or employee in the service of the City other than the officers or employees of the Council.

(Amended 11-6-84)

SECTION 27. SALARY AND ATTENDANCE OF MEMBERS OF THE COUNCIL.

The salaries of the members of the Council first elected under this Charter shall be three hundred (\$300) dollars per year, except the Council President who shall receive seven hundred fifty (\$750) dollars per year; provided, however, that the adoption of this amendment shall not be construed as changing the salaries of the present members of Council. Thereafter the Council may, by ordinance passed in any even numbered year, change the salary of members of the Council thereafter elected. The salary of a member of the Council shall be paid in equal monthly installments.

For each absence of a member from regular meetings of the Council, unless authorized by a two-thirds vote of all members thereof, there shall be deducted a sum equal to two percent (2%) of the annual salary of each member. Absence from ten (10) consecutive regular meetings shall operate to vacate the seat of a member unless such absence be authorized by the Council.
(Amended 11-6-62)

SECTION 28. MEETINGS OF COUNCIL.

At 7:30 o'clock p.m., on the first Monday in January following a regular Municipal election, unless such Monday shall fall on a legal holiday, the Council shall meet at the usual place for holding meetings at which time the newly-elected members of the Council shall assume the duties of their offices. Should the first Monday in January fall on a legal holiday, then such meeting shall take place on the first Tuesday after the first Monday in January following a regular Municipal election. Thereafter the Council shall meet at such times as may be prescribed by ordinance or resolution. The Mayor, the President of the Council, or any three (3) members thereof may call special meetings of the Council upon at least twelve (12) hours written notice to each member of the Council, served personally on each member or left at the usual place of residence of such member, unless a waiver of such notice is given in writing and filed with the Clerk of the Council. Any such notice shall state the subjects to be considered at the meeting and no other subject shall be there considered. All meetings of the Council shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times. (Amended 11-7-44)

SECTION 29. RULES OF THE COUNCIL.

The Council shall determine its own rules and order of business and shall keep a journal of its proceedings. It may punish or expel any member for disorderly conduct or violation of its rules. No expulsion shall take place without the concurrence of two-thirds of all the members elected nor until the delinquent member shall have been notified of the charge against him and been given an opportunity to be heard.

SECTION 30. PRESIDENT OF COUNCIL PRO TEMPORE.

In the absence of the President of the Council, the Council shall elect one (1) of their members President Pro Tempore. (Amended 11-7-44)

SECTION 31. CLERK AND OTHER OFFICERS AND EMPLOYEES.

The Council shall choose a Clerk; and such other officers and employees of its own body as are necessary. The Clerk shall keep the records of the Council and perform such other duties as may be required by this Charter or by the Council. All such officers and employees chosen by the Council shall serve during the pleasure thereof.

SECTION 32. LEGISLATIVE PROCEDURE.

The Council shall be the judge of the election and qualifications of its members. A majority of all the members elected shall be a quorum to do business, but a less number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members elected to the Council shall be necessary to adopt any ordinance or resolution. The vote upon the passage of all ordinances, and upon the adoption of such resolutions as the Council by its rules shall prescribe, shall be taken by "yeas" and "nays" and entered upon the journal.

SECTION 33. ORDINANCE ENACTMENT.

Ordinances and resolutions shall be introduced in the Council only in written or printed form. All ordinances or resolutions, except ordinances making appropriations, shall be confined to one subject which shall be clearly expressed in the title, except as provided in the next section. Ordinances making appropriations shall be confined to the subjects of appropriation. No ordinance shall be passed until it has been read on three separate days unless the requirement of reading on three separate days has been dispensed with by a two-third vote of all the members of the Council. The final reading shall be in full unless a written or printed copy of the measure shall have been furnished to each member of the Council prior to such reading. The enacting clause of all ordinances passed by the Council shall be "Be it ordained by the Council of the City of Lima. " The enacting clause of all ordinances submitted by the initiative shall be "Be it ordained by the people of the City of Lima."

SECTION 34. REVISION AND CODIFICATION OF ORDINANCES.

Ordinances may be revised, codified, rearranged and published in book form under appropriate titles, chapters and sections and such revision and codification may be made in one ordinance containing one or more subjects. The publication of such revision and codification in book form as aforesaid shall be held to be a sufficient publication of the ordinance or several ordinances contained in such revision and codification and so published. Any such publication of a revision or codification of ordinances in book form shall contain a certificate of the President of Council and the Clerk of the correctness of such revision, codification and publication; and such book so published shall be received in evidence in any court for the purpose of proving the ordinance or ordinances therein contained, the same and for the same purpose as the original book, ordinances, minutes or journals would be received.

SECTION 35. AMENDING ORDINANCES AND RESOLUTIONS.

No ordinance or resolution or section thereof shall be revised or amended, unless the new ordinance or resolution contain the entire ordinance or resolution or section revised or amended, and the original ordinance, resolution, section or sections so amended shall be repealed.

SECTION 36. EMERGENCY MEASURES.

All ordinance and resolutions shall be in effect from and after twenty (20) days from the date of their passage by the Council except as otherwise provided in this Charter. The Council may by a two-thirds vote of the members elected thereto, pass emergency measures to take effect at the time indicated therein. An emergency measure is an ordinance or resolution for the immediate preservation of the public peace, property, health, or safety, or providing for the usual daily operation of a Municipal department, in which the emergency is set forth and defined in a preamble thereto. Ordinances appropriating money may be passed as emergency measures, but no measures making a grant, renewal or extension of a franchise or other special privilege, or regulating the rate to be charged for its services by any public utility, shall ever be so passed. (Amended 11-7-44)

SECTION 37. MAYOR'S VETO.

Any ordinance or resolution passed by the Council shall be signed by the President or other presiding officer and presented forthwith to the Mayor by the Clerk. If the Mayor approves such ordinance or resolution he shall sign it within ten (10) days after its passage or adoption by the Council; but if he does not approve it, he shall return it to the Council with his objections within said ten (10) days, or if the Council be not then in session, at the next regular meeting thereof, which objections the Council shall cause to be entered in full on its journal. If the Mayor does not sign or veto an ordinance or resolution after its passage or adoption, within the time specified, it shall take effect in the same manner as if he had signed it. The Mayor may approve or disapprove the whole or any item or part of any ordinance or resolution appropriating money. When the Mayor refuses to sign an ordinance or resolution or part thereof and returns it to the Council with his objections, the Council shall, after the expiration of not less than one week, proceed to reconsider it and, if upon reconsideration, the resolution or ordinance or part or item thereof disapproved by the Mayor be approved by the vote of two-thirds of all the members elected to the Council it shall take effect without the signature of the Mayor. In all such cases the votes shall be taken by "yeas" and "nays" and entered on the journal.

SECTION 38. MAYOR'S ESTIMATE.

The fiscal year of the City shall begin on the first day of January. On or before the fifteenth (15th) day of December in each year the Mayor shall prepare an estimate of the expense of conducting the affairs of the City for the following year. This estimate shall be compiled from detailed information obtained for the various departments on uniform blanks prepared by the Auditor, and shall set forth:

- (a) An itemized estimate of the expense of conducting each department.
- (b) Comparisons of such estimates with the corresponding items of expenditure for last two (2) complete fiscal years and with the expenditures of the current fiscal year plus an estimate of expenditures necessary to complete the current fiscal year.
- (c) Reasons for proposed increases or decreases in such items of expenditure compared with the current fiscal year.
- (d) A separate schedule for each department showing the things necessary for the department to do during the year and which of any desirable things it ought to do if possible.
- (e) Items of payroll increases as either additional pay to present employees, or pay for more employees.
- (f) A statement from the Auditor of the total probable income of the City from taxes for the period covered by the Mayor's estimate.
- (g) An itemization of all anticipated revenue from sources other than the tax levy.
- (h) The amounts required for interest on the City's debt, for sinking funds and for maturities of bond issues.
- (i) The total amount of outstanding City debt with a schedule of maturities of bond issues.
- (j) Such other information as may be required by the Council.

The Mayor shall submit the estimate thus prepared to the Council and an adequate number of copies thereof shall be prepared for distribution to citizens who may call for them. Copies of the estimates shall also be furnished to the newspapers and other news media of the City and to the public library and each of its branches.

(Amended 11-6-62)

SECTION 39. APPROPRIATION ORDINANCE.

Upon receipt of the Mayor's estimate the Council shall at once prepare an appropriation ordinance, in such manner as may be provided by ordinance or resolution, using the Mayor's estimate as a basis. Provision shall be made for public hearings upon the appropriation ordinance before a committee of the Council or before the entire Council sitting as a committee of the whole. The Council shall not pass the appropriation ordinance until fifteen (15) days after its final hearing, nor before the first Monday in January. Upon passage of the appropriation ordinance by the Council it shall be published in the manner provided for other ordinances.

