



2010 New Albany Charter

A community's charter is its foundation of governance. This booklet contains the New Albany Charter in its entirety, including amendments approved by residents during the November 2009 election.

January 2010

Front Inside Cover

NEW ALBANY REVISED CHARTER

PREAMBLE

ARTICLE I NAME, BOUNDARIES, AND FORM OF GOVERNMENT

- 1.01 NAME
- 1.02 BOUNDARIES
- 1.03 FORM OF GOVERNMENT

ARTICLE II POWERS OF THE VILLAGE

- 2.01 GENERAL POWERS GRANTED
- 2.02 EXERCISE OF POWERS
- 2.03 CONSTRUCTION OF POWERS
- 2.04 COOPERATIVE AUTHORITY

ARTICLE III MAYOR

- 3.01 TERM
- 3.02 POWERS AND DUTIES
 - (A) *General Grant of Powers and Duties*
 - (B) *Specific Grant of Powers and Duties*
- 3.03 PRESIDENT PRO TEMPORE AND ACTING MAYOR
 - (A) *President Pro Tempore*
 - (B) *Acting Mayor*

ARTICLE IV

COUNCIL

4.01 COMPOSITION, TERMS, AND QUORUM

- (A) *Composition*
- (B) *Terms*
- (C) *Quorum*

4.02 POWERS AND DUTIES

- (A) *General Grant of Powers and Duties*
- (B) *Specific Grant of Powers and Duties*

4.03 MEETINGS

- (A) *Organizational Meeting*
- (B) *Regular Meetings*
- (C) *Special Meetings*
- (D) *Adjournment or Recess of Meetings*
- (E) *Open Meetings*

4.04 COMPENSATION

4.05 RULES AND JOURNALS

4.06 CLERK OF COUNCIL

ARTICLE V

ELECTED OFFICIALS

5.01 ELIGIBILITY AND NOMINATIONS

- (A) *Eligibility*
- (B) *Nominations*

5.02 PROHIBITIONS

- (A) *Holding Other Office*
- (B) *Village Employees*

5.03 FORFEITURE OF OFFICE

- (A) *Grounds Constituting Forfeiture*
- (B) *Judge of Grounds Constituting Forfeiture*
- (C) *Notice and Public Hearing*
- (D) *Final Determination*

5.04 VACANCIES AND FILLING OF VACANCIES

- (A) *Vacancies*
- (B) *Filling of Vacancies*
 - (1) *Mayor*
 - (2) *Council Member*

ARTICLE VI LEGISLATIVE AND OTHER PROCEDURES

6.01 FORM OF ACTION

- (A) *Motions*
- (B) *Resolutions*
- (C) *Ordinances*

6.02 FORM OF LEGISLATION

6.03 GENERAL PROCEDURE FOR CONSIDERATION OF LEGISLATION

- (A) *Introduction*
- (B) *Public Hearing*
- (C) *Vote Recordation and Publication*

6.04 PROCEDURE FOR CONSIDERATION OF AN EMERGENCY ORDINANCE

- (A) *Public Hearing Notice*
- (B) *Voting Requirements*

6.05 PROCEDURE FOR CONSIDERATION OF A ZONING ORDINANCE

- (A) *Public Hearing Notice*
- (B) *Disposition Procedures*
- (C) *Voting Requirements*

6.06 ADOPTION OF TECHNICAL CODES

- (A) *By Reference*
- (B) *Publication Not Required*

6.07 EFFECTIVE DATE OF LEGISLATION

- (A) *Effective Immediately*
- (B) *Effective After Thirty Days*

6.08 AUTHENTICATION OF LEGISLATION

6.09 RECORDING AND CERTIFICATION OF LEGISLATION

6.10 AMENDMENT OF LEGISLATION

(A) Pending Legislation

(B) Existing Legislation

6.11 CODIFICATION

6.12 PUBLICATION OF ORDINANCES

(A) Publish Defined

(B) Certification

ARTICLE VII THE ADMINISTRATOR

7.01 APPOINTMENT, QUALIFICATIONS, AND COMPENSATION

(A) Appointment

(B) Qualifications

(C) Compensation

7.02 POWERS AND DUTIES

(A) General Powers and Duties

(B) Specific Powers and Duties

7.03 ACTING ADMINISTRATOR

7.04 PROCEDURE FOR REMOVAL

ARTICLE VIII ADMINISTRATIVE DEPARTMENTS AND PERSONNEL SYSTEMS

8.01 CREATION AND ALTERATION

(A) Creation

(B) Alteration

8.02 DUTIES AND FUNCTIONS

8.03 DEPARTMENT DIRECTIONS

(A) Directors

(B) Appointment of Directors

8.04 DIRECTOR OF LAW

- (A) Qualifications*
- (B) Duties*

8.05 DIRECTOR OF FINANCE

8.06 ADMINISTRATIVE CODE

8.07 PERSONNEL SYSTEMS

- (A) Merit Principle*
- (B) Classified and Unclassified Service*
- (C) Elected and Appointed Offices*
- (D) Retirement System*

ARTICLE IX **TAXATION, BORROWING, BUDGETING, AND CONTRACTING PROCEDURES**

9.01 TAXATION, BORROWING, BUDGETING, AND CONTRACTING PROCEDURES

9.02 FISCAL YEAR

9.03 OPERATING BUDGET AND APPROPRIATION ORDINANCE

9.04 CONTRACTING PROCEDURES

- (A) Award and Execution of Contracts*
- (B) Competitive Bidding*
- (C) Waiver of Competitive Bidding*
- (D) Professional Services*
- (E) Alteration or Modification of Contracts*
- (F) Certification of Funds*

ARTICLE X **BOARDS AND COMMISSIONS**

10.01 CREATION AND GENERAL RULES

- (A) Creation of Boards and Commissions*
- (B) General Rules for Boards and Commissions*

- 10.02 PLANNING COMMISSION**
 - (A) Composition and Terms*
 - (B) Powers and Duties*

- 10.03 BOARD OF ZONING APPEALS**
 - (A) Composition and Terms*
 - (B) Powers and Duties*

