

## Title 3- Administration

### TITLE 3. ADMINISTRATION

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#### Chapter 3.01. General Provisions.

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##### §3.01.01. Qualifications; oaths.

Except as otherwise provided by the *Ohio Revised Code*, each officer of the city, whether elected or appointed as a substitute for a regular officer, shall be an elector within the city, and before entering upon his official duties shall take an oath to support the *Constitution of the United States* and the Constitution of this State and an oath that an officer will faithfully, honestly, and impartially discharge the duties of the office to which elected or appointed. These provisions as to official oaths shall extend to deputies, but they need not be electors. (RC §733.68)

##### §3.01.02. Approval of bonds.

The official bonds of all municipal corporations shall be prepared by the City Attorney. Except as otherwise provided in this Title, they shall be in such sum as the Council prescribes by general or special ordinance and shall be subject to the approval of the City Manager. The City Manager's bond shall be approved by the Council, or, if it is not legally organized, by the Clerk of the Court of Common Pleas of the county in which the corporation or the larger part thereof is situated. (RC §733.70)

##### §3.01.03. Sufficiency of form of bond.

In each bond, the condition that the person elected or appointed shall faithfully perform the duties of the office shall be sufficient. The fact that the instrument is without a seal, that blanks like the date or amount have been filled subsequent to its execution, but before its acceptance, without the consent of the sureties, that all the obligees named in the instrument have not signed it, that new duties have been imposed on the officers or that any merely formal objection exists shall not be available in any suit on the instrument. (RC §733.71)

##### §3.01.04. Additional bond; where bonds recorded and kept.

Each officer required by law or ordinance to give bond shall do so before entering upon the duties of the office, except as otherwise provided in this Title. In its discretion Council at any time may require each officer to give a new or additional bond. Except that of the Auditor or Clerk, each bond upon its approval shall be delivered to the Auditor or Clerk, who shall immediately record it in a record provided for that purpose and file and carefully preserve it in his office. The bond of the Auditor or Clerk shall be delivered to the Treasurer, who shall in like manner record and preserve it. (RC §733.69)

#### Chapter 3.02. Legislative: Council.

- §3.02.01. Forms of action by council.
- §3.02.02. Correction of form of ordinances.

##### §3.02.01. Forms of action by council.

The action of Council shall be by ordinance or resolution. On all matters of a general or permanent nature, or granting a franchise, or levying a tax, or appropriating money, or contracting indebtedness, or issuing bonds or notes, or for the purchase, lease, or transfer of property, action shall be taken formally, by ordinance, in the manner hereinafter provided. Action on all other matters of a temporary or informal nature may be taken by resolution.

##### §3.02.02. Correction of form of ordinances.

It shall be the duty of the Clerk of and of the City Attorney, or either, whenever the form of a proposed measure does not comply with the provisions of the preceding sections, to call attention of Council thereto, and the City Attorney shall submit a draft of such measure which, if adopted, will correct the omission.

#### Chapter 3.03. Executive; Other Officials.

- §3.03.01. President of Council; election; term; duties.
- §3.03.02. Acting City Manager.
- §3.03.03. Vacancy in office of City Manager.
- §3.03.04. Auditor: Seal.
- §3.03.05. Duty of Auditor as to receiving bids.
- §3.03.06. Auditing accounts.
- §3.03.07. Overdrawing appropriation; proof of claims.
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- §3.03.10. Treasurer: quarterly account; annual report.
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- §3.03.13. Duty of delivering money and property.
- §3.03.14. Investment of treasury funds.
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- §3.03.17. Who not eligible as City Attorney.

- §3.03.18. Criminal prosecutions.
- §3.03.19. City Attorney: duties as to suits.
- §3.03.20. City Prosecutors.

**§3.03.01. President of council; election; term; duties.**

The President of Council shall be elected for a term of two (2) years, commencing on the first day of January next after his election. He/She shall be an elector of the city, and shall preside at all regular and special meetings of Council, but shall have no vote therein except in case of a tie. (RC §733.09)

**§3.03.02. Acting City Manager.**

When the City Manager is absent from the City, or is unable for any cause to perform his duties, the Vice City Manager shall be Acting City Manager.

**§3.03.03. Vacancy in office of City Manager.**

In case of the death, resignation, or removal of the City Manager, the Vice City Manager of the City shall become the City Manager, and shall hold the office until his successor is elected and qualified. A successor shall be elected to the office for the unexpired term, at the first regular municipal election that occurs more than forty (40) days after the vacancy has occurred except that, when the unexpired term ends within one (1) year immediately following the date of such election, an election to fill such unexpired term shall not be held and the president of the legislative authority of the city shall hold the office for such unexpired term.

**§3.03.04. Auditor: seal.**

Council shall provide a seal for the Auditor, in the center of which shall be the name of the City and around the margin the words "City Auditor," an impression of which seal shall be affixed to all transcripts, orders, certificates or other papers requiring authentication. (RC §733.20)

**§3.03.05. Duty of Auditor as to receiving bids.**

When bids are required to be filed for the letting of contracts by the City Manager, it shall be the duty of the City Auditor or his/her Chief Deputy to attend and assist at the opening thereof and to inspect them. (RC §733.18)

**§3.03.06. Auditing accounts.**

At the end of each fiscal year, or more often if required by Council, the Auditor shall examine and audit the accounts of all officers and departments. The Auditor shall prescribe the form of accounts and reports to be rendered to his department, and the form and method of keeping accounts by all other departments, and, subject to the powers and duties of the State bureau of inspection and supervision of public offices, shall have the inspection and revision thereof. Upon the death, resignation, removal or expiration of the term of any officer, the Auditor shall audit the accounts of the officer, and if the officer be found indebted to the city, the Auditor shall immediately give notice thereof to Council and the City Attorney and the latter shall proceed forthwith to collect the indebtedness. (RC §733.12)

**§3.03.07. Overdrawing appropriation; proof of claims.**

The Auditor shall not allow the amount set aside for any appropriation to be overdrawn, or the amount appropriated for one item of expense to be drawn upon for any other purpose, or unless sufficient funds shall actually be in the treasury to the credit of the fund upon which such voucher is drawn. When any claim is presented to the Auditor, he/she may require evidence that such amount is due, and for this purpose may summon any agent, clerk, or employee of the City, or any other person, and examine him under oath or affirmation concerning such voucher or claim. (RC §733.13)

**§3.03.08. Detailed Statements; receipts.**

On the first Monday of each month, detailed Statements of the receipts and expenditures of the several officers and departments for the preceding month shall be made to the Auditor by the heads of the department. The Auditor shall countersign each receipt given by the Treasurer before it is delivered to the person entitled to receive it, and shall charge the Treasurer with the amount thereof. If the Auditor approves any vouchers contrary to the provisions of this title; he and his sureties shall be individually liable for the amount thereof. (RC §733.14)

