

**CHARTER  
OF THE  
CITY OF FAIRVIEW PARK, OHIO**

EDITOR'S NOTE: The Fairview Park City Charter was originally adopted by the electors at the general election of November 4, 1958. All sections with a date at the end thereof indicate that the substantive provisions of those sections were amended or enacted on the date given.

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**TABLE OF CONTENTS**

**PREAMBLE**

**ARTICLE I. NAME AND BOUNDARIES (11-6-79)**

**ARTICLE II. MUNICIPAL POWERS**

**ARTICLE III. THE MAYOR.**

- Sec. 1. Term. (11-6-90)
- Sec. 2. Qualifications. (11-6-90; 11-2-99)
- Sec. 3. Removal. (11-6-90; 11-3-09)
- Sec. 4. Vacancy in the Office of Mayor. (11-6-90)
- Sec. 5. Duties and Powers of the Mayor. (11-6-90; 11-3-09)

**ARTICLE IV. THE COUNCIL**

- Sec. 1. Number and Terms. (11-8-66; 11-2-99; 11-3-09)
- Sec. 1b. The Boundaries of Wards. (11-4-69)
- Sec. 2. Qualifications.
- Sec. 3. President of Council. (11-3-09)
- Sec. 4. Removal. (11-3-09)
- Sec. 5. Vacancies.
- Sec. 6. Salaries and Bonds.
- Sec. 7. Meetings.
- Sec. 8. Quorum. (11-3-09)
- Sec. 9. Rules and Journal of Council.

**ARTICLE IV. THE COUNCIL (Cont.)**

- Sec. 10. Clerk of Council and Employees of Council.
- Sec. 11. Form of Legislative Action. (11-6-90; 11-3-09)
- Sec. 12. Effective Date of Ordinances and Resolutions. (11-4-75; 11-3-09)
- Sec. 13. Assessments, Advertising of Contracts and Sale of Municipal Property.
- Sec. 14. Enactment of Zoning Ordinances and Regulations, Notice. (11-6-73; 11-2-99)
- Sec. 15. Dedication of Parks, Vacation; Use, Disposition or Rental Thereof. (5-5-70; 11-3-09)
- Sec. 16. Voter Approval of Zoning Changes. (11-4-75; 11-7-95)

**ARTICLE V. ADMINISTRATIVE OFFICES AND DEPARTMENTS**

- Sec. 1. General Provisions. (11-2-93; 11-2-99)
- Sec. 2. Director of Law. (11-4-75; 11-2-99)
- Sec. 3. Director of Finance. (11-4-75; 11-2-99)
- Sec. 4. Director of Public Service and Development. (11-2-93; 11-2-99)
- Sec. 5. Director of Recreation. (11-2-93; 11-2-99)
- Sec. 5A. Director of Senior Life. (11-3-09)
- Sec. 6. Termination of Office of Directors. (11-2-93)

**ARTICLE VI. THE CIVIL SERVICE COMMISSION**

- Sec. 1. Membership.
- Sec. 2. Officers.
- Sec. 3. Duties.
- Sec. 4. Removal. (11-3-09)
- Sec. 5. Funds.

**ARTICLE VII. BOARDS AND COMMISSIONS**

- Sec. 1. Board of Zoning and Building Appeals. (11-4-75; 11-3-09)
- Sec. 2. Planning and Design Commission. (11-2-93; 11-2-99; 11-3-09)
- Sec. 3. Parks and Recreation Commission. (11-6-90; 11-3-09)
- Sec. 4. The Board of Control. (11-4-69)
- Sec. 5. (Reserved)
- Sec. 6. Architectural Board of Review. (Repealed 11-2-93)

**ARTICLE VIII. FINANCES**

- Sec. 1. Annual Estimate.
- Sec. 2. Appropriation Ordinance.
- Sec. 3. Transfers and Balances.
- Sec. 4. Payment of Claims.
- Sec. 5. Custody and Deposit of Funds. (11-4-69)
- Sec. 6. Public Bidding. (11-7-95; 11-2-99; 11-3-09)
- Sec. 7. Public Improvements.
- Sec. 8. Taxation. (5-3-94; 11-5-96; 11-3-09)
- Sec. 9. Submission of Extra Levy. (11-3-09)
- Sec. 10. Debt Limitation.

**ARTICLE IX. NOMINATIONS AND ELECTIONS**

- Sec. 1. Municipal Elections. (11-6-79)
- Sec. 2. Nominations. (11-6-79)
- Sec. 3. Primary Election. (11-6-79; 11-4-08; 11-3-09)
- Sec. 4. Elections. (11-6-79)
- Sec. 5. General Provisions. (11-6-79)

**ARTICLE X. INITIATIVE, REFERENDUM, RECALL**

- Sec. 1. Initiative.
- Sec. 2. Referendum. (11-4-75)
- Sec. 3. Recall. (11-5-91)
- Sec. 4. General Provisions.

**ARTICLE XI. FRANCHISE****ARTICLE XII. AMENDMENTS TO CHARTER (11-3-09)****ARTICLE XIII. GENERAL PROVISIONS**

- Sec. 1. Effective Date of Charter.
- Sec. 2. Saving Clause.
- Sec. 3. Effect of the Charter Upon Existing Laws and Rights.
- Sec. 4. Interpretation of the Charter.
- Sec. 5. Gender Neutral. (11-3-09)

**ARTICLE XIV. CHARTER REVIEW COMMISSION (11-6-90; 11-3-09)****ARTICLE XV. EXECUTIVE SESSIONS (11-5-91)**



**CHARTER  
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**PREAMBLE**

We, the people of the City of Fairview Park, in the County of Cuyahoga and State of Ohio, in order to secure for ourselves the benefits of municipal home rule and to exercise all the powers of local self-government under the Constitution and laws of the State of Ohio, do hereby adopt this Charter for our City.

**ARTICLE I  
NAMES AND BOUNDARIES**

The Municipality now existing in the County of Cuyahoga, State of Ohio, and known as Fairview Park shall continue to be a body politic and corporate under the name of the City of Fairview Park, with the same boundaries as now exist, but with power and authority to change its boundaries in the manner authorized by the laws of the State of Ohio, except that no territory shall be detached from or annexed to the City, nor shall the City be annexed to or merged with any other body politic, nor shall the corporate existence of the City be terminated, without the assent of a majority of the electors of the City voting on such proposal at a regular election in such manner as Council shall by resolution or ordinance prescribe.  
(Amended 11-6-79.)

**ARTICLE II  
MUNICIPAL POWERS**

The City of Fairview Park shall have all the powers, general or special, governmental or proprietary, express or implied, which may now or hereafter lawfully be possessed or assumed by municipalities of the class of this municipality under the Constitution and laws of the State of Ohio. No enumeration of specific powers in this Charter shall be held to be exclusive.

All such powers shall be exercised in the manner prescribed in this Charter, or if not prescribed herein, in such manner as Council may determine, or unless a contrary intent appears in this Charter or in the enactments of the Council, in such manner as now or hereafter may be provided by the laws of the State of Ohio.

### **ARTICLE III THE MAYOR**

#### **SECTION 1. TERM.**

The Mayor shall be elected at the regular municipal election in the year 1959, and every fourth year thereafter, for a term of four (4) years. His term shall commence and he shall assume office on the first day of January next following such election. He may be a candidate to succeed himself. (Amended 11-6-90)

#### **SECTION 2. QUALIFICATIONS.**

The Mayor shall have been a qualified elector and a resident of the City for at least two (2) years immediately prior to the date of his election, and shall continue to be a qualified elector and resident therein during his term. He shall not serve on continuous active military service in excess of one (1) month, either state or national, nor shall he hold any other public office, public employment or public appointment, except that of Notary Public and member of the United States Militia, National Guard, Reserve Corps of the United States or except as an uncompensated or compensated member of a board, commission, or committee as a representative of the City. He shall not, directly or indirectly, solicit, contract for, receive or be interested in any profit or emolument from or on account of any contract, job, work or service with or for the City.

If the Mayor is absent for more than one month, secondary to being called to active duty as a Reserve Member of the Federal Armed Forces, or as a member of a National Guard Unit or Militia, then the office of the Mayor shall be considered vacant and the office shall be filled as hereinafter provided in this Charter.

(Amended 11-6-90; 11-2-99)

#### **SECTION 3. REMOVAL.**

If at any time the Mayor shall cease to possess any of the aforesaid qualifications of office, or shall be convicted of a felony or other crime involving moral turpitude, or be unable to perform the duties of the office due to death, prolonged illness, physical or mental disability or absence from the City in excess of ninety days, it shall be the duty of Council to declare the office of Mayor vacant, and upon such declaration the office of Mayor shall automatically and immediately become vacant. Such declaration by Council shall be made only after public hearing upon the charge or charges brought, and provided, further, that the Mayor shall have been notified in writing of the charge or charges against him at least fifteen (15) days in advance of such hearings; provided further that he or his counsel shall have the opportunity to be heard, present evidence, and examine, under oath, all witnesses appearing in support of such charge or charges. To be effective such declaration of vacancy in the office of Mayor must receive the affirmative vote of at least a majority plus one of the members elected to Council.

(Amended 11-6-90; 11-3-09.)

