

**IN THE FOURTH DISTRICT COURT OF APPEALS
ATHENS COUNTY, OHIO**

**STATE OF OHIO, ex rel. Jonathan R.
Flowers, et al.,**

Relators,

v.

City of Nelsonville, Ohio, et al.,

Respondents.

Case No. 26CA0003

Panel Not Yet Assigned

AFFIDAVIT OF GREGORY J. CLEMENT

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**EXHIBIT
A**

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AFFIDAVIT OF GREGORY J. CLEMENT

STATE OF OHIO)
)
COUNTY OF ATHENS) ss.

Gregory J. Clement, being first duly sworn, according to law, and states the following:

1. I am over the age of 18 and have personal knowledge of the matters contained within this affidavit.
2. My full name is Gregory J. Clement, but I go by “Gregg.” I’m currently employed by a property owner to assist with day to day operations of an apartment complex.
3. I’m a named Respondent in this action, in my official capacity as a Member of Council of the City of Nelsonville, Ohio.
4. I currently serve as Member of Council for the City of Nelsonville, Ohio. I was appointed to my present seat under Nelsonville City Charter on December 1, 2025. I’ve previously on Council. For example, I most recently served on City Council for the term ending (under Nelsonville City Charter) on November 30, 2025 and as Nelsonville City Council President from March 13, 2024 to November 30, 2025.
5. I accepted the December 1 appointment because no one else stepped forward to serve and I felt it was important that the City had a full Council.

6. I first move to Nelsonville around December 1995. My wife was from this area and we wanted to live in Nelsonville because it was my wife's adopted hometown. Nelsonville is our hometown because it's a place where we can serve and be a part of.
7. Before moving to Nelsonville, I served on the city council in the town in Iowa where I lived at the time. I also served in Iowa as a volunteer firefighter for about 10 years in the small community in which I lived.
8. Like I said, when we moved to Nelsonville, I wanted to be sure to continue serving my community, including as a Member of Nelsonville City Council.
9. The last few years in Nelsonville have been very disorderly, disorganized, and chaotic, from a local government perspective and my perspective as a Member of City Council. During my time on Council, I've tried hard to bring order and organization. And I firmly believe the way to bring order and organization is to follow the rule of law. The rule of law comes first, before local or personal politics.
10. I was a signatory to the part-petitions to get Issue 23 placed on the November 2024 ballot. I signed the petition because I believed the petitioners' committee had the right to put forward their proposal to the voters. I signed the petition even though I was (and remain) personally in favor of the charter form of government for Nelsonville.
11. After the part-petitions were submitted to Council, there was discussion about the lack of a transition plan in Issue 23. This lack of a transition plan gave me great concern. I cannot speak for any other Members of Council who served at that time, but I can say there was significant public discussion at Council meetings throughout 2025 regarding the lack of a transition plan in Issue 23 and the possible or likely consequence or repercussions that the lack of a transition plan in Issue 23 could have if it were allowed to go into effect.
12. In an attempt to try to solve the transition problems with Issue 23, Nelsonville City Council created the Advisory Commission on the Implementation of Issue 23 (we often referred to this as the "Issue 23 Ad Hoc Committee"). City Council created Issue 23 Ad Hoc Committee by Ordinance 98-24. A true and accurate copy of Ordinance 98-24 is attached and incorporated as **Attachment 1**.
13. In relation to Issue 23, I—as an individual Council member—wanted to let the Issue 23 Ad Hoc Committee do its work on the transition. While the Issue 23 Ad Hoc Committee was evaluating a plan for the transition, I did not think that it would be appropriate to try and repeal Issue 23.

14. I'm not a lawyer. But I have to understand the law to properly carry out my duties as a Member of Nelsonville City Council. Because Issue 23 was placed on the November 2024 ballot under Article X of the Nelsonville City Charter, I understand that Council had the power to repeal Issue 23. This was been a topic of Council discussion since Issue 23 was passed in November 2024 up until Ordinance 54-25 repealed Issue 23 and even afterwards.
15. Once it was apparent that the transition could not happen in an orderly fashion, then—in my opinion—a repeal would be appropriate if City Council so voted.
16. As the Issue 23 Ad Hoc Committee continued to do its work, my concerns about the transition only heightened. The Issue 23 Ad Hoc Committee kept reporting to Council more and more issues with the transition that the Issue 23 Ad Hoc Committee had identified. So the more work it did, the more problems it found, not more solutions.
17. The members of the Issue 23 Ad Hoc Committee provided a necessary service to the City, in my opinion. A true and accurate copy of their final draft report to Council is attached and incorporate by reference as **Attachment 2**. Although the final draft report includes some suggestions as to possible solutions to the transition issues, the conclusion I drew from the report is that the transition problems with Issue 23 couldn't be adequately solved.
18. I did not attend the August 11, 2025 meeting of Council at which Ordinance 54-25 was passed to repeal Issue 23. However, I believe passage of Ordinance 54-25 was appropriate and necessary and in the best interests of the City.
19. A true and accurate copy of Ordinance 54-25 is attached and incorporated as **Attachment 3**.
20. Like I said, as of November 30, 2025, I'm no longer Council President. However, there's currently a case before the Fourth District Court of Appeals (Athens County) in which I was a respondent in my capacity as Council President. The case is Case No. 24CA0011. Again, I'm not a lawyer but my understanding is that case is moot, at least with regard to me in my previous capacity as Council President.
21. The Relators in Case No. 24CA0011 are Margarita Nguyen and Sue Powell, Sue Powell is also a Relator in this present action. As a Relator in the present action, Sue Powell is asserting her claim as a member of the claimed statutory council.
22. On February 26, 2026, Ms. Nguyen and Ms. Powell filed a brief in Case No. 24CA0011. A true and accurate copy of their February 26 brief is attached and incorporated as

Attachment 4. Their brief is a file-stamped and obtained from the Athens County Clerk of Court's office.

23. In the February 26 brief, Ms. Nguyen and Ms. Powell have this to say about Ordinance 54-25: "On August 11, 2025, Nelsonville's City Council enacted Ordinance 54-25, an emergency measure that effectively repealed Issue 23."
24. Ms. Nguyen and Ms. Powell also have this to say in their February 26 brief: "The people purportedly elected in the November 2025 election [to statutory Council] are pretending to be a City Council" and "Self-proclaimed members of the false City Council recently filed a *quo warranto* action, attempting to undo Nelsonville Ordinance 54-25. *State ex rel. Flowers, et al. vs. City of Nelsonville*, 4th Dist. Athens No. 26ca0003 (Feb. 5, 2026)."
25. So Ms. Powell is now calling the claimed statutory council a "false City Council."
26. I've observed, via various Facebook livestreams, various meetings held by the members of the claimed statutory council. For example, I observed the very first meeting of members of the claimed statutory council. However, at the beginning of the meeting, that body announced it was organizing itself not under the statutory form of government but under the charter form of government pursuant to the Nelsonville City Charter. A copy of the minutes from the members of the claimed statutory council's first meeting is included in their initial filings for this case. But I attach and incorporate a true and accurate copy as **Attachment 5.** I obtained this copy from their court filings in this present action.
27. During some of the meetings that I've observed, I've seen various former and current City officials attend those meetings, including, at one meeting, the current Fire Chief, in his personal capacity only. I know he's attending only in his personal capacity because, as I've observed, he's not been in uniform, nor has he delivered any departmental report to the claimed statutory council.

Gregory Clement
GREGORY J. CLEMENT

Sworn to before me and subscribed in my presence this 10th day of March, 2026.



Chit Fank
NOTARY PUBLIC
My Commission Expires: 2-15-30

Ordinance No. 98-24

Passed DECEMBER 9, 2024

ORDINANCE 98-24

AN ORDINANCE ESTABLISHING AN ADVISORY COMMISSION ON THE IMPLEMENTATION OF ISSUE 23 AND DECLARING AN EMERGENCY.