**§3.03.09. Penalty for neglect.**

Each Auditor so required to make the certificate, and each clerk so required to record it when presented for record, who neglects or refuses to perform his duty, shall pay to the Treasurer of the corporation for each neglect or refusal the sum of fifteen dollars (\$15.00) to the Treasurer of the municipal corporation, to be recovered in a civil action, at the suit of such corporation and shall also be liable for all damages arising from the neglect or refusal. (RC §733.17)

**§3.03.10. Treasurer: quarterly account; annual report.**

The Treasurer shall settle an account with the Council, quarterly, and when the Council may by resolution or ordinance require. At the first regular meeting in January, each year the Treasurer shall report to the Council the condition of the finances of the corporation, the amount received by him/her, and the sources whence received, and the disbursements by him/her made, and on what account, during the year preceding. The account shall exhibit also the balance due on each fund which may have come into the Treasurer's hands during the year. (RC §733.45)

**§3.03.11. City funds.**

The Treasurer shall receive and disburse all funds of the City and any other funds as arise in or belong to any department or part of the corporation government. (RC §733.46)

**§3.03.12. Semi-annual distribution to municipalities.**

On the first Monday of February and August in each year the County Treasurer shall pay over to the Treasurer of the corporation all monies received by such County Treasurer up to that date arising from taxes levied and assessments made belonging to the corporation. Monies received from other sources for the municipal corporation shall be paid over by the

County Treasurer to the municipal corporation on or before the tenth day of each month following the receipt or collections thereof. (RC §321.33)

**§3.03.13. Duty of delivering money and property.**

At the expiration of his/her term of office, or on his/her resignation or removal, the Treasurer shall deliver to his/her successor, all monies, books, papers or other property in his possession as Treasurer. In the case of the death or incapacity of such Treasurer his/her legal representatives shall in like manner pay over and deliver the money and property which were in the Treasurer's hands to the person entitled thereto. (RC §733.47)

**§3.03.14. Investment of treasury funds.**

A. Whenever there are monies in the treasury of the City which will not be required to be used for a period of 6 months or more, such monies may, in lieu of being deposited in a bank or banks, be invested in accordance with the provisions of *Sections §731.56, §731.57, §731.58 and §731.59* of the *Ohio Revised Code*. Investments purchased shall be sold in accordance with Section §731.57 of the Ohio Revised Code.

B. The City Auditor is hereby directed to distribute monies earned in the City's bank accounts and investments, effective July 1, 1991, to all City funds based on the month-ending fund balance, except those funds for Federal or State grants which prohibit earning such interest.

**§3.03.15. Chart of accounts; funds.**

The Auditor shall maintain a Chart of Accounts showing all revenues, expenditures and other funds of the City of which shall, from time to time, be created by ordinance, statute or at the direction of the State Auditor.

**§3.03.16. City Attorney: powers and duties.**

The City Attorney shall prepare all contracts, bonds and other instruments in writing in which the City is concerned, and shall serve the several directors and officers mentioned in this title as legal counsel and attorney. (RC §733.51)

**§3.03.17. Who not eligible as City Attorney.**

No person shall be eligible to the office of City Attorney of a municipal corporation who is not an attorney and counselor at law, admitted to practice in this State. (RC §733.50)

**§3.03.18. Criminal prosecutions.**

The City Attorney or assistants shall prosecute all criminal cases brought before the municipal court for violations of the ordinances of the municipal corporation for which he/she is City Attorney, or for violation of State statutes or other criminal offenses occurring within the municipal corporation. The City Attorney shall prosecute all criminal cases brought before said Court arising in the unincorporated areas within the territory. The City Attorney shall perform the same duties, as far as they are applicable thereto, as are required of the prosecuting attorney of the county. He/She or

his/her assistants whom he/she may appoint shall receive for such services additional compensation to be paid from the treasury of the County as the Board of County Commissioners prescribes. (RC §1901.34)

**§3.03.19. City Attorney: duties as to suits.**

When required to do so by resolution of the Council, the City Attorney shall prosecute or defend on behalf of the City, all complaints, suits and controversies in which the City is a party, and such other suits, matters and controversies as he is, by resolution or ordinance, directed to prosecute. He/She shall not be required to prosecute any action before the City Manager for the violation of an ordinance without first advising such action. (RC §733.53)

Statutory reference:

Other specified duties of City Attorney, RC §733.54 to §733.62, inclusive.

**§3.03.20. City prosecutors.**

There is established within the City the position of one City Prosecutor who shall serve as assistant to the Nelsonville City Attorney. Compensation for the position of City Prosecutor shall be set by Council. The holder of this office shall be responsible for those duties established by the City Attorney as found in the job description.

**Chapter 3.04. Executive; City Manager.**

- §3.04.01. Application of Chapter 3.04.
- §3.04.02. Executive power; in whom vested.
- §3.04.03. Powers of officers as to appointments and removals.
- §3.04.04. Appointment of officers.
- §3.04.05. Vacancies in office; how filled.
- §3.04.06. Directors of departments to meet with City Manager.
- §3.04.07. City Manager and officers shall attend Council.
- §3.04.08. Reports to Council as to municipal conditions.
- §3.04.09. Protest against excess of expenditures.
- §3.04.10. Supervision of officers.
- §3.04.11. Preferring charges against officers.
- §3.04.12. Hearing of charges; action of Council.
- §3.04.13. Suspension of accused pending hearing.
- §3.04.14. Power of Council as to process.
- §3.04.15. Compelling testimony; costs.

**§3.04.01. Application of Chapter 3.04.**

Pertinent sections of the *Ohio Revised Code* relative to the organization, powers and duties of the executive and administrative offices and boards have been assembled and adopted as a part of this chapter. No material change of the *Ohio Revised Code* sections has been made. The purpose of including these sections is to afford each such office or board ready access to the extent and limitations of its powers and duties as fixed by statute.

**§3.04.02. Executive power; in whom vested.**

The executive power and authority of the City shall be vested in the City Manager, President of Council, Auditor, Treasurer, City Attorney, and such other officers and departments as are provided by law. (RC §733.01)

**§3.04.03. Powers of officers as to appointments and removals.**

Subject to the limitations prescribed in this subdivision such executive officers shall have exclusive right to appoint all officers, clerks and employees in their respective departments or offices, and likewise, subject to the limitations herein prescribed, shall have sole power to remove or suspend any of such officers, clerks or employees subject to the civil service laws. (RC §733.01)

**§3.04.04. Appointment of officers.**

The City Manager, or any board or officer whose appointment is required herein shall be appointed not earlier than the second Monday in January and not later than the first Monday in February, and shall hold their respective offices until their successors are appointed as herein required. (RC §733.04)

**§3.04.05. Vacancies in office; how filled.**

In case of death, resignation, removal or disability of any officer or director in any department, unless otherwise provided by law, the City Manager thereof shall fill the vacancy by appointment, and such appointment shall continue for the unexpired term and until a successor is duly appointed, or duly elected and qualified, or until such disability is removed. (RC §733.31)