- 10.04 PERSONNEL BOARD OF APPEALS**
 - (A) Composition and Terms*
 - (B) Powers and Duties*

ARTICLE XI **ELECTIONS, RECALL, INITIATIVE AND REFERENDUM**

- 11.01 ELECTIONS**
 - (A) Regular Elections*
 - (B) Special Elections*
 - (C) Conduct of Elections*
 - (D) Public Information Expenditure*

- 11.02 RECALL**
 - (A) Power to Recall*
 - (B) Recall Petition Prerequisites*
 - (C) Recall Petition Form*
 - (D) Filing, Examination, and Amendment of Petition*
 - (E) Recall Election*

- 11.03 INITIATIVE AND REFERENDUM**

ARTICLE XII **GENERAL PROVISIONS**

- 12.01 CONFLICTS OF INTEREST, ETHICS, AND CAMPAIGN FINANCING**

- 12.02 EFFECT OF PARTIAL INVALIDITY**

- 12.03 AMENDMENTS OF CHARTER**

ARTICLE XIII **CHARTER REVIEW COMMISSION**

13.01 **COMPOSITION AND TERM**

13.02 **DUTIES**

ARTICLE XIV **TRANSITIONAL PROVISIONS**

14.01 **EFFECTIVE DATE OF REVISED CHARTER**

14.02 **SUCCESSION**

vii

PREAMBLE

We, the people of the Village of New Albany, Ohio, for the purpose of continuing the established plan for fair, efficient, and effective municipal government, preparing for city status, securing the benefits of home rule, and exercising the powers of local self-government conferred by the Constitution and laws of the State of Ohio, adopted this Revised Charter, which became effective on March 1, 2000, and which was amended effective January 1, 2010, hereinafter referred to as “Charter”, as a complete replacement to the original Charter approved by the electorate on November 3, 1992 and which became effective on January 1, 1993.

ARTICLE I

NAME, BOUNDARIES, AND FORM OF GOVERNMENT

1.01 NAME

The Village of New Albany shall continue to be a municipal corporation known as the “Village of New Albany” until such time as it becomes a City in the manner provided by the Constitution and laws of the State of Ohio. At such time, it shall then be known as the “City of New Albany”, unless otherwise provided by Council.

1.02 BOUNDARIES

The Village shall have the same boundaries that exist on the adoption date of the current Charter, with power and authority to change its boundaries and annex territory. Territory annexed to the Village shall immediately be subject to the provisions of this Charter.

1.03 FORM OF GOVERNMENT

The form of government provided for by this Charter shall be known as “Mayor-Council-Administrator”.

ARTICLE II

POWERS OF THE VILLAGE

2.01 GENERAL POWERS GRANTED

The Village shall have all powers possible for a municipality to have under the Constitution and laws of the State of Ohio as fully and completely as though they were specifically enumerated in this Charter.

2.02 EXERCISE OF POWERS

All powers shall be exercised in a manner prescribed in this Charter, or if not so prescribed, in a manner provided by legislation of the Village. When not prescribed in this Charter or by legislation of the Village, then the powers shall be exercised in the manner provided by the laws of the State of Ohio until Council provides by legislation a different manner of exercising the powers.

2.03 CONSTRUCTION OF POWERS

The powers of the Village under this Charter shall be construed liberally in favor of the Village and the specific mention of particular powers in the Charter shall not be construed as limiting the general powers granted in this Charter.

2.04 COOPERATIVE AUTHORITY

The Village may exercise any of its powers, perform any of its functions, and provide related financing, jointly or in cooperation, by contract or otherwise, with any one or more states, including but not limited to the State of Ohio, and any of their political subdivisions, special districts, instrumentalities, divisions, or agencies; the United States or any of its divisions or agencies; or any individual, partnership, corporation, or other type of entity, whether for profit or not-for-profit, unless prohibited by the Constitution of the State of Ohio.

ARTICLE III

MAYOR

3.01 TERM

The Mayor shall be elected, at large, by separate ballot for a four (4) year term.

3.02 POWERS AND DUTIES

(A) General Grant of Power and Duties

The Mayor shall have all the powers, rights, and duties as a Council member, as described in Section 4.02.

(B) *Specific Grant of Powers and Duties*

In addition to the powers, rights, and duties as a Council member, the Mayor shall:

- (1) serve as president and preside over all Council meetings
- (2) act as a Council member and have the right to vote on all matters before the Council, but shall have no veto power;
- (3) perform all ceremonial duties and functions as necessary for non-administrative purposes;
- (4) exercise all judicial powers and functions granted to mayors of municipal corporations by the laws of the State of Ohio and applicable court rules;
- (5) have authority and discretion to appoint a magistrate, with approval of Council, to hear and determine prosecutions of traffic and criminal cases subject to the laws of the State of Ohio;
- (6) act as chief spokesperson for the Village in dealing with other governments;
- (7) exercise military powers and functions granted to mayors of municipal corporations by the laws of the State of Ohio or the United States; and
- (8) perform or exercise such other powers, duties, and functions as provided by this Charter and Council Rules, to the extent such Council Rules are consistent with this Charter.

3.03 PRESIDENT PRO TEMPORE AND ACTING MAYOR

(A) *President Pro Tempore*

During its organizational meeting held pursuant to Section 4.03(A), in each even numbered year, Council shall choose, by a vote of four Council members, one of its members as

President pro tempore who shall serve as the Mayor during the temporary absence or disability of the Mayor.

(B) *Acting Mayor*

In the event of the temporary absence of both the Mayor and President pro tempore, the senior Council member, based on length of continuous elected service with the Village, shall serve as the Acting Mayor. If two or more Council members have held the same length of continuous elected service with the Village, then an Acting Mayor shall be chosen from among those two or more Council members by a vote of four Council members at the organizational meeting of Council in each even-numbered year held pursuant to Section 4.03(A).

ARTICLE IV

COUNCIL

4.01 COMPOSITION, TERMS, AND QUORUM

(A) *Composition*

Council shall be composed of seven (7) members, including the Mayor.