**SECTION 4. VACANCY IN THE OFFICE OF MAYOR.**

(a) Absence. When the Mayor is absent or inaccessible or is unable for any cause or reason to perform his duties, the President of Council shall become the acting Mayor but during such temporary absence, he shall not have the power of veto nor shall he thereby cease to be President of Council.

(b) Vacancy. In the event the office of Mayor shall become vacant for any reason, the President of Council shall thereupon become the Mayor, and serve for the unexpired term or until the beginning of the term of a successor duly elected as hereinafter provided, and his office as President of Council shall become vacant.

(c) Absence of President of Council. In the event the President of Council shall be absent or inaccessible or is unable for any cause or reason to perform his duties as acting Mayor, then Council by a vote of a majority of the remaining members of Council shall designate one of their number to act as Mayor provided that such person so designated shall not have the power of veto nor shall he thereby cease to be a member of Council.

(d) Election of Successor in the Event of Vacancy. In the event the office of Mayor shall become vacant, a successor for the unexpired term shall be elected as Mayor at the next regular municipal election, provided that (1) such election shall occur more than two (2) years prior to the expiration of the unexpired term, and (2) the vacancy shall have occurred more than one hundred twenty (120) days prior to such election. A President of Council or a Councilman, who has become Mayor pursuant to subsections (b) and (c) of this section, may be a candidate to succeed himself. (Amended 11-6-90.)

**SECTION 5. DUTIES AND POWERS OF THE MAYOR.**

(a) Executive Powers. The Mayor shall be the chief executive officer of the City. He shall supervise the administration of the City's affairs and shall exercise control over and be responsible to the electors for all departments, divisions and offices. He shall be the chief conservator of the peace within the City and shall cause all laws and ordinances to be enforced. He shall be responsible for the preparation and submission of the annual estimate of receipts and expenditures, and of appropriation measures, and shall at all times keep the Council fully advised as to the financial condition and needs of the City. He shall cause all terms and conditions imposed in favor of the City or its inhabitants in any franchise or contract to which the City is a party to be faithfully kept and performed.

Except as may otherwise be provided by this Charter or the laws of the State of Ohio, the Mayor shall have the power to appoint, promote, transfer, reduce or remove any officer or employee of the City except (a) those required by this Charter to be elected, (b) those whose terms of office may be fixed by this Charter, and (c) Directors of all departments who shall be appointed by the Mayor subject to advise and consent of the majority of Council. Except as otherwise may be provided in this Charter, all Directors and all appointive officers may be removed by the Mayor, provided, however, that such removal shall not take effect without the concurrence of a majority plus one of the members elected to Council.

The Mayor shall execute on behalf of the City all contracts, conveyances, evidences of indebtedness, and all other instruments to which the City is a party. He shall have custody of the seal of the City and may affix it to all of said instruments, but the absence of the seal shall not effect the validity of any such instrument. The Mayor shall be recognized as the official and ceremonial head of the City government by the Governor for military purposes and by the courts for the purpose of serving civil processes.

(b) Legislative Powers. Every ordinance passed or resolution adopted by the Council shall be attested by the Clerk of Council and promptly presented to the Mayor. 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 written objections within said ten (10) days of delivery to said Clerk, which objections shall be entered in full on the journal of the Council. The Mayor may approve or disapprove the whole or any part or item of an ordinance or resolution appropriating money, but otherwise his approval or disapproval shall be addressed to the entire ordinance or resolution. If the Mayor does not sign or veto an ordinance or resolution after its passage or adoption within said ten (10) day period, it shall take effect in the same manner as if he had signed it. When the Mayor has disapproved an ordinance or resolution or part or item thereof, as herein provided, the Council shall, not later than the next regular meeting, proceed to reconsider it, and if upon reconsideration the ordinance or resolution or part or item thereof be approved by vote of a majority plus one of the members elected to Council, it shall then take effect as if it had received the signature of the Mayor. In all such cases the vote shall be taken and entered upon the journal.

(c) Judicial Powers. The Mayor shall have all the judicial powers granted by this Charter, the ordinances of the City, and the general laws of the State of Ohio.

(d) Office and Hours. The Mayor shall have his office at City Hall. The Mayor shall devote his time and effort during City business hours and at such other times as may be necessary to the business of the City. (Amended 11-6-90; 11-3-09)

## **ARTICLE IV THE COUNCIL**

### **SECTION 1. NUMBER AND TERMS.**

All legislative powers of the City, except as otherwise provided by this Charter and by the Constitution of the State of Ohio, shall be vested in a Council of seven members, five of whom shall be elected by the several wards, one of whom shall be elected at large, and one of whom shall be elected at large as president of Council. (Amended 11-2-99)

Members of Council, including the President of Council, shall be elected at the regular municipal election in the year 2011 for a term of four (4) years and every fourth year thereafter for a term of four (4) years. All members of the Council shall assume office on the first day of January next following their election.  
(Amended 11-8-66; 11-3-09)

#### **SECTION 1b. THE BOUNDARIES OF WARDS.**

The boundaries of wards shall be subject to change in order to conform to the one-man, one-vote edict of the Supreme Court. Every ten years after the Federal census figures are available, the Council shall examine the community and determine whether a reapportionment is necessary, and if necessary, shall propose a plan for reapportionment. If the Council fails to act within sixty days from the availability of the Federal census figures, the Mayor then shall have thirty days to present a reapportionment plan to Council. Council shall then have thirty days to examine the plan and make any amendments to such plan. If Council fails to act upon the Mayor's plan within said thirty days after its submission by the Mayor, the Mayor's plan shall then become law. (Added 11-4-69.)

#### **SECTION 2. QUALIFICATIONS.**

No person shall be eligible to be a member of Council, unless he shall have been continuously a resident and a qualified elector of the City of Fairview Park for two (2) years immediately prior to his election or appointment. In addition to the foregoing requirements, no person shall be eligible to be a member of Council, elected from a ward, unless he shall have been continuously a resident and qualified elector of such ward for one (1) year immediately prior to his election or appointment.

No person shall serve as a member of Council unless during his term of office he shall continue to be a resident and a qualified elector of the City of Fairview Park, and if elected or appointed from a ward, shall be and continue to be a resident of such ward. He shall not hold any other municipal office or municipal employment in this City except as otherwise provided in this Charter, and except that of Notary Public. He shall forfeit his office as Councilman, or President of Council, in the event he is called to full-time military service for a period exceeding thirty (30) consecutive days. He shall not be interested in the profits or emoluments of any contract with, or job, work or service for the City. 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.

#### **SECTION 3. PRESIDENT OF COUNCIL.**

(a) Separate Office. The President of Council shall be elected by the voters. Candidates for such office shall file specifically for that office in accordance with Article IX of this Charter.

(b) Duties. The President of Council shall preside at all regular and special meetings of Council. He shall perform such duties as presiding officer as may be imposed upon him by the Council.

(c) Acting Mayor. In the absence of the Mayor, the President of Council shall act as Mayor as provided in Article III of this Charter.

(d) Vacancy in Office. In case of a vacancy, the President of Council shall be elected by Council from among its members and the one so elected shall vacate his office as Councilman and shall serve for the unexpired term of such President. (Amended 11-3-09)

#### **SECTION 4. REMOVAL.**

The Council shall be the judge of the election and qualifications of its own members, including the President of Council. Council may by at least a majority plus one vote of all the members elected to Council expel or remove any member including the President of Council for gross misconduct, malfeasance, nonfeasance, misfeasance in or disqualification for office; for violation of his oath of office; for the conviction while in office of a crime involving moral turpitude; for persistent failure to abide by the rules of Council; or for absence without justifiable excuse from three consecutive regular meetings. Prior to any such action by Council, the accused member shall be notified in writing of the charge against him at least ten (10) days in advance of any hearing upon such charge, and he and his counsel shall be given an opportunity to be heard, present evidence or examine under oath any witness appearing in support of such charge. (Amended 11-3-09)

#### **SECTION 5. VACANCIES.**

Whenever any office of Councilman becomes vacant, the vacancy shall be filled for the unexpired term by majority vote of the remaining members of the Council eligible to vote. If the vacancy be not filled within thirty days, the Mayor shall fill it by appointment.

#### **SECTION 6. SALARIES AND BONDS.**

The Council shall have the power to fix its own compensation and that of each employee of the City, including officers and members of any board or commission of the City, whether elected, appointed or chosen, and to establish bond for the faithful discharge of the duties of the office. The premium of any bond required by the Council shall be paid by the City. The compensation of all elected officials shall be fixed at least thirty (30) days prior to the filing date of nominating petitions for the terms beginning on the next succeeding first day of January, and shall not thereafter be changed in any respect during any such term or any part thereof. The Council may authorize any officer of the City to make such travel as the Council deems to be in the public interest, and may provide that the expense of such travel be paid by the City.

#### **SECTION 7. MEETINGS.**

(a) Regular Meetings. The Council shall meet in the Council Chambers at such times as may be prescribed by its rules, regulations, ordinances or by-laws, except that it shall hold regular meetings at least twice each calendar month, provided, however, that it may recess during the months of July and August, subject to call of the Mayor. All meetings of the Council, whether regular or special, shall be open to the public.