**§3.04.06. Directors of departments to meet with City Manager.**

When the City Manager deems necessary, the directors of the several departments of the City shall meet with him at the time and place he designates, for consultation and advice upon the affairs of the City. (RC §733.05)

**§3.04.07. City Manager and officers shall attend Council.**

The City Manager, the directors and the several officers herein provided for shall attend the meetings of Council when specifically requested by Council to do so, and answer at such time questions put to any of them by any member of the Council, relative to the affairs of the City under their respective management and control. The City Manager shall make such recommendations in writing to the Council for the welfare of the City as to him seems wise. (RC § 733.06)

**§3.04.08. Reports to Council as to municipal conditions.**

The City Manager shall communicate to Council from time to time a Statement of the finances of the municipality, and such other information relating thereto and to the general condition of the affairs of the municipality as he/she deems proper or as may be required by Council. (RC §733.32)

**§3.04.09. Protest against excess of expenditures.**

If, in the opinion of the City Manager, an expenditure authorized by the Council exceeds the revenues of the corporation for the current year, it shall be his/her duty to protest against such expenditure, and enter such protest, and the reason therefore, on the journal of the Council. (RC §733.33)

**§3.04.10. Supervision of officers.**

The City Manager shall supervise the conduct of all of the officers of the corporation, inquire into and examine the grounds of all reasonable complaints against any of them, and cause all their violations or neglect of duty to be promptly punished or reported to the proper authority for correction. (RC §733.34)

**§3.04.11. Preferring charges against officers.**

The City Manager shall have general supervision over each department and the officers provided for in this Title. When the City Manager has reason to believe that the head of a department or such officer has been guilty in the performance of his official duty of bribery, misfeasance, malfeasance, nonfeasance, misconduct in office, gross neglect of duty, gross immorality or habitual drunkenness, he/she shall immediately file with the Council, except when the removal of such head of department or officer is otherwise provided for, written charges against such person, setting forth in detail a Statement of such alleged guilt, and, at the same time, or as soon thereafter as possible, serve or cause to be served a true copy of such charges with the person against whom the charges are made. Such service may be in person or by leaving a copy of the charges at the office of such person, and due return thereof made to Council, as is provided for the return of the service of summons in a civil action. (RC §733.35)

**§3.04.12. Hearing of charges; action of Council.**

When so filed with Council, such charges shall be for hearing at the next regular meeting thereof, unless Council extends the time for such hearing, which shall be done only on the application of the accused. The accused may appear in person and by counsel, examine all witnesses, and answer all charges against him. The judgment or action of the Council shall be final, but to remove such officer the votes of two-thirds (2/3) of all members elected to the Council shall be required. (RC §733.36)

**§3.04.13. Suspension of accused pending hearing.**

Pending any such proceedings, such person may be suspended by a majority vote of all members elected to Council, but such suspension shall not be for any longer period than fifteen (15) days, unless the hearing of such charges is extended upon the application of the accused, and in such event the suspension shall not exceed a period of thirty (30) days. (RC §733.37)

**§3.04.14. Power of Council as to process.**

For the purpose of so investigating charges against the head of any department or officer the Council may issue

subpoenas or compulsory process to compel the attendance of persons and the production of books and papers before the Council, and may provide by ordinance for exercising and enforcing this provision. (RC §733.38)

**§3.04.15. Compelling testimony; costs.**

In all cases in which the attendance of witnesses may be compelled for such investigation, any member of the Council may administer the requisite oaths, and the Council shall have the same power to compel the giving of testimony by the attending witnesses as is conferred upon courts of justice. In all such cases, witnesses shall be entitled to the same privileges, immunities and compensation as are allowed witnesses in civil cases, and the costs of all such proceedings shall be payable from the general fund of the municipal corporation. (RC §733.39)

**Chapter 3.05. Department of Public Service-Safety Police and Fire Departments.**

- §3.05.01. Office of public safety and the department of public service merged.
- §3.05.02. General duties; records.
- §3.05.03. Supervision; powers.
- §3.05.04. Management of public utilities.
- §3.05.05. General duties of police and fire departments.
- §3.05.06. Power of chiefs of police and fire departments as to suspensions.
- §3.05.07. Reduction and dismissal; police and fire departments.
- §3.05.08. Classification of service; rules and regulations.
- §3.05.09. Relief of members of police and fire department.
- §3.05.10. Clothing and equipment allowance.
- §3.05.11. Chief of Police.
- §3.05.12. Public service supervision by City Manager.
- §3.05.13. Auxiliary police unit.
- §3.05.14. Emergency patrolmen.
- §3.05.15. Private police.
- §3.05.16. Property recovered by police.
- §3.05.17. Deposit of stolen property; prohibition.
- §3.05.18. Disposition to claimant.
- §3.05.19. Sale of unclaimed property; disposition of proceeds.
- §3.05.20. Sale of unclaimed property; expenses to be paid.
- §3.05.21. Civil service and public employees' retirement system applicable.
- §3.05.22. Chief of Fire Department.
- §3.05.23. Fire department regulations.
- §3.05.24. Firemen exempt from certain public service.
- §3.05.25. Regulation of erection of houses and business structures; removal.
- §3.05.26. Investigation of fires.
- §3.05.27. Power to make arrests.
- §3.05.28. Schooling of officers and firemen.
- §3.05.29. Record of fires.
- §3.05.30. Practice drills.

- §3.05.31. Civil service system applicable.
- §3.05.32. Fire department authorized to extend its services or the use of its equipment, to other subdivisions of the State.
- §3.05.33. Emergency firemen.

**§3.05.01. Office of public safety and the department of public service merged.**

A. The office of public safety and the office of the Director of Public Service are hereby merged, and the City Manager shall assume responsibility for the merged department.

**§3.05.02. General duties; records.**

A. The City Manager shall manage and supervise all public works and undertakings of the City, except as otherwise provided by law, and shall have all powers and perform all duties conferred upon him by law. He/She shall keep a record of his/her proceedings, a copy of which, certified by him/her, shall be competent evidence in all courts. (RC §735.02)

B. The City Manager shall be the executive head of the police and fire departments. He shall be the chief administrative authority of the charity, correction and building departments. He/She shall have all powers and duties connected with and incident to the appointment, regulation and government of these departments except as otherwise provided by law. He/She shall keep a record of his/her proceedings, a copy of which, certified by him/her, shall be competent evidence in all courts. (RC §737.02)

Statutory reference:

Specific powers and duties, RC §737.02 to §737.03.