(B) *Terms*

Council Members, other than the Mayor, shall be elected at large for four (4) year overlapping terms beginning on January 1 after their election.

(C) *Quorum*

Four Council members shall constitute a quorum at all meetings.

4.02 POWERS AND DUTIES

(A) *General Grant of Powers and Duties*

All powers of the Village permitted by this Charter and the Constitution and laws of the State of Ohio shall be vested in

Council. Council shall provide for the exercise of all powers and for the performance of all duties and obligations imposed on the Village by law, through the adoption of legislation.

(B) *Specific Grant of Powers and Duties*

Without limitation of the powers stated in Section 4.02(A), Council shall have the power and duty to:

- (1) establish or authorize the number of positions in the various departments, divisions, offices, bureaus, boards, commissions, and committees of the Village and to adopt a wage, salary, and benefit structure for all positions within the classified and unclassified service;
- (2) create, combine, change, and abolish departments, divisions, offices, bureaus, boards, commissions, and committees not specifically created by this Charter;
- (3) provide for an independent audit of the accounts and records of the Village, which may be in addition to audits by State offices and agencies as may be required under the laws of the State of Ohio;
- (4) conduct inquiries and investigations regarding the affairs of the Village and the conduct of any Village department, office, or agency and for this purpose subpoena witnesses, administer oaths, take testimony, and require the production of evidence;
- (5) levy taxes and assessments and incur debt subject to limitations imposed thereon by this Charter and the Constitution and laws of the State of Ohio;
- (6) adopt and to provide for the enforcement of local police, sanitary, and other similar regulations as are not in conflict with general laws;

- (7) appropriate funds based on the annual operating and capital budgets and to delegate execution of such annual budgets to the Administrator;
- (8) regulate by Ordinance the use of private real estate in the Village; and
- (9) appoint and remove the Administrator, to establish the Administrator's compensation, and to appoint an acting Administrator when necessary.

4.03 MEETINGS

(A) *Organizational Meeting*

Council shall be a continuing body and shall meet annually before the first regularly scheduled meeting of the year for the purpose of organizing. At such meeting, the newly elected Council members, if any, may take the oath of office; the Council may transact such other business as may come before it; and in even number years Council shall nominate a President pro tempore and acting Mayor as required by Section 3.03.

(B) *Regular Meetings*

Council shall hold at least one regular meeting each month and shall determine the frequency, dates, and times of additional regular meetings in order to properly conduct its business.

(C) *Special Meetings*

Special meetings of Council may be called, for any purpose, by the Mayor or any three (3) Council members upon at least twenty-four hours notice to each Council member, which notice may be served personally or left at the usual place of residence. Council members who attend special meetings of Council or who are present at another regular or special meeting where a special meeting is announced by the presiding Mayor, President pro tempore, or acting Mayor need not receive notice of the special meeting. Council members may waive receipt of notice of a special meeting either prior or subsequent to the

meeting. Attendance at a special meeting constitutes a waiver of receipt of notice of special meeting.

(D) *Adjournment or Recess of Meetings*

Any meeting of Council may be adjourned or recessed to another time, date, or place without giving the notice required in Section 4.03(C).

(E) *Open Meetings*

All meetings of Council shall be open to the public, except as allowed by the laws of the State of Ohio, and for economic development purposes.

4.04 COMPENSATION

Once in any calendar year and only as a non-emergency ordinance, Council may determine the annual compensation and benefits of its current members, including the Mayor. In the event Council shall fail to establish salaries and benefits as required in this Section, the salaries and benefits in effect shall remain until changed in accordance with this Section.

4.05 RULES AND JOURNALS

Council shall adopt its own rules of procedure which shall not conflict with this Charter and which shall remain in effect until amended or repealed by Council. The Council Rules shall not be subject to initiative or referendum. The Council Rules shall provide for such matters as Council shall determine to be necessary for the proper functioning and governance of Council. Council shall maintain a journal of its proceedings.

4.06 CLERK OF COUNCIL

Council shall appoint a person to serve as Clerk of Council. The Clerk of Council shall be an employee of the Village and shall give notice of Council meetings to its members and the public, keep the minutes of Council's proceedings, and perform such other duties as are provided by this Charter or by Council. The Clerk of Council shall be Council's employee subject to Council's direction and under the general supervision of the Administrator. The Clerk of Council shall serve at the pleasure of Council and may be removed without cause by Council.

ARTICLE V

ELECTED OFFICIALS

5.01 ELIGIBILITY AND NOMINATIONS

(A) Eligibility

Any elector of the Village who has been domiciled in the Village, or any area annexed to the Village, for one (1) year immediately prior to filing a nominating petition, shall be eligible to hold an elected office. All elected officials shall be domiciled in and electors of the Village during their entire term of office.

(B) Nominations

No primary election shall be held for the nomination of candidates for elected office. Nominations for the elected offices of the Village shall be made by petition signed by not less than twenty-five (25) nor more than seventy-five (75) electors of the Village. Petitions shall be in the form determined by the election officials of the State of Ohio for the nomination of non-partisan candidates. Group petitions shall not be permitted. Petitions shall be filed with the election officials of the State of Ohio as provided by the law of the State of Ohio.

5.02 PROHIBITIONS

(A) Holding Other Office

Except where authorized by the laws of the State of Ohio or legislation of the Village, no elected official of the Village shall hold any other elected public office during the term for which the elected official is elected. No elected official shall hold any other Village office or employment with the Village during the term for which the elected official is elected. Except for boards, commissions, and committees, no former elected official of the Village shall hold any compensated appointed office or employment with the Village until one year after the expiration of the term for which the elected official was elected. Nothing in this Section shall be construed to prohibit Council from selecting any current or former elected official to represent the Village on the governing board of any intergovernmental agency or organization.

(B) Village Employees

Except for the purpose of inquiries and investigations under Section 4.02(B)(4), elected officials of the Village shall deal with Village employees who are subject to the direction and supervision of the Administrator solely through the Administrator. No elected official of the Village shall in any manner direct or demand the hiring or termination of any Village employee whom the Administrator is empowered to hire, but Council may express its views and fully and freely discuss with the Administrator anything pertaining to the hiring and termination of such employees.