WHEREAS, by Resolution 2305, Nelsonville City Council reaffirmed the City’s commitment to respecting the right of the people of the City of Nelsonville to choose the form of government for the City of Nelsonville;

WHEREAS, Issue 23 was an ordinance submitted to the voters of Nelsonville under the initiative procedures set forth in Article X of Nelsonville City Charter;

WHEREAS, the voters of Nelsonville voted to adopt the Issue 23 ordinance to abolish Nelsonville City Charter and establish a mayoral form of government under the Ohio Revised Code;

WHEREAS, Nelsonville City Charter Section 4.08(3) empowers Nelsonville City Council to “set up such additional departments, boards, or commissions as it may deem necessary and determine their powers and duties;”

WHEREAS, Nelsonville City Charter Article VII governs the creation of and rules governing commissions which Nelsonville City Council may create and establish;

WHEREAS, given the complexities associated with implementation of Issue 23 and facilitating any lawful transition, Council finds it is necessary and expedient to establish an advisory commission to advise Council on implementation of Issue 23;

WHEREAS, the Judiciary Committee has recommended to Council that Council creates the Advisory Commission;

WHEREAS, Council determines it is necessary and expedient for the advisory commission to have full authority to gather information and present recommendations to Council to implement Issue 23 and to facilitate the transition,

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NELSONVILLE, ATHENS COUNTY, OHIO AS FOLLOWS:

- 1. Advisory Commission Created and Established.**
 - a. Council hereby creates and establishes the Advisory Commission on the Implementation of Issue 23.
 - b. The Advisory Commission shall be composed of six (6) electors of the City of Nelsonville. However, no person currently serving in an elected or appointed office of the City of Nelsonville shall be eligible to serve on the Advisory Commission. Each Member appointed to the Advisory Commission shall be entitled to all rights and privileges associated with serving on the Advisory Commission.
 - c. Pursuant to Nelsonville City Charter Section 7.03(A)(6), the City Manager or his designee shall serve as an ex officio Member of the Advisory Commission but shall have no vote.
 - d. Members of the Commission shall serve from the date of their respective appointment and through December 31, 2025.
 - e. The Advisory Commission shall dissolve on December 31, 2025, unless the Council shall by law extend the date for dissolution.

RECORD OF ORDINANCES

GRAPHIC VILLAGE - CINCINNATI, OH

Form V6220S

Ordinance No. 98-24

Passed DECEMBER 9, 2024

2. Powers of the Advisory Commission.

- a. The Advisory Commission shall have full power gather information and prepare recommendations to Council.
- b. The Advisory Commission shall have full power to conduct hearings and to compel the production of testimony and evidence as it prepares recommendations to Council.
- c. The Advisory Commission shall have power to elect its own officers and establish its own rules as provided in Article VII of Nelsonville City Charter.
- d. The City Attorney shall serve as legal counsel to the Advisory Commission.
- e. The Advisory Commission shall have power to formally transmit to Council such recommendations as the Advisory Commission, in its sole discretion and judgment, shall deem appropriate to transmit. Upon transmission to Council of any recommendation, such recommendation shall be added to the agenda of the next regular Council meeting for Council consideration and discussion.
- f. The Advisory Commission shall remain independent in the exercise of its powers as granted herein subject only to law. Accordingly, it shall be unlawful for any person to unlawfully interfere with the Advisory Commission's exercise of its powers and authorities, provided that this prohibition shall not be construed to abridging the First Amendment right of any person.
- g. The Advisory Commission shall keep a journal or other records of its proceedings according to law and shall deposit such journal or record with the Clerk of Council.

3. Compensation.

- a. Members of the Advisory Commission shall be paid a monthly salary of \$100 each for their service.
- b. The Advisory Commission may appoint a Secretary of the Advisory Commission pursuant to Nelsonville City Charter 7.03(A)(2). Unless otherwise provided for by law, the Secretary shall be paid a monthly stipend of \$1,000.00 for his or her service.

4. Five (5) members of Council voting to dispense with the two readings of this Ordinance, the rules are hereby suspended for this Ordinance and this Ordinance is hereby enacted on the first reading, pursuant to O.R.C. 731.15, and Nelsonville City Charter Sections 4.09 through 4.11. This Ordinance is hereby passed as an emergency measure pursuant to O.R.C. 731.30, Article IV, Sections 4.09 through 4.11 as an emergency in the operation of the City government because there is a need to implement Issue 23 to the extent the law permits and is necessary for the immediate preservation of the public peace, health, safety, morals or welfare of the City, and this Ordinance shall be in full force and effect upon its adoption.

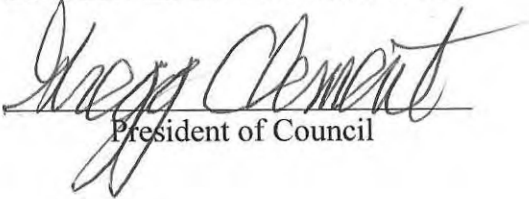
RECORD OF ORDINANCES

Ordinance No. 98-24

Passed DECEMBER 9, 2024

Duly enacted by Council on first reading on the 9th day of December, 2024.

NELSONVILLE CITY COUNCIL


President of Council


Clerk of Council

First Reading: 12/09/24

On November 5, 2024 the voters of the city of Nelsonville adopted an ordinance via referendum, commonly known as Issue 23, which sought to abolish the Nelsonville City Charter [the Charter] and revert the City government to the default municipal organization structure laid out in the Ohio Revised Code [general statutory construction]. Issue 23 provided very little means for its own implementation. Because of this, the Nelsonville City Council resolved to establish the Issue 23 Advisory Commission to study both the Charter and Statutory forms of government and to identify what necessary steps should be taken to ensure a smooth transition and full implementation of Issue 23.

As members of the Issue 23 Advisory Commission, we understand the gravity of this task and consider it an honor to participate in building the foundation for the future of Nelsonville. Included in this packet is the Nelsonville Transition Plan which outlines recommended actions and legislation for both the Charter and Statutory city councils to take; the plan has been divided into two parts for the sake of clarity. The reason for this two-part approach is related to lack of transition language included in Issue 23; there are some things that can be done under the Charter but the majority of action must be taken by the Statutory council.

Part one of the plan provides recommendations for the Charter government to conform City operations to what is required by the Revised Code to the greatest extent possible. Part two of the plan provides recommended actions for the new statutory government like updating City Code, filling key roles within the government, and ensuring compliance with the Revised Code.

This Transition Plan is the result of 8 months of work and more than one thousand collective man-hours of effort. While it is thorough it should not be understood as exhaustive; this plan provides for the bare minimum necessities to attempt a seamless transition of government. As Nelsonville's government wades back into waters not seen in three decades there will surely be pitfalls and problems that have not been identified despite best efforts. However, attention and collaboration on the part of the incoming Mayor, Council, and other municipal officers will surely pave the way for an efficient and effective city government here in Nelsonville.

Part I - Recommendations for Charter City Council

While there has been much discussion regarding what steps should be taken by the current government in order to abolish the Nelsonville City Charter and establish a general statutory construction, very few action items have been identified. This is largely due to the fact that the Nelsonville City Charter, from which our current government derives all of its powers, does not contemplate its own abolition. However, while there are no apparent changes which can be made in law to conform the Charter organization of the City to a general statutory construction, Nelsonville's current City Council and City Manager can and should facilitate the transition through the following ways:

- **Convening new elected officials (including December term) for level-setting and discussion of transition.**
 - This would serve as an opportunity for this transition plan to be delivered to the incoming elected officials and for the group to ensure that there is a common understanding of the path that lay ahead for Nelsonville.
- **Ensuring Continuity of key staff & positions through the transition of government.**
 - For smooth operations, the City requires the work and expertise of several hard-working public servants. As the government transitions away from the Charter several of these public servants have made it known that they also plan to step away from the City. As part of the Transition, the current city government should take stock of what vacancies are likely to exist come January and work to identify individuals who would be willing and able to serve Nelsonville in an official capacity. Known vacancies include the City Director of Law and Clerk of Council.

PART II - Recommendations for Statutory City Council

As Nelsonville abolishes its Charter and resumes a statutory form of government it is inevitable that the current order of government must also change. The following pages include several pieces of legislation which the Advisory Commission has drafted to make essential changes which would both ensure a smooth transition and mitigate potential legal liabilities to the City.

If the incoming Council sees fit to adopt these proposed ordinances and resolutions, the Advisory Commission is strongly recommending that it do so in a meeting to be convened in the early morning hours of January 1st; preferably the meeting would begin as soon as the calendar turns over to 2026. Each piece of legislation that has been proposed to be adopted at this New Year's Day meeting includes an emergency clause so that they may be adopted upon first reading. To enact ordinances on an emergency basis, the rules must be suspended by a vote of two-thirds of all council members.

These recommendations provide the reasoning motivating the change as well as sample legislation which Council may adopt.

I. Reauthorizations of Nelsonville Fire and Police Departments:

The Ohio Revised Code ([ORC 715.05](#)) permits municipal corporations to establish police and fire departments and to purchase and maintain all necessary buildings and equipment for the operation of such departments. However, this is not required. For this reason the Commission is recommending that the Council adopt an ordinance that would reestablish the Nelsonville Police & Fire Departments as they are currently structured in order to affirm their legal foundations under the new government.

