

# CHARTER

## OF THE CITY OF BEACHWOOD, OHIO

EDITOR'S NOTE: The Beachwood Charter was originally adopted by the electors at the general election of November 3, 1959. It was extensively revised and re-adopted in its entirety at the general election of November 6, 2018.

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## CHARTER

## OF THE

## CITY OF BEACHWOOD, OHIO

### ARTICLE I

### POWERS

The City of Beachwood, hereinafter sometimes referred to as the City, is a municipal corporation of the State of Ohio.

The City of Beachwood shall have all powers, general or special, governmental or proprietary, including, without limitation, all powers of local self-government and municipal home rule which may now or hereafter lawfully be possessed or exercised by any city under the Constitution and laws of the State of Ohio or the Constitution and laws of the United States. No enumeration herein of specific powers shall be held to be exclusive. No law of the State of Ohio or of the United States shall be imposed upon the City except where mandated by law, unless the City adopts or approves such State or Federal law by this Charter or by legislative act.

This Charter and City Ordinances, rules and regulations shall be construed broadly in favor of the home rule power of the City where possible.

The powers of the City shall be exercised in the manner prescribed in this Charter or, where not prescribed herein, in such manner as Council may prescribe.

None of the powers herein shall be withdrawn from the exclusive control of the City, nor shall the corporate existence of the City terminate or merge, nor shall any territory be detached from or annexed to the City, without the approval of Council and a majority of the electors of the City voting upon such proposition, as permitted by the general law of Ohio.

## **ARTICLE II**

### **NOMINATIONS, ELECTIONS, QUALIFICATIONS**

#### **AND REMOVAL OF OFFICERS**

##### **Sec. 1. Municipal Elections.**

Regular Municipal Elections shall be held on the first Tuesday after the first Monday in November of odd-numbered years. Such other elections shall be held as may be required by law or provided for by this Charter.

##### **Sec. 2. Nominations and Elections.**

Nominations for elected officers shall be made only by petition, signed by electors of not less than three percent (3%) of the number of persons voting at the last Regular Municipal Election in the City and accompanied by the written acceptance of the nominee. The Clerk of Council shall obtain a certified document from the Board of Elections stating the number of persons so voting and make it available to the public. The nomination of each candidate shall be made by separate petition and filed with the Board of Elections not later than 4:00 p.m. on the ninetieth (90th) day prior to the date of election. No primary election shall be held for the selection of candidates for any elected office of the City. The ballot used for the election of officers of the City shall be without party designation. The names of all candidates for office shall be placed upon the same ballot and shall be rotated in the manner provided by the general law of Ohio. Except as provided in this Charter, the general law of Ohio shall govern the nomination and election of the elected officers of the City.

##### **Sec. 3. Qualifications of Officers.**

###### **1. Residency Requirement.**

Each elected officer, and each person appointed to fill a vacancy in an elected office, shall have been an elector of the City and resided continuously therein not less than one (1) year immediately preceding the officer's election or appointment and shall continue to reside therein during the term of office.

###### **2. Other Public Office.**

Elected officers and persons appointed to fill an elected office shall hold no other elected public office during their terms nor any public employment incompatible to the office held, except for election to an office of a political party or as a member, officer or trustee of a governmental board or commission, council of governments, or publicly supported non-profit institution and that of Notary Public or member of the state militia or Reserve Corps of the United States. Council shall, by a two-thirds vote, determine whether any other public employment is incompatible with an elected office in the City, and its decision shall be final.

###### **3. Financial Interest.**

No officer of the City, elected or otherwise, shall knowingly and willfully, either directly or indirectly solicit or have a financial interest in any City contract or the expenditure of money by the City, except for such compensation, interest and benefits as are approved by Council, nor shall any officer of the City take possession of property owned by the City except for the prompt delivery of such property to the City. Any violation shall disqualify such person from holding office or employment with the City for such time as Council shall determine, in addition to other disciplinary actions or penalties provided by law. Council may adopt additional laws to provide for the ethical conduct of elected and appointed officers and employees of the City and to protect the financial integrity of the City.

##### **Sec. 4. Oath or Affirmation.**

Every officer of the City shall, before assuming the duties of office, take and subscribe to an oath or affirmation to support the Constitution and laws of the United States, the Constitution and laws of the State of Ohio and the Charter and laws of the City of Beachwood, and to faithfully, honestly and impartially discharge the duties of the office.