5.03 FORFEITURE OF OFFICE

(A) Grounds Constituting Forfeiture

The office of an elected official shall be forfeited upon a determination that the elected official:

- (1) has pled to or has been convicted of a felony while in office;
- (2) has pled to or has been convicted of any crime involving dereliction of duties or breach of public trust while in office;
- (3) lacks, or is found to have lacked, at any time prescribed by this Charter, any eligibility requirements of Section 5.01(A);
- (4) has violated any prohibition of Section 5.02(A); or
- (5) has failed to attend three consecutive regular Council meetings without being excused by Council.

(B) Judge of Grounds Constituting Forfeiture

Council shall be the sole judge of the grounds constituting forfeiture of office. Council shall initiate the process to establish grounds for forfeiture of office by motion and shall have the power to subpoena witnesses, administer oaths, take testimony, and require the production of evidence.

(C) ***Notice and Public Hearing***

Upon finding that grounds exist which subject the elected official to forfeiture of office, Council shall instruct the Clerk of Council to notify the elected official. The Clerk of Council shall notify the elected official by any method which includes written evidence of receipt. The elected official so notified shall receive a public hearing before Council to be held no earlier than ten (10) days nor later than thirty (30) days after notification of forfeiture is received by the elected official.

(D) ***Final Determination***

Council shall make a final determination by a motion to regard the office of the Mayor or Council member as forfeited. The elected official subject to forfeiture of office shall be entitled to vote. Upon passage of the motion, the office shall be deemed vacant and Council shall fill the vacancy as provided in Section 5.04.

5.04 VACANCIES AND FILLING OF VACANCIES

(A) ***Vacancies***

An elected official's office shall become vacant upon the death, resignation or forfeiture of office as provided in Section 5.03.

(B) ***Filling of Vacancies***

(1) ***Mayor***

Any vacancy in the Office of Mayor shall be filled by the President pro tempore. If the vacancy occurs on or after July 1 of the second year of the Mayor's term, the President pro tempore shall serve for the remainder of the Mayor's unexpired term. If the vacancy occurs on or before June 30 of the second year of the Mayor's term, the President pro tempore shall serve until a successor is elected at the next regular municipal election. The person so elected shall take office on January 1 following such election for the remainder of the Mayor's term. Upon the election of a new Mayor, other than the President pro tempore then serving as Mayor, the President pro

tempore shall serve the remaining original elected term as Council member.

In the event of a vacancy in the office of Mayor, whereby the President pro tempore is required to serve as Mayor, the Council shall select a person to fill the vacancy on Council, as provided in Section 5.04(B)(2). However, nothing herein shall prevent the President pro tempore from serving the original full elected term as Council member. The person chosen to fill the vacancy on Council shall serve a term as Council member equal to the term the President pro tempore serves as Mayor. In the event the President pro tempore's original elected term expires while filling the Mayor's unexpired term, the new President pro tempore shall assume the remainder of the Mayor's unexpired term.

(2) *Council Member*

Any vacancy in the office of a Council member shall be filled by the appointment of an elector, qualified under 5.01(A), by a majority of the remaining Council members. If the vacancy occurs on or after July 1 of the second year of the vacated Council member's term, the person nominated by Council shall serve for the unexpired term, except as provided in Section 5.04(B) (1). If the vacancy occurs on or before June 30 of the second year of the vacated Council member's term, the qualified person nominated by Council shall serve until a successor is elected at the next regular municipal election. The person so elected shall take office on January 1 following such election for the remainder of the vacated Council member's term. If Council fails to fill a vacancy in Council within sixty days after the occurrence of the vacancy, the Mayor shall appoint a person to serve for the time as provided in this Section.

ARTICLE VI

LEGISLATIVE AND OTHER PROCEDURES

6.01 FORM OF ACTION

Non-legislative action of Council shall be by motion and legislative action shall be by resolution or ordinance. No action of Council shall be invalidated merely because the form of the action taken fails to comply with the provisions of this Charter.

(A) Motions

Council shall use a motion to determine policy and procedural matters; to conduct elections among and make appointments by Council; and as otherwise provided in this Charter or by Council.

(B) Resolutions

Council shall use a resolution, where practicable, for any legislation of a temporary, informal, or ceremonial nature and as otherwise provided in this Charter or by Council.

(C) Ordinances

Council shall use an ordinance, where practicable, for any legislation of a general or permanent nature and as otherwise provided in this Charter or by Council.

6.02 FORM OF LEGISLATION

The form of legislation shall be established by the Council Rules. Legislation shall contain only one subject, which shall be clearly expressed in its title; provided that appropriation ordinances may contain the various accounts for which monies are appropriated, and that ordinances which are codified or recodified are not subject to the limitation of containing one subject.

6.03 GENERAL PROCEDURE FOR CONSIDERATION OF LEGISLATION

(A) Introduction

Legislation may be introduced by any elected official or the Administrator at any regular or special meeting of Council. Prior to the introduction of any legislation, the Clerk of Council shall distribute a copy of the legislation to each elected official and to the Administrator, file a reasonable number of copies in the office of the Clerk of Council and such other public places as Council may designate, and publish the title of the legislation together with a notice setting forth the time and place for its public hearing before Council.

(B) Public Hearing

The procedure for public hearings shall be determined by the Council Rules. The public hearing of any legislation shall follow its publication by no less than seven days; may be held separately or in conjunction with a regular or special Council meeting; may be adjourned or recessed from time to time; and may be dispensed with for an emergency ordinance. The public hearing of a resolution shall be conducted at the time of its introduction. The public hearing of an ordinance shall be conducted at the next designated meeting subsequent to its introduction, unless otherwise specified by Council. Unless dispensed with by Council, the public hearing of an emergency ordinance shall be conducted at the time of its introduction. Upon closing the public hearing and after discussion by Council, Council may adopt the legislation, with or without amendment, reject it, or table it.

(C) Vote Recordation and Publication

The vote on legislation shall be entered in the minutes or other record of Council proceedings. As soon as possible after adoption, the Clerk of Council shall have the legislation and a notice of its adoption published and available to the public at a reasonable fee.