(b) Special Meetings. Special meetings of the Council may be called in accordance with and as provided for by the rules, regulations or by-laws adopted by the Council. In absence of such provisions, special meetings may be called by a vote of the Council taken at any regular or special meetings thereof, or shall be called by the Clerk of Council upon the written request of the Mayor or President of Council, or three (3) members of Council. Any such request shall state the time, place and date thereof, and the subject or subjects to be considered at the meeting, and no other subject or subjects shall be considered. Notice in writing of each such special meeting called at the request of the Mayor, President of Council, or three (3) members of Council, shall be given to each member of Council and the Mayor, by serving on each of them personally or by leaving a copy thereof at his usual place of residences, not less than twenty-four (24) hours preceding the date and hour of such meeting. Service of such notice may be waived in writing.

#### **SECTION 8. QUORUM.**

A majority of the members elected to Council shall constitute a quorum for the transaction of business at any meeting of the Council, but a lesser number may adjourn the meeting from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance or resolution.

#### **SECTION 9. RULES AND JOURNAL OF COUNCIL.**

Council shall adopt its own rules, regulations or by-laws and shall keep a journal of all of its proceedings. The journal shall be open for public inspection at all reasonable times. The voting upon any ordinance, resolution, or motion shall be by roll call, and the vote of each Councilman shall be entered upon the journal.

#### **SECTION 10. CLERK OF COUNCIL AND EMPLOYEES OF COUNCIL.**

A Clerk of Council shall be appointed and may be removed by Council. Council may employ such other employees as it deems necessary for the proper discharge of the duties of Council.

The Clerk of Council shall keep an accurate and complete journal of the proceedings of Council, authenticate by his signature and have custody of and properly file and index all laws, ordinances and resolutions of Council, and shall have custody of other official documents, reports, papers and communications received by the Council, and have custody and control of all files of Council, and perform such other duties as Council shall require.

#### **SECTION 11. FORM OF LEGISLATIVE ACTION.**

All legislative action by Council shall be by ordinance or resolution introduced in written or printed form. An affirmative vote of at least a majority of the members elected to Council shall be required for the passage or enactment of every ordinance or resolution. Unless otherwise provided herein, every ordinance or resolution shall be read at three (3) different Council meetings unless a majority plus one of the members elected to Council dispense with this requirement. If a written or printed copy of the ordinance or resolution shall have been furnished to each member of Council prior to its introduction, the ordinance or resolution shall be deemed to have been read if the title is fully read, provided however, at the request of two or more members of Council the full text of the ordinance or resolution shall be read.

All ordinances, resolutions, statements, orders, proclamations and reports required by law or by this Charter or by ordinance to be published or posted, shall be posted at one place, the City Hall, for a period of not less than fifteen (15) days prior to the taking effect thereof. Any emergency ordinance or resolution shall also be published or posted as aforesaid, but said requirements shall not postpone the immediate taking effect thereof as provided in Section 12 of this Article. (Amended 11-6-90; 11-3-09.)

#### **SECTION 12. EFFECTIVE DATE OF ORDINANCES AND RESOLUTIONS.**

(a) Each ordinance or resolution providing for the appropriation of money, for an annual tax levy, or for improvements petitioned for by the owners of a majority of the front footage of property to be benefited and specially assessed therefor, and any emergency ordinance, resolution or other action necessary for the immediate preservation of public peace, health or safety, shall take effect, unless a later date be specified therein, upon its approval by the Mayor, or upon the expiration of the time within which it may be vetoed by the Mayor, or upon its passage after veto by the Mayor, as the case may be.

No other ordinance, resolution or action of Council shall become effective until forty (40) days after its approval by the Mayor or upon the expiration of the time within which it may be vetoed by the Mayor or upon its passage after veto by the Mayor, as the case may be.

Each emergency ordinance, resolution or other action shall contain a statement of and reasons for the necessity for such emergency action, and shall require the affirmative vote of a majority plus one of the members elected to Council for its enactment.

No action of Council, whether legislative or administrative in nature, (1) authorizing the surrender or joint exercise of any municipal power; (2) granting any franchise; (3) entering into a contract, consent agreement or compact with any other governmental unit, agency or association of any kind, including regional government or agency; (4) rezoning any property; (5) changing the uses permitted in any zoning district or classification; (6) amending or repealing any zoning ordinance; or (7) providing, permitting, authorizing, enlarging or approving any (a) public, low-cost, subsidized and/or scatter-site housing or housing project; (b) government rent or mortgage supplement scheme or plan of any type whatsoever, whether publicly or privately owned or leased; (c) group housing unit having more than three unrelated persons; (d) converting any multi-family dwelling (apartment house) into condominiums; (e) the erection of any dwelling or dwelling unit which does not conform to the then existing zoning or building codes, as the same are applied to all other single or multi-unit dwellings, as the case may be; or (f) establishing or providing for any urban renewal district or project; shall be designated an emergency measure nor enacted under a suspension of the rules.

The reasons for, necessity for, facts supporting the reasons for and/or necessity for and/or the bonafides of any emergency ordinance, resolution or other action of Council shall be subject to Judicial review.

(b) All ordinances, resolutions, proclamations, motions, and Charter provisions, existing prior to the date of adoption hereof inconsistent with this section are hereby repealed and declared null and void.

(c) This section shall be severable and if any subsection, part, word or application thereof is held invalid for any reason, such holding shall not invalidate or affect the force and effect of any other section, subsection, part, word or application thereof.  
(Amended 11-4-75.)

**SECTION 13. ASSESSMENTS, ADVERTISING OF CONTRACTS AND SALE OF MUNICIPAL PROPERTY.**

The Council may make provision by ordinance for:

- (a) The procedure for making public improvements and levying assessments, including the procedure for combining two or more public improvements, and the levying of assessments therefor in one proceeding if the Council finds that it will be economical and practical to undertake such improvements jointly;
- (b) The advertising and awarding of contracts and alterations or modifications of contracts;
- (c) The sale or disposal of municipal property;
- (d) Such other general regulations as the Council may deem necessary.

**SECTION 14. ENACTMENT OF ZONING ORDINANCES AND REGULATIONS, NOTICE.**

(a) Any comprehensive or master plan designed to guide or regulate or control the development of the entire City through zoning ordinances in effect or to be enacted shall be submitted to the electors of the City. A majority of those voting at any regular or special election wherein such comprehensive or master plan shall have been submitted to the electorate, must approve the same, otherwise such proposed plan shall have no force or effect. Amendments to or repeal of any comprehensive or master plan, or any part thereof, shall likewise be submitted to the electorate, and a majority of those voting upon such amendment or repeal shall approve the same prior to any amendment or repeal having any force or effect.

(b) The Council may provide by ordinance for the procedure for the passage and amendments to any zoning ordinance, the maps and regulations thereof, and the publication of notice and public hearings thereof, provided that the minimum notice of the time and place of such public hearing shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the city, with the first such notice being published not less than thirty days (30) prior to the first public hearing at which Council considers such ordinance. In the event it is proposed to amend, enlarge, or change any area, zone or district classification, defined in an enacted ordinance, then, in addition to the newspaper notice hereinbefore provided, notice of the time and place of such public hearing shall be given by first class mail, postage pre-paid, ten (10) days before such hearing, to the record title holders of the property immediately adjacent, adjoining and abutting on such area, zone, or district proposed to be changed. Record title holder shall mean the title holder of such property as disclosed by the Records of the Auditor of Cuyahoga County, thirty (30) days immediately prior to the date of such public hearing. If the mailing address of such record title holder cannot be reasonably ascertained, then the aforesaid newspaper notice of such hearing shall be deemed adequate notice. Nothing herein provided shall be construed as limiting the power of the Council from enlarging on such notice.  
(Amended 11-6-73; 11-2-99)

**SECTION 15. DEDICATION OF PARKS, VACATION; USE, DISPOSITION OR RENTAL THEREOF.**

(a) Park Dedication, Mandatory Referral to Electorate, Etc. Council may, from time to time, dedicate lands owned by the City to be used as parks, parkways, playgrounds, or otherwise as public recreational areas. In this Charter all such lands already so dedicated and all those which may in the future be dedicated to such purposes, are referred to as "dedicated parks". The dedication of all or any one of the "dedicated parks" shall not be vacated, nor shall any "dedicated park" or any part thereof, be sold, conveyed, nor shall the exclusive use thereof be granted, by the Council, nor shall any "dedicated park" or any portion thereof be leased or rented for a term in excess of one year, nor shall any portion thereof be used or permitted to be used by any person, corporation, governmental body or other entity for other than park and recreational uses, unless and until such has, first, been submitted to the Parks and Recreation Commission, as required in Article VII, Section 3 (c) for report and recommendation.

Any matter so referred to the Parks and Recreation Commission shall be acted upon by it within sixty (60) days from the date of referral unless a longer time be allowed by Council. If the Parks and Recreation Commission shall fail to act within the time allotted, it shall be deemed to have approved such matter. If any provision of such ordinance or resolution is disapproved by formal action of the Parks and Recreation Commission, the adoption of such ordinance or resolution shall require a majority plus one affirmative vote of all members elected to Council for adoption or authorization.

After any proposal to vacate any part or all of any "dedicated park" or any proposal to sell, convey, lease or rent for a period in excess of one (1) year, or in any manner alienate, or grant the exclusive use of, any "dedicated park" or any portion thereof, shall have been processed through the Parks and Recreation Commission and approval of said proposal has been duly obtained by the Council from the Commission, or, following its disapproval by said Commission, said proposal has been affirmatively adopted by Council pursuant to a majority plus one vote by all members elected to Council for adoption or authorization, each such proposal shall be suspended and without legal effect until said proposal shall have been submitted to the electorate at a general or special election in the manner and subject to the procedures which shall be established by ordinance, and approved by the majority of the electors voting thereon.