SECTION 40. PRELIMINARY APPROPRIATIONS.

After the beginning of the fiscal year, and before the annual appropriation ordinance has been passed, the Council may make appropriations for the current expenses of the City, chargeable to the appropriations of the year when passed, to an amount sufficient to cover the necessary expense of the various departments, divisions and offices until the annual appropriation ordinance is in force. No other liabilities shall be incurred by any officer or employee of the City, except in accordance with the provisions of the annual appropriation ordinance.

SECTION 41. TRANSFER OF APPROPRIATIONS.

Upon the written recommendation of the Mayor, the Council may at any time transfer an unencumbered balance of an appropriation made for the use of one department, division or purpose to any other department, division or purpose; but no such transfer shall be made of revenues or earnings of any non-tax supported public utility to any other purpose.

SECTION 42. CURRENT REVENUE.

Any accruing revenue of the City, not appropriated as hereinbefore provided, and any balances at any time remaining after the purposes of the appropriation shall have been satisfied or abandoned may from time to time be appropriated by the Council to such uses as will not conflict with any use for which specifically such revenues accrued.

SECTION 43. LIMITATION ON APPROPRIATIONS.

No moneys shall be drawn from the Treasury of the City, nor shall any obligation for the expenditure of money be incurred, except pursuant to appropriations made by the Council; and whenever an appropriation is so made the Clerk shall forthwith give notice to the Auditor. At the end of each year all unexpended balances of appropriations shall revert to the respective funds from which the same were appropriated and shall then be subject to future appropriations; but appropriations may be made in furtherance of improvements or other objects or work of the City which will not be completed within the current year.

SECTION 44. USE OF MONEYS APPROPRIATED; SUPERVISION OF DEPARTMENTAL EXPENDITURES.

Moneys appropriated as hereinbefore provided shall not be used for other purposes than those designated in the appropriation ordinance without authority from the Council. The Mayor and the Auditor shall supervise all departmental expenditures, and shall keep such expenditures within the appropriation.

SECTION 44.5 CAPITAL IMPROVEMENT FUND.

There is hereby established a special fund to be known as the Capital Improvement Fund. Money paid into the Capital Improvement Fund shall be used only for:

- (1) Payment of the costs of constructing or acquiring (whether by outright purchase, lease, or lease-purchase and irrespective of whether payment is made in installments or in a lump sum) of capital improvements; or
- (2) Payment of debt service on any bonds or notes issued by the City to finance the construction, purchase or acquisition of capital improvements.

As used in this section, "capital improvement" means any property, assets or improvement having an estimated life or period of usefulness of one year or more, and includes, but is not limited to, real estate, buildings, personal property, and interests in real estate, buildings, personal property, equipment, furnishings, site improvements, and reconstruction rehabilitation, renovation, installation, improvement, enlargement and extension of property, assets or improvements having an estimated life or period of usefulness of one year or more. (Enacted 11-8-94)

SECTION 45. INVESTIGATIONS BY COUNCIL OR MAYOR.

The Council, the Mayor, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any department, office, officer or employee of the City and to make investigation as to City affairs, and for that purpose may subpoena witnesses, administer oaths, and compel testimony, the production of books, papers, and other evidence. It shall be the duty of the Mayor to designate a police officer to serve such subpoenas. The Council shall provide by ordinance the penalty or penalties for contempt in refusing to obey any such subpoena, or to produce such books, papers and other evidence, and shall have the power to punish any such contempt in the manner provided by ordinance.

SECTION 46. ORDINANCES, RESOLUTIONS AND NOTICES - FILING AND PUBLICATION.

Every ordinance or resolution passed or adopted by the City Council upon its final passage shall be recorded in a book kept for that purpose, and shall be authenticated by the signature of the presiding officer and Clerk of the Council.

Every ordinance, and resolution of a general or permanent nature so passed or adopted by the Council shall be published in at least one of the following ways, either of which shall be deemed sufficient for all purposes:

- (a) By being published once within twenty (20) days after its passage or adoption in a newspaper of general circulation in the City of Lima; or,
- (b) By being published once within twenty (20) days after passage or adoption in a periodical or bulletin regularly published under authority of the City Council.

If and when authorized by the City Council, publication of such ordinances and resolutions by either method above stated may be made in a summary manner wherein the legal advertisement shall contain simply a statement of the title, number, and date of the ordinance or resolution, a brief statement of the nature of the ordinance or resolution, and a reference to a copy of the ordinance or resolution which shall be on file in the office of the Clerk of the Council. No other publication of such ordinance or resolution shall be required.

In the event that reference be made in an ordinance or resolution to a map, plat, or to scientific or engineering data on file in any Municipal office therein described, publication of such map, plat, scientific or engineering data need not be made but the same may be incorporated by reference into such legislation.

Publication of legal notices, advertisements, proclamations, ordinances, and resolutions required to be published by any Municipal body, board, commission, or officer, may be made in either of the two ways provided above for the publication of ordinances and resolutions passed and adopted by the City Council and no other publication of the same shall be required.
(Amended 11-5-46)

INITIATIVE AND REFERENDUM

SECTION 47. THE INITIATIVE GENERALLY - WHEN PROPOSED ORDINANCE MAY BE SUBMITTED; REQUIREMENTS AS TO PETITIONS.

Any proposed ordinance may be submitted to the Council by petition signed by electors equal in number to ten (10) percent of the total vote cast in the last preceding regular Municipal election of the City. All petition papers, circulated with respect to any proposed ordinance, shall be uniform in character and shall contain the proposed ordinance in full, and have printed thereon the names and addresses of at least five (5) electors who shall be officially regarded as filing the petition and constitute a committee of the petitioners for the purposes hereinafter named. (Amended 11-6-62)

SECTION 48. SAME - SIGNATURES ON PETITIONS.

The circulator of any petition paper shall be an elector of the City. Each signer of a petition shall sign his name in ink or indelible pencil and shall place on the petition paper after his name his place of residence by street and number, or by other description sufficient to identify the place. The signatures to any such petition paper need not all be appended to one paper but to each such paper there shall be attached an affidavit by the circulator thereof stating the number of signers to such part of the petition, that the circulator is an elector of the City, that the signatures on the petition paper were affixed in the presence of the circulator and that the circulator believes each signature appended to the paper is the genuine signature of the person whose name it purports to be.

(Amended 11-5-63)

SECTION 49. SAME - FILING AND VERIFICATION OF PETITIONS BY CLERK.

All papers comprising a petition shall be assembled and filed with the Clerk of the Council as one instrument. Within ten (10) days from the filing of a petition the Clerk shall ascertain whether it is signed by the required number of qualified electors in the manner and form prescribed and that it conforms to all requirements of the Charter. Upon the completion of his examination the Clerk shall endorse upon the petition a certificate of the result thereof. (Amended 11-5-63)

SECTION 50. SAME - AMENDMENT OF PETITIONS IN CASE OF INSUFFICIENCY.

If the Clerk's certificate shows that the petition is insufficient he shall at once notify each member of the committee of the petitioners, hereinbefore provided for, and the petition may be amended at any time within fifteen (15) days from the date of the Clerk's certificate of examination, by filing with the Clerk an additional petition paper or papers in the same manner as provided for the original petition.

SECTION 51. SAME - EXAMINATION OF AMENDED PETITIONS.

Upon the filing of such an amendment the Clerk shall, within ten (10) days thereafter, examine the amended petition and attach thereto his certificate of the result. If still insufficient, or if no amendment shall have been filed, the Clerk shall file the petition in his offices and shall notify each member of the committee of that fact. The final finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

SECTION 52. SAME - PROCEDURE WHEN PETITION FOUND SUFFICIENT.

When the certificate of the Clerk shows the petition to be sufficient, he shall submit the proposed ordinance to the Council at its next regular meeting and the Council shall at once read and refer the same to an appropriate committee, which may be the committee of the whole. Provision shall be made for public hearings upon the proposed ordinance before the committee to which it is referred. Thereafter the committee shall report the proposed ordinance to the Council, with its recommendations thereon, not later than sixty days after the date on which the proposed ordinance was submitted to the Council by the Clerk.

SECTION 53. SAME - CONSIDERATION OF PETITION BY COUNCIL; RIGHT OF PETITIONERS TO REQUIRE SUBMISSION TO VOTE OF ELECTORS.

Upon receiving the proposed ordinance from the committee, the Council shall at once proceed to consider it and shall take final action thereon within thirty (30) days from the date of such committee report. If the Council reject the proposed ordinance, or pass it in a form different from that set forth in the petition, the committee of the petitioners may require that it be submitted to a vote of the electors in its original form, or that it be submitted to a vote of the electors with any proposed change, addition or amendment, which was presented in writing either at a public hearing before the committee to which such proposed ordinance was referred, or during the consideration thereof by the Council.