6.04 PROCEDURE FOR CONSIDERATION OF AN EMERGENCY ORDINANCE

(A) *Public Hearing Notice*

An emergency ordinance shall be introduced in the form and manner prescribed for legislation generally, except that each emergency ordinance shall declare that it is necessary for the immediate preservation of the public peace, health, safety, or welfare, and shall clearly specify the nature of the emergency.

(B) *Voting Requirements*

Upon a successful motion to treat an ordinance as an emergency, and to dispense with the public hearing when appropriate, an ordinance may be adopted as an emergency ordinance by an affirmative vote of no less than five Council members after its first reading. If an emergency ordinance fails to receive an affirmative vote of at least five Council members, but receives a majority vote of Council, the ordinance shall become effective as non-emergency legislation as set forth in Section 6.07 (B) of this Charter.

6.05 PROCEDURE FOR CONSIDERATION OF A ZONING ORDINANCE

(A) *Public Hearing Notice*

In addition to the requirements provided in Section 6.03, as to any zoning ordinance, initiated by an applicant or by Council, the Clerk of Council or designee shall mail written notice of the public hearing to the owners of the property within 200 feet of the affected parcel or parcels. The failure of delivery of the notice shall not invalidate any zoning ordinance.

(B) *Disposition Procedures*

Council, by ordinance, shall establish procedures for the disposition of ordinances establishing, amending, revising, changing, or repealing zoning classifications, districts, uses, or regulations.

6.06 ADOPTION OF TECHNICAL CODES

(A) *By Reference*

In conjunction with the procedures provided in Sections 6.03, 6.04, and 6.05 of this Charter, Council may, by ordinance, adopt codes relating to technical matters, construction standards, fire prevention, electric wiring, plumbing, heating, air conditioning, housing, health, safety, and such other matters as Council may determine to be appropriate for adoption by reference.

(B) *Publication Not Required*

An ordinance adopting any code shall make reference to the date and source of the code without reproducing it at length in the ordinance. In such cases, publication of the code shall not be required. A copy of each code and a copy of the adopting ordinance shall be authenticated and recorded by the Clerk of Council as provided in Sections 6.08 and 6.09 of this Charter. If the code is amended after its adoption by reference, Council may adopt the amendment or change by incorporation by reference under the same procedure established for the adoption of the original code.

6.07 EFFECTIVE DATE OF LEGISLATION

(A) *Effective Immediately*

All resolutions and the following ordinances shall take effect upon adoption, unless a later time is specified by Council:

- (1) appropriations of money;
- (2) annual tax levies for current expenses;
- (3) improvements petitioned for by owners of the requisite majority of the front footage or of the area of the property benefited and to be assessed;
- (4) submissions of any questions to the electorate or a determination to proceed with an election;

- (5) approvals of a revision, codification, recodification, rearrangement, or publication of ordinances; and
- (6) emergency ordinances.

(B) *Effective After Thirty Days*

Unless otherwise provided in this Charter, all other ordinances shall become effective thirty days after their adoption or at any later date specified by Council.

6.08 AUTHENTICATION OF LEGISLATION

Legislation shall be authenticated by the signature of the presiding Mayor, President pro tempore, or acting Mayor and the Clerk of Council. The failure or refusal to sign shall not invalidate otherwise properly enacted legislation.

6.09 RECORDING AND CERTIFICATION OF LEGISLATION

Legislation shall be recorded in a book or other record prescribed by Council. The Clerk of Council or designee, upon request of any person and upon the payment of a fee if established by Council, shall certify true copies of any legislation.

6.10 AMENDMENT OF LEGISLATION

(A) *Pending Legislation*

Pending legislation may be amended at any time prior to its adoption by Council, and such amendment shall not require an additional public hearing of the legislation.

(B) *Existing Legislation*

Any legislation may be amended by the adoption of subsequent legislation that revises existing sections or parts; enacts new or supplemental sections or parts, or repeals existing sections or parts. This section does not prevent, prohibit nor preclude repeals by implication.

6.11 CODIFICATION

Council shall provide for the preparation of a general codification, a recodification, a revision, or a rearrangement of all Village ordinances which shall be adopted by Council by ordinance and shall be published in printed form, together with this Charter. A current service supplementing the Village's codified ordinances shall be maintained in the manner prescribed by Council.

6.12 PUBLICATION OF ORDINANCES

(A) *Publish Defined*

Unless otherwise provided by this Charter, ordinances shall be published after adoption. As used in this Section, the term "publish" shall mean to post the ordinance or a summary of the ordinance in at least three public places as designated by Council for a period of at least thirty days after its adoption, and to take such other actions as provided by Council. Failure to publish ordinances as required by this Section shall not invalidate the ordinance, and in such event, the Clerk of Council may authorize the ordinance to be published at a later date.

(B) *Certification*

The Clerk of Council shall make and retain a certificate as to the times and places by which the legislation is published. The certificate shall be prima facie evidence that the legislation was published as required by Section 6.12(A). Failure to make or retain the certificate required by this Section shall not invalidate any legislation.

ARTICLE VII

THE ADMINISTRATOR

7.01 APPOINTMENT, QUALIFICATIONS, AND COMPENSATION

(A) *Appointment*

Council shall appoint an Administrator.

(B) *Qualifications*

The Administrator shall be appointed on the basis of executive and administrative qualifications. The Administrator need not be a resident of the Village at the time of appointment, but shall become a resident of the Village within six months after appointment, unless Council approves a longer period of time or residence outside the Village.

(C) *Compensation*

Council shall determine the compensation of the Administrator.

7.02 POWERS AND DUTIES

(A) *General Powers and Duties*

The Administrator shall be the chief administrative and law enforcement officer of the Village. The Administrator shall be responsible to Council for the administration of all Village affairs placed in the Administrator's charge by or under this Charter, the legislation of the Village, and the laws of the State of Ohio.