Sample Fire Legislation:

ORDINANCE NO. ____

AN ORDINANCE ESTABLISHING A DIVISION OF FIRE FOR THE CITY OF NELSONVILLE, OHIO; AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Nelsonville, Ohio, desires to provide for the safety and welfare of its residents by establishing and maintaining a municipal fire department to prevent and respond to fire, rescue, and emergency incidents; and

WHEREAS, Ohio Revised Code § 737.08 and § 715.05 authorizes cities to establish fire departments by ordinance and to appoint a fire chief and such other personnel as are necessary;

WHEREAS, the City of Nelsonville, Ohio has operated a fire response force for over a century,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Nelsonville, State of Ohio:

1. There is hereby established a department of the municipal government to be known as the City of Nelsonville Division of Fire, hereinafter referred to as the “Department.”
2. The Fire Chief shall be the head of the Department and shall be appointed by the Director of Public Safety, or the Mayor if no Safety Director is appointed, pursuant to ORC § 737.08. The Fire Chief shall serve at the pleasure of the appointing authority, subject to applicable civil service laws, and shall be responsible for:
 - Supervision of all personnel and operations of the Department;
 - Development and enforcement of policies, procedures, and rules;
 - Oversight of fire prevention, suppression, and emergency response;
 - Preparation and submission of annual reports and budget proposals;

- Coordination with mutual aid partners and other agencies.
3. The Fire Department shall consist of:
- The Fire Chief;
 - Assistant Chiefs, Captains, Lieutenants, and Firefighters as authorized by Council;
 - Civilian staff as deemed necessary for administrative or support functions.
 - All appointments shall be made in accordance with the civil service laws of Ohio , unless exempted by law.
4. The Department shall have the authority and responsibility to:
- Prevent and extinguish fires;
 - Conduct rescue operations;
 - Respond to hazardous materials and other emergency incidents;
 - Enforce fire codes and conduct inspections;
 - Conduct community education and fire prevention programs;
 - Maintain and operate necessary apparatus, equipment, and facilities;
 - Provide mutual aid and assistance to other jurisdictions pursuant to intergovernmental agreements or Ohio law.
5. All members of the Department shall maintain required certifications as set forth by the Ohio Department of Public Safety, State Fire Marshal, or other applicable agencies. Ongoing training and professional development shall be required in accordance with best practices and Department policy.
6. The Fire Chief shall establish rules, regulations, and standard operating procedures for the administration, discipline, and performance of duties by members of the Department, subject to approval by the Director of Public Safety or Mayor.
7. The City Council shall appropriate sufficient funds to operate and equip the Department. The Fire Chief shall submit an annual budget proposal to the Mayor and President of Council. The Department may apply for and accept grants, donations, and other financial support with Council approval.
8. The composition of the Department, compensation for officers and employees of the Department, and other provisions of the government of the Department as established by the Nelsonville Code of Ordinances unless otherwise stated by the Revised Code.

9. If any section, subsection, sentence, clause, or phrase of this Ordinance is held to be invalid, the remaining portions shall remain in full force and effect.

This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the citizens of Nelsonville, in order to ensure the establishment of an essential public safety service. It shall take effect and be in force immediately upon its adoption and approval by the Mayor.

Sample Police Legislation:

ORDINANCE NO. ____

AN ORDINANCE ESTABLISHING A POLICE DEPARTMENT FOR THE CITY OF NELSONVILLE, OHIO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Nelsonville, Ohio, has abolished the Charter which was adopted January 1, 1995, and

WHEREAS, the City Council finds that a municipal police force is necessary to protect the health, safety, and welfare of its residents; and

WHEREAS, the City of Nelsonville is authorized by Ohio Revised Code Section 715.06 to establish such a municipal police force and define its powers:

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Nelsonville, Ohio:

1. There is hereby established a department of municipal police for the City of Nelsonville, to be known as the "Nelsonville Police Department," herein known as "the Department".
2. The Executive Officer of the Department shall be the director of public safety who shall, at the direction of the Mayor, hire a 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 police department, and police auxiliary unit, under such general rules and regulations as the director of public safety prescribes.
3. Officers shall be duly commissioned, sworn, and have full police powers within city limits and any mutual aid jurisdictions per ORC Chapter 2935. Peace Officer status is established under Ohio Revised Code sections applicable to municipal police.
4. The Chief is empowered to enter into mutual aid agreements pursuant to ORC Chapter 9.7 and 2901.19.
5. The composition of the Department, compensation for officers and employees of the Department, and other provisions of the government of the Department as established by the

Nelsonville Code of Ordinances unless otherwise stated by this Ordinance or the Ohio Revised Code.

Because an absence of formal structure for police operations poses imminent risk to public safety, this ordinance is declared an emergency and shall be effective immediately upon adoption and approval by the Mayor.

DRAFT

II. Affirmation of the City's Legal & Financial Obligations:

The City of Nelsonville is party to dozens of contractual and financial agreements that vary in scope and scale. In order to avoid disputes with other parties and potential legal conflict it is recommended that Council adopt a resolution affirming the City's commitment to honor its debts and contractual obligations:

Sample Legislation:

RESOLUTION NO. ____

A RESOLUTION AFFIRMING THE CITY OF NELSONVILLE'S COMMITMENT TO ITS DEBTS AND OBLIGATIONS

WHEREAS the City of Nelsonville has engaged in contracts with vendors providing a variety of services and goods which are vital to the safety, health, and wellbeing of the citizens of Nelsonville, and

WHEREAS the City of Nelsonville has engaged in contracts with employees of the City who are members of collective bargaining units, and

WHEREAS the City of Nelsonville has made use of a variety of financing vehicles to secure funding for pieces of critical infrastructure and other public works which the City is obligated to make regular payments in service of:

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Nelsonville, Ohio:

That the City of Nelsonville remains committed to contracts and agreements to which the City is currently a party and will honor all obligations and debts associated with such contracts.

III. Reauthorizing Nelsonville's Income Tax and submitting the question to the Voters:

[JONATHAN ROBE DRAFTING]

DRAFT

IV. Establishing a map of Wards for City Council Seats

The City Council of Nelsonville will have seven members under the general statutory construction. Of these seven members four will be elected from wards and three will be elected at-large. Because of this, the City Council is required by R.C. 731.06(A)(2) to adopt a map of wards prior to March 31, 2026.

In the Summer of 2025, the League of Women Voters of Ohio and Athens County assisted the citizens of Nelsonville in producing a map of wards which complies with Ohio's requirements for proportional, compact, and contiguous electoral districts. The Commission is advising Council to adopt this map of wards.

Sample Legislation:

RESOLUTION NO. _____

AN ORDINANCE DIVIDING THE CITY OF NELSONVILLE INTO WARDS AND ADOPTING A MAP OF WARDS.

WHEREAS, Section 731.06 of the Revised Code directs that the legislative authority of a municipal corporation adopt a map of wards for the purpose of electing four members of such a legislative authority, and

WHEREAS, a map of wards proposed by the Citizens of the City of Nelsonville, with assistance from the League of Women Voters of Ohio, was developed in a series of meetings open to the public, and

WHEREAS, this proposed map of wards is in compliance with Ohio and United States law regulating the development and composition of legislative districts regarding proportionality of population and racial and partisan make-up

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NELSONVILLE that:

1. The City is divided into 4 wards for the purpose of electing members to Council, the boundaries of which are shown in the attached map [Exhibit A] and defined by written description [Exhibit B].
2. Exhibit A and Exhibit B are the official definitions of the City of Nelsonville's map of wards and are hereby incorporated by reference and entered into the public record.
3. Upon adoption, the Clerk of Council is hereby directed to certify this legislation, Exhibit A, and Exhibit B to the Athens County Board of Elections.

4. Upon adoption, the director of law shall formally request of the Athens County Board of Elections that the boundaries of the four voting precincts of the City of Nelsonville be conformed to the boundaries of these newly adopted wards.

EXHIBIT A

[HIGH RESOLUTION MAP OF WARDS WITH DIGITAL COMPANION]

EXHIBIT B

Written description of the boundaries of the Wards of the City of Nelsonville, Ohio

All coordinates are to be found using the Degrees, Decimal Minutes format.