SECTION 54. SAME - CERTIFICATION OF INITIATIVE ORDINANCE TO CLERK BY PETITIONERS.

When an ordinance proposed by petition is to be submitted to a vote of the electors the committee of the petitioners shall certify that fact and the proposed ordinance, in the form in which it is to be submitted to the Clerk of the Council within ten (10) days after the final action on such proposed ordinance by the Council.

SECTION 55. SAME - SUBMISSION OF INITIATIVE ORDINANCES TO ELECTORS.

Upon receipt of the certificates and certified copy of the proposed ordinance, the Clerk shall certify the fact to the Council at its next regular meeting. Council shall provide for submitting the proposed ordinance to the electors on the next regular day designated by State law for the holding of a primary or a general election provided that such election day shall occur at least thirty (30) days after the receipt of the Clerk's certificate by the Council, except that Council may provide for submitting the proposed ordinance to the electors at a special election when two-thirds of the members elected to the Council specifically determine such to be necessary.

(Amended 11-6-62)

SECTION 56. SAME - PROPOSED ORDINANCES FOR REPEALING EXISTING ORDINANCES; PUBLICATION, AMENDMENT AND REPEAL OF INITIATED ORDINANCES.

Proposed ordinances for repealing any existing ordinance or ordinances in whole or in part may be submitted to the Council as provided in the preceding sections for the initiating ordinances. Initiated ordinances, adopted by the electors, shall be published and may be amended or repealed by the Council as in the case of other ordinances.

SECTION 57. THE REFERENDUM GENERALLY - WHEN OPERATIVE; PREPARATION AND FILING PETITION.

No ordinance passed by the Council, unless it be an emergency measure, shall go into effect until twenty (20) days after its final passage by the Council. If at any time, within said twenty (20) days a petition signed by electors equal in number to ten percent (10%) of the total vote cast at the last preceding regular Municipal election of the City be filed with the Clerk of the Council requesting that any such ordinance, or any specified part thereof, be repealed or submitted to a vote of the electors, it shall not become operative until the steps indicated herein have been taken. The petition shall be prepared and filed in the manner and form prescribed in the foregoing sections of this Charter for an initiative petition for an ordinance.
(Amended 11-7-44)

SECTION 58. SAME - SUFFICIENCY OF PETITION; VERIFICATION OF SUFFICIENCY OF PETITION; AMENDMENT; RECONSIDERATION OF ORDINANCE BY COUNCIL; SUBMISSION TO VOTERS IN CASE OF FAILURE TO REPEAL.

When such a petition is filed with the Clerk of the Council he shall determine the sufficiency thereof in the manner provided in this Charter for an initiative petition for an ordinance. If the petition be found sufficient, or be rendered sufficient by amendment as provided in Sections 51, 52, and 53 hereof, the Clerk shall certify that fact to the Council, which shall proceed to reconsider the ordinance. If upon such reconsideration, the ordinance be not entirely repealed the Council shall provide for submitting it to a vote of the electors, and in so doing the Council shall be governed by the provisions of Sections 55 and 64 hereof respecting the time of submission and manner of voting on ordinances proposed to the Council by petition.

SECTION 59. SAME - FORM; NEED NOT CONTAIN TEXT OF ORDINANCE.

Referendum petitions need not contain the text of the ordinances, the repeal of which is sought, but they shall be subject in all other respects to the requirements for petitions submitting proposed ordinances to the Council.

SECTION 60. SAME - INITIATIVE ORDINANCES SUBJECT TO REFERENDUM.

Ordinances submitted to the Council, by initiative petition and passed by the Council without change, or passed in an amended form and not required to be submitted to a vote of the electors by the committee of the petitioners, shall be subject to the referendum in the same manner as other ordinances.

SECTION 61. PROVISIONS PERTAINING TO BOTH INITIATIVE AND REFERENDUM - CONFLICTING ORDINANCES.

If the provisions of two or more ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall prevail and the others shall be of no effect.

SECTION 62. SAME - REFERENDUM AND EMERGENCY MEASURES.

Ordinances passed as emergency measures shall be subject to referendum in like manner as other ordinances, except that they shall go into effect at the time indicated in such ordinances. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder; but such measure so repealed shall be deemed sufficient authority for payment, in accordance with the ordinance, of any expense incurred previous to the referendum vote thereon.

SECTION 63. SAME - PRELIMINARY ACTION.

In case a petition be filed requiring that a measure passed by the Council providing for an expenditure of money, a bond issue, or a public improvement be submitted to vote of the electors, all steps preliminary to such actual expenditure, actual issuance of bonds, or actual execution of a contract for such improvement, may be taken prior to the election.

SECTION 64. SAME - FORM OF BALLOTS, ETC.; ELECTION RESULTS.

Ordinances, or parts thereof, submitted to vote of the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title. There shall appear upon the official ballot a ballot title, which may be distinct from the legal title of any such proposed or referred ordinance, and which shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance, or part thereof. The ballot title shall be prepared by the committee of petitioners if for an initiated ordinance, and in all other cases by the City Solicitor. The ballots used in voting upon any such ordinance, or part thereof, shall have below the ballot title thereof the two following propositions, one above the other, in order indicated: "For the ordinance" and "Against the ordinance". Immediately at the left of each proposition there shall be a square in which by making a cross mark (X) the elector may vote for or against the ordinance or part of an ordinance, if part only of an ordinance is submitted. Any number of ordinances, or parts thereof, may be voted upon at the same election and may be submitted on the same ballot, but the ballot used for voting thereon shall be for that purpose only. If a majority of the electors voting on any ordinance, submitted in accordance with the initiative provisions of this Charter, shall vote in favor thereof, it shall thereupon become an ordinance of the City. If an ordinance or part of an ordinance, submitted in accordance with the referendum provisions of this Charter, be not approved by a majority of those voting thereon, it shall be deemed repealed.

THE EXECUTIVE AND ADMINISTRATIVE OFFICERS
GENERALLY - THE MAYOR

SECTION 65. EXECUTIVE AND ADMINISTRATIVE POWERS.

The executive and administrative powers of the City shall be vested in the Mayor, directors of departments and other administrative offices provided for in this Charter or by ordinance.

SECTION 66. TERM AND QUALIFICATIONS OF MAYOR.

The Mayor shall be the chief executive officer of the City. Commencing with the Municipal election held in November, 1945, the Mayor shall be elected for a term of four (4) years, assume office on the first day of December following his election and serve until his successor is elected and qualified. The Mayor shall be an elector of the City and shall not hold any other public office or employment, except that of notary public or member of the State militia, and shall not be interested in the profits or emoluments of any contract, job, work or service for the Municipality. He shall devote his entire time to the duties of his office and shall engage in no other remunerative employment of any kind. (Amended 11-6-56)

SECTION 67. SALARY OF MAYOR.

Commencing with the term of the officer elected at the Municipal election held in November, 1953, the salary of the Mayor shall be in such amount as may be fixed by the Council, but which shall in no event be less than the sum of fifty-two hundred dollars (\$5,200.00) per annum and shall be payable monthly. No change in salary may be made to take effect during the term of such officer and any determination of the amount of such compensation may be made by the Council only by ordinance passed in the year 1952 or in any even numbered year subsequent thereto.

(Amended 5-6-52)

SECTION 68. MAYOR'S APPOINTING POWER; APPOINTING AUTHORITY DEFINED.

The Mayor shall be the appointing authority of the City for all classified and unclassified positions except in those departments where the Charter provides for the election of the head of said department, in which case the department head shall be the appointing authority for all classified and unclassified positions in his department.

Except as may be otherwise specifically provided elsewhere in this Charter, the Mayor shall also have the power to appoint and remove all other appointive officers and all members of commissions not included within regular departments. Such officers and members of commissions appointed by the Mayor shall serve until removed by him or until their successors are appointed and have qualified.

(Amended 11-2-65)

SECTION 69. GENERAL POWER AND DUTIES OF MAYOR.

It shall be the duty of the Mayor to act as chief conservator of the peace within the City; to supervise the administration of the affairs of the City; to see that all ordinances of the City are enforced; to recommend to the Council for adoption such measures as he may deem necessary or expedient; to keep the Council advised of the financial condition and future needs of the City; to prepare and submit to the Council such reports as may be required by that body, and to exercise such powers and perform such duties as are confronted or required by this Charter or by the law of the State.

SECTION 70. MAYOR'S RIGHT IN COUNCIL.