(B) *Specific Powers and Duties*

Without limitation of the powers and duties stated in Section 7.02(A), the Administrator or designee shall:

- (1) appoint, promote, suspend, remove, or otherwise discipline any Village employee, except as otherwise provided by or under this Charter, subject to the provisions of Section 8.07 pertaining to Personnel Systems;
- (2) direct and supervise the administration of all departments, offices, and agencies of the Village, except as otherwise provided by this Charter;
- (3) attend all regular and special Council meetings with the right to participate in discussions but not to vote;

- (4) enforce within the Village all laws, provisions of this Charter, and legislation of the Village;
- (5) prepare and submit budgets and capital programs to Council;
- (6) keep Council fully advised as to the financial condition and future needs of the Village;
- (7) submit to Council and make available to the public complete records of the financial and administrative activities of the Village;
- (8) make such other reports as Council may require concerning the operation of Village departments, divisions, offices, boards, commissions, bureaus, and agencies;
- (9) provide staff support services for Council and the Village's boards, commissions, and committees;
- (10) execute on behalf of the Village all contracts, leases, deeds, easements, conveyances, and agreements; and
- (11) perform such other powers, duties, and functions as are conferred or required by this Charter or by Council.

7.03 ACTING ADMINISTRATOR

The Administrator shall designate by letter, filed with the Clerk of Council, a Village employee to exercise the powers and perform the duties of the Administrator during a temporary absence or disability. If such designation has not been made and the Administrator is unable to perform his or her duties or to make such designation, Council may appoint a Village employee to serve as Acting Administrator until the Administrator resumes his or her duties. Council may revoke any designation at any time and appoint another Village employee to serve as Acting Administrator.

7.04 PROCEDURE FOR REMOVAL OF THE ADMINISTRATOR

The Administrator may be suspended by resolution of Council which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the Administrator. The Administrator shall have five days from the date of receipt of service in which to reply in writing and request a public hearing. Upon request, the Administrator shall be afforded a public hearing, which shall occur not earlier than ten days nor later than fifteen days after the public hearing is requested. After the public hearing, if requested, and after full consideration, Council may adopt a final resolution of removal. The decision of Council to suspend or remove the Administrator shall be in the sole discretion of Council. If the Administrator is suspended from duty as provided under this Section, Council shall appoint an Acting Administrator.

ARTICLE VIII

ADMINISTRATIVE DEPARTMENTS AND PERSONNEL SYSTEMS

8.01 CREATION AND ALTERATION

(A) Creation

The Village shall have a Department of Law, a Department of Finance, and such other departments as Council may create.

(B) Alteration

Except for the Department of Law and the Department of Finance, Council may abolish, combine, merge, change or alter any department of the Village. The Village shall have a Department of Law, a Department of Finance, and such other departments as Council may create.

8.02 DUTIES AND FUNCTIONS

Departments shall have those powers, duties, and functions as provided in this Charter or by Council.

8.03 DEPARTMENT DIRECTORS

(A) Directors

Departments shall be under the supervision of directors.

(B) Appointment of Directors

The Director of Law and the Director of Finance shall be appointed and removed by the Administrator, subject to the consent and approval of Council. The Director of Law and the Director of Finance shall serve at the pleasure of the Administrator and Council. All other Directors shall be appointed by the Administrator and shall serve at the pleasure of the Administrator. With the consent of Council, the Administrator may serve as the director of one or more departments or may appoint one person as the director of two or more departments.

8.04 DIRECTOR OF LAW

(A) Qualifications

The Director of Law shall be an attorney-at-law duly authorized and licensed to practice law in the State of Ohio.

(B) Duties

The Director of Law shall be the prosecuting attorney and legal counsel for the Village, and subject to the direction of Council, shall represent the Village in all proceedings in Court or before any administrative board or body. The Director of Law shall perform other duties as required by this Charter, by legislation of the Village, by Council, or by the Administrator. The Director of Law shall not be required to represent any school district or any other unit of government, other than the Village.

8.05 DIRECTOR OF FINANCE

The Director of Finance shall be the chief financial officer of the Village; shall exercise the powers, duties, and functions as required by the laws of the State of Ohio, this Charter, legislation of the Village, Council, and the Administrator; and shall provide full and complete information concerning the financial affairs and financial status of the Village as required by the Administrator or Council.

8.06 ADMINISTRATIVE CODE

Subject to the provisions of this Charter, Council shall adopt and may amend an administrative code which shall provide, in detail, the organization of the Municipal Government; define the powers and duties of each organizational unit; and set forth administrative procedures. Amendments to and revisions of the Administrative Code shall be made by Council. Where the Administrative Code is silent as to a matter, or function, the officers and employees of the Village shall have and may exercise all the powers and duties provided for similar officers and employees under the laws of the State of Ohio. However, provisions of the Administrative Code shall supersede those of the general laws of the State of Ohio in case of conflict to the fullest extent permitted by law.

8.07 PERSONNEL SYSTEMS

(A) *Merit Principle*

All appointments and promotions of municipal employees shall be made on the basis of merit and fitness demonstrated through a competitive selection process to the extent practicable and except as otherwise provided by Council.

(B) *Classified and Unclassified Service*

Council shall establish a classified and unclassified service for employees of the Village. Council shall include as a part of the Administrative Code, adopted pursuant to Section 8.06, a Section or Sections to define and govern the classified and unclassified service of the Village. All original appointments and promotions to full time positions below the level of Chief within the division of police and fire shall be within a classified service.

(C) *Elected and Appointed Offices*

Appointments to and removal from all elected and appointed offices, including the municipal boards, commissions, and committees, shall be made in accordance with the specific applicable provisions of this Charter or the specific applicable legislation of the Village, and shall not be subject to Sections 8.07(A) and 8.07(B).

(D) *Retirement System*

The laws of the State of Ohio governing the retirement of employees of municipalities shall be applicable to Village employees under this Charter.

ARTICLE IX

**TAXATION, BORROWING, BUDGETING, AND CONTRACTING
PROCEDURES**

**9.01 TAXATION, BORROWING, BUDGETING, AND
CONTRACTING PROCEDURES**

The laws of the State of Ohio relating generally to budgets, appropriations, taxation, debt, bonds, assessments, deposits and investment of funds, and other fiscal matters of the Village shall be applicable, except as otherwise provided in this Charter or by Council.