Ward One: Beginning in the northwest corner of the city limits, the northern boundary of the first ward will follow the northern boundary of the City of Nelsonville eastward to the point located at (39°28.1930032'N, 82°13.8043503'W). From this point, the boundary proceeds in a straight line southwest to the center of the intersection of Williams Street and Fredrick Street and then follows the center line of Fredrick Street south to the center point of the intersection of Frederick Street and Grover Street. From the center point of the intersection of Fredrick Street and Grover Street the boundary proceeds southwest to the point located at (39°27.970050'N, 82°14.054443'W.) From this point the boundary proceeds directly south to the center line of Lancaster Street then follows the center lines of Lancaster, Shepherd, and Copeland Streets to the center of the intersection of Copeland Street and Madison Street. From the center point of the intersection of Copeland Street and Madison Street the boundary proceeds south along the center line of Madison Street to the center point of the intersection of West Canal Street, Madison Street, and Lake Hope Drive. From this intersection the boundary will proceed east along the center line of West Canal Street to the center point of the intersection of West Canal Street, East Canal Street, Rocky Boots Way, and Myers Street. From this intersection the boundary will follow the center line of Myers Street south and east to the center point of the intersection of Myers Street and Watkins Street. From this intersection the boundary follows the center point of Watkins Street south to the center point of the intersection of Watkins Street, DeSteiguer Street, and Back Street. From this point the boundary will follow the center lines of Back Street and Dalton Drive to the center point of the intersection of Dalton Drive and Harper Street. From this intersection the boundary will follow the center line of Harper Street southeast to the point located (39°26.972055'N, 82°13.433435'W) from which it will proceed in a straight line to the north bank of the Hocking River and the point located at (39°26.891693'N, 82°13.406505'W). From this location the boundary will proceed back north and west following the north bank of the Hocking River to the center line of Hocking Parkway. The boundary will then follow the center line of Hocking Parkway south to the southern boundary of the City of Nelsonville. The boundary will then travel west following the southern boundary of the City of Nelsonville until it reaches the point located at (39°27.677161'N, 82°15.203695'W) and then will travel north

following the western boundary of the City of Nelsonville. Once the boundary returns to the northwestern corner of the boundary of the City of Nelsonville this will enclose the boundary of Ward One and will make it a contiguous district.

Ward Two: Ward Two will shall be bounded:

- In the north by the northern boundary of the City of Nelsonville between the point located at (39°28.1930032'N, 82°13.8043503'W) and the center point of the median of U.S. Route 33 located at (39°28.186788'N, 82°13.699865'W.)
- In the west by Ward Three;
- In the south by Ward One; and,
- In the east by Ward One.

Ward Three: Beginning in the northwest corner at the center of the median of U.S. Route 33 at the point located at (39°28.186788'N, 82°13.699865'W) Ward Three shall be bounded on the north by the northern boundary of the City of Nelsonville moving east to the point located at (39°28.124155'N, 82°12.632808'W.) From this point, the western boundary of Ward Three proceeds directly south to the point located at (39°27.684939'N, 82°12.699865'W) from which the boundary turns to the southwest and travels in a straight line to the center point of the median of U.S. Route 33 at a point located at (39°27.532111'N, 82°13.699865'W.) The boundary then follows the center point of the median of U.S. Route 33 southeast to the center line of Burr Oak Boulevard. From here the boundary follows the center line of Burr Oak Boulevard southwest to the center point of the intersection between Burr Oak Boulevard, East Canal Street, and Fourth Street. From the center point of this intersection the boundary follows the center line of East Canal Street northwest to the center point of the intersection between East Canal Street and Dover Street. The boundary follows the center line of Dover Street southwest to the center point of the intersection between Dover Street and Jackson Street. From here the boundary follows the center line of Jackson Street northwest to the center point of Jackson Street and Harper Street. The boundary then follows the center line of Harper Street south to the center point of the intersection between Harper Street and Dalton Drive. From this intersection, the Ward Three is bounded by Ward One to the Southwest along the center lines of Dalton Drive, Back Street, and Watkins Street to the west moving north to the intersection of Watkins Street, Myers Street, and Jackson Street. The boundary now continues north along the center line of Watkins Street and is bounded on the west by Ward Two until the center point of the intersection of Watkins Street, Jefferson Street, and Poplar Street. The boundary follows the center line of Poplar Street to the southeast to the center point of the intersection of Poplar Street and Saint Charles Street. The boundary follows the center line of Saint Charles Street northeast to the intersection of Saint Charles Street and Church Street then turns northwest following the center line of Church Street. This course is followed for one block at which point the boundary follows the center line of Saint John Street northeast to the point located at (39°27.6236905'N, 82°13.5598437'W.) From here the boundary moves northeast to the point located at (39°27.6243609'N, 82°13.5520922'W) then

southeast to the point located at (39°27.6155340'N, 82°13.5402636'W). The boundary now moves south along the following points: (39°27.6070021'N, 82°13.5394925'W) (39°27.5843729'N, 82°13.5423825'W) (39°27.5527896'N, 82°13.5507175'W) (39°27.5366316'N, 82°13.5397137'W) (39°27.5363313'N, 82°13.5361196'W) and to the center line of Saint Charles Street at the point located at (39°27.5350474'N, 82°13.5321633'W.) The boundary then moves northward following the center line of Saint Charles Street to the point located at (39°27.766460'N, 82°13.472114'W.) From here the boundary moves west to the point located at (39°27.775491'N, 82°13.526689'W) then north to the center line of the median of U.S. Route 33 located at (39°27.984073'N, 82°13.459151'W.) From here the boundary follows the center line of the median of U.S. Route 33 northwest to its starting point located at (39°28.186788'N, 82°13.699865'W.) This boundary encloses Ward Three as a contiguous and proportional district within the City of Nelsonville.

Ward Four: Ward Four shall be bounded:

- In the north by the northern boundary of the City of Nelsonville;
- In the east by the eastern boundary of the City of Nelsonville;
- In the south by the southern boundary of the City of Nelsonville; and,
- In the west by the boundaries of Ward One and Ward Three.

V. Conforming City Code of Ordinances with General Statutory Construction:

Much of the Code of Ordinances of the City adopted under the Charter delegates executive authority to the City Manager. With the City transitioning to a general statutory scheme of government the office of the City Manager will cease to exist. To ensure that the ordinances and regulations which govern Nelsonville remain enforceable the Commission has reviewed the entirety of the Code of Ordinances and has identified references to the City Manager and are recommending that they be replaced with references to the Mayor.

Sample Legislation:

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE NELSONVILLE CODE OF ORDINANCES TO REFLECT CURRENT OFFICES IN THE CITY GOVERNMENT OF NELSONVILLE AND TO DECLARE AN EMERGENCY.

WHEREAS, the City of Nelsonville has operated for the last 31 years as a Council-City Manager scheme of government, and

WHEREAS, the Nelsonville City Charter which was adopted on January 1, 1995 has been abolished effective December 31, 2025 , and

WHEREAS, Nelsonville will now operate under the general statutory construction of municipal government established under the Ohio Revised Code, and

WHEREAS, significant changes must be made to the Nelsonville Code of Ordinances to reflect this change in government construction:

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Nelsonville, Ohio that the office of City Manager is hereby abolished and that executive and administrative responsibilities formerly assigned to the City Manager will now be vested in the Mayor.

To enact and actualize this ordinance, the Nelsonville Code of Ordinances shall be amended as follows:

Under Title III:

§31.25 - Change *City Manager* to *Mayor* (3 times)

§31.26 - Change *City Manager* to *Mayor* (2 times)

§33.34 - Change *City Manager* to *Mayor*

§31.35 - Change *City Manager* to *Mayor* (2 times)

§31.36 - Change *City Manager* to *Mayor*

§34.001- Change *City Manager* to *Mayor*

§34.026 - Change *City Manager* to *Mayor*
§34.027(A) - Change *City Manager* to *Mayor*
§34.027(C) - Change *City Manager* to *Mayor*
§34.029 - Change *City Manager* to *Mayor* (2 times)
§34.065 - Change *City Manager* to *Mayor*
§34.079(E) - Change *City Manager* to *Mayor*
§35.03(B) - Change *City Manager* to *Mayor*
§35.05(B) - Change *City Manager* to *Mayor*
§36.01(D) - Change *City Manager* to *Mayor*

Under Title V:

§ 50.04 - Change *City Manager* to *Mayor*
§ 51.04- Change *City Manager* to *Mayor*
§ 51.08 -Change *City Manager* to *Mayor*
§ 51.16 -Change *City Manager* to *Mayor*
§ 51.20 -Change *City Manager* to *Mayor*
§ 51.25 -Change *City Manager* to *Mayor*
§ 53.07 -Change *City Manager* to *Mayor*
§ 53.17 -Change *City Manager* to *Mayor*

Under Title VI - neil.sommers@outlook.com
[INSERT CHANGES]

Under Title IX:

§90.06 - Change *City Manager* to *Mayor* (3 times)
§90.10(D) - Change *City Manager* to *Mayor*
§91.01(A)(1) - Change *City Manager* to *Mayor* (2 times)
§91.01(A)(2) - Change *City Manager* to *Mayor*
§91.01(A)(3) - Change *City Manager* to *Mayor*
§91.01(B) - Change *City Manager* to *Mayor*
§91.01(C) - Change *City Manager* to *Mayor* (2 times)
§91.01(D) - Change *City Manager* to *Mayor* (2 times)
§91.05(B) - Change *City Manager* to *Mayor* (3 times)
§91.05(J) - Change *City Manager* to *Mayor* (2 times)
§91.06(C) - Change *City Manager* to *Mayor*
§91.06(E)(1) - Change *City Manager* to *Mayor*
§91.06(E)(2) - Change *City Manager* to *Mayor*
§91.06(G) - Change *City Manager* to *Mayor*
§91.11(B) - Change *City Manager* to *Mayor*

§91.31 - Change *City Manager* to *Mayor* (3 times)
§91.32 - Change *City Manager* to *Mayor* (2 times)
§91.33(A) - Change *City Manager* to *Mayor*
§91.34(A) - Change *City Manager* to *Mayor* (2 times)
§91.34(C) - Change *City Manager* to *Mayor* (2 times)
§91.35 - Change *City Manager* to *Mayor* (2 times)
§91.36(D) - Change *City Manager* to *Mayor*
§91.37 - Change *City Manager* to *Mayor* (2 times)
§91.38(A)(1)(b) - Change *City Manager* to *Mayor*
§91.38(A)(2)(b) - Change *City Manager* to *Mayor*
§91.38(F) - Change *City Manager* to *Mayor*
§91.39(A) - Change *City Manager* to *Mayor*
§91.39(B)(3) - Change *City Manager* to *Mayor*
§91.39(B)(5) - Change *City Manager* to *Mayor*
§91.39(D) - Change *City Manager* to *Mayor*
§92.01(D) - Change *City Manager* to *Mayor*
§92.16(2) - Change *City Manager* to *Mayor*
§92.18 - Change *City Manager* to *Mayor* (2 times)
§92.19 - Change *City Manager* to *Mayor* (6 times)
§92.20 - Change *City Manager* to *Mayor*
§92.21 - Change *City Manager* to *Mayor* (6 times)
§94.01(A) - Change *City Manager* to *Mayor*
§94.01(B) - Change *City Manager* to *Mayor*
§94.01(B)(10) - Change *City Manager* to *Mayor*
§94.01(C) - Change *City Manager* to *Mayor*
§94.02 - Should this be *Mayor* instead of *Police Chief*?
§96.02(B) - Change *City Manager* to *Mayor*
§96.06 - Change *City Manager* to *Mayor*
§97.021(A) - Change *City Manager* to *Mayor*
§97.021(A)(2) - Change *City Manager* to *Mayor*
§97.021(C) - Change *City Manager* to *Mayor*
§97.053(B) - Change *City Manager* to *Mayor*
§97.055(A)(1) - Change *City Manager* to *Mayor*
§97.055(B) - Change *City Manager* to *Mayor* (2 times)
§97.055(C) - Change *City Manager* to *Mayor*
§97.056(A) - Change *City Manager* to *Mayor*
§97.056(A)(2) - Change *City Manager* to *Mayor*
§97.056(A)(3) - Change *City Manager* to *Mayor*
§98.06(C) - Change *City Manager* to *Mayor*
§98.06(D) - Change *City Manager* to *Mayor*

§98.09 - (2 times)

§98.09(B) - Change *City Manager* to *Mayor* (3 times)

§98.11(A) - Change *City Manager* to *Mayor* (3 times)

§98.11(B)(1) - Change *City Manager* to *Mayor*

Under Title XI:

§110.01 - Change *City Manager* to *Mayor*

§110.09 - Change *City Manager* to *Mayor*

§113.02 (C) - Change *City Manager* to *Mayor*

§113.03 (A)(10)-Change *City Manager* to *Mayor*

§113.03 (D) - Change *City Manager* to *Mayor*

§113.03 (E)- Change *City Manager* to *Mayor*

§113.04 (A)- Change *City Manager* to *Mayor*

§113.04 (A)(4)- Change *City Manager* to *Mayor*

§113.04 (B)- Change *City Manager* to *Mayor*

§113.04(C)-Change *City Manager* to *Mayor*

§113.05- Change *City Manager* to *Mayor*

§113.07(B)-Change *City Manager* to *Mayor*

§113.09(C)-Change *City Manager* to *Mayor*

§113.10(A)-Change *City Manager* to *Mayor*

§113.10(B)(1)-Change *City Manager* to *Mayor*

§113.10(B)(6)-Change *City Manager* to *Mayor*

§113.10(B)(10) - Change *City Manager* to *Mayor* (2 times)

§114.01- Definitions: Taxicab Board or The Board- Change *City Manager* to *Mayor*

§115.01(B)- Change *City Manager* to *Mayor* (2 times)

§115.03- Change *City Manager* to *Mayor*

§116.02- Definitions: General Contractor, Home Improvement Contractor, Change *City Manager* to *Mayor*

§116.03- Change *City Manager* to *Mayor* (3 times)

§ 116.09- Change *City Manager* to *Mayor*

VI. Combining the Directorship of the Departments of Public Service and Public Safety

Under the general statutory construction which the City shall now be organized, all city departments are either housed under a Department of Public Service or Public Safety. By default, these two departments are led by two different directors who report to the Mayor. However, RC 733.03 gives the legislative authority of a city the power to merge these two directorships into a single office by a majority vote. This director shall have the qualifications outlined in RC 737.01 and will serve at the pleasure of the Mayor. In order to make the government of Nelsonville as efficient as possible and to ease the difficulty of staffing this office the Commission is recommending that these offices be combined.

A final note for the awareness of the Mayor and Council is that the Director, and any other officer whose appointment is required by Title VII of the Revised Code, must be appointed between the second Monday in January and the first Monday in February.

Sample Legislation:

ORDINANCE NO. [XXXX]

AN ORDINANCE TO COMBINE THE OFFICES OF THE DIRECTOR OF PUBLIC SERVICE AND THE DIRECTOR OF PUBLIC SAFETY INTO A SINGLE POSITION OF DIRECTOR OF PUBLIC SERVICE AND SAFETY, PURSUANT TO OHIO REVISED CODE § 735.03, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Nelsonville, Ohio, desires to promote administrative efficiency, reduce redundancy, and streamline operations within the City's executive departments; and

WHEREAS, Ohio Revised Code § 735.03 provides that the legislative authority of a city may provide for the combination of the offices of Director of Public Service and Director of Public Safety into one office; and

WHEREAS, the Council finds that such a combination is in the best interest of the City and will provide for more effective and coordinated management of municipal services;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Nelsonville:

1. Pursuant to Ohio Revised Code § 735.03, the offices of Director of Public Service and Director of Public Safety are hereby combined into a single office to be known as the Director of Public Service and Safety.

2. The Director of Public Service and Safety shall exercise all powers, duties, and responsibilities granted by the Ohio Revised Code to both the Director of Public Service (ORC §§ 735.01–735.09) and the Director of Public Safety (ORC §§ 737.01–737.12), including but not limited to:
 - Supervision of the operation and maintenance of public works, utilities, streets, and public property;
 - Oversight of the police and fire departments, emergency services, and other safety-related operations;
 - Coordination of budgeting, staffing, and planning across service and safety divisions;
 - Execution of other responsibilities as may be assigned by ordinance, the Mayor, or Council.
3. The Director of Public Service and Safety shall be appointed by the Mayor, subject to the applicable provisions of the Ohio Revised Code and any local civil service rules or ordinances governing such appointments. The appointee shall serve at the pleasure of the Mayor, unless otherwise provided by law or contract.
4. If any section, provision, or clause of this Ordinance is found to be invalid or unconstitutional, the remaining portions shall remain in full force and effect.
5. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the citizens of the City of Nelsonville, to allow for timely and efficient administrative restructuring, and shall therefore become effective immediately upon adoption and approval by the Mayor.

VII. Non-legislative recommendations:

While examining the facts of the Nelsonville transition and

Following the review of the Code of Ordinances, members of the Commission noted that the Code is sprawling, at times disorganized and difficult to navigate, and contains references to businesses which no longer exist. To this end, the Commission is recommending that Council explore options for a recodification and modernization of the City Code of Ordinances. This effort could be taken up in a number of ways, including; the formation of a citizen's commission, the hiring of a legal professional, or by members of Council throughout their terms.