The Mayor and the directors of all departments established by the Charter, or that may hereafter be established by ordinance, shall be entitled to seats in the Council. Neither the Mayor nor the director of any department shall have a vote in the Council, but the Mayor shall have the right to introduce ordinances and to take part in the discussion of all matters coming before the Council; and the directors of departments shall be entitled to take part in all discussions in the Council relating to their respective departments. The Council by ordinance or resolution may authorize other City officials to have seats in Council.

SECTION 71. VACANCY IN OFFICE OF MAYOR; ACTING MAYOR.

If at any time the office of Mayor is vacant by reason of non-election, death, resignation, removal from office in any way except by recall election, removal of residence from the City, or from any other cause whatsoever, such vacancy shall be filled by the President of Council for the unexpired term, provided however, that in the event that a written declination of his right to assume said office be presented to the Council by the President of Council within thirty (30) days after the occurrence of the vacancy or in the event that the President of Council does not qualify for the office of Mayor within said thirty (30) days period, the Council may thereupon appoint a Mayor to serve for the balance of the unexpired term.

When the Mayor is absent from the City, or is unable for any cause to perform his duties the President of Council shall be the Acting Mayor.

Council may make an appointment of an Acting Mayor whenever such need arises. Such Acting Mayor whether an incumbent of the office of President of Council or any other person, shall be entitled to receive compensation, as determined by ordinance of Council, for such duties which shall be in addition to any other compensation which he may be entitled to receive as a Municipal official.

(Amended 11-6-62)

SECTION 72. QUALIFICATIONS OF EMPLOYEES AND OFFICERS.

No restriction is placed upon the residency of any employee or officer of the City, any provision of this Charter to the contrary notwithstanding, except as the Council may otherwise specifically provide by ordinance; provided that all elective officers of the City of Lima shall be residents of the City and have the qualifications of electors therein during their terms of office.

All employees of the City of Lima, whether residents of the City or not, shall pay Municipal Income tax to the City, as a condition of their employment, irrespective of their place of residence. This provision shall not apply to non-residents of the City, except as to wages or salaries paid by the City of Lima.

No person elected to any office of the City shall, during his incumbency in the office to which he has been elected, be appointed to any office under the City.
(Amended 11-5-74)

DEPARTMENT OF LAW

SECTION 73. CITY SOLICITOR - QUALIFICATIONS AND GENERAL DUTIES.

The City Solicitor shall be an attorney-at-law, admitted to practice in the State of Ohio, and shall have such assistants of like qualifications as the Council may authorize. The City Solicitor shall act as the legal adviser to, and attorney and counsel for, the Municipality and all its officers in matters relating to their official duties. He shall prepare all contracts, bonds and other instruments in writing in which the Municipality is concerned and shall endorse on each his approval of the forms and correctness thereof; and no contract with such Municipality shall take effect until his approval is endorsed thereon.

SECTION 74. SAME - ELECTION; TERM.

Commencing with the Municipal election held in November, 1945, the City Solicitor shall be elected as provided for the election of officers herein for a term of four (4) years, assume office on the first day of January following his election and serve until his successor is elected and qualified.

(Amended 11-7-44)

SECTION 75. SAME - SALARY.

Commencing with the term of the officer elected in the Municipal election held in November, 1953, the salary of the City Solicitor shall be in such amount as may be fixed by the Council, but which shall in no event be less than the sum of thirty-six hundred dollars (\$3,600.00) per annum and shall be payable monthly. No change of salary may be made to take effect during the term of such officer and any determination of the amount of such compensation may be made by the Council only by ordinance passed in the year 1952 or in any even numbered year subsequent thereto.

(Amended 11-6-51)

SECTION 76. SAME - ASSISTANT CITY SOLICITOR; APPOINTMENT; QUALIFICATIONS; TERM; SALARY; DUTIES.

The City Solicitor shall appoint an Assistant City Solicitor who shall be an elector of the City of Lima and who shall be an attorney-at-law, admitted to practice in the State of Ohio, and shall be the prosecutor in any criminal or Municipal court and shall perform such other duties as may be required of him by the Mayor or City Solicitor. He shall receive a salary in an amount to be fixed by the Council which shall be not less than fifty (\$50.00) dollars per month, payable monthly, and such assistance as the Council may authorize. He shall hold office at the pleasure of the City Solicitor.

(Amended 11-7-44)

SECTION 77. SAME - MISCELLANEOUS DUTIES.

In addition to the duties herein provided, the City Solicitor shall perform such other duties as may be required of him by the Council or the Mayor, as well as such as may be required of city solicitors by the general laws of the State applicable to municipalities.

SECTION 77.5. TITLE OF CITY SOLICITOR CHANGED TO DIRECTOR OF LAW.

The title of the office of City Solicitor shall be designated Director of Law and wherever the title of City Solicitor appears or is used, the title Director of Law shall be substituted therefor. (Enacted 11-6-56)

AUDITING DEPARTMENT

SECTION 78. CITY AUDITOR - ELECTION; TERM; SALARY; DUTIES GENERALLY.

Commencing with the Municipal election held in November, 1953, the City Auditor shall be elected for a term of four (4) years and commencing with the term of the officer elected at such election, the salary of the City Auditor shall be in such amount as may be fixed by the Council but which shall in no event be less than the sum of thirty-six hundred dollars (\$3,600.00) per annum payable monthly. No change of salary may be made to take effect during the term of such officer and any determination of the amount of such compensation may be made by the Council only by ordinance passed in the year 1952 or in any even numbered year subsequent thereto. He shall assume office on the first day of January following his election and serve until his successor is elected and qualified. The City Auditor shall issue all warrants for payments of money by the City. He shall keep an accurate account of all taxes and assessments, of all money due, and all receipts and disbursements by the Municipality, of all its assets and liabilities and of all appropriations made by the Council. At the end of each fiscal year, and more often if required by the Council, he shall audit the accounts of the several departments and officers and shall audit all other accounts, in which the Municipality is interested. He may prescribe the form of reports to be rendered to his department, and the method of keeping accounts by all other departments, and periodic reports shall be rendered to him as he shall direct by each department, showing the receipt of all moneys by such department and the disposition thereof. Upon the death, resignation, removal, or expiration of the term of any officers, the City Auditor shall audit the accounts of each officer, and if such officer shall be found indebted to the Municipality he shall immediately give notice thereof to the Council and the Director of Law; and the latter shall forthwith proceed to collect the same. In addition to such duties, the City Auditor shall perform such other duties as may be required of city auditors by the general laws of the State applicable to municipalities. The City Auditor shall appoint such Deputy City Auditors as the Council may authorize. Such Deputy City Auditors shall be electors of the City of Lima, Ohio and shall perform such duties as may be required by the City Auditor. The City Auditor may designate one or more of such Deputies to perform his duties in the event of his absence or disability. (Amended 11-6-62)

SECTION 79. CITY TREASURER - APPOINTMENT; TERM; SALARY; DUTIES GENERALLY.

The Mayor, by and with the consent of the Council, shall appoint a City Treasurer who shall hold office at the pleasure of the Mayor, at a salary fixed by the Council. The office of City Treasurer may be combined with that of the Clerk of the Council, or with any other office not inconsistent therewith. The City Treasurer shall be the custodian of all moneys of the Municipality, and shall keep and preserve the same in such manner and in such place or places as shall be determined by the Council. He shall pay out and receive moneys only on warrants issued by the City Auditor. In addition to such duties, he shall perform such other duties as may be required of him by the Council as well as may be required of city treasurers by the general laws of the State applicable to municipalities.

SECTION 80. SAME - PREPARATION AND SUBMISSION OF MONTHLY FINANCIAL STATEMENT TO COUNCIL.

The Treasurer shall prepare for submission to the Council at its second meeting in each month a summary statement of revenues and expenses for the preceding month, detailed as to appropriations and funds in such manner as to show the exact financial condition of the City and of each department, division and office thereof as of the last day of such month. Financial reports shall also be prepared for each quarter and fiscal year and for such other periods as may be required by the Council.

SECTION 81. PURCHASING AGENT - DUTIES OF MAYOR IN CONNECTION THEREWITH.

The Mayor shall purchase all supplies for the City and shall approve all vouchers for the payment of the same. The Mayor shall also conduct all sales of personal property which the Council may authorize to be sold as having become unnecessary or unfit for the City's use.

All purchases and sales shall conform to such regulations as the Council may from time to time prescribe; but in either case, if an amount in excess of two hundred dollars is involved, opportunity for competition shall be given. Where purchases or sales are made on joint account of separate departments, the Mayor shall apportion the charge or credit to each department. He shall see to the delivery of supplies to each department, and take and retain the receipt of each department therefor.

MISCELLANEOUS ADMINISTRATIVE PROVISIONS

SECTION 82. TRUSTEES OF THE SINKING FUND.