**§3.05.03. Supervision; powers.**

The City Manager shall supervise the improvement and repair of streets, avenues, alleys, lands, lanes, squares, wharves, docks, landings, market houses, bridges, viaducts, aqueducts, sidewalks, play grounds, sewers, drains, ditches, culverts, ship channels, streams and water courses, the lighting, sprinkling and cleaning of public places, the construction of public improvements and public works. (RC §735.02)

**§3.05.04. Management of public utilities.**

The City Manager shall manage municipal water, lighting, heating, power, garbage and other undertakings of the city, parks, baths, play grounds, market houses, cemeteries, crematories, sewage disposal plants, and farms, and shall make and preserve surveys, maps, plans, drawings and estimates. He shall supervise the construction and have charge of the maintenance of public buildings and other property of the corporation not otherwise provided for in this title. He/She shall have the management of all other matters provided by the Council in connection with the public service of the City. (RC §735.02)

Statutory reference:

Specific powers and duties, RC §735.04 to §735.26, inclusive.

Duties in respect to road building, RC §701.01 to §723.53, inclusive.

Duties in respect to waterworks, RC §743.01 to §743.24, inclusive.

**§3.05.05. General duties of police and fire departments.**

The police force shall preserve the peace, protect persons and property and obey and enforce all ordinances of Council and all criminal laws of the State and the United States. The fire department shall protect the lives and property of the people in case of fire, and both the police and fire departments shall perform such other duties, not inconsistent herewith, as Council by ordinance prescribes. The police and fire departments shall be maintained under the civil service system, as provided in this title. (RC §737.11)

**§3.05.06. Power of chiefs of police and fire departments as to suspensions.**

The Chief of the Police and the Chief of the Fire Department shall have exclusive right to suspend any of the deputies, officers, or employees in his respective department and under his/her management and control, for incompetence, gross neglect of duty, gross immorality, habitual drunkenness, failure to obey orders given him/her by the proper authority, or for any other reasonable and just cause. (RC §737.12)

**§3.05.07. Reduction and dismissal; police and fire departments.**

If any such employee is suspended as herein provided, the Chief of Police or the Chief of the Fire Department, as the case may be, forthwith in writing, shall certify such fact, together with the cause for such suspension to the City Manager, who within five (5) days from the receipt thereof, shall proceed to inquire into the cause of such suspension and render judgment thereon, which judgment, if the charge be sustained, may either be suspension, reduction in rank, or dismissal from the department, and such judgment in the matter shall be final except as otherwise provided in this Title. Said director, in any investigation of charges against a member of the police or fire department shall have the same powers to administer oaths and to secure the attendance of witnesses and the production of books and papers as are conferred by this subdivision upon the City Manager. (RC §737.12)

**§3.05.08. Classification of service; rules and regulations.**

The City Manager shall classify the service in the police and fire departments in conformity with the ordinances of Council determining the number of persons to be employed therein, and shall make all rules for the regulation and discipline of such departments, except as otherwise provided in this Title. (RC §737.13)

**§3.05.09. Relief of members of police and fire department.**

Council may provide by general ordinance for the relief out of the police or fire funds, of members of either department temporarily or permanently disabled in the discharge of their duty. Nothing herein shall impair, restrict or

repeal any provision of law authorizing the levy of taxes in municipalities to provide for firemen's, police and sanitary police pension funds, and to create and perpetuate boards of trustees for the administration of such funds. (RC §737.14)

Statutory reference:

Other fire and police regulations and requirements, RC §737.21 to §737.32, inclusive.

**§3.05.10. Clothing and equipment allowance.**

There shall be provided for every newly appointed policeman and fireman a clothing and equipment allowance in the sum as set by Council, and each year thereafter, there shall be provided clothing or equipment as may be needed for each policeman and fireman, in a sum as set by Council.

**§3.05.11. Chief of Police.**

The Chief of Police shall have exclusive control of the stationing and transfer of all patrolmen, auxiliary police officers and other officers and employees in the department, under such general rules and regulations as the City Manager prescribes. (RC §737.06)

Statutory reference: subject to competitive classified service, RC §143.08.

**§3.05.12. Public service supervision by City Manager.**

The City Manager shall have the exclusive management and control of all other officers, surgeons, secretaries, clerks and employees as are provided by ordinance or resolution of Council. He/She may commission private policemen, who may not be in the classified list of the department, under such rules and regulations as Council prescribes. (RC §737.05)

**§3.05.13. Auxiliary police unit.**

A. Pursuant to *Section §737.051 of the Ohio Revised Code*, the City Manager is authorized and empowered to establish an auxiliary police unit within the police department of the municipality.

B. The shall be the executive head of this auxiliary police unit, shall establish rules and regulations for the organization, training, administration, control and conduct of the auxiliary police unit and shall make all appointments and removals of the auxiliary police officers.

C. The auxiliary police officers shall be furnished a minimum number of uniform items as determined by the City Manager and the Chief of Police. Damaged and/or unserviceable uniform items shall be returned to the Chief of Police for replacement.

**§3.05.14. Emergency patrolmen.**

In case of riot or other like emergency, the City Manager may appoint additional patrolmen and officers for temporary service, who need not be in the classified list of such department. Such additional officers or patrolmen shall be employed only for the time during which the emergency exists. (RC §737.10)

**§3.05.15. Private police.**

The Chief of Police with approval of the City Manager when good cause exists may appoint special patrolmen or night watchmen for the protection of private residential or business properties, areas, or establishments, providing such appointee shall receive no compensation from the municipality and shall have first given bond to the city in the amount of one thousand dollars (\$1,000.00). The appointees shall have the powers of patrolmen and while on duty may wear police uniform and insignia and carry arms as the City Manager may prescribe. The appointment may be rescinded at any time by the Chief of Police or by resolution of Council.

**§3.05.16. Property recovered by police.**

A. Stolen or other property recovered by members of the police force shall be deposited and kept in a place designated by the City Manager. Each such article shall be entered in a book kept for that purpose, with the name of the owner, if ascertained, the person from whom taken, the place where found with general circumstances, the date of its receipt, and the name of the officer receiving it.

B. An inventory of all money or other property shall be given to the party from whom taken, and in case it is not claimed by some person within thirty (30) days after arrest and seizure it shall be delivered to the person from whom taken, and to no other person, either attorney, agent, factor, or clerk, except by special order of the City Manager. (RC §737.29)

**§3.05.17. Deposit of stolen property; prohibition.**

No officer, patrolman, or other member of the police force shall neglect or refuse to deposit property taken or found by him/her in possession of a person arrested. Any conviction for a violation of this section shall vacate the office of the person so convicted. (RC §737.30)

**§3.05.18. Disposition to claimant.**

If within ninety (90) days such money or property is claimed by any other person it shall be retained by such custodian until after the discharge or conviction of the person from whom taken and so long as it may be required as evidence in any case in court. If such claimant establishes to the satisfaction of the Court or City Manager that he/she is the rightful owner, it shall be restored to him/her, otherwise, it shall be returned to the accused person, personally, and not to any attorney, agent, factor or clerk of such accused person, except upon special order of the Court or City Manager after all liens and claims in favor of the municipality against it have first been discharged and satisfied. (RC §737.31)