9.02 FISCAL YEAR

The fiscal year for the Village for budgeting, accounting, and all other similar purposes shall be the calendar year.

9.03 OPERATING BUDGET AND APPROPRIATION ORDINANCE

In addition to the annual tax budget required by the Ohio Revised Code, the Administrator, in consultation with the Director of Finance shall by the first scheduled Council meeting in November submit to Council a proposed operating budget for the ensuing fiscal year. The Administrator shall prepare, revise, and adjust the budget estimates for submission to Council. Council shall adopt a balanced budget.

The proposed operating budget shall contain a recommended appropriation ordinance. Council shall, by December 21st of every year, adopt both the operating budget and appropriation ordinance as submitted or amended. Should Council fail to enact the proposed or amended operating budget and appropriation ordinance by December 21st, both shall be deemed to have been adopted finally by Council as submitted by the Administrator.

9.04 CONTRACTING PROCEDURES

(A) Award and Execution of Contracts

Consistent with of Section 7.02(B)(10) and except as otherwise provided in this Section, the Administrator or designee shall award and execute all contracts on behalf of the Village.

(B) Competitive Bidding

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

(C) Waiver of Competitive Bidding

By a vote of no less than five members, Council may waive the competitive bidding requirement if the statutory or common law of the State of Ohio does not require competitive bidding; if Council determines that an item is available and can be acquired only from a single source; or if Council determines that a waiver of the competitive bidding requirement is in the best interest of the Village.

(D) Professional Services

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

(E) Alteration or Modification of Contracts

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

(F) Certification of Funds

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

- (1) funds required for the contract are in the Village's treasury or in the process of collection; and
- (2) funds have been appropriated by Council for the specified purpose and remain unencumbered.

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

ARTICLE X

BOARDS AND COMMISSIONS

10.01 CREATION AND GENERAL RULES

(A) Creation of Boards and Commissions

This Village shall have a Planning Commission, a Board of Zoning Appeals, a Personnel Appeals Board, and such other boards and commissions as may be created by Council.

(B) General Rules for Boards and Commissions

The following general rules shall govern Boards and Commissions:

- (1) each board or commission created by Council shall consist of at least three (3) members;
- (2) compensation, terms, appointments, and removals shall be determined by Council, unless otherwise provided in this Charter;

- (3) each member of a board or commission shall be and shall remain an elector of the Village during the term of appointment, unless otherwise provided by Council;
- (4) a vacancy occurring during the term of any member of a board or commission shall be filled for the unexpired term in the same manner as the original appointment;
- (5) each vacancy shall be filled within sixty (60) days;
- (6) each board and commission shall establish its own rules of order to be approved by Council;
- (7) members of boards and commissions shall serve without compensation, unless otherwise provided by Council; and
- (8) all meetings of boards and commissions shall be open to the public, except as allowed by the laws of the State of Ohio.

10.02 PLANNING COMMISSION

(A) Composition and Terms

The Planning Commission shall consist of six (6) members. Five (5) of these members shall be voting members and shall serve overlapping three (3) year terms. The sixth shall be a Council member appointed by Council. This Council member shall be a non-voting member of the Planning Commission. Three voting members shall constitute a quorum.

(B) Powers and Duties

The Planning Commission shall have the power and duty to hear applications for land use, zoning classifications, or districts and, as merited, to submit written recommendations for legislative action or to render final determinations for administrative action; to initiate, review, and recommend legislation, rules, and regulations on all matters of Village planning, land use, and zoning classification; and to exercise such other powers, duties, and functions as provided by Council.

10.03 BOARD OF ZONING APPEALS

(A) Composition and Terms

The Board of Zoning Appeals shall consist of five (5) voting members. Four (4) of these members shall serve overlapping three (3) year terms and the fifth member shall be a Planning Commission member designated annually by the Planning Commission.

(B) Powers and Duties

The Board of Zoning Appeals shall have the power and duty to hear and decide appeals regarding legislative measures and administrative determinations relating to zoning and land use. The Board of Zoning Appeals may make advisory recommendations to Council and the Planning Commission concerning zoning matters; and shall exercise such other powers, duties, and functions as provided by Council. The Board of Zoning Appeals shall also have the power and duty to hear variances from zoning area regulations and general development standards.

10.04 PERSONNEL APPEALS BOARD

(A) Composition and Terms

The Personnel Board of Appeals shall consist of three (3) members who shall serve overlapping three (3) year terms.

(B) Powers and Duties

The Personnel Board of Appeals shall have the power and duty to hear appeals from administrative determinations made pursuant to the Administrative Code, and such other powers, duties, and functions as provided by Council.

ARTICLE XI

ELECTIONS, RECALL, INITIATIVE, AND REFERENDUM

11.01 ELECTIONS

(A) Regular Elections

Regular municipal elections shall be held on the dates and times fixed by the election laws of the State of Ohio.

(B) Special Elections

Council may, at any time, order a special election by legislation which shall set forth the date and purpose of the election, including, but not limited to, the referral of pending legislation to the electors for their approval or rejection. Special elections may be held on any date.

(C) Conduct of Elections

All regular and special elections shall be conducted by the election officials of the State of Ohio. Elections shall be held in conformity with the provisions of this Charter or as otherwise provided by Council. Where not addressed by this Charter or by Council, the provisions of the election laws of the State of Ohio shall be followed.

(D) Public Information Expenditure

Council shall have the power to appropriate and expend public funds to pay the cost of providing information to the public in connection with tax, bond, and other non-partisan public issues, but not in connection with the election of any candidate for public office.

11.02 RECALL

(A) Power to Recall

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

(B) Recall Petition Prerequisites

As to any elected official who has served as least six (6) months of a term of office, an elector or electors of the Village may serve written notice upon the Clerk of Council of their intent to circulate petitions for the recall of the elected official. Petitions for the recall of the elected official may not be circulated until the written notice of intent is served upon the Clerk of Council.