The Board of Trustees of the Sinking Fund as now organized and existing shall continue, and such Board and all matters pertaining thereto shall be governed by the general laws of the State enacted and applicable thereto; excepting that the members of said Board shall serve without pecuniary compensation. The present members of said Board shall continue to serve for their unexpired terms; but their successors shall be appointed, and vacancies in said Board shall be filled by the Mayor with consent of the Council.

SECTION 83. OTHER BOARDS AND DEPARTMENTS.

All other administrative departments in existence at the time of adoption of this Charter, shall continue until otherwise provided by the Council, and all administrative

boards in charge of any administrative department of the City shall continue in office and their successors shall be appointed by the Mayor, excepting as other provisions are made in this Charter, or may hereafter be made by the Council.

Excepting the officers, boards, commissions and departments specially mentioned and provided for in this Charter, the Council shall have power to establish, create, combine, or abolish offices, boards, departments or divisions when in its opinion the proper administration of the business of the City so requires.

SECTION 84. SALARIES AND BONDS.

The Council shall fix by ordinance the salary or rate of compensation of all officers and employees of the City entitled to compensation prior to the election and for the succeeding term of office, which shall not be changed during their term of office, and may require any officer or employee to give bond for the faithful performance of his duty, in such an amount as it may determine, and it may provide that the premium thereof shall be paid by the City.

SECTION 85. GENERAL DISQUALIFICATIONS OF OFFICERS, ETC. - INTEREST IN CONTRACTS; ACCEPTANCE OF GIFTS, ETC.

No member of the Council, the Mayor or any other officer or employee of the City, shall directly or indirectly be interested in any contract, job, work or service with or for the City; nor in the profits or emoluments thereof, nor in the expenditure of any money on the part of the City other than his fixed compensation; and any contract with the City in which any such officer or employee is, or becomes, interested may be declared void by the Council.

No member of the Council, the Mayor, or other officer or employee of the City shall knowingly accept any gift, frank, free ticket, pass, reduced price or reduced rate of service from any person, firm or corporation operating a public utility or engaged in business of a public nature within the City, or from any person known to him to have, or to be endeavoring to secure a contract with the City. But the provisions of this section shall not apply to the transportation of policemen and firemen of the City in uniform, plainclothes men, sanitary police and park police of the City wearing official badges, when the same is, or may be, provided for by the Council.

SECTION 86. SAME - PRECEDING SECTION NOT EXCLUSIVE; PENALTIES.

The provisions of the preceding section shall not be considered exclusive, but as in addition to any other provisions of the general law of the State applicable to the case; and a violation of any provisions of either of such sections shall subject the offender to removal from office or employment, and to punishment by a fine not exceeding one hundred dollars.

CIVIL SERVICE

SECTION 87. CIVIL SERVICE BOARD GENERALLY.

The Civil Service Board shall consist of three electors of the City. The terms of the present members of the Board shall expire and terminate on the first day of December following the adoption of this amendment. The members of the Board shall be appointed as follows:

The Mayor shall appoint one member who shall serve six (6) years.

The presiding judge of the Lima Municipal Court shall appoint one member who shall serve four (4) years.

The City Council shall appoint one member who shall serve two (2) years.

Thereafter members of the Civil Service Board shall serve three (3) years or until their successors are appointed and qualified.

The respective appointing authority shall make a temporary substitution appointment in the event that the appointee is absent from the City, incapacitated for any reason or disqualified by reason of interest in any proceeding.

At the expiration of any member's term his successor shall be appointed by the authority making the original appointment to such position and any vacancy from any other cause shall be filled by the authority making the original appointment to the position in which such vacancy occurs.

In the event the appointing authority fails to make his appointment within fifteen (15) days after the adoption of this amendment, or within (15) days after the occurrence of a subsequent vacancy, absence or disqualification in the position it is entitled to fill, the Council of the City shall make such appointment.

The City Council may, by a two-thirds vote of the full membership at any time, remove any member of the Board. No member of the Board shall hold any public office, or public employment, temporary or permanent, except as a notary public, or in connection with the State military service, and no member of the Board shall be a candidate for any elective public office. (Amended 11-6-62)

SECTION 88. OFFICERS OF THE BOARD; ANNUAL REPORT.

The Board shall designate one of its members as President. The City Council shall appoint a secretary and such other officers and employees as may be provided for by ordinance. The salary of the secretary and such other officers and employees shall be determined by the Council.

The Board shall make a report to the appointing authorities and to City Council annually on or before the first day of January of each year, showing its own actions, the rules and all exceptions thereto in force, and any recommendation for the more effectual accomplishments of the purposes of this act.

(Amended 11-5-40)

SECTION 89. CLASSIFICATION.

The civil service of the City is hereby divided into the unclassified and classified service.

- (1) The unclassified service shall include:
 - (a) All officers elected by the people.
 - (b) The members of all appointed boards, commissions and advisory boards.
 - (c) All heads of departments and deputies with exception of Police and Fire Departments.
 - (d) The secretary of the Mayor.
 - (e) The Clerk of the Council.
 - (f) The Assistant to the City Solicitor.
 - (g) Deputy City Auditor.

- (2) The classified service shall comprise all other positions not specially excepted by this amendment in the unclassified service.
- (3) Any department head or deputy selected from the classified service shall retain his previous civil service status. (Amended 11-5-40)

SECTION 90. RULES GENERALLY.

The Board shall prescribe, amend, from time to time in accordance with the requirements of the service, and enforce rules for the classified service, shall keep minutes of its proceedings, and records of its examinations, and shall make investigations concerning the enforcement and effect of the civil service provisions and the rules thereunder, provided, however, that all rules prescribed by said Board shall be approved by the Council of the City of Lima.

Copies of the rules shall be available to all employees in the classified service and to the public.

The rules shall provide:

- (a) Classification of Positions; Salaries to be Uniform. For the classification and standardization of all positions in the classified service. The classification into groups and subdivisions shall be based on and graded according to their duties and responsibilities, and so arranged as to permit the filling of the higher grades, so far as practicable, through promotion, by competitive examination. All salaries shall be uniform for like service in each grade as the same shall be standardized and classified by the Civil Service Board.
- (b) Competitive Examination; Employees of Utilities Taken Over by City. For open competitive examinations to test the relative fitness of applicants for such positions. Employees of any public utility taken over by the City, who are in the service of such utility at the time of such acquisition shall within sixty (60) days after the utility is acquired by the City, take a qualifying examination; and vacancies thereafter occurring in such service shall be filled from employment lists in the manner herein provided.
- (c) Notice of Examinations. For public notice in a paper of general circulation in the City of Lima at least once a week for two consecutive weeks in advance of the time and place of all competitive examinations.
- (d) Rejection of Disqualified Candidates. For the rejection of candidates and/or eligibles who fail to comply with requirements as to age, sex, physical condition or moral character and/or who have attempted deception or fraud in connection with any examination.
- (e) Temporary Employment Without Examination. For temporary employment without examination with the approval of the Board in the absence of an eligible list; but no such temporary employment shall continue after the establishment of a suitable eligible list and in any case not to exceed 90 days.
- (f) Promotional Examinations. For promotion based on competitive examination and records of efficiency, character, conduct and seniority. Lists shall be created and promotions made therefrom of candidates in the same manner as in original appointments. Any advancement in the rank or an increase in the salary beyond the limit fixed for the grade by the rules shall constitute promotion. Whenever practicable, vacancies shall be filled by promotion.

The weight given to seniority in examinations for promotion shall be the same as those in the Code of the State of Ohio.

- (g) Training of Employees; Placing on Monthly Payroll; Leaves of Absences; Vacations with Pay; Sick Leave.
- (1) For training employees to enable them to more efficiently perform the duties of their positions.
 - (2) For placing on the monthly payroll, all employees who have completed one year continuous service in the same or similar employment.
 - (3) For written leaves of absence without pay.
 - (4) For such vacations with pay as the Council may from time to time establish by ordinance.
 - (5) For such sick leave with pay as the Council may from time to time establish by ordinance. Any illness of more than two (2) days requires the presentation of a physician's certificate after the end of the illness.
(Amended 6-3-75)
- (h) Suspension of Employees. For suspension by the appointing authority for purposes of discipline for a period not to exceed thirty (30) days at one time. The appointing authority must submit to the Civil Service Board, satisfactory reasons for suspending an employee and a suspended employee may have a hearing. The decision of the Civil Service Board shall be final and suspensions shall not be consecutive.
- (i) Discharge or Reduction in Rank or Compensation. For discharge or reduction in rank or compensation, after appointment or promotion is completed, only after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction, specifically stated in writing, and has been given an opportunity to be heard in person or by counsel in his own defense. The reason for such discharge or reduction and any reply in writing thereto by such employee shall be filed with the Board.
- (j) Records of Efficiency. For investigating and keeping a record of the efficiency of officers and employees in the classified service, and for requiring markings and records relative thereto from appointing officers.
- (k) Probationary Period. For a period of probation not exceeding three (3) months before an appointment or employment is made permanent, during which period a probationer whose services have not been satisfactory may be removed or reduced by the appointing officer upon filing a statement of reasons for such removal or reduction satisfactory to the Civil Service Board.
- (l) Other Rules to be Adopted. The Board shall adopt, by and with the consent and approval of the Council, such other rules not inconsistent with the foregoing provisions of this section as may be necessary and appropriate for the enforcement of the merit system. (Amended 11-7-44)

SECTION 90.1. PAYROLL PERIOD FOR EMPLOYEES; RULES IMPLEMENTING REQUIREMENTS.