(b) Matters Not Requiring Vote of Electorate. Following approval by the Parks and Recreation Commission, or subsequent to disapproval by the Commission followed by an affirmative adoption or authorization by vote of a majority plus one of the members elected to Council on said proposal, Council may without approval of the electorate lease or rent or permit the use of any part of any "dedicated park" for a period not in excess of one year, to or by any person, corporation, governmental body or their entity for the operation of any facility, or the performance of any service or function, incidental to or congruous with park and recreational usages; or, following such processing through the Commission, Council may grant and/or convey easements or similar interests over, under and across "dedicated parks" or any portion thereof, for the construction, installation and maintenance of sewers and utility lines.

(c) Emergency Legislation Prohibited; Exceptions. The passage of an emergency measure of any ordinance or resolution pertaining to any of the matters requiring referral to the electorate, as set forth in subsection (a) of this Section 15 of this Article IV, is prohibited. Matters set forth above in "(b) Matters Not Requiring Vote of Electorate", shall be subject to passage of emergency measures, but not until any such matter shall have first been referred to the Parks and Recreation Commission.

Whenever Council finds that an emergency is of such nature as to require approval or disapproval by the Commission within less than sixty (60) days of any proposed emergency measure relating to matters not subject to mandatory referral to the electorate, Council shall have the power to call for a meeting of said Commission within any period of time reasonable under the circumstances; and the Commission shall then promptly approve or disapprove of said proposed emergency measure. In the event of disapproval by the Commission, said proposed emergency measure may nonetheless be affirmatively adopted or authorized by a majority plus one vote of all members elected to Council.

(Added 5-5-70; 11-3-09)

#### **SECTION 16. VOTER APPROVAL OF ZONING CHANGES.**

(a) An ordinance, resolution, or other action, whether legislative or administrative in nature, effecting a change in the zoning classification or district of any property within the City of Fairview Park, Ohio, shall not become effective after the passage thereof, until Council submits such ordinance, resolution or other action to the electorate at a regularly scheduled election in November or a primary election in May occurring more than sixty (60) days after the passage of the ordinance, resolution, or other action and such ordinance, resolution or other action is approved by a majority of the electors voting thereon, in this Municipality and in each ward in which the change is applicable to property in the ward.

(b) An ordinance, resolution, or other action, whether legislative or administrative in nature, effecting change in the uses permitted in any zoning use classification or district of the City of Fairview Park, Ohio, shall not become effective after the passage thereof, until Council submits such ordinance, resolution or other action to the electorate at a regularly scheduled election in November or a primary election in May occurring more than sixty (60) days after the passage of the ordinance, resolution or other action and such ordinance, resolution or other action is approved by a majority of the electors voting thereon, in this Municipality and in each ward in which the change is applicable to property in the ward.

(Amended 11-7-95.)

(c) The requirement of approval by a majority of voters voting thereon in this Municipality and in each ward in which the change is applicable shall also apply to changes in zoning classification, district or use sought to be effected by initiative petition.

(d) All ordinances, resolutions, proclamations, motions and Charter provisions inconsistent with this section are hereby repealed and declared null and void.

(e) This section shall be severable and if any subsection, part, word or application thereof is held invalid for any reason, such holding shall not invalidate or affect the force and effect of any other subsection, part, word or application thereof.

(Added 11-4-75.)

**ARTICLE V  
ADMINISTRATIVE OFFICERS AND DEPARTMENTS**

**SECTION 1. GENERAL PROVISIONS.**

A Department of Law, Department of Finance, Department of Public Service and Development, Department of Recreation, Department of Police, and Department of Fire are hereby established by this Charter and Council shall provide for the organization thereof. Each department or office shall be headed by a Director, except Police and Fire which shall be headed by Chiefs. The Council may by ordinance provide for the establishment and organization of other departments or divisions thereof. All appointments and removals in the several departments shall be made by the respective directors and chiefs. The appointment or dismissal of the Police or Fire Chief shall not be subject to confirmation by Council but shall be governed by applicable civil service law, rules and regulations.

Whenever a vacancy occurs in the position of department director or chief officer of any City department, the Mayor shall appoint an interim director to that position within thirty (30) days, and for a period not to exceed ninety (90) days, until a permanent director is nominated by the Mayor and approved by Council. An interim appointment shall not be a bar to a permanent appointment subject to the same advice and consent of council for all department directors, or other chief officers of any City departments. (Amended 11-2-93; 11-2-99)

**SECTION 2. DIRECTOR OF LAW.**

The Director of Law shall be the head of the Law Department and shall be appointed by the Mayor, with the advise and consent of the majority of Council. He may be removed from office by the Mayor. The Director of Law shall serve the Mayor, the Council, the administrative officers and departments, and the commissions and boards of the City as legal counsel, and shall represent the City in all proceedings in court or before any administrative body. He shall act as the prosecuting attorney for the City. No person shall act as Director of Law unless duly admitted to practice law in the State of Ohio. He shall perform all other duties now or hereafter imposed upon City Solicitors by the laws of the State of Ohio unless otherwise provided by ordinance of the Council, and he shall perform such other duties as the Council or the Mayor may impose upon him consistent with his office. (Amended 11-4-75; 11-2-99)

**SECTION 3. DIRECTOR OF FINANCE.**

The Director of Finance shall be the head of the Finance Department and the fiscal officer of the City. He shall be appointed by the Mayor, with the advise and consent of the majority of Council. He may be removed from office by the Mayor. He shall serve the Mayor and the Council as financial advisor in connection with municipal affairs, and he may serve as Clerk of Council. In such capacity or capacities, he shall keep the records of said bodies, and shall authenticate all records, documents and instruments of the City on which authentication is proper. The Director of Finance shall examine all payrolls, bills and other claims against the City and shall issue no warrant unless he shall find that the claim is in proper form, correctly computed and duly approved, and that it is due and payable, and that an appropriation has been made therefor; and he shall perform all other duties now or hereafter imposed upon City Auditors or Treasurers by the laws of the State of Ohio unless otherwise provided by this Charter, or by ordinance of the Council, and he shall perform such other duties as the Mayor may impose upon him consistent with his office.  
(Amended 11-4-75; 11-2-99)

**SECTION 4. DIRECTOR OF PUBLIC SERVICE AND DEVELOPMENT.**

The Director of Public Service and Development shall be appointed by the Mayor, with the advise and consent of the majority of Council. He may be removed from office by the Mayor. The Director of Public Service and Development shall be the head of the Division of Building and, if established by Council, the Division of Health. The Director of Public Service and Development shall have charge of all public works and improvements and the construction thereof, and all engineering and inspection in connection therewith, except those having reference to the Departments of Police, Fire and Recreation. He shall be charged with the construction, improvement, repair and maintenance of streets, avenues, alleys, lanes, sidewalks, bridges, wharves, docks, and breakwalls; of water mains, pumps, systems, pipes, purification and filtration plants and the water distribution system; of sewers, sewage systems, drains, ditches, culverts, streams, viaducts, watercourses and harbors, and of all public buildings, dedicated parks, parks, cemeteries, and other public places belonging to the City or dedicated to public use except as otherwise provided in the Charter. He shall manage and control cemeteries, market houses, sewage treatment plants, waterworks and all public utilities of the City supported in whole or in part by taxation, and shall enforce all the obligations of privately owned or operated public utilities enforceable by the City.

He shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for public work except as otherwise provided in the Charter; the cleaning, resurfacing, repairing, sprinkling and lighting of streets and public places; the collection and disposal of waste; and the preservation of all property belonging to the City and pertaining to the functions thereof.

The Director of Public Service and Development shall develop, coordinate, activate, implement, encourage, foster, and promote plans and programs for economic and community development, redevelopment and improvement for and within the City. The Director of Public Service and Development shall make all necessary rules and regulations for the Department of Public Service and Development. He shall perform such other duties consistent with his office, as may be required by this Charter, by ordinance of the Council, or as directed by the Mayor. (Amended 11-2-93; 11-2-99)

**SECTION 5. DIRECTOR OF RECREATION.**

The Director of Recreation shall be appointed by the Mayor, with the advice of the Parks and Recreation Commission and the advise and consent of the majority of Council. The Director of Recreation may be removed from office by the Mayor. The Director of Recreation shall have charge of all municipally owned or operated recreational premises, recreational areas, playgrounds and recreational facilities and improvements and the construction thereof, and all engineering and inspection in connection therewith. He shall be charged with the construction, improvement, repair and maintenance of recreational premises, recreational areas, recreational facilities and playgrounds belonging to or operated by the City or dedicated to public use.

He shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for public work relating to recreational premises, recreational areas, recreational facilities and playgrounds belonging to or operated by the City. The Director of Recreation shall make all necessary rules and regulations for the Department of Recreation. He shall perform such other duties consistent with his office, as may be required by this Charter, by ordinance of the Council, or as directed by the Mayor. (Amended 11-2-93; 11-2-99)

#### **SECTION 5A. DIRECTOR OF SENIOR LIFE.**

The Director of Senior Life shall be appointed by the Mayor, with the advice and consent of the majority of Council. The Director of Senior Life may be removed from office by the Mayor. The Director of Senior Life shall have charge of the City of Fairview Park Senior Center and all programs operated therein. The Director of Senior Life shall make all necessary rules and regulations for the Department of Senior Life and shall perform such other duties consistent with the office, as may be required by this Charter, by ordinance of the Council, or as directed by the Mayor. (Added 11-3-09)

#### **SECTION 6. TERMINATION OF OFFICE OF DIRECTORS.**

On the first day of January next following the election of the Mayor, the term of office of every Director, other than the Chiefs of the Departments of Police and Fire, shall expire. (Amended 11-2-93.)