The goal of such a project should be to simplify the Code while maintaining its effectiveness, ensuring that references and practices required by the code are current and up to date, and that

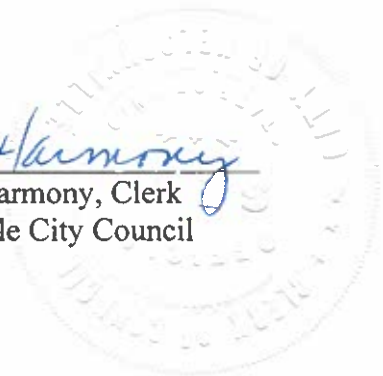
the responsibilities and requirements of the Code are appropriately and efficiently delegated to officers of the city.

DRAFT

CLERK'S CERTIFICATION

I, Susan Harmony, Clerk of Nelsonville City Council, certify that the attached copy of **ORDINANCE 54-25, AN ORDINANCE REPEALING ISSUE 23 DUE TO ITS LACK OF TRANSITIONAL PLAN AND AUTHORITY AND DECLARING AN EMERGENCY**, is a true and correct copy of the Ordinance 54-25 adopted by Nelsonville City Council on August 11, 2025.


Susan Harmony, Clerk
Nelsonville City Council



Ordinance No. 54-25Passed AUGUST 11, 2025**ORDINANCE 54-25****AN ORDINANCE REPEALING ISSUE 23 DUE TO ITS LACK OF TRANSITIONAL PLAN AND AUTHORITY AND DECLARING AN EMERGENCY.**

WHEREAS, Nelsonville City Charter, adopted by the voters in November 1994 and effective January 1, 1995, serves as the foundational governing document of the City of Nelsonville, establishing its home rule authority and structure of governance under the Ohio Constitution;

WHEREAS, each Member of Council swears an oath to support the United States Constitution, the Ohio Constitution, and Nelsonville City Charter and therefore each Member must fulfill their duties in accordance with such oath, including supporting and defending Nelsonville City Charter when there is a lack of clear superior law supplying a rule of decision;

WHEREAS, the Ohio Constitution guarantees to the people of a municipality the right to choose their form of government, a principle which Council reaffirmed in Resolution 2305;

WHEREAS, the Council of the City of Nelsonville desires to reaffirm the City's commitment to respecting the right of the people of the City of Nelsonville to choose the form of government for the City of Nelsonville;

WHEREAS, it has long been the legal position of the City of Nelsonville that the proper procedures for lawfully abolishing Nelsonville City Charter, should the people so choose to exercise their right, are set forth in the Ohio Constitution and applicable implementing state law and not Nelsonville City Charter;

WHEREAS, Article X of Nelsonville City Charter lays out the procedures by which the people of Nelsonville may exercise the initiative and referendum powers for "ordinances or resolutions";

WHEREAS, Nelsonville City Charter cannot be abolished by an ordinance or resolution because Nelsonville City Charter is of superior legal obligation to any Nelsonville ordinance or resolution;

WHEREAS, therefore, the initiative procedures set forth in Article X of Nelsonville City Charter do not apply to abolishing Nelsonville City Charter;

WHEREAS, therefore, Nelsonville City Charter Section 10.03 pertains to initiative, referendum, and recall petitions other than the abolishment of a charter;

WHEREAS, the Fourth District Court of Appeals held in *State ex rel. Smith, et al. vs. Clement, et al.*, 2024 Ohio 220 (Athens Cnty) that a hybrid approach mixing procedural requirements under Ohio Constitution Article XVIII procedures with Nelsonville City Charter Article X procedures is unlawful and that only the procedures of Article X applied to Issue 23;

WHEREAS, Issue 23, a citizen-led initiative passed by the voters on November 5, 2024, seeks to abolish the Nelsonville City Charter and transition the city to a statutory form of government under the Ohio Revised Code, effective January 1, 2026;

WHEREAS, Nelsonville City Charter Section 10.06 expressly provides "If a majority of the qualified electors voting on a proposed initiative vote in its favor, such initiative shall be considered adopted upon certification of the results and shall

RECORD OF ORDINANCES

GRAPHIC VILLAGE - CINCINNATI, OH

Form V62205

Ordinance No. 54-25

Passed AUGUST 11 2025

be treated in all respects in the same manner as ordinances or resolutions of the same kind adopted by Council.

WHEREAS, the Nelsonville City Charter, as the city's foundational governing document, cannot be abolished through a citizen initiative under its own provisions, rendering Issue 23 legally invalid;

WHEREAS, the Ohio Constitution, under Article XVIII, Sections 7 and 9, grants municipalities the authority to adopt and amend charters but does not provide clear statutory guidance for abolishing a charter, creating ambiguity that supports the position that Issue 23's procedure was improper;

WHEREAS, the Fourth District Court of Appeals upheld in 2024 litigation a lower court's order to place Issue 23 on the ballot, but the question of its substantive legality remains unresolved and subject to potential legal challenge, particularly due to Issue 23's lack of a transitional plan and authority;

WHEREAS, the City appealed the Fourth District Court of Appeals' decision to the Ohio Supreme Court, which declined to take the appeal and therefore the City must accept the decision of the courts on the 2024 litigation; however, the decision of the courts left to Nelsonville City Council the authority and discretion under Nelsonville City Charter Section 10.06 to amend or repeal Issue 23;

WHEREAS, the passage of Issue 23 without a clear transition plan, as noted by the Nelsonville Ad-Hoc Advisory Commission, risks significant disruption to city governance, including the expiration of current council terms on November 30, 2025, and the lack of legal authority to establish wards or other necessary governance structures;

WHEREAS, the Nelsonville City Council finds that the potential illegality of Issue 23, combined with the absence of a transition plan and authority, constitutes an emergency affecting the health, safety, and welfare of the residents of Nelsonville, necessitating immediate action to preserve continuity of government and public services;

WHEREAS, the Nelsonville City Council, in exercising its authority under the Nelsonville City Charter and Ohio law, seeks to repeal Issue 23 to prevent legal uncertainty, ensure continuity of governance, and protect the rights of Nelsonville residents to maintain their home rule authority;

WHEREAS, the City remains committed to the right of the people of the City of Nelsonville to choose the form of government for the City of Nelsonville under the lawful measures available to the people under the Ohio Constitution;

WHEREAS, exercise of the right of the people of the City of Nelsonville to choose the form of government for the City of Nelsonville under the Ohio Constitution and procedures set forth therein cannot be questioned by Nelsonville City Council;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NELSONVILLE, ATHENS COUNTY, OHIO, AS FOLLOWS:

1. Issue 23, passed by the voters on November 5, 2024, which purports to abolish the Nelsonville City Charter and transition the City to a statutory form of government, is hereby repealed and declared null and void as of the effective date of this Ordinance.
2. Nelsonville City Charter remains in full force and effect, and all existing ordinances, resolutions, and governmental structures established under the

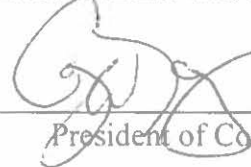
Ordinance No. 5425Passed AUGUST 11, 2025

charter shall continue uninterrupted until lawfully amended or repealed in accordance with the Ohio Constitution and Nelsonville City Charter.

3. The City Council directs the City Law Director to take all necessary legal actions to defend this Ordinance, including but not limited to filing or responding to any legal challenges related to the repeal of Issue 23, to ensure the continuity of home rule governance in Nelsonville.
4. The City Council Clerk is directed to certify a copy of this Ordinance and transmit it to the Athens County Board of Elections.
5. The City Council authorizes the establishment of a public education campaign to inform residents of the legal and practical implications of this resolution and to facilitate community input on future governance decisions, in coordination with non-partisan community organizations, including, if possible, the League of Women Voters of Ohio and Athens County or other appropriate organizations.
6. Council hereby finds and determines that all formal actions taken relative to the adoption of this ordinance were taken in an open meeting of the Nelsonville City Council, and that all deliberations of Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements.
7. Five (5) members of Council voting to dispense with the two readings of this Ordinance, the rules are hereby suspended for this Ordinance and this Ordinance is hereby enacted on the first reading, pursuant to O.R.C. 731.15, and Nelsonville City Charter Sections 4.09 through 4.11. This Ordinance is hereby passed as an emergency measure pursuant to O.R.C. 731.30 and Article IV, Sections 4.09 through 4.11 of Nelsonville City Charter as an emergency in the operation of the City government as the Athens County Board of Elections deadline for certifying November 2025 ballots is August 18, 2025 and is near approaching and this Ordinance needs to be conveyed to the Athens County Board of Elections prior to the August 18 deadline and is necessary for the immediate preservation of the public peace, health, safety, morals or welfare of the City, and this Ordinance shall be in full force and effect upon its adoption.

Duly enacted by Council on first reading on the 11th day of August, 2025.