Notwithstanding the requirements of Section 90 or any other section of the Charter, the Council of the City of Lima shall have authority to prescribe the payroll period for all positions in the classified and unclassified civil service of the City provided, however, that this section shall not apply to elective officials and provided further that any such payroll period shall in no event be longer than monthly in duration. Rules of the Lima Civil Service Board shall be enacted to implement the provisions of this section.

(Enacted 11-3-70)

SECTION 91. EXAMINATIONS.

All examinations shall be practical and impartial and shall relate to those matters which fairly test the relative capacity of the person examined to discharge the duties of the positions for which appointment is sought.

No person shall be allowed in the room in which any civil service examination is being held, except the applicants, Civil Service Board, and the secretary of the Civil Service Board. (Amended 11-5-40)

SECTION 92. APPOINTMENT; ESTABLISHMENT OF ELIGIBLE LISTS.

(a) The Board shall establish and maintain re-employment lists, which shall contain the names of persons who have been regular employees and who were separated from their positions for reasons other than fault or delinquency on their part. The order in which names shall be placed on re-employment list shall be according to seniority earned in the service in the class of position for which the list is established. The length of time for which a name shall remain on such lists shall be one year which may be extended to a maximum of two years.

(b) The Board shall establish and maintain eligible lists upon which shall be entered the names of successful candidates in the order of their standing in examination and such eligible lists shall be posted in the City Building.

(c) Certification, Appointment, Special Appointments.

(1) No person shall be appointed or promoted to any position to which these provisions apply unless certified as eligible by the Board. Upon written notice of an appointing authority that a position in the service is to be filled, the Board shall certify the highest ranking names of persons who are willing to accept appointment from list for the class to which the position is allocated, or a comparable class, in the following order: re-employment list and eligible lists. The number of names certified from the re-employment list shall be equal to the number of vacancies to be filled, and the number from the eligible list, shall be two greater than the number of vacancies to be filled.

(2) Whenever there is need of an employment for temporary period not to exceed thirty days, a selection may be made by the Board of any available person on the appropriate eligible or re-employment list without regard to

- standing thereon. Successive temporary appointments of the same person to the same position shall not total more than thirty days in any one year.
- (3) To prevent the stoppage of work or inconvenience to the public in case of an emergency, any appointing authority may appoint any person to any position for the duration of the emergency, but not to exceed fifteen days in any one year. Emergency appointments shall be reported immediately to the Board, and may be disallowed by it.
 - (4) In the case of a position or employment for which peculiar and exceptional qualifications of an educational, professional or technical character are required, and it is evident that competition in such a case is not practicable and that the position can best be filled by the selection of some designated person of high and recognized attainments in such employment, the Board may authorize employment without examination, but notice of such appointment shall be published or posted with a statement of the reasons therefor.
(Amended 11-5-40)

SECTION 92.1. LAYOFFS.

Whenever a reduction in employees is required because of a shortage of funds or work, or a material change in duties or organization, employees shall be laid off in inverse order to length of service in the class of position in which employed. In the event of the layoff of an employee who has prior service in another classification, his previous time in that classification shall be considered before a determination is made on the inverse order of length of service to determine the layoff in that lower classification. Subject to approval by the Board a regular employee whose position is discontinued may be transferred to a vacant position in the same or comparable class, or may elect to accept voluntary demotion to a vacant position for which he is qualified and have his name placed upon appropriate re-employment list. Whenever the duties of a position become changed so as to require reclassification of the position, the incumbent thereof, with the approval of the Board, may be retained in the position under the new classification, or at his option, may be either transferred to a vacant position in the class to which the position was formerly allocated or placed on the re-employment list for that class. Whenever the position is reclassified to a higher class, the incumbent of such position may be advanced thereto, if he can demonstrate his qualifications by passing a noncompetitive examination for the class, or if he is unable to meet such noncompetitive requirements he shall be continued in the service under his old title and at his old salary.
(Amended 11-3-70)

SECTION 93. PRESENT CIVIL SERVICE EMPLOYEES.

All persons holding positions in the service of the City pursuant to appointment from eligible lists at the time this amendment takes effect or who have been continuously in the service of the City in the same position for the two years next preceding, shall retain their positions until discharged, reduced, promoted, or transferred in accordance with the provisions hereof. Such two years continuous service shall be deemed the equivalent of having passed a civil service examination. The Board shall maintain a list of all persons in the service, showing in connection with each the name of the position filled, the date

and character of each appointment and of every subsequent change in status. Each appointing officer shall promptly transmit to the Board all information required for the establishment and maintenance of the list. All persons holding positions in the service of the City for less than two years next preceding the date this amendment takes effect shall be required to take a qualifying non-competitive examination. Passing of this examination shall be deemed equivalent to having passed a regular civil service examination.

(Amended 11-5-40)

SECTION 94. CERTIFICATION OF PAYROLL.

It shall be unlawful for the City Auditor or other public disbursing officer to pay any salary or compensation for service to any person holding a position in the classified service unless the payroll or account for such salary or compensation shall bear the certificate of the Board that the persons named therein have been appointed or employed in accordance with the civil service provisions of this Charter and of the rules established thereunder. Any sums paid contrary to the provisions of this section may be recovered from any officer paying or authorizing the payment thereof and from sureties on his official bond.

SECTION 95. INVESTIGATIONS; POWERS OF BOARD.

In any investigation conducted by the Board it shall have the power to subpoena and require the attendance of witnesses and the production of books and papers pertinent to the investigation and to administer oaths to such witnesses.

SECTION 96. POLITICAL AND RELIGIOUS BELIEFS.

No person in the classified service or seeking admission thereto, shall be appointed, reduced, laid off, discharged, or in any way favored or discriminated against because of his political opinions or affiliations, or because of his religious beliefs or membership in any religious organizations.

SECTION 97. POLITICAL ACTIVITY.

No person in the classified service shall directly or indirectly solicit or receive any subscription or contribution for any political purpose whatever.

No person shall directly or indirectly solicit any subscription or contribution for any political purpose whatever from any person holding a position in the classified service.

No person in the classified service shall directly or indirectly make any contribution for any political purpose whatever.

No person in the classified service shall act as an officer of a political organization, serve as a member of a committee of any such organization or take any active part in a political campaign.

No person in the classified service shall sign, circulate or seek signatures to any petition provided for by any election laws or by this Charter other than any initiative or referendum petition.

No person in the classified service shall act as a worker at the polls either at a Federal, State, County, or Municipal election.

These restrictions shall not preclude a classified employee from voting as he pleases and when not on duty, from expressing freely his political opinions.

(Amended 11-5-40)

SECTION 98. SALARIES OF MEMBERS OF BOARD.

The salaries of the members of the Board shall be determined by the Council, and a sufficient sum shall be appropriated each year to carry out the civil service provisions of this Charter.

SECTION 99. PENALTY FOR VIOLATION OF CIVIL SERVICE PROVISIONS.

Any person who shall willfully or through gross negligence violate any of the civil service provisions of this Charter or the rules of the Civil Service Board made in pursuance thereof, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten (\$10) dollars or more than three hundred (\$300) dollars, or by imprisonment for a term not to exceed sixty days, or by both such fine and imprisonment. If such person be an applicant for an examination, he shall be excluded therefrom. If he be an eligible his name shall be removed from the re-employment and/or eligible list, and if he be an officer or employee of the City he shall thereby be removed from the service. (Amended 11-540)

SECTION 100. POWER OF REMOVAL AND SUSPENSION; NOTICE, HEARING, ETC.

Any officer or employee in the classified service may be removed, suspended, laid off, or reduced in grade by the appointing authority, for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of the provisions of this Charter or the rules of the Board, or any other failure of good behavior, or any other acts of misfeasance, malfeasance or nonfeasance in office. Any officer or employee to be affected by such action shall be notified in writing with the reasons therefor prior to the effective date thereof, and a copy of such notice shall be filed with the Civil Service Board. Upon receipt of such notice and within ten days thereafter such officer or employee may appeal in writing to the Civil Service Board for hearing. Within thirty days after the receipt of such an appeal in writing, the Civil Service Board shall give the employee or officer an opportunity to be heard with the witnesses and documents but without expense to the Board. The head of the department or other officer making the removal, suspension, layoff, or reduction in grade shall be given like opportunity to be heard at the same time. Such hearing shall be informal.