### **ARTICLE VI THE CIVIL SERVICE COMMISSION**

#### **SECTION 1. MEMBERSHIP.**

The Civil Service Commission shall consist of three (3) electors of the City, not holding other municipal office or appointment, to be appointed by the Mayor, for terms of six (6) years each, except that of the three appointed for the term beginning January 1, 1959, one shall be appointed for a term of two (2) years, one for a term of four (4) years, and one for a term of six (6) years. A vacancy occurring during the term of any member of the Civil Service Commission shall be filled for the unexpired term in the manner authorized for an original appointment.

#### **SECTION 2. OFFICERS.**

The Commission shall designate one of its members as Chairman and may appoint a Secretary who need not be a member of the Commission and may hold other municipal office or appointment.

#### **SECTION 3. DUTIES.**

The Civil Service Commission shall provide by rule for the ascertainment of merit and fitness as the basis for appointment and promotion in the service of the City, as required by the Constitution and/or laws of the State of Ohio, and for appeals from the action of the Mayor or any director in any case of transfer, reduction or removal. The action of the Commission on any such appeal shall be final except as otherwise provided by the laws of Ohio. Except as herein provided, the Civil Service Commission shall determine the practicability of competitive examinations for any non-elective officer or job classification in the service of the City.

#### **SECTION 4. REMOVAL.**

The Mayor may at any time suspend any Commissioner for inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office, incapacity or incompetency; provided, however, that such suspension shall not become final without the concurrence of a majority plus one of the members elected to Council. (Amended 11-3-09)

**SECTION 5. FUNDS.**

A sufficient sum shall be appropriated by the Council each year to carry out the civil service provisions of this Charter.

**ARTICLE VII  
BOARDS AND COMMISSIONS****SECTION 1. BOARD OF ZONING AND BUILDING APPEALS.**

(a) Organization. There shall be appointed, commencing January 1, 1959, in place of the Board of Zoning Appeals created by the existing ordinance of the City, a Board of Zoning and Building Appeals composed of five (5) qualified members appointed by the Mayor, who shall be appointed for a term of five (5) years except that members first appointed shall be appointed one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. Any vacancy shall be filled in the same manner for the unexpired term. All board members shall serve without compensation and the Mayor shall have the right to remove any member for cause. The Building Inspector and the City Engineer shall furnish the necessary technical advice and services required by the Board.

(b) Powers and Duties. The Board of Zoning and Building Appeals shall have the following duties and powers:

- (1) To hear and decide appeals made for exceptions to and variations in the application of ordinances governing zoning in the City of Fairview Park in conformity with the purpose and intent thereof and to hear and decide all appeals made for exceptions to and variations in the application of ordinances, or orders or regulations of administrative officials or agencies.
- (2) To approve or disapprove materials, types of construction, appliances, devices or appurtenances proposed for use pursuant to the Building Code of the City.
- (3) To hear and decide appeals from, and to review upon motion of any member of the Board, any order, requirement, decision or determination of the Building Inspector or of any other administrative official or agency of the City, relating to the location, design, materials, construction, alteration, repair, equipment, use or occupancy, maintenance, removal or demolition of any building or other structure or any appurtenance connected or attached to such buildings or structures, regulated by the Building Code of the City and any rule or regulation or amendment or repeals thereof made by said officials or agencies under the authority conferred upon them by the Building Code of the City, by reversing or affirming in whole or in part, or modifying such order, requirement, decision or determination, or rule, regulation, amendment or repeals thereof as in its opinion ought to be made in the premises.

- (4) To exercise with respect to buildings situated in the City the same powers as are exercised by the Board of Building Standards under the laws of the State of Ohio to the extent that it is competent for this Charter so to authorize the Board.
- (5) To formulate and submit to the City Council, changes in and amendments to the Building Code which the Board determines as desirable for the proper regulation of buildings and structures and the equipment thereof and appurtenances thereto in the City of Fairview Park.
- (6) To establish rules and regulations for its own procedure not inconsistent with this section.
- (7) To do and perform such other duties and functions as may be imposed upon it by this Charter or ordinances and resolutions of the Council.  
(Adopted 11-4-58.)

(c) EDITOR'S NOTE: Former subsection (c) was repealed by the voters on November 3, 2009.

## **SECTION 2. PLANNING AND DESIGN COMMISSION.**

(a) Membership. The Planning and Design Commission shall consist of seven (7) voting members. One (1) voting member shall be the Mayor; one (1) voting member shall be a member of Council to be appointed by the President of Council for such term as the President of Council shall determine; one (1) voting member shall be a registered architect who shall be appointed by the Mayor; one (1) voting member shall be a person who is skilled in or engaged in the business of landscape architecture who shall be appointed by the Mayor; and three (3) voting members shall be electors of the City who shall be appointed by the Mayor. None of the three (3) elector members shall be employed by the City nor shall such elector members hold any other municipal office or appointment. Subject to the provisions of Article IV, Section 6 of this Charter, compensation may be paid to the registered architect and to the person who is skilled in or engaged in the business of landscape architecture or to the alternates therefore as may be fixed by Council. The three (3) elector members of the Planning and Design Commission shall serve without compensation. The terms of the three (3) elector-members shall be for four years each, and the separate terms of the present elector-members shall terminate respectively at the conclusion of the 31st day of December of the years 1994, 1995 and 1996. The term of the registered architect shall be for a term of four years, provided that the term of the registered architect first appointed subsequent to the effective date of this section shall terminate at the conclusion of the 31st day of December, 1995. The term of the person who is skilled in or engaged in the business of landscape architecture shall be for a term of four years, provided that the term of the person skilled in landscape architecture first appointed subsequent to the effective date of the section shall terminate at the conclusion of the 31st day of December, 1995. The Mayor shall appoint an alternate registered architect and an alternate person who is skilled in or engaged in the business of

landscape architecture to serve during the temporary absence or disqualification of the registered architect or person who is skilled in or engaged in the business of landscape architecture. The term of the alternate registered architect and of the person skilled in or engaged in the business of landscape architecture shall coincide with that of the regular members.

A vacancy occurring during the term of any member of the Planning and Design Commission shall be filled for the unexpired term in the manner authorized for the original appointment. The appointing authority of a member of the Planning and Design Commission as herein provided shall have the right to remove such appointed member or alternate appointed member for cause.

No member of the Planning and Design Commission shall, while acting as a member thereof, participate in the review of, or give advice upon, any development proposal or building plans or drawings prepared for or on behalf of any person other than for or on behalf of the City, of which said member or any partner or professional associate is the author, or in which said member or any partner or professional associate has any direct or indirect financial interest.

(b) Duties and Powers. The Planning and Design Commission shall be responsible for the long-range planning of the City to insure its orderly and harmonious development. It shall be the function and duty of the Planning and Design Commission to act as the platting commissioners of the City, and as such it shall have control of planning and shall provide regulations with respect to the platting of all lands within the City so as to secure their harmonious development; to provide for the coordination of streets with other streets and with the official municipal plan; to provide for open spaces for traffic, utilities, access of fire fighting apparatus, recreation, light and air, and for the avoidance of congestion of population.

It shall make such regulations as it deems necessary as to the manner in which streets and other public ways shall be graded and improved; the manner in which and the extent to which water, sewer and other utility mains, piping or other facilities shall be installed, or establish any other conditions precedent to the approval of a proposed plat.

The Planning and Design Commission shall make plans and maps of the whole or any portion of the City and make changes in, additions to, and estimates of such plans or maps when it deems the same advisable. It shall have such powers as may be conferred upon it by ordinance of the Council concerning the plan, design, location, removal, relocation and alteration of any public building or structure or those located on public streets or property, the location, relocation, widening, extension and vacation of streets and other public places, the zoning and re-zoning of the City for any lawful purpose, and such other powers as may now or hereafter be conferred upon it by ordinance of the Council or the general laws of the State of Ohio not inconsistent with this Charter or such ordinances.

All plans, recommendations and regulations made by the Planning and Design Commission as hereinbefore described shall be submitted to Council for approval before the same shall be considered as official.

The Planning and Design Commission shall, at least every five years, review the subdivision regulations and zoning ordinances, texts, maps and recommend to the Mayor and Council such revisions and amendments as in its judgment are desirable.

The Planning and Design Commission shall have such duties and powers as Council shall provide by ordinance concerning the review and regulation of the design, construction, alteration, moving or razing of buildings in the City for the purpose of maintaining the high character of community development and protecting the real estate within the City from the impairment or destruction of value.