NELSONVILLE CITY COUNCIL



President of Council



Clerk of Council

First Reading:

08/11/2025

Under suspension of the rules

FILED
ATHENS COUNTY, OHIO

FEB 26 2026

Carly S. Russell, CLERK
COURT OF APPEALS

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
ATHENS COUNTY

State, <i>ex rel.</i> Margarita Nguyen, <i>et al.</i> ,	:	
	:	Case No. 24CA011
Relators,	:	
	:	Original Action in <i>Quo Warranto</i>
v.	:	
	:	
Opha Lawson <i>et al.</i> ,	:	
	:	
Respondents.	:	

RELATOR'S BRIEF
IN RESPONSE TO COURT'S FEBRUARY 6, 2026 ORDER

This Court should not find this case moot because Relator Margarita Nguyen's term remains unexpired and the charter government that Nguyen was elected under, is the lawful government of the City of Nelsonville.

An Appendix of Exhibits follows this Brief.

I. STATEMENT OF FACTS

Nguyen elected, her term is unexpired.

1. Relator Margarita Nguyen was elected to a seat on Nelsonville City Council to a term beginning December 4, 2023. (Ex. A.)

2. Nguyen was elected to a four-year term pursuant the Nelsonville Charter 4.01. (Ex. B, Nelsonville Charter at 4.01.)

3. Nguyen's term as a Councilmember ends December 4, 2027.

4. Thus, Nguyen's term as a Councilmember remains unexpired.

5. Relator Carol S. Powell was appointed to fulfill a seat on Council vacated by Greg Smith. (Am. Compl, ¶ 64.) Greg Smith was elected to a term that expired November 30, 2025. (Ex. C.) Thus, Powell's term is expired.

Procedural posture.

6. This case was originally filed on April 25, 2024.

7. On July 2, 2024, this Court dismissed Relator's Petition, based on the theory of laches.

8. On February 20, 2025, the Supreme Court of Ohio overruled this Court's Decision dismissing Relator's Petition, remanding the case. *State ex rel. Nguyen v. Lawson*, 178 Ohio St. 3d 260, 2025-Ohio-507, 257 N.E.3d 157.

9. On April 17, 2025, this Court issued a briefing schedule for this case.

10. Relators filed their Merit Brief on May 16, 2025.

11. Sometime around this period, Nelsonville City Council appointed a new member to one of the Relator's seat, thus Relators filed for leave to amend their Petition. (Relator's Mot. Am., Apr. 15, 2025.)

12. On May 21, 2025, Relators filed an Amended Petition.

13. Respondents moved to strike the May 16 Merit Brief, due to the Amended Petition. Relators did not oppose that Motion.

14. Thereafter, the Court never issued a briefing schedule or ordered briefs to be re-filed after that point, even though Relators submitted proposed orders for that.

15. On October 16, 2025, Relators re-filed their Merit Brief *sua sponte*.

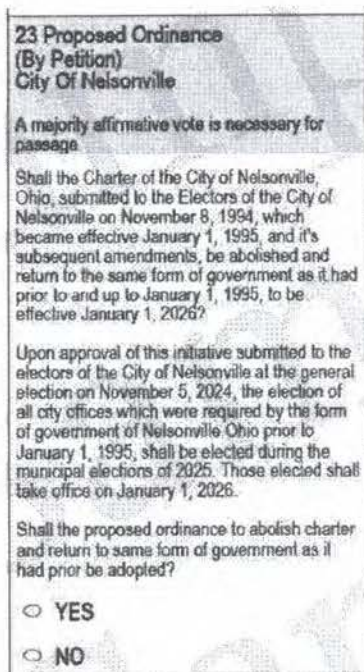
16. On November 11, 2025, Respondents filed their Brief.

17. On November 12, 2025, Relators filed a Reply Brief.

Issue 23.

18. In 2024, certain citizens of Nelsonville submitted petitions to submit an initiative for the 2024 general election ballot in Nelsonville. That ultimately became Issue 23.

19. In November of 2024, Issue 23 appeared on the ballot in Nelsonville. (Ex. D, p. 3, excerpt pictured below.)



20. Issue 23 contained no limitation on the current charter government's authority.

21. In November 2024, Issue 23 passed.

22. The Athens County Board of Elections accepted candidate petitions to fill the new seats purportedly created by Issue 23.

23. On August 11, 2025, Nelsonville's City Council enacted Ordinance 54-25, an emergency measure that effectively repealed Issue 23. (Ex. E.)

24. Based on the authority of Ordinance 54-25, the City of Nelsonville demanded that the Athens County Board of Elections remove the candidates from the 2025 general election ballot, who had petitioned for the new seats purportedly created by Issue 23.

25. The Athens County Board of Elections refused.

26. The City of Nelsonville filed a petition for a writ of *mandamus* and *prohibition* to gain a writ requiring the Board of Elections to remove the candidates. *State ex rel. Nelsonville v. Athens Cty. Bd. of Elections*, 180 Ohio St. 3d 52, 2025-Ohio-4363, 270 N.E.3d 174. The City submitted briefs and evidence with the Supreme Court of Ohio, setting forth in detail, the arguments as to why Ordinance 54-25 lawfully repealed Issue 23. (Full Petition at Ex. F.)

27. The Supreme Court of Ohio denied Nelsonville's petitions for writs, on a another, narrow basis, reasoning the Board of Elections was not clearly required by law to remove the candidates from the ballot. *Nelsonville*, 2025-Ohio-4363, ¶ 35. (Ex. G, Op.) The Court did not rule on whether Ordinance 54-25 effectively repealed Issue 23. *See generally Nelsonville*.

28. In November 2025, the City of Nelsonville held an election in which

candidates for Nelsonville City Council were on the ballot, for the new offices that purportedly arose under the new statutory form of government, purportedly dictated by Issue 23.

29. The people purportedly elected in the November 2025 election are pretending to be a City Council. (Ex. H, Aff. Nguyen, ¶ 16.) They are meeting at a nearby college and pretending to carry on City business. (*Id.*)

30. On February 6, 2026, this Court issued an Order in this case, requiring the parties “to brief the questions of whether (1) the November 2024 election approval of Issue 23 that abolished the city’s charter, effective January 2026 and (2) the November 2025 city council elections make the relief sought in this action moot.”

31. This Order is misleading, because, as set forth below, Issue 23 did not ultimately abolish the city’s charter.

32. Self-proclaimed members of the false City Council recently filed a *quo warranto* action, attempting to undo Nelsonville Ordinance 54-25. *State ex rel. Flowers, et al. v. City of Nelsonville*, 4th Dist. Athens No. 26ca0003 (Feb. 5, 2026).

II. LAW AND ANALYSIS

Relator Nguyen’s term of office is not expired. Thus, given the facts stated above, the question before the Court is whether Nguyen’s seat no longer remains, due to the passage of Issue 23—i.e. whether Ordinance 54-25 effectively “repealed” Issue 23. For the reasons set forth below, Nguyen’s seat remains and she remains entitled to it.

In a case related to Issue 23, this Court found that “the initiative to abolish the city

charter of Nelsonville [what later became Issue 23] is governed by Article X of its charter.”
State ex rel. Smith v. Clement, 2024-Ohio-5220, 257 N.E.3d 1008, ¶ 31 (4th Dist.).

Article X says, “[i]f a majority of the qualified electors voting on a proposed initiative vote in its favor, such initiative . . . shall be treated in all respects in the same manner as ordinance or resolutions of the same kind adopted by Council.” (Ex. B, Nelsonville Charter, Article X, Section 10.06.)

Article X says also, “[t]he qualified voters of the City shall have the power to propose ordinances or resolutions to Council.” (Ex. B, Nelsonville Charter, art. X, Sec. 10.01(A).) However, that sentence goes on to limit the qualified voter’s power: “provided that such power shall apply only to the first ordinance, resolution or other measure required to be passed and not to any subsequent ordinances, resolutions or other measures relating thereto.” (*Id.*) This provision is clear that the Charter—after the “first ordinance”—then empowers Council alone to enact “any subsequent ordinance, resolution, or other measure”—that Council deems “relating thereto.” As set forth below, this would include the power to repeal the initiative altogether.

As an Ohio city, the Ohio Constitution vests Nelsonville City Council with plenary powers as it relates to local government matters. Ohio Const. art. XVIII, Section 4; *Dies Elec. Co. v. City of Akron*, 62 Ohio St.2d 322, 325, 405 N.E.2d 1026 (1980); *State ex rel. Symons v. Rice*, 96 Ohio St. 574, 574 (1917) (“In the absence of a valid provision to the contrary, the council of a municipal corporation having authority to legislate upon any given subject may exercise that authority at will by enacting or repealing an ordinance in relation to

such subject-matter.”).