Within ten (10) days after the conclusion of the hearing the Board shall issue its findings affirming, disaffirming, or modifying the order of the appointing authority. The Civil Service Board shall also have the right to remove or reduce any official or employee in the classified service upon written charges of misconduct preferred by any citizen, but only after reasonable notice to the accused, and full hearing. It shall also be the duty of the Board to fix a minimum standard of conduct and efficiency for each grade in the service and whenever it shall appear from the reports of efficiency made to such Board for a period of three months that the conduct and efficiency of any employee has fallen below this minimum, such employee shall be called before the Board to show cause why he should not be removed, and if, upon hearing no reason is shown satisfactory to the Board he shall be removed, suspended or reduced in grade as the Board shall determine.

Whenever the Board restores a discharged or reduced employee to his status before discharge or reduction, it shall order that he be paid for such time as he may have lost, due to such discharge or reduction.

Nothing in this amendment shall be construed as in any manner affecting the status of the Chief of Police, the Chief of the Fire Department, or any member of the Police Department, or the Fire Department in their relation to the classified civil service. Insofar as appointments and promotions, suspension or removal of said officials and members of the said Departments are concerned, the same shall be made in conformity with the rules of civil service as provided by the general laws of the State of Ohio.

(Amended 11-7-44)

SOCIAL SERVICE

SECTION 101. ORGANIZATION.

EDITOR'S NOTE: The provisions of this section were repealed by the electors on November 6, 1962.

SECTION 102. POWERS AND DUTIES OF DIRECTOR.

EDITOR'S NOTE: The provisions of this section were repealed by the electors on November 6, 1962.

PAYMENTS - REPORTS

SECTION 103. PAYMENT OF CLAIMS.

No warrant for the payment of any claim shall be issued by the City Auditor until such claim shall have been approved by the head of the department for which the indebtedness was incurred and by the Mayor, and such officers and their sureties shall be liable to the Municipality for all loss or damages sustained by the Municipality by reason of the corrupt approval of any such claim against the Municipality. Whenever any claim shall be presented to the City Auditor he shall have power to require evidence that the amount claimed is justly due and is in conformity to law and ordinance, and for that purpose he may summon before him any officer, agent, or employee, of any department of the Municipality, or any other person, and examine him upon oath or affirmation relative thereto.

SECTION 104. CERTIFICATION OF FUNDS.

No contract, agreement or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance or resolution be passed, or order for the expenditure of money be issued by the Mayor, or be authorized by any officer of the City, unless the City Auditor shall first certify in writing to the Mayor or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure, is in the Treasury, to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose, which certificate shall be filed and immediately recorded. The sum so certified shall not thereafter be considered unappropriated until the City is discharged from the contract, agreement or obligation.

SECTION 105. MONEY IN THE FUND.

All moneys actually in the Treasury to the credit of the fund from which they are to be drawn, and all moneys applicable to the payment of the obligation or appropriation involved that are anticipated to come into the Treasury before the maturity of such contract, agreement, or obligation, from taxes, assessments, or fees, or from sales of services, products or by-products of any City undertaking, and moneys to be derived from lawfully authorized notes and bonds sold and in process of delivery, for the purposes of such certificates shall be deemed in the Treasury to the credit of the appropriate fund and shall be subject to such certification.

GRANTS AND FRANCHISES**SECTION 106. GRANTS, RENEWALS AND EXTENSIONS.**

No franchise to occupy any of the streets, alleys or public grounds of the City for the purpose of constructing, maintaining and operating a public utility shall be granted, and no such grant shall be renewed, extended or amended, except by ordinance. Every such proposed grant and every proposed renewal or extension of such grant provided by ordinance passed by the Council shall be subject to the referendum provisions of this Charter. No such proposed grant or proposed renewal or extension of such grant provided by ordinance passed by the Council shall be declared, considered or held to be an emergency measure.

No grant, or renewal thereof, to construct, maintain and operate a public utility in the streets and public grounds of the City shall be made by the Council to any individual, company or corporation in violation of any of the limitations contained in this Charter or in the laws of the State of Ohio.

SECTION 107. GRANT NOT TO BE DEEMED EXCLUSIVE.

No grant or franchise to construct, maintain or operate a public utility and no renewal or extension of such grant shall be exclusive. No such grant shall be renewed earlier than two years prior to its expiration unless the Council shall by an affirmative vote of at least two-thirds of its members first declare by ordinance its intention of considering a renewal thereof.

SECTION 108. LIMITATION OF FRANCHISE.

No grant of franchise and no extension, renewal or amendment thereof shall be valid for a greater period than ten years from the day of such grant, renewal, extension or amendment, provided and except, however, a grant of franchise, extension renewal or amendment thereof shall be valid for a period of twenty-five years for operating street railways from the day of such grant, renewal, extension or amendment and providing such grant, renewal, extension or amendment be passed by an affirmative vote of at least two-thirds of the members of the Council.

SECTION 109. CONSENT OF PROPERTY OWNERS.

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but any such property owner shall be entitled to recover from the owner of such public utility the actual amount of damages to such property on account thereof less any benefits received therefrom; provided, suit is commenced within two years after the damage is begun.

SECTION 110. TERMINATION OF ORIGINAL GRANTS.

Grants made to owners of existing franchises to operate and maintain public utilities in addition to such existing franchises of the same kind, shall be made to expire simultaneously with such existing franchises, and every such extension shall be considered a part of the property of the utility, shall be operated as such and shall be subject to all the provisions of the original grant, including the right of the City to acquire the property of the utility by purchase or lease or by any of the means prescribed by this Charter or by law.

SECTION 111. PURCHASE OR LEASE BY CITY.

No grant of franchise and no renewal, extension or amendment of such grant shall be valid unless it specifically reserves to the City the right, at intervals to be set forth in the franchise ordinance, to terminate the same by purchase or lease and operations of the property of the utility used in or conveniently useful for the operation of the utility in the streets of the City or elsewhere; nor shall any such grant, renewal or extension be valid which does not either definitely fix and determine the price which shall be paid by the City for the property of the public utility and the terms of payment in the event of purchase or lease by the City, or provide the precise means and methods whereby such purchase or rental price and terms shall be fixed and determined.

SECTION 112. CONDEMNATION PROCEEDINGS.

Nothing in such ordinance or in this Charter shall prevent the City from acquiring the property of any utility by condemnation proceedings or any other method provided by law; but such methods of acquisition shall be in addition to the power of purchase or lease to be reserved in the grant, renewal or extension.

SECTION 113. REVISION OF RATES.

All grants of franchises and all renewals of extensions shall provide for a revision of rates at specified intervals, and no such grants, renewals or extensions shall be valid which permit rates to continue for a period of more than five years without being subject to revision.

SECTION 114. PRICE TO EXCLUDE FRANCHISE VALUE.

No ordinance granting a franchise or granting a renewal or extension thereof shall be valid unless it shall expressly provide therein that the price to be paid by the City for the property that may be acquired by it from such utility by purchase, condemnation or otherwise, shall exclude all value of such grant, extension or renewal, and unless it shall expressly provide therein that the rental price to be paid by the City shall exclude all value of such grant, renewal or extension.

SECTION 115. GRANTS NOT INCLUDED.

Revocable permits for laying spur tracks across or along streets, alleys or public grounds, to connect a steam or electric railroad with any property in need of switching facilities shall not be regarded as a grant within the meaning of this Charter, but may be permitted in accordance with such terms and conditions as the Council may by ordinance prescribe.

SECTION 116. FRANCHISE TERMS.

No franchise, grant, renewal, extension or amendment shall be valid which does not reserve to the City the right to prescribe the form and manner in which the records and accounts of the public utility shall be kept; and the right to audit, examine and keep copies of such records and accounts and to require from said utility detailed reports at any time relating to the finances, operation, management and ownership of such utility; provided, however, that the form of accounts which the State Public Utilities Commission may prescribe shall be controlling insofar as they may apply, but the Council may prescribe more detailed forms and exact more comprehensive reports than is required or stipulated by said State Commission; nor shall any such franchise, grant, renewal, extension or amendment be valid which does not reserve to the City the right to establish standards of service, prevent unjust discrimination in service or rates, require adequate extension of plant, equipment and service.

SECTION 117. REGULATIONS.