**§3.05.19. Sale of unclaimed property; disposition of proceeds.**

Property unclaimed for the period of ninety (90) days shall be sold by the Chief of Police or licensed auctioneer at public auction, after giving due notice thereof, by advertisement published once a week for three (3) successive weeks in a newspaper of general circulation in the County. Where there is a police relief and pension fund and trustees and officers thereof, the proceeds from such sale shall be paid

to the Treasurer of such fund and be placed to its credit. Where there is no police relief and pension fund and trustees and officials thereof, such proceeds shall be paid to the Treasurer of the municipality, and be credited to the general fund. (RC §737.32)

**§3.05.20. Sale of unclaimed property; expenses to be paid.**

Upon the sale of any unclaimed or impounded property as provided in *Section §3.05.19*, where any such unclaimed or impounded property was ordered removed to a place of storage or stored, or both, by or under the direction of the Chief of Police, any and all expenses or charges for such removal or storage, or both, and costs of sale, provided the same are approved by the Chief of Police, shall first be paid from the proceeds of such sale, provided notice by registered mail of such sale has been given the owner and mortgagee, or other lien holder at their last known address, thirty (30) days before the date of sale. (RC §737.32)

**§3.05.21. Civil service and public employees' retirement system applicable**

The police department shall be maintained under the civil service and public employees' retirement systems and appointments shall conform therewith.

Statutory reference:

Required by RC §737.11. See RC §145.01 to §145.57, §145.99.

**§3.05.22. Chief of Fire Department.**

The Chief of the Fire Department shall have exclusive control of the stationing and transferring of all firemen and other officers and employees in the department, under such general rules and regulations as the City Manager prescribes.

Statutory reference:

Subject to competitive classified service, RC §1541.04.

**§3.05.23. Fire department regulations.**

The Council may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of the citizens against damages and accidents resulting there from and for such purpose may establish and maintain a fire department, provide for the establishment and organization of fire engine and hose companies and rescue units, establish the hours of labor of the members of its fire department, who shall not be required to be on duty continuously more than six (6) days in every seven (7), and provide such by-laws and regulations for their government as is deemed necessary and proper. (RC §737.21)

**§3.05.24. Firemen exempt from certain public service.**

No active volunteer fireman or one who has served five (5) years consecutively as a volunteer fireman shall be required to serve on juries. (RC §737.26)

**§3.05.25. Regulation of erection of houses and business structures; removal.**

The Council may regulate the erection of houses and business structures and prohibit within such limits as it may deem proper, the erection of buildings, unless the outer walls be constructed of non-combustible material, and, on the petition of the owners of not less than two-thirds (2/3) of the ground included in any square or half-square, prohibit the erection on any such square or half-square, of any building, or addition to any building more than ten (10) feet high, unless the outer walls be made of iron, stone, brick and mortar, or of some of them, and to provide for the removal of any building or additions erected contrary to such prohibition. (RC §737.28)

**§3.05.26. Investigation of fires.**

The Council may invest any officer of the fire or police departments, with the power, and impose on him/her the duty, to be present at all fires, investigate the cause thereof, examine witnesses, and compel their attendance and the production of books and papers, and to do and perform all such other acts as may be necessary to the effective discharge of such duties. (RC §737.27)

**§3.05.27. Power to make arrests.**

Such officer shall have power to administer oaths, make arrests and enter for the purpose of examination, any building which, in his opinion, is in danger from fire; and he/she shall report his proceedings to the Council at such times as may be required. (RC §737.27)

**§3.05.28. Schooling of officers and firemen.**

The Council may send any of the officers and firemen of its fire department to schools of instruction designed to promote the efficiency of firemen and, if duly authorized in advance, pay their necessary expenses from the funds used for the maintenance and operation of the fire department. (RC §737.23)

**§3.05.29. Record of fires.**

The Fire Chief shall keep in convenient form a complete record of all fires. Such record shall include the time of the alarm, location of fire, cause of fire if known; type of building, name of owner and tenant, purpose for which occupied, value of building and contents, members of the department responding to the alarm, and such other information as he/she may deem advisable or as may be required from time to time by the council.

**§3.05.30. Practice drills.**

The Fire Chief shall hold a monthly practice drill of at least one hour's duration for the fire department, when the weather permits, and give the firemen instructions in approved methods of fire fighting and fire prevention.

**§3.05.31. Civil service system applicable.**

The fire department shall be maintained under the civil service system and appointments shall conform therewith.

Statutory reference:

Required by RC §737.11. See RC §143.01 to §145.57, inclusive.

**§3.05.32. Fire department authorized to extend its services or the use of its equipment, to other subdivisions of the State.**

The Chief of the Fire Department or any person or persons specifically designated by the Chief of the Fire Department is authorized to provide for the response of the fire department to emergency fire calls outside the corporate limits of this City.

**§3.05.33. Emergency firemen.**

In case of riot or other like emergency the City Manager may appoint additional firemen and officers for temporary service who need not be in the classified list of the department. Such additional officers or firemen shall be employed only for the time during which the emergency exists. (RC §737.09)

**Chapter 3.06. Employment Policies.**

§3.06.01. Elected officials.

§3.06.02. Appointed officials and employees.

§3.06.03. Preservation of prior ordinances.

**§3.06.01. Elected officials.**

The salary to be paid to each elected official by the City and the bond required of each elected official by the City shall be established by Council.

**§3.06.02. Appointed officials and employees.**

A. The various positions of appointment in the City shall be created and established by Council. The salary to be paid to and bond required of each appointed official or employee shall be established by Council.

B. Council shall have full power over the creation and establishment of the various appointed official and employee positions; shall establish all salaries and bonds; conditions, rules and regulations of employment; and shall further make any and all rules pertinent to the employment of such persons.

C. With respect to any matter directly or indirectly related to employment, the City shall not discriminate against any person because of that person's race, color, religion, sex, age, handicap, national origin, or ancestry.

**§3.06.03. Preservation of prior ordinances.**

Any and all ordinances enacted prior to this codification and not inconsistent with this codification or subsequently enacted ordinances which pertain to the establishment and creation of appointed official and employee



positions; the setting of salaries and bonds; and the setting of conditions, rules and regulations of employment, are hereby saved and do remain in full force and effect.

**Chapter 3.07. Administrative Departments;  
Boards and Commissions.**

- §3.07.01. City Records Commission.
- §3.07.02. When City Manager shall approve contracts.
- §3.07.03. Board of Health unites with Athens County Health District.
- §3.07.04. Nelsonville recreation program advisory committee: definitions.
- §3.07.05. Establishment of committee.
- §3.07.06. Powers and duties.
- §3.07.07. Community Relations Commission: definitions.
- §3.07.08. Unlawful discriminatory practices.
- §3.07.09. Posting of notices.
- §3.07.10. Establishment of the Community Relations Commission.
- §3.07.11. Purpose of the Community Relations Commission.
- §3.07.12. Powers and duties of the Community Relations Commission.
- §3.07.13. Procedures and enforcement.
- §3.07.14. Construction.
- §3.07.15. Other legal action.
- §3.07.99. Penalty.