Nelsonville City Charter vests City Council with “all powers to which a city is entitled under the Constitution and laws of the State of Ohio, either expressly or by implication.” (Ex. B, Nelsonville City Charter, art. III, Section 3.01); *see also State ex rel. Bedford v. Bd. of Elections*, 62 Ohio St.3d 17, 21 (1991) (holding that a substantially similar charter provision was sufficient to retain broad powers on behalf of a city). Nelsonville City Charter vests City Council with “[a]ll legislative power.” (Ex. B, Nelsonville City Charter, art. IV, Section 4.08.)

Throughout Ohio law, Nelsonville law, and the language of Issue 23 itself, there is no “valid provision to the contrary,” prohibiting Nelsonville Council from repealing Issue 23. In commenting on Ordinance 54-25’s repeal of Issue 23 specifically, the Supreme Court of Ohio found, “[neither] the city charter nor the Ohio Constitution specifically address the process for abolishing the city charter.” *Nelsonville*, 2025-Ohio-4363, at ¶ 26. Thus, the power to repeal an initiative to abolish a city charter, is a power reserved to the City’s legislature, pursuant to Nelsonville’s constitutional plenary powers.

Also, the Supreme Court of Ohio found that a city council may alter or repeal an initiated ordinance adopted by the electors of a city. *State ex rel. Singer v. Cartledge*, 129 Ohio St. 279, 282–85 (1935). The Supreme Court found that voter enacted legislation “has no greater sanctity than legislation adopted by a city council.” *Id.* *Singer* explicitly rejected the argument that a city council’s powers in this area should be curtailed because a “[citizen-initiated] ordinance has little value if the council, within a short time, thereafter,

can alter or repeal it." *Id.*

Even if citizen-initiated initiatives were somehow more noble than enactments of city councils, the Court does not have discretion to make that judgment. "[N]either the wisdom nor the desirability of these charter provisions is subject to judicial review." (Citations omitted.) *State ex rel. Murray v. Scioto Cnty. Bd. of Elections*, 127 Ohio St. 3d 280, 2010-Ohio-5846, 939 N.E.2d 157, ¶ 52. The "ability to invalidate legislation is a power to be exercised only with great caution and in the clearest of cases." *Yajnik v. Akron Dep't of Health, Hous. Div.*, 9th Dist. Summit, No. 20844, 2004-Ohio-357, ¶ 16.

CONCLUSION

For the reasons set forth above, the Court should hold that Relator Margarita Nguyen's case is not moot, and rule on her petition for *quo warranto*.

February 26, 2026

Respectfully Submitted,

/s/ Joshua I. Brown
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Attorney for Relators

CERTIFICATE OF SERVICE

I certify that on February 26, 2026 the preceding RELATOR'S BRIEF IN RESPONSE TO COURT'S FEBRUARY 6, 2026 ORDER was filed with the Clerk and served pursuant to App.R. 13(C)(3) by electronic mail or pursuant to App.R. 13(C)(6) by U.S. Mail, to the

following:

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Proposed Non-Party Movant

/s/ Joshua J. Brown
Joshua J. Brown (0089836)

EXHIBIT 11

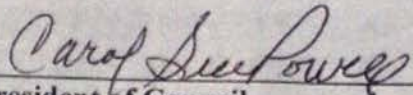
MINUTES FROM NELSONVILLE CITY COUNCIL MEETING ON JANUARY 5, 2026

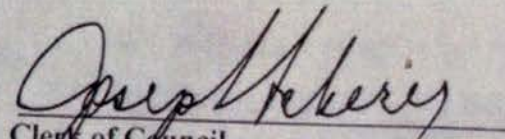
1. The meeting was called to order at 7:03 by Ms. Sue Powell. She stated this was a very important meeting and the Council present would open the meeting in the Charter form of government. She indicated the 7 present council members were not designated and elected on the November 2025 ballot as being under either charter or statutory form of government, so their term of office began on January 1, 2026, and they will operate under the Nelsonville Charter for tonight's meeting. Ms. Powell reminded everyone their election was certified by the County Board of Elections, and they have their election certificates issued by the State of Ohio.
2. The Pledge of Allegiance was then recited by everyone.
3. Ms. Lynn Bishop offered a prayer asking for blessings and guidance.
4. Mr. Joseph Scherer was nominated for temporary Council clerk by Ms. Hollenbaugh and seconded by Mr. Henderson. Council then unanimously approved Mr. Scherer to be the temporary City Council clerk.
5. Mr. Scherer then called roll call for City Council attendance, and the following were noted as present: Ms. Sue Powell, Ms. Jessica Hollenbaugh, Ms. Lynn Bishop, Mr. Glen Smith and Mr. Wesley Henderson. Absent without an excuse were Mr. McCray-Powell and Ms. Joseph-Saul.
6. Ms. Powell asked for nominations for President and Vice President of City Council. Ms. Bishop nominated Ms. Powell for President and Ms. Hollenbaugh seconded the motion. Ms. Powell was then unanimously elected as President. Ms. Bishop nominated Ms. Hollenbaugh as Council Vice President and Mr. Smith seconded the motion. Ms. Hollenbaugh was unanimously elected Vice President.
7. Ms. Powell asked for nominations for the position of City Manager to be appointed by Council. Ms. Bishop nominated Mr. Jonathon Flowers and Mr. Henderson seconded the motion. Mr. Flowers was unanimously appointed as City Manager.
8. Ms. Powell asked for nominations for City Auditor and Ms. Bishop nominated Ms. Andrea Thompson-Hashman and was seconded by Ms. Hollenbaugh. Ms. Thompson-Hasman was unanimously elected as City Auditor, with Mr. Smith abstaining.
9. Ms. Powell asked for nominations for City Treasurer and Ms. Bishop nominated Mr. Mike Milane and was seconded by Ms. Hollenbaugh. Mr. Milane was unanimously elected as City Treasurer.

10. Ms. Powell noted a new set of rules of City Council have been prepared for review and adoption by City Council. Ms. Bishop made the motion to adopt the set of rules as presented and Mr. Smith seconded the motion. The Rules of City of Nelsonville City Council were unanimously approved for adoption.
11. The floor was opened for Citizen Comments. Mr. Derek Bowens, a small business owner, spoke in support of the City Council and hopes the new council is a new pathway for the city and hopes other citizens are in support of the group. Mr. Greg Smith thanked Mr. Gary Hunter, Esq., for all his work in preparing the Council rules and other legal work.
12. Ordinance 1-26 hiring Mr. Gary Hunter, Esq., as Special Counsel for the City of Nelsonville Declaring an Emergency, was introduced by Ms. Hollenbaugh. After reading, Mr. Smith motioned to suspend the rules and Ms. Hollenbaugh seconded the motion. Council then unanimously approved the motion. Mr. Smith moved to approve the ordinance and Mr. Henderson seconded the motion. The motion passed unanimously. Mr. Roell asked if the compensation noted in the ordinance was the same as the previous City Attorney, Mr. Robe. It was noted the amount is like the rate Mr. Robe was paid and the last Special Counsel hired by City County was paid at \$550 per hour. Ms. Powell noted she had previously worked with Mr. Hunter and is an outstanding municipal government attorney with many years of experience, especially with the Ohio Municipal League. She noted other attorneys in Lancaster and Circleville have provided valuable assistance as well.
13. Ms. Hollenbaugh introduced Ordinance 2-26, An Ordinance Repealing Ordinance 54-25 and Declaring an Emergency. Mr. Smith made the motion to approve suspension of the rules and Mr. Henderson seconded the motion. The motion was passed unanimously. No public comment was offered. A motion to adopt the ordinance was made by Ms. Bishop and seconded by Mr. Henserson. The motion was passed unanimously.
14. Mr. Roell asked the question about how the statutory government would now be implemented after the adoption of Ordinance 2-26. Mr. Greg Smith indicated that Mr. Hunter expected this City Council and Mayor would be in place for the next meeting on January 19, 2026, under statutory form of government. Other legal actions may be needed before then, but he hopes not. He hopes everyone involved act as reasonable people and realizes the elections in November 2025 were legal and the other Council should step down. Mr. Dan Sherman asked if the 2 ordinances would be posted at City Hall and it was noted this would happen after signatures were obtained. Mr. Sherman asked if the interim city manager/police chief was informed of these pending actions and Mr. Greg Smith said he was aware of these ordinances. Ms. Vickie McDonald asked if the other Council had obtained legal counsel, but no one had an answer.

15. Ms. Powell asked for a motion to adjourn, and Ms. Hollenbaugh made the motion with Mr. Glen Smith seconding the motion. The motion passed unanimously.

NELSONVILE CITY COUNCIL


President of Council


Clerk of Council