The Council shall at all times control the distribution of space in, over, under or across all streets or public grounds occupied by public utility fixtures. All rights granted for the construction and operation of public utilities shall be subject to the continuing right of the Council to require such reconstruction, relocation, change or discontinuance of the appliances used by the utility in the streets, alleys, avenues and highways of the City as shall in the opinion of the Council be necessary in the public interest. The Council may make and enforce any and all other regulations conducive to the safety, convenience and well-being of the public.

SECTION 118. FORFEITURE.

If any action shall be instituted or prosecuted directly or indirectly by the grantee of any such grant, or by its stockholders or creditors, to set aside or have declared void any of the terms of any such grant, the whole of such grant may be thereupon forfeited and annulled at the option of the Council to be expressed by ordinance. All such grants shall make provision for the declaration of a forfeiture by the Council for the violation by the grantee of any of the terms thereof.

SECTION 119. STRICT CONSTRUCTION.

All franchises or privileges for the occupation of the streets shall be strictly construed in favor of the City and no franchise or privilege shall be held to have been granted unless specified in clear and unmistakable terms.

SECTION 120. FREE CARRIAGE OF POLICEMEN, FIREMEN AND HEALTH DEPARTMENT INSPECTORS.

The grant of every franchise for a street, suburban or interurban railroad, or other means of public transportation may provide that policemen and firemen of the City in uniform, plain-clothes men, City Health Department inspectors, sanitary police and park police of the City, wearing official badges, shall at all times, while in the actual discharge of their duties, be allowed to reside in the cars of such railroad or in other vehicles of such means of public transportation within the boundaries of the City without paying therefor and with all the rights of other passengers.

(Amended 11-7-44)

SECTION 121. ASSIGNMENT.

No grant, franchise or privilege shall be leased, assigned or otherwise alienated except with the consent of the Council expressed by an affirmative vote of at least two-thirds of its members. (Amended 11-6-84)

SECTION 122. GENERAL PROVISIONS.

Nothing in this Charter contained shall operate in any way, except as herein specifically stated, to limit the Council in the exercise of any of its lawful powers respecting public utilities, or to prohibit the Council from imposing in any such grant such further restriction and provisions as it may deem to be in the public interest provided only that the same are not inconsistent with the provisions of this Charter or the Constitution of the State.

MISCELLANEOUS PROVISIONS**SECTION 123. GENERAL LAWS TO APPLY.**

All general laws of the State applicable to Municipal corporations, now or hereafter enacted, and which are not in conflict with the provisions of this Charter, or with ordinances or resolutions hereafter enacted by the Council, shall be applicable to this City; provided, however, that nothing contained in this Charter shall be construed as limiting the power of the Council to enact any ordinance or resolution not in conflict with the laws of the Ohio and the Constitution of the State or with express provisions of this Charter.

SECTION 124. ORDINANCES CONTINUED IN FORCE.

All ordinances and resolutions in force at the time of the taking effect of this Charter, not inconsistent with its provisions, shall continue in full force and effect until amended or repealed.

SECTION 125. CONTINUANCE OF PRESENT OFFICERS.

All persons holding office at the time this Charter goes into effect shall continue in office and in the performance of their duties until provision shall have been otherwise made in accordance with the provisions of this Charter for the performance of the duties of or the discontinuance of any such office. When such provision shall have been made, the term of any such officer shall expire and the office be abolished. The powers which are conferred and the duties which are imposed upon any officer, board, commission or department of the City under the laws of the State shall, if such officer, board, commission or department is abolished by this Charter, be thereafter exercised and discharged by the officer, board or department upon whom are imposed corresponding functions, duties and powers under the provisions of this Charter.

SECTION 126. MUNICIPAL COURT, BOARD OF EDUCATION AND BOARD OF HEALTH.

All general laws of the State of Ohio shall apply with reference to the authority, power, election, qualification, term, organization and duties of the Municipal Court and the judge thereof, the Board of Education and the members thereof, and the Board of Health and the members thereof, and their employees and appointees; and which shall in no wise be limited, defined or restricted by this Charter or any resolution or ordinance passed by the Council.

SECTION 127. CONTINUANCE OF CONTRACTS AND VESTED RIGHTS.

All vested rights of the City shall continue to be vested and shall not in any manner be affected by the adoption of this Charter, unless otherwise herein expressly provided to the contrary. All contracts entered into by the City or for its benefit prior to the taking effect of this Charter shall continue in full force and effect. All public work begun prior to the taking effect of this Charter shall be continued and perfected hereunder. Public improvements for which legislative steps shall have been taken under laws in force at the time this Charter takes effect may be carried to completion in accordance with the provisions of such laws.

SECTION 128. OATH OF OFFICE.

All officers before taking office shall take the oath of office prescribed by law.

AMENDMENTS**SECTION 129. PROCEDURE FOR SUBMISSION TO ELECTORS OF PROPOSED CHARTER AMENDMENTS.**

Proposed amendments to this Charter may be submitted to the electors of the City by a two-thirds vote of the members of Council, and upon petition signed by voters equal in number to ten (10) percentum of the total vote cast at the last preceding regular Municipal election of the City, setting forth any such proposed amendment, prepared and filed with the Council, through its Clerk in the manner and form prescribed in this Charter for the preparation and filing with the Clerk of an initiative petition for an ordinance, such proposed amendment shall be submitted to the electors of the City by the Council. When ten (10) days and two regular meetings of the Council have passed after the filing of a petition fulfilling the requirements of this section, then the Council shall forthwith provide by ordinance for the submission to the electors of the proposed amendment to this Charter. The ordinance providing for the submission of any such proposed amendments shall require that such proposed amendment be submitted to the electors at a primary or general election on the day designated by State law and said ordinance shall be passed not less than sixty (60) days prior to the day on which said election is to be held, except that such proposed amendment may be submitted to the electors at a special election when authorized by two-thirds vote of the Council. Such special election shall be held not less than sixty (60) days nor more than one hundred twenty (120) days after the passage of the ordinance providing for the submission of the proposed amendment. The Clerk of the Council shall transmit to the election authorities prescribed by general law a duly authenticated copy of such ordinance forthwith upon its passage. The Clerk of the Council shall give notice of such proposed amendments to the Charter in one of the following ways as may be determined by the Council of the City of Lima, Ohio:

Not less than thirty days prior to the election at which the amendment is to be submitted to the electors, the Clerk of the Municipality shall mail a copy of the proposed Charter amendment to each elector whose name appears upon the poll of registration books of the last regular or general election held therein.

The full text of the proposed Charter amendment shall be published once a week for not less than two consecutive weeks in a newspaper published in the Municipal corporation, with the first publication being at least fifteen days prior to the election at which the amendment is to be submitted to the electors. If no newspaper is published in the Municipal corporation, then such publication shall be made in a newspaper of general circulation with the Municipal corporation.

If such proposed amendment is approved by a majority of the electors voting thereon it shall become a part of the Charter of the City at the time fixed in the amendment; and if no time is fixed therein, then it shall become a part of the Charter upon its approval by the electors. Proposed amendments to this Charter may be submitted to the electors by ballot title, which shall be clear, concise statements, without argument, descriptive of the substance of such proposed amendments. If conflicting proposed amendments to this Charter shall be approved at the same election, the one receiving the highest number of affirmative votes shall be the amendment to the Charter.

(Amended 11-2-71)

SECTION 130. SAVING CLAUSE.

If any section or part of a section of this amendment proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section of this amendment, unless it clearly appear that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held unconstitutional or invalid.

WHEN CHARTER TAKES EFFECT

SECTION 131. EFFECTIVE DATE.

For the purpose of nominating and electing officers the provisions of this Charter shall be in effect for any regular Municipal election held not more than eighty (80) days from and after their approval by the electors of the City. For all other purposes this Charter shall be in effect on the first Monday following the first election of officers thereunder, on which day Sections 1 to 131, both inclusive, of the existing Charter of the City of Lima shall be deemed repealed.

If, however, the provisions of this Charter are approved at an election held in an even numbered year or at an election held in odd numbered year on a day which is more than eighty (80) days before the regular Municipal election of that year, the foregoing provisions in this section as to the time the provisions of this Charter shall take effect shall be held for naught and the following provisions shall apply, namely - the provisions of this Charter shall be in effect for all purposes on the first Monday following their approval by the electors of the City and Sections 1 to 131, both inclusive, of the existing Charter of the City of Lima shall be deemed repealed on that day, the provisions of this Charter shall be in effect for any regular Municipal election held not less than eighty (80) days from and after their approval by the electors of the City.

SECTION 132. CHARTER REVIEW COMMISSION.

At least every five years, a review and report as to the adequacy of the Charter of the City of Lima shall be submitted to the Council by a Charter Review Commission comprised of one elector from each ward appointed by the President of Council.
(Enacted 11-6-84)