(C) Recall Petition Form

The petition shall contain a verified statement of not more than one hundred words setting forth specific grounds upon which the removal of the elected official is sought. The petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain the name of the elected official whose removal is sought. Separate petitions are necessary for each elected official whose removal is sought. The petition shall be signed by at least that number of electors equal to twenty-five percent (25%) of the electors voting at the last preceding regular municipal election.

(D) Filing, Examination, and Amendment of Petition

No later than thirty (30) days after service of the notice of intent on the Clerk of Council, the petition demanding the removal of an elected official shall be filed with the Clerk of Council. Within twenty (20) days after the day on which the petition is filed, the Clerk of Council shall determine, subject to verification from the Board of Elections, whether or not it meets the requirements of this Section. If the Clerk finds the petition insufficient, the Clerk shall promptly certify the particulars in which the petition is insufficient, deliver a copy of the certificate to the person who filed the petition, and make a record of delivery. The petition may be amended within ten (10) days after the date of the delivery. The Clerk shall, within five (5) days after such an amendment has been filed, reexamine the petition, and if still insufficient, the petition shall be rejected and no further action taken thereon.

(E) Recall Election

Unless the elected official whose removal is sought resigns within five days after delivery of the Clerk's certificate, Council

shall fix a day for holding a recall election, to be placed on the ballot at the succeeding general or primary election occurring not less than ninety (90) days after the date of the Clerk's certification of sufficiency to Council, and shall cause notice of the recall election to be published on the same day of each week for two consecutive weeks in a newspaper of general circulation in the Village. At the recall election, this question shall be placed upon the ballot: "Shall (name of elected official whose removal is sought) be allowed to continue as (elected official's position)?", with the provisions on the ballot for voting affirmatively or negatively. If a majority of the vote is negative, the elected official shall be removed, the office shall be vacant, and the vacancy shall be filled as provided in Section 5.04. If the elected official is not removed at such recall election, no further recall petitions shall be filed against the elected official for a period of one year following the recall election.

11.03 INITIATIVE AND REFERENDUM

Legislation, issues, and other measures may be proposed by initiative petition and adopted by election as provided by the Constitution and laws of the State of Ohio. Legislation adopted by Council shall be subject to referendum, as provided by the Constitution and laws of the State of Ohio, except that legislation calling for elections under this Charter shall not be subject to referendum and as otherwise provided in Section 4.05.

ARTICLE XII

GENERAL PROVISIONS

12.01 CONFLICTS OF INTEREST, ETHICS, AND CAMPAIGN FINANCING

Unless otherwise provided in this Charter or by Council, the laws of the State of Ohio pertaining to conflict of interest, criminal misbehavior, ethics, and financial disclosure by municipal officials and employees, campaign financing and other election practices of candidates for municipal office shall apply under this Charter.

12.02 EFFECT OF PARTIAL INVALIDITY

A determination that any provision of this Charter is invalid shall not invalidate or impair the force and effect of any other provision, except to the extent that the other provision is wholly dependent for its operation upon the provision declared invalid.

12.03 AMENDMENTS OF CHARTER

This Charter may be amended or revised by the electors as provided by this Charter or Constitution and laws of the State of Ohio.

ARTICLE XIII

CHARTER REVIEW COMMISSION

13.01 COMPOSITION AND TERM

During the month of July, 2008 and each ten (10) years thereafter, the Council shall appoint seven (7) electors of the Village, holding no other office or employment with the Village, as members of a Charter Review Commission to serve until their duties as provided herein are completed. The members shall serve without compensation.

13.02 DUTIES

The Charter Review Commission shall review this Charter and no later than twelve (12) months after appointment report the Commission's findings and conclusions to Council. This report shall transmit recommended amendments, if any.

⊕

ARTICLE XIV

TRANSITIONAL PROVISIONS

14.01 EFFECTIVE DATE OF REVISED CHARTER

This Revised Charter adopted on July 12, 1999, became effective on March 1, 2000 and was subsequently amended effective January 1, 2010.

14.02 SUCCESSION

The municipal corporation existing as the Village of New Albany under the laws of the State of Ohio and the Charter approved by the electorate on November 3, 1992 and effective on January 1, 1993, shall continue to be a body politic and corporate under the same name under this Charter or until such time as it becomes a City in the manner provided by the Constitution and laws of the State of Ohio. At such time, it shall then be known as the "City of New Albany", unless otherwise provided by Council.

⊕ Upon becoming a City, the position name of "Village Administrator" shall become "City Manager". The City Manager shall have all the powers conferred upon the Village Administrator contained within this Charter, by the Constitution and laws of the State of Ohio, and as provided by Council. ⊕


Upon advancing to City status the provisions of this Charter shall apply to the City of New Albany.

CERTIFICATE

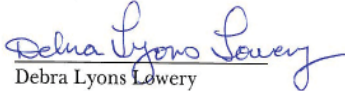
We, the undersigned, duly appointed members of the 2009 Charter Review Commission of the Village of New Albany, State of Ohio, have framed the foregoing revised Charter and, pursuant to Ordinance Number 25-09, submit it to the voters of the Village of New Albany at the election to be held on November 3, 2009.

IN WITNESS WHEREFORE, we have hereunto subscribed our names:


Sloan Spalding, Chairman

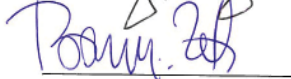

Kelly Chado

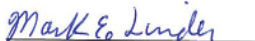

Jon Iten


Debra Lyons Lowery


Michelle Murphy


William Schubert


Brian Zets


Mark Linder, *alternate*

ACKNOWLEDGEMENT

The 2009 Charter Review Commission was fortunate to receive comments from and are thankful for the participation of citizens, elected officials and village staff including Mayor Nancy Ferguson, Dr. Glyde Marsh, Chip Fellows, Bill Resch, Joseph Stefanov and James Nicholson. The Commission extends its deep appreciation to the Village Law Director Mitchell Banchefsky, the Village's Deputy Administrator Debra Mecozzi and the Village's Clerk of Council Betty Bosko for their assistance and direction throughout the entire process.

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