The Planning and Design Commission shall, in addition to such standards and criteria as may be provided by ordinance, consider and apply the following standards and criteria in its review of development proposals in the City for the purpose of maintaining the high character of community development and protecting real estate within the City from impairment or destruction of value:

- (1) Materials - shall be appropriate for the use of building, for weathering, and for relationship to other materials including those used on adjacent buildings.
- (2) Colors and Textures - shall be appropriate for the size and scale of the building, for weathering, and for relationship to the site and adjacent buildings.
- (3) Architectural Details and Ornaments - shall be meaningful to the overall once design, and appropriate for the size and scale of the building, and for weathering.
- (4) Mechanical Equipment - shall be considered as it affects rooftop appearance, sidewall openings, sound levels, smoke and other nuisance aspects. Also mechanical equipment shall be considered as it relates to overhead wires, gas and electric meter stations and any other visible appurtenances.
- (5) Approaches, Drives and Parking Areas - shall be considered as they affect the appearance from the street and from the site as well. The relationship of paving to the building shall be appropriate considering factors such as safety, drainage and landscaping.
- (6) Landscaping - shall be appropriate for the size and use of the area, and for its relationship to building, street, parking area, walks and adjacent buildings.
- (7) Lighting - shall be considered for the appropriateness of nighttime illumination of the grounds, drives, walks, parking area, the building, and its effect upon surrounding areas.
- (8) Signs - shall be considered for appropriateness of size, scale, shape, color and illumination in relation to building and site.

The Planning and Design Commission shall also have power to recommend to the Parks and Recreation Commission proposals for the use, utilization and beautification of the dedicated parks, other parks, parkways, playgrounds and any and all recreational areas owned or controlled by the City, provided only that said recommendation shall not be inconsistent with other provisions of this Charter.

The Planning and Design Commission shall have such other duties and powers as may be provided by ordinance of Council.

(c) Funds: A sufficient sum shall be appropriated by the Council each year to carry out the planning provisions of this Charter.

(d) Mandatory Referral. No public building, street, boulevard, dedicated park, other park, parkway, playground, harbor, dock, wharf, bridge, tunnel, or publicly or privately owned utility or part thereof shall be constructed or authorized to be constructed in the City nor shall any street, avenue, dedicated park, other park, parkway, playground or public recreational area, boulevard or alley be widened, narrowed, relocated, vacated, or its use changed, or any ordinances referring to zoning or other regulations controlling the use or development of land be passed, unless and until it shall have been submitted to the Planning and Design Commission for report and recommendation. Any matter so referred to the Planning and Design Commission shall be acted upon by it within sixty (60) days from the date of reference unless a longer time be allowed by Council. If the Planning and Design Commission shall fail to act within the time allotted, it shall be deemed to have approved such matter. Any provision of any ordinance, resolution, or order disapproved by formal action of the Planning and Design Commission shall require a majority plus one vote of all members elected to Council for adoption or authorization. No ordinance referring to zoning or other regulations controlling the use or development of land as provided herein shall be passed unless a minimum public notice of thirty days has been provided in a newspaper of general circulation in the city.

(Amended 11-2-93; 11-2-99; 11-3-09)

### **SECTION 3. PARKS AND RECREATION COMMISSION.**

(a) Membership. The Parks and Recreation Commission shall consist of five (5) members, to be appointed as herein provided:

- (1) One (1) member shall be a member of the Board of Education of the Fairview Park City School District and shall be appointed by such Board of Education for a term of two (2) years.
- (2) One (1) member shall be a member of the City Council and shall be appointed by such Council for a term of two (2) years.
- (3) Three (3) members shall be qualified electors of the City not holding other office, appointment or employment in the government of the City or of the School District to be appointed by the Mayor for a term of five years. The term for the present members of the Commission shall expire on the 31st day of December of the years 1991, 1992 and 1993.
- (4) A vacancy occurring during the term of any member shall be filled for the unexpired term in the same manner as that member's original appointment.
- (5) All members of the Parks and Recreation Commission shall serve without compensation. (Amended 11-6-90.)

(b) Duties and Powers. In addition to any powers which may be provided by ordinance of Council, and exclusive thereof, the Parks and Recreation Commission shall have these independent powers and duties: It shall be the function and duty of the Parks and Recreation Commission as to all dedicated parks, other parks, parkways, playgrounds and public recreation areas, improved or unimproved, whether owned or under the control of the City, to initiate and make periodic recommendations to the Administration as to each and all of such public places, concerning their nature, function, use, utilization, maintenance, beautification, control, regulation, acquisition, sale or other alienation, or their rental or lease.

(c) Mandatory Referral. No ordinance or resolution concerning the nature, function, use, utilization, maintenance, beautification, control, sale or other alienation, or the rental or lease in excess of one (1) year, of dedicated parks, other parks, parkways, playgrounds, or public recreation areas, or any part of any such dedicated park or other public place, whether improved or unimproved, and whether owned by the City or controlled by the City, as provided for in Section 15 of Article IV hereof, shall be passed, unless and until the matter shall have been submitted to the Parks and Recreation Commission for report and recommendation. Any matter so referred to the Parks and Recreation Commission shall be acted upon by it within sixty (60) days from the date of referral unless a longer time be allowed by Council; however, in certain matters not requiring referral to the electorate, where the Council has found an emergency measure is required, Council may, under the provisions of Article IV, Section 15(c) call for a meeting of said Commission within any period of time reasonable under the circumstances of the emergency and obtain prompt approval or disapproval of the proposed emergency measure. If the Parks and Recreation Commission shall fail to act within the time allotted, it shall be deemed to have approved such matter. If any provision of such ordinance or resolution is approved by formal action of the Parks and Recreation Commission, the adoption of such ordinance or resolution shall require a majority plus one affirmative vote of all members elected to Council for adoption or authorization. (Amended 5-5-70; 11-3-09.)

#### **SECTION 4. THE BOARD OF CONTROL.**

The Mayor, a member of Council eligible to vote selected by the Council, and the directors of the several departments, established either by this Charter or by ordinance, shall constitute a Board of Control. The Mayor shall be ex-officio president and shall appoint a secretary. The Board shall keep a journal of its proceedings. The voting shall be taken by yeas and nays and entered in the journal, and the vote of a majority of all of the members of the Board shall be necessary to adopt any question, motion, or order. All meetings of the Board shall be open to the public. The maximum amount of any contract which shall be entered into without the prior approval of the Board of Control shall not exceed the limitations set by State law. The Board shall have such further powers and perform such further duties as shall be prescribed by ordinance. (Amended 11-4-69.)

**SECTION 6. ARCHITECTURAL BOARD OF REVIEW.**

(EDITOR'S NOTE: This section was repealed by the electors on November 2, 1993.)

**ARTICLE VIII  
FINANCES****SECTION 1. ANNUAL ESTIMATE.**

The fiscal year of this City shall, unless Council by proper action adopts a different date, be the same as that established from time to time for cities by the general law of Ohio. Within forty-five (45) days after the beginning of each fiscal year, the Mayor, with the assistance of the Director of Finance, shall prepare and submit to the Council an estimate of the revenues and expenditures of the City for the current fiscal year. Such estimate shall be compiled from information which shall be furnished by the head of each department, division, board or commission in such form and detail as the Mayor may require.

**SECTION 2. APPROPRIATION ORDINANCE.**

The Mayor shall furnish to the Council, with the estimate hereinbefore mentioned, an ordinance making appropriations for the expenditures of the City during the year embraced by said estimate. The Council shall adopt such ordinance in its original form or with such revisions as it may deem proper within ninety (90) days after the receipt of a Certificate of Resources from the County Auditor or from the beginning of the fiscal year, whichever shall last occur. The Council may amend or supplement said appropriation ordinance after its passage. Council may make one or more preliminary appropriations for current expenses until the annual appropriation ordinance is in effect.

**SECTION 3. TRANSFERS AND BALANCES.**

The Council may transfer any part of an unencumbered balance of an appropriation of any fund allowed by law to any purpose or object for which the appropriation for the current year has proven insufficient, except that no transfer shall be of monies raised or appropriated for the payment of any bond or note of the City until all indebtedness, interest and other obligations which must lawfully be paid from such monies has been paid.

**SECTION 4. PAYMENT OF CLAIMS.**

No money shall be drawn from the treasury nor shall an obligation for expenditure be incurred except in accordance with appropriations made by Council. Claims shall be approved in writing by the head or acting head of the department for which the obligation was incurred. The Council may by ordinance provide for additional regulations or controls with respect to the payment of claims.

**SECTION 5. CUSTODY AND DEPOSIT OF FUNDS.**

The Council shall by Ordinance provide for the custody of all funds of the City and for the deposit of funds in a bank or banks. All funds received on behalf of the City by any officer, employee or agent thereof shall be promptly paid over to the Director of Finance and by him promptly placed in a depository bank, but the Council may authorize such sums as it deems proper to be kept in cash for the daily operation of any department or office. The Director of Finance shall invest monies of the City in bonds or notes of this City, or any other investment permitted by law, in such manner as is now or hereafter authorized by general law for such investment by cities. (Amended 11-4-69.)

**SECTION 6. PUBLIC BIDDING.**

The Council may authorize expenditures of the funds of the City in amounts exceeding that amount in Ohio Revised Code Chapter 735 for public bidding without public biddings, for the acquisition of real estate, for the discharge of non-contractual claims against the City, for personal services, for the joint use of facilities or exercise of powers with other political subdivision, or for the product or services of public utilities (including those municipally operated), but no other expenditures of more than that amount in Ohio Revised Code Chapter 735 for public bidding shall be made except pursuant to contract made with the lowest and best bidder after public advertising and receipt of bids in the manner provided by ordinance.