**§3.07.01. City Records Commission.**

A Records Commission for the City, consisting of the Chief Executive, as Chairman, the Chief Fiscal Officer, the Chief Legal Officer, and one other citizen named by the chief executive, is established as provided in *Section §149.39 of the Ohio Revised Code*; the members of the Commission shall be appointed and serve in accordance with, and shall be subject to all the provisions of the *Ohio Revised Code* pertaining to the Commission.

**§3.07.02. When City Manager shall approve contracts.**

Except as provided in division (D) of *Section §713.23 and Sections §125.04 and §5513.01 of the Ohio Revised Code*, no contract in the Department of Public Service-Safety in excess of ten thousand dollars, (\$10,000.00) shall be awarded except on the approval of the City Manager who shall direct the director of the appropriate department to enter into the contract.

**§3.07.03. Board of Health unites with Athens County Health District.**

A. The Nelsonville City Board of Health and the Athens County Health District are united and shall be known as the Nelsonville City-County Health District.

B. Administration of all health affairs shall be granted to the Board of Health of the City of Nelsonville.

**§3.07.04. Nelsonville recreation program advisory committee: definitions.**

The following words when used in Sections §3.07.41 through §3.07.43 shall have the following meanings respectively ascribed to them:

A. "Committee" means the Nelsonville Recreation Program Advisory Committee.

B. "Administration" means the City Manager of the City of Nelsonville, Ohio.

**§3.07.05. Establishment of committee**

A. There is hereby created and established a committee to be known as the Nelsonville Recreation Advisory Committee consisting of five (5) members to be appointed, two (2) of whom shall be appointed by the Nelsonville City Board of Education and three (3) of whom shall be appointed by the City Manager with the advice and consent of Nelsonville City Council. All members of the Committee shall be electors of the City of Nelsonville, except that one of the members appointed by the School Board may reside outside the corporate limits but within the boundaries of the school district.

B. All members of the Committee shall serve terms of three (3) years each, except that members first appointed shall be appointed such that the term of one member shall expire annually thereafter. Vacancies on this Committee occurring otherwise than by the expiration of terms, shall be filled for the unexpired term and appointed in the same manner as the original appointments. All members shall serve without compensation.

C. Three (3) members shall constitute a quorum, with a majority vote of the full voting membership necessary to take any official action. The Committee shall maintain a record of its proceedings and shall adopt such rules and regulations of self-government as may be necessary to carry out the purposes and provisions of this section.

**§3.07.06. Powers and duties.**

The Committee shall have the following powers and duties:

A. Advise the Administration in matters relating to the adoption of programming, policies and procedures for the operation, equipment and maintenance of parks, playgrounds, play fields, public baths, swimming pools, indoor recreation centers, gymnasiums for any land or buildings owned by the City of Nelsonville not dedicated to public use other than for recreational use.

B. Advise the Administration in matters relating to the job qualifications and employment of personnel in the Nelsonville City Recreation Department.

C. Prepare and submit an annual report of its activities to the City Manager and to make such other reports and recommendations to the City Manager from time to time as may be deemed necessary by the City Manager.

D. Undertake such other studies and assignments on recreational matters as may be requested by the Administration.

**§3.07.07. Community Relations Commission: definitions.**

The following words when used in this chapter, unless otherwise provided, shall have the meanings respectively ascribed to them in this section.

A. "Discrimination" means any difference in treatment based on race, creed, color, sex, national origin or ancestry, marital status, religious belief, age or handicap.

B. "Person" includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustee, trustees in bankruptcy, receivers, labor organizations, mutual companies, joint stock companies, trusts, unincorporated organizations, fiduciaries, and other organized groups of persons.

C. "Employer" includes any person employing one or more persons within the City of Nelsonville and any person acting in the interest of an employer, directly or indirectly.

D. "Employee" does not include any individual employed in the domestic service of any person.

E. "Familial status" means one or more individuals who have not attained the age of 18 years being domiciled with:

(1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

F. "Labor organization" includes any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.

G. "Commission" means the Community Relations Commissions of the City of Nelsonville.

H. "Council" means the City Council of Nelsonville, Ohio.

I. "Place of public accommodations" means any inn, restaurant, eating house, barbershop, public conveyance by air, land, or water, theater, store, or other place for the sale of merchandise, or any other place of public accommodation or amusement where the accommodation, advantages, facilities, or privileges thereof are available to the public.

J. "Housing accommodation" means:

(1) Any building, structure, or portion thereof which is used or occupied as the home, residence, or sleeping place of one or more human beings, or

(2) A parcel or parcels of real estate or any lot or lots, available for the building of a home, residence, or dwelling.

(3) Unit shall denote that portion of a housing structure, which may be the entire structure that is occupied by an individual, group or family for the purposes Stated herein.

(4) Rooming house shall be deemed to contain as many units as there are unrelated individuals occupying separate space therein.

K. "Dwelling" means any building or portion thereof designated or used as the residence of one or more human beings.

**§3.07.08. Unlawful discriminatory practices.**

A. Discrimination in employment.

It shall be unlawful:

(1) for any employer, because of the race, creed, color, sex, national origin or ancestry, marital or familial status, religious belief, age or handicap or of any person to refuse to hire or otherwise discriminate against him/her with respect to hire, tenure, conditions, or privileges of employment, or any matter directly or indirectly related to employment.

(2) for any labor organization to discriminate against any person or limit his/her employment opportunities or otherwise adversely affect his/her status as an employee as to his/her wages, hours, employment conditions because of his/her race, creed, color, sex, national origin or ancestry, marital or familial status, religious belief, age or handicap of any prospective employee.

(3) for any person providing employment to publish or cause to be published any advertisement which specifies or in any manner indicates or expresses a limitation or preference as to the race, creed, color, sex, national origin or ancestry, marital or familial status, religious belief, age or handicap of any prospective employee.

B. Discrimination in public accommodation.

It shall be unlawful for any proprietor or his/her employer, keeper, or manager in place of public accommodation to deny any person, except for reasons applicable alike to all persons, regardless of race, creed, color, sex, national origin or ancestry, marital or familial status, religious belief, age or handicap the full enjoyment of the accommodations, advantages, facilities or privileges thereof:

C. Discrimination in housing.

It shall be unlawful:

(1) for an owner, lessee, sub lessee, assignee, real estate broker, real estate salesperson, managing agent of, or other person having the right to sell, rent, lease, sublease, assign, transfer, or otherwise dispose of a housing accommodation, or any agent of these, to refuse to sell, to refuse to rent, lease, sublease, assign, transfer, or otherwise deny to or withhold from any person group of persons such housing accommodations or represent that such housing accommodations are not available for inspection when in fact they are so available, because of the race, creed, color, sex national origin or ancestry, marital or familial status, religious belief, age or handicap of such person or persons, or discriminate against or segregate any person because of his/her race, creed, color, sex, national origin or ancestry, marital or familial status, religious belief, age or handicap in the terms, conditions, or privileges of the sale, rental, lease, sublease, assignment, transfer, or other disposition of any such housing accommodation or to do any other thing or engage in

conduct which would otherwise make unavailable equal housing opportunities.