No expenditure of more than fifteen thousand dollars (\$15,000.00) shall be made, whether by public bid or otherwise, unless approved by ordinance of Council.  
(Amended 11-7-95; 11-2-99; 11-3-09)

**SECTION 7. PUBLIC IMPROVEMENTS.**

Public improvements of all kinds may be made by the appropriate department either by the direct employment of the necessary labor and purchase of supplies and materials, with a separate account as to each improvement so made, or by contract let as provided in the preceding section either for a closed price or upon a unit basis.

**SECTION 8. TAXATION.**

(a) The aggregate amount of taxes that may be levied by the Council without a vote of the people on property in the City assessed and listed for taxation according to value shall not exceed in any one year the sum of (i) the amount of taxes which the Council is now or hereafter authorized to levy under the Constitution of laws of the State of Ohio, plus (ii) the amounts of taxes which may be levied by the Council pursuant to paragraphs (b) and (c) of this Section 8. All taxes levied pursuant to paragraphs (b) and (c) of this Section 8 shall be outside of all limitations now or hereafter provided by the Constitution of the State of Ohio.

(b) The Council may, by a majority plus one affirmative vote of the members elected to Council, without a vote of the people, levy annually taxes for the current operating expenses of the City, commencing with a levy on the 1959 tax duplicate for collection in 1960, at the rate of not over five (5) mills per dollar of valuation in said City as listed and assessed for taxation according to value.

(c) The Council may, by a majority plus one affirmative vote of the members elected to Council, levy annually, commencing with a levy on the 1994 tax list and duplicate for collection in calendar year 1995, a tax at a rate of not over nine-tenths (.9) of one mill per dollar of valuation on all property in the City as listed and assessed for (i) acquiring, constructing, reconstructing, rehabilitating, renovating, remodeling, adding to, enlarging, installing, equipping and improving municipal buildings and facilities and their sites; and (ii) costs of acquiring equipping, rehabilitating, renovating and otherwise improving fire apparatus and equipment for the City's Division of Fire; and (iii) costs of acquiring, equipping, rehabilitating, renovating and otherwise improving alarm and other communications for the City's Division of Fire and Division of Police; and (iv) costs of acquiring new motor vehicles for use in providing City services and performing City functions; and (v) debt charges on general obligation bonds and bond anticipation notes issued to pay costs of improvements identified in clauses (i) through (iv) of this paragraph. All such permanent improvements shall have an estimated life or period of usefulness of at least five years as certified by the Director of Finance. (Amended 5-3-94; 11-3-09.)

(d) Council may, by a majority plus one affirmative vote of the members elected to Council, levy annually, commencing with a levy on the 1996 tax list and duplicate for collection in calendar year 1997, a tax at a rate of not to exceed one (1) mill per dollar of valuation on all property in the City as listed and assessed for municipal recreational programs, including the purchase of equipment, the payment of salaries and benefits in the City Recreation Department, for the construction, acquisition, operation and maintenance of gymnasiums, indoor recreation centers and community centers to be owned and operated by the City, and the equipment therefore, for the extension, enlargement, improvement, operation and maintenance of existing land, facilities, buildings and structures belonging to or operated by the City and used for parks, playgrounds, play fields, gymnasiums, indoor recreation centers and community centers, and the equipment therefore, and for the debt charges on general obligation bonds and bond anticipation notes issued to pay the cost of the improvements specified herein. (Added November 5, 1996; 11-3-09.)

#### **SECTION 9. SUBMISSION OF EXTRA LEVY.**

The Council may at any time at least sixty (60) days prior to a November election, or the date of the special election designated in the resolution herein provided, declare by resolution, adopted by a vote of a majority plus one of the members elected to Council, that the amount of taxes which may be raised within the limitations of this Charter will be insufficient to provide an adequate amount for the necessary requirements of the City for current operating expenses, and other expenses payable from the general fund of the City, and such permanent improvements and equipment as shall have an estimated useful life of five (5) years or more, and that it is necessary to levy taxes in excess of such limitations, in addition to the levies authorized and limited by this Charter, for the municipal purpose or purposes specified in such resolution. Such resolution shall specify the additional sum which it is necessary to levy, the purpose or purposes thereof, the

additional rate estimated to be required therefor and the date of any proposed election thereon. Such resolution shall be effective upon its adoption and shall be certified within five (5) days thereafter to the election authorities, who shall place such question upon the ballot at the next succeeding November election or at such special election specified in the resolution. If a majority of those voting thereon vote for the approval of such additional levy, the Council shall immediately make such levy, or such part thereof as it finds necessary, pursuant to such approval and certify the same to the County Auditor, to be placed on the tax list and collected as other taxes.

The authority of the Council to submit additional levies to a vote of the people or to levy taxes upon such other subjects and for such other purposes as may be lawful under the Constitution or laws of this State shall not be deemed impaired or abridged by reason of any provision in this Charter contained.

#### **SECTION 10. DEBT LIMITATION.**

The net indebtedness of the City created or incurred without a vote of the electors shall never exceed the debt limitation as prescribed by State law which will be on the total value of all property in the City as listed and assessed for taxation. As used in this section, the term net indebtedness shall have the same meaning and shall be calculated in the manner provided by the laws of the State of Ohio, as the same may be amended from time to time, for the issuance of notice and bonds of municipal corporations.

(Amended 11-4-69.)

### **ARTICLE IX NOMINATIONS AND ELECTIONS**

#### **SECTION 1. MUNICIPAL 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.

(Amended 11-6-79.)

#### **SECTION 2. NOMINATIONS.**

Each petition for the nomination of a candidate for the office of Mayor shall be signed by not fewer than one hundred (100) electors of the municipality. Each petition for the nomination of a candidate for an office, other than that of Mayor, filled by election at large shall be signed by not fewer than twenty-five (25) electors of the municipality. Each petition for the nomination of a candidate for an office filled by election from a ward shall be signed by not fewer than ten (10) electors from such ward. (Amended 11-6-79.)

#### **SECTION 3. PRIMARY ELECTION.**

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 on the second Tuesday in September.

The number of candidates for the office of Mayor, President of Council and Ward Councilmen at any regular municipal election in the City shall be the two candidates on the primary election ballot receiving the highest number of votes at the primary election. The number of candidates for the office of Council-at-large at any regular municipal election in the City shall be the two (2) candidates on the primary election ballot receiving the highest number of votes at the primary election.

In case there shall not be more than two persons who shall have filed petitions for the office of Mayor, President of Council and Ward Councilmen 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. In case there shall not be more than six (6) persons who shall have filed petitions for the office of Council-at-large 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.

Anyone who has not filed a petition for this primary election shall be ineligible as a candidate in the regular municipal election. (Amended 11-6-79; 11-4-08; 11-3-09.)

#### **SECTION 4. ELECTIONS.**

The regular municipal election shall be held on the first (1st) Tuesday after the first (1st) Monday in November of odd numbered years, commencing in 1977, for the Mayor, the President of Council and all members of Council.

Council may, by resolution order a special election to be held at any time, the purpose and date of which shall be set forth in the resolution, to be conducted in the manner provided by law. Except as otherwise noted in the Charter, the laws of Ohio applicable to election shall govern. (Amended 11-6-79.)

#### **SECTION 5. GENERAL PROVISIONS.**

Where no special provision is made in this Charter governing general, or special elections, registration and the conduct of such elections the provisions of the general law of the State of Ohio shall control. (Added 11-6-79.)

### **ARTICLE X INITIATIVE, REFERENDUM, RECALL**

#### **SECTION 1. INITIATIVE.**

The electors shall have the power to propose any ordinance or resolution except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. An initiated ordinance or resolution shall be submitted to Council by a petition signed by at least ten percent (10%) of the electors voting at the last Regular Municipal Election. When so submitted, the Clerk of the Council shall determine the sufficiency and if sufficient the Council shall take final action, either enacting, amending, or rejecting the proposed ordinance, within forty (40) days after submission. If Council fails to pass such proposed ordinance or resolution or passes it in some form different from that set forth in the petition therefor, the petitioners through the committee named on such petition may be the next regular meeting of Council request in writing that it be submitted to a vote of the electors. Thereupon, Council shall provide for submitting the petitioned ordinance or resolution to the electors at the next general or Regular Municipal Election occurring more than ninety (90) days after the filing of such petition, but if such petition is signed by at least twenty percent (20%) of such electors, the date of the election may be fixed therein, which may be a special election to be held at any time more than ninety (90) days after the filing of such petition.

**SECTION 2. REFERENDUM.**

(a) The electors of this Municipality shall have the power to approve or reject at the polls any ordinance, resolution, or other action passed or adopted by the Council, whether legislative or administrative in nature, except as hereinafter provided.

Within forty (40) days after the final passage by Council or approval by the Mayor, whichever is later, of an ordinance, resolution, or other action, whether legislative or administrative in nature, a petition, signed by at least that number of electors which equals ten percent (10%) of the electors voting at the last preceding general Municipal election, may be filed with the Clerk of Council, requesting that such ordinance, resolution or other action, whether legislative or administrative in nature, be either repealed or submitted to a vote of the electors. If said petition is signed by that number of electors which equals twenty percent (20%) or more of such electors, the date of the election may be fixed therein, which shall be not less than ninety (90) days from the time of filing thereof. When said petition is filed, the Clerk shall first ascertain the sufficiency of the petition and if found sufficient, the Council shall thereupon, within thirty (30) days of the filing of such petition, reconsider such ordinance, resolution or other action. If, upon such reconsideration, the ordinance, resolution or other action is not repealed, the Council shall submit it to a vote of the electors on the date fixed in the petition or, if no date be so fixed, at the first general election in any year occurring more than ninety (90) days after the filing of such petition. No such ordinance, resolution or other action shall go into effect until approved by a majority of those voting thereon.