(2) for a person to publish, circulate, issue, or display, or cause to be published, circulated, issued, or displayed, any communication, notice, advertisement, or sign or any kind relating to the sale, rental, lease, sublease, assignment, transfer, or listing of a housing accommodation or accommodations which indicates any preference, limitation, specification, or discrimination based on race, creed, color, sex, national origin or ancestry, marital or familial status, religious belief, age or handicap.

(3) for a person, bank, banking organization, mortgage company, insurance company, or other financial institution of lenders, or agent or employee thereof, to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, or maintenance of any housing accommodation to discriminate against any person or group of persons because of race, creed, color, sex, national origin or ancestry, marital or familial status, religious belief, age or handicap of such person or group of persons or of the prospective occupants or tenants of such real property in the granting, withholding, extending, modifying, or renewing, or in the rates, terms, conditions, or privileges of, any such financial assistance or in the extensions of services in connection thereof

(4) for an owner, lessee, sub lessee, assignee, real estate broker, real estate salesperson, managing agent of, or other person having the right to sell, rent, lease, sublease, assign, transfer, or otherwise dispose of a housing accommodation, or any agent of any of these to discriminate against any person by refusing to negotiate, making false representations on the availability of the housing unit, or withdrawing from the market a housing unit which is for sale, lease, sublease, or rental.

(5) for an owner, lessee, sub lessee, assignee, real estate broker, real estate salesperson, managing agent of, or other person having the right to sell, rent, lease, sublease, assign, transfer, or otherwise dispose of a housing accommodation, or any agent of any of these to include in the terms, conditions, or privileges of any sale, lease, sublease, rental, assignment, or other transfer of any housing, any clause, condition, or restrictions discriminating against any person in the use or occupancy of such housing.

(6) for an owner, lessee, sub lessee, assignee, real estate broker, real estate salesperson, managing agent of, or other person having the right to sell, rent, lease, sublease, assign, transfer, or otherwise dispose of a housing accommodation, or any agent of any of these to discriminate in the furnishing of any facilities, repairs, improvements, or services or in the terms, conditions, or privileges or tenure of occupancy of any person.

(7) for any real estate agent or other individual:

(a) to induce or attempt to induce a sale, transfer of interest, or listing for sale of any housing by making representations regarding the existing or potential proximity of real property owned, used, or occupied by any person of any particular race, creed, color, sex, national

origin or ancestry, marital or familial status, religious belief, age or handicap, by direct or indirect methods.

(b) to make any representation to any prospective purchaser, or lessee that any housing in a particular block, neighborhood, or area may undergo, is undergoing, or has undergone a change with respect to race, creed, color, sex, national origin or ancestry, marital or familial status, religious belief, age or handicap of such block, neighborhood, or area.

(c) to induce or attempt to induce a sale or listing for sale of any housing by representation that the presence or anticipated presence of persons of any particular race, creed, color, sex, national origin or ancestry, marital or familial status, religious belief, age or handicap in the area will or may result in:

(1) the lowering of property values.

(2) a change in racial, color, religious, nationality, or ethnic composition of the block, neighborhood, or area in which the property is located.

(3) an increase in criminal or anti-social behavior in the area.

(4) a decline in the quality of the schools serving the area.

**D. Aiding and abetting discrimination.**

It shall be unlawful for a person to assist, aid, abet, entice, incite, or coerce another person to commit an act for or engage in any practices forbidden by this section.

E. The provisions of this Chapter as it pertains to sexual orientation shall not apply to religious schools, churches engaged in religious activities and owner-occupied residences with not more than three (3) unrelated renters.

**§3.07.09. Posting of notices.**

A. Every real estate agent shall post in a conspicuous location in that portion of his/her place of business normally used by him/her for negotiating the terms of a sale or lease of housing, and each person who operates a housing accommodation with one or more units shall post at all times when prospective tenants are being interviewed, in a conspicuous location in that portion of his/her housing business normally used by him/her for negotiating the rental of a housing unit therein, a notice prepared and provided by the Community Relations Commission which contains the following language, printed in black on a light-colored background, in not less than fourteen-point type:

"It is a violation of the Community Relations law of the City of Nelsonville, State of Ohio, for any real estate agent, or for any person owning or managing multi-unit apartment dwelling to:

(1) deny housing to any person because of race, creed, color, sex, national origin or ancestry, marital or familial status, religious belief, age or handicap.

(2) discriminate against any person because of that person's race, creed, color, sex, national origin or ancestry, marital or familial status, religious belief, age or handicap, with respect to the terms, conditions, or privileges of housing accommodation in the furnishing of facilities and services in connection therewith.

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST, CONTACT THE CITY OF NELSONVILLE COMMUNITY RELATIONS COMMISSION, THE OHIO CIVIL RIGHTS COMMISSION, OR THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

**§3.07.10. Establishment of the Community Relations Commission.**

There is hereby created and established a commission to be known as the Community Relations Commission consisting of eleven (11) members to be appointed by the City Council. Members of the Commission shall be broadly representative of the members of the Nelsonville community. Minority groups shall be represented on the Commission at all times. All members shall serve without compensation. Of the members appointed, four (4) shall be appointed for two (2) year terms, four (4) shall be appointed for three (3) year terms, and three (3) shall be appointed for four (4) year terms. The Commission shall select its own chairperson who shall have a vote only in the event of a tie. In the event of the death or resignation of any member, his/her successor shall be appointed to serve the unexpired term for which such member has been appointed. Six (6) members of the Commission shall constitute a quorum. The Commission shall maintain a record of its hearings. A member who misses three (3) consecutive meetings, without excuse, shall automatically cease to be a member and his/her seat shall become vacant.

**§3.07.11. Purpose of the Community Relations Commission.**

The Community Relations Commission shall endeavor to bring about and maintain harmony within the Nelsonville Community and to avoid, or reduce, intergroup tensions, to promote tolerance and goodwill, and to ensure equality of treatment and of opportunity of all persons regardless of race, creed, color, sex, national origin or ancestry, marital or familial status, religious belief, age or handicap.