Ordinances and resolutions providing for a tax levy or for improvements petitioned for by the owners of a majority of the front footage of the property benefited and to be specially assessed therefor, and appropriation ordinances and resolutions limited to the subject of appropriations shall not be subject to referendum. Further, whenever the Council is required to pass more than one ordinance, resolution or other action necessary to complete the financing and assessment of the cost of any public improvement previously finally approved, only the first resolution, ordinance or other action relating to said financing and assessment shall be subject to referendum, and any subsequent resolution, ordinance or other action relating to the financing and assessment of the costs of said public improvement as previously finally approved shall not be subject to referendum.

If, when submitted to a vote of the electors, an emergency ordinance, resolution or other action be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder, but such ordinance, resolution or other action shall be deemed sufficient authority for payment, in accordance with the ordinance, of any costs or expense actually incurred previous to the referendum vote thereon, but not for any in future costs or expenses allegedly incurred or obligated with respect thereto.

(b) Each contract, consent agreement, compact or other means by which the City of Fairview Park cooperates with, is or becomes a member of any type of, or contributes to the operation, in any way, of any other governmental unit, agency or association, including a regional government or agency or group of governmental units, shall be terminable by the people at any time by a referendum as provided in Article X, Section 2 (a) and in no future obligations with respect thereto shall be binding upon City or its citizens if said referendum passes.

(c) All ordinances, resolutions, proclamations, motions, and Charter provisions inconsistent with this section are hereby repealed.

(d) This section shall be severable and if any subsection, part, word or application thereof is held invalid for any reason, such holding, shall not invalidate or affect the force and effect of any other subsection, part, word or application thereof.  
(Amended 11-4-75.)

### **SECTION 3. RECALL.**

Electors shall have the power to remove from office by recall election, any elected official of the City. After an elected official has served six months of his term, a petition demanding his recall and removal, may be filed with the Clerk of Council. Such petition shall be signed by at least twenty-five percent (25%) of the total electors voting at the last preceding Regular Municipal Election, provided, however, the petition for recall of a councilperson elected from a ward shall be signed by at least that number of electors of the councilperson's ward equal to twenty-five percent (25%) in number of the electors of such ward who voted at the last preceding regular Municipal Election. If the Clerk shall find the petition sufficient he shall promptly so certify to the Council, shall deliver a copy of such certificate to the official whose removal is sought and make a record of such delivery. If such official shall not resign within five (5) days after the day on which such delivery shall have been made, the Council shall fix a day for holding a recall election not less than thirty (30) days, nor more than forty-five (45) days from the date of delivery. If a majority of the votes cast shall be voted affirmatively, such official shall remain in office. If a majority of the votes cast shall be voted negatively, such official shall be considered as removed, his office shall be deemed vacant and such vacancy shall be filled as provided in this Charter. The official removed by such recall election shall not be eligible for appointment to the vacancy created thereby. (Amended 11-5-91.)

### **SECTION 4. GENERAL PROVISIONS.**

The manner of signing, the method of circulating, the form and requirements as to the affidavit, and the other requirements of the general law regulating initiative and referendum petitions, shall apply in the case in initiative, referendum and recall in this City, except as otherwise provided in this Charter.

## **ARTICLE XI FRANCHISE**

The Council may by ordinance grant a non-exclusive franchise to any person, firm or corporation to construct or operate a public utility on, across, under, over or above any public street or real estate within the City for a period not in excess of twenty-five (25) years; and it may prescribe in the ordinance the kind or quality of service or product to be furnished, the rate or rates to be charged therefor, and such other terms as Council shall deem conducive to the public interest. Such franchise may be amended or renewed in the manner and subject to the provisions established by this Charter for original grants. No consent of the owner of property abutting on any public street or real estate shall be necessary to the effectiveness of any such grant, amendment or renewal.

All such grants, amendments and renewals shall be made subject to the continuing right of the Council to provide reasonable regulations for the operation of such utilities with reference to such streets and public real estate, including the right to require such reconstruction, relocation, alteration or removal of structures and equipment used in such streets or public realty as shall, in the opinion of Council, be necessary in the public interest.

## **ARTICLE XII AMENDMENTS TO CHARTER**

This Charter may be amended by either of two methods. The Council may, by an affirmative vote of at least a majority plus one of its members, submit to the electors any proposed amendment or amendments to this Charter; or upon petition signed by not less than ten percent (10%) of the registered electors of the City setting forth any proposed amendment or amendments to this Charter, the Council shall forthwith submit such proposed amendment or amendments to the electors in accordance, in each instance, with the provisions of the Constitution and laws of Ohio now or hereafter in effect. The Council shall determine the manner of submission of any proposed amendment or amendments to the electors to the extent that such submission is not governed by this Charter or the Constitution or the laws of the State of Ohio.

If any such proposed amendment or amendments shall be approved by a majority of the electors voting thereon, it or they shall become a part of this Charter; except that if two (2) or more inconsistent proposed amendments on the same subject shall be submitted at the same election, only the one of such amendments receiving the largest affirmative vote, not less than a majority, shall become a part of the Charter.

## **ARTICLE XIII GENERAL PROVISIONS**

### **SECTION 1. EFFECTIVE DATE OF CHARTER.**

For the purpose of nominating and electing officers of this City and fixing the compensation of those to be elected in 1959, this Charter shall be in effect from and after the date of its approval by the electors and for all other purposes the Charter shall be in effect on and after the first day of January, 1959.

### **SECTION 2. SAVING CLAUSE.**

The determination that any part of this Charter is invalid shall not invalidate or impair the force or effect of any other part hereof except to the extent that such other part is wholly dependent for its operation upon the part declared invalid.

**SECTION 3. EFFECT OF THE CHARTER UPON EXISTING LAWS AND RIGHTS.**

The adoption of this Charter shall not affect any pre-existing rights of the City, or any right or liability or pending suit or prosecution, either on behalf of or against the City or any officer thereof, nor any franchise granted by the City, nor pending proceedings for the authorization of public improvements or the levy of assessments therefor. Except as a contrary intent appears herein, all acts of the Council of the City shall continue in effect until lawfully amended or repealed.

**SECTION 4. INTERPRETATION OF THE CHARTER.**

The Article and Section headings herein have been inserted for convenient reference and are not intended to define or limit the scope of, or otherwise affect any provision of this Charter.

**SECTION 5. GENDER NEUTRAL.**

Whenever the male gender is used in this Charter it shall include the female gender.  
(Added 11-3-09.)

**ARTICLE XIV  
CHARTER REVIEW COMMISSION**

On August 15, 1988, and each ten (10) years thereafter, the Mayor shall appoint a Commission of nine (9) qualified electors of the City holding no other office or appointment in this City, as members of a Charter Review Commission. The Mayor shall also appoint a Secretary to the Charter Review Commission who shall record the proceedings of the meetings and serve in any other secretarial capacity. Sufficient funds should be appropriated by Council for the compensation of the Secretary and other expenses of the Charter Review Commission. The appointees to such Commission shall be approved by Council. Such Commission shall review the City Charter, and within nine (9) calendar months after such appointment, recommend to Council such alterations, revisions and amendments, if any, to this Charter as in its judgment are desirable. The Council shall review the recommendations of the Charter Review Commission and approve or disapprove each individual recommendation. The Council thereafter shall submit to the electors any such proposed alterations, revisions, or amendments of this Charter it has approved by an affirmative vote of at least a majority plus one of its members pursuant to Article XII of this Charter at the next General Election.

The members appointed to said Commission shall serve without compensation. Meetings of the Charter Review Commission shall be open to the public.  
(Amended 11-6-90; 11-3-09.)

**ARTICLE XV  
EXECUTIVE SESSIONS**

Notwithstanding any other provision of this Charter, all meetings, whether regular or special, of the Council, and of all boards, commissions and other public bodies whether established by ordinance or resolution of Council, by administrative action, or by this Charter, as well as any committee of any of the foregoing, shall be open to the public except that an executive session may be held, in compliance with State statutes, after Council, the board, the commission, or other public body determines, by a roll call vote in a meeting open to the public to hold such executive session for the sole purpose of the consideration of any of the following matters:

- (1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of his official duties or for his removal from office. If a public body holds an executive session pursuant to division (1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.
- (2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use this division as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers. If the minutes of the public body show that all meetings and deliberations of the public body have been conducted in compliance with this section, any instrument executed by the public body purporting to convey, lease, or otherwise dispose of any right, title, or interest in any public property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

- (3) Conferences with an attorney for the public body concerning disputes involving the public body that are the subject to pending or imminent court action;
- (4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;
- (5) Matters required to be kept confidential by Federal law or rules or State statutes;
- (6) Specialized details of security arrangements where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law. If a public body holds an executive session to consider any of the matters listed in divisions (2) to (6) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session.  
(Added 11-5-91.)