**§3.07.12. Powers and duties of the Community Relations Commission.**

The Community Relations Commission shall:

A. promote mutual understanding and respect among all sections of the Nelsonville community and work to discourage and prevent discrimination practices against any such group;

B. disseminate information and educational materials and reports which will assist in the elimination of prejudice, intolerance, intergroup tensions, and discrimination or which will promote goodwill and promote programs of community education and information with the object of promoting better human relations;

C. assist various groups and agencies of the community to cooperate in educational campaigns devoted to the elimination of group prejudices, racial or area tensions, and intolerance of discrimination;

D. cooperate with City, State, Federal, and other agencies in order to promote better human relations;

E. recommend such legislation as may be deemed appropriate and necessary to promote harmony in the field of human relations and continually assist in the preparation of City legislation in terms of its human relations impact and to establish policies for the sanction of persons found to be in violation of *Section §3.07.08* of this code more than once, send annual notices of these policies to real estate agents, landlords and landladies, lending institutions, and others;

F. prepare and submit an annual report of its activities to the City Council and to make such other reports and recommendations to the City Council from time to time as it may deem necessary for the furtherance of improved human relations in the City;

G. adopt such rules and regulations of self-government as may be necessary to carry out the purpose and provisions of *Section §3.07.08* of this code;

H. receives and investigates complaints and initiates its own investigations of:

(1) racial, religious, ethnic, and other group tensions, prejudice, intolerance, bigotry, and disorder occasioned thereby.

(2) discrimination as defined by *Section §3.07.07* of this Code against any person, group of persons, organizations, or corporations, whether practiced by private persons, associations, or other group; and

I. hold hearings, subpoena witnesses, administer oaths, and, in connections therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the Commission.

**§3.07.13. Procedures and enforcement.**

A. Any person subject to an unlawful housing practice or an unlawful discriminatory employment or public accommodation practice may file within one hundred eighty (180) days of the alleged violation with the Commission a complaint in writing, sworn to or affirmed, which shall State the name and address of the person alleged to have committed the violation complained of and the particulars thereof, and such other information as may be required by the Commission.

B. Upon the filing of the complaint, the Commission shall make such an investigation as it deems appropriate to ascertain facts and issues. If the Commission determines that there are reasonable grounds to believe a violation has occurred, it shall attempt to conciliate the matter by methods of initial conference and persuasion with the interested parties and such representatives as the parties may choose to assist them. Conciliation conferences shall be informal and nothing said or done during such initial conferences shall be made public by the Commission or any member of the Commission or its staff unless the parties agree thereto in writing.

C. The terms of the conciliation agreed to by the parties shall be reduced to writing and incorporated into a consent agreement to be signed by the parties, which agreement is for conciliation purposes only and does not constitute an admission by any party that the law has been

violated. Consent agreements shall be signed on behalf of the Commission by its chairperson.

D. The Commission is authorized to seek the cooperation and aid of the Ohio Real Estate Board or the Ohio Civil Rights Commission in any investigation under *Section §3.07.08* of this code.

E. If the Commission determines that the complaint lacks reasonable grounds upon which to base a violation of *Sections §3.07.08* of this code, the Commission may in its discretion dismiss such complaint or order such further investigation as may be necessary, provided that the Commission shall not dismiss such complaint without first affording the complainant an opportunity to appear before the Commission.

F. If the Commission, with respect to a matter which involves a violation of *Section §3.07.08* of this code, fails to conciliate a complaint after the parties have in good faith attempted such conciliation, fails to effect an informal conciliation agreement or a formal consent agreement, or determines that the complaint is not susceptible of conciliation, the Commission shall thereafter schedule a public hearing to determine whether a violation of *Section §3.07.08* of this code has been committed. The Commission shall serve upon the respondent a Statement of charges and summons and shall serve upon all interested parties a notice of the time and place of hearing. The respondent, or his/ her authorized counsel, may file such Statements with the Commission prior to the hearing date it deems necessary in support of its position. The hearing shall be open to the public except that the respondent may request in writing a private hearing; the determination of such request shall be discretionary with the Commission. The hearing shall be held not less than fifteen (15) days after service of the Statement of charges and summons. The summons so issued must be signed by two (2) members of the Commission and the issuance of such summons shall require the attendance of the named persons and the production of relevant documents and records. The failure to comply with a summons shall constitute a violation of *Section §3.07.08* of this code. Interested parties may, at their option, appear before the Commission in person or by duly authorized representatives and may have the assistance of an attorney. The parties may present testimony and evidence, and the right to cross examine witnesses shall be preserved. All testimony and evidence shall be given under oath or by affirmation. The Commission shall keep a full record of the hearing, which record shall be public and open to inspection by any person and upon request by any principal party to the proceeding, the Commission shall furnish such party a copy of the hearing record, if any, at such cost as the Commission deems appropriate.

G. If at the conclusion of the hearing the Commission shall determine upon the preponderance of the evidence that the person complained against has violated *Sections §3.07.08* of this code, the Commission shall, after consultation with the City Attorney in executive session, State its findings to and cause the City Attorney to prepare and issue an order under Commission directive requiring the person complained against to cease and desist from such unlawful conduct, with notice that if the Commission determined that

the person complained against has not after fifteen (15) calendar days following service of the Commission's order complied with the order, the Commission will recertify the matter to the City Attorney for enforcement through whatever legal and appropriate channels as may be necessary.

H. If at the conclusion of the hearing the Commission shall determine upon the preponderance of the evidence of the record that the person complained against has not violated *Section §3.07.08* of this code, the Commission shall State and publish its findings and issue its order dismissing the complaint.

#### **§3.07.14. Construction.**

A. The provisions of this Code shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this Code is intended to conflict with any general law in the State of Ohio or the United States, and particularly with the statutes providing for the administration of the law by the Ohio Civil Rights Commission, under *Sections §4112.01 through §4112.99* of the *Ohio Revised Code*. This Code shall not be applicable in matters involving the persons and practices which have come under the jurisdiction of the Ohio Civil Rights Commission by the filing of a complaint with said Commission.

B. If any of the provisions of this Code, or portion thereof, or applications of such provisions or portions to any person or circumstance shall be held invalid, the remainder of this Code and their application to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

#### **§3.07.15. Other legal action.**

Nothing contained in this Code shall prevent any person from exercising any right of seeking any remedy to which he/she might otherwise be entitled or from filing any complaint with any other agency or court of law for equity.

#### **§3.07.99. Penalty.**

Any person, firm, or corporation violating any provisions of this Code, or any amendment or supplement thereto, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with *Section §2929.21(D)* of the *Ohio Revised Code*. Each and every day during which such discrimination continues shall be deemed a separate offense.

### **Chapter 3.08. City Employees.**

§3.08.01. City employees, union.

§3.08.02. Other city employees, non-union.

#### **§3.08.01. City employees, union.**

City employees of the service and fire department are presently represented by American Federation of State, County and Municipal Employees. Their working conditions and salaries are provided in an agreement with the City, similar working agreements are in effect with the Fraternal Order of Police covering police employees. Copies of these

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agreements may be obtained from the office of the City Manager.

**§3.08.02. Other city employees, non-union.**

Working conditions of all city employees not covered by a collective bargaining agreement are set by ordinance. Copies of which may be obtained from the Clerk of Council.