##### **Sec. 5. Removal of Officers.**

Council may remove any elected officer of the City for failure to possess or continue to possess any qualification of office established by this Charter, for a violation of the officer's oath of office, or for the conviction, while in office, of a felony. Council shall give an elected officer a written copy of the charges and an opportunity to be heard, with at least fifteen (15) days prior notice of the time and place of hearing. The removal of an elected officer shall require a two-thirds vote of Council.

Absence of a Councilmember from four (4) consecutive Regular Council meetings of Council, or a total of eight (8) Regular Council meetings in a calendar year, without such absence being authorized or approved by an affirmative vote of Council, shall operate to vacate such office forthwith and without further proceedings. (Amended 11-2-99)

## **ARTICLE III**

### **COUNCIL**

#### **Sec. 1. Powers, Number and Term.**

##### **1. Powers and Number.**

The legislative power of the City shall be vested in a Council of seven (7) members, elected at-large, who shall have all powers and duties as enumerated or limited in this Charter.

##### **2. Term.**

Councilmembers shall be elected at the Regular Municipal Election for a term of four (4) years to serve staggered terms commencing on the first day of January after such election, and shall serve until their successors are elected and qualified. Four (4) members of Council shall be elected at the Regular Municipal Election in 1995 and three (3) members shall be elected at the Regular Municipal Election in 1997.

##### **Sec. 2. Organization.**

At the first Council meeting in January following the election of Councilmembers, or as soon thereafter as is practicable, Council shall meet in the Council Chamber and organize. At such organizational meeting, or as soon thereafter as is practicable, Council shall

elect one (1) of its members to be the Council President, for a term not beyond the next organizational meeting, and Councilmembers of all Boards and Commissions required by this Charter or by Ordinance, each to serve not beyond the next organizational meeting, unless the Councilmember shall cease in the meantime to be a member of Council. The Council President shall appoint chairpersons and members of standing and temporary committees of Council to serve terms not beyond the next organizational meeting. In case of a vacancy, the Council President shall be elected by Council from among its members, and shall serve for the unexpired term of such President.

At the organizational meeting, Council shall also elect a Council Vice President who, in the event the Council President is for any reason unable to perform the duties of Council President, shall act in the place of the Council President.

In the event of the Mayor's temporary absence or inability to perform the duties of the office of Mayor at a time during which the Council President is for any reason unable to perform the duties of Council President, the Council Vice President shall become acting Mayor in the same manner as the Council President under Article IV, Section 3 of the Charter for such period.

Council, by a two-thirds vote, may remove any Councilmember from a Board or Commission. No Councilmember shall be so removed without at least fifteen (15) days prior notice of the meeting at which such removal is proposed.

### **Sec. 3. Vacancy.**

Any vacancy in Council shall be filled by appointment by majority vote of the remaining members of Council within forty-five (45) days of such vacancy. The Council President shall report the notice of vacancy at the next Regular Council meeting after the Council President has learned that such vacancy will occur. If such vacancy is not filled within forty-five (45) days, the Mayor shall fill it by appointment. Such appointee shall hold office for the unexpired term of the member whose office is filled and shall have all the rights, powers and duties of elected Councilmembers. If the office of Council President, Vice President, or a Councilmember appointed to of a Board or Commission becomes vacant, it shall be promptly filled.

### **Sec. 4. Clerk.**

Council shall appoint a Clerk who shall be the Clerk of Council and Secretary of the Planning and Zoning Commission, Civil Service Commission and of all Boards and Commissions established by Council. The Clerk shall keep the records of Council and of the Boards and Commissions of which the Clerk is Secretary. The Clerk shall authenticate all records, documents and instruments of the City required by law and perform other duties required by Council. Council may also appoint Assistant Clerks of Council to assist the Clerk and to act in the Clerk's absence.

### **Sec. 5. Procedure.**

#### **1. Council President to Preside at Council Meetings.**

The Council President shall preside over all Regular and Special Council meetings and meetings of the Committee of the Whole.

#### **2. Quorum.**

A majority of the members of Council shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time and compel the attendance of absent members.

#### **3. Council Duties.**

Council shall, by Ordinance, Resolution or, when appropriate, by Motion, make provision for:

- (A) The time and place of Regular and Special Council meetings, providing for at least two (2) regular Council meetings in each calendar month, except that Council may provide for only one (1) Regular Council meeting per month during the months of June, July and August, when a quorum will not be present or when Council has no agenda.
- (B) The form and method of enacting Ordinances and Resolutions. Ordinances shall not contain more than one (1) subject or related subjects, which shall be clearly stated in the title, except for general appropriation Ordinances.
- (C) The manner of giving any public notice of the enactment of legislation and other City proceedings which it deems proper to publish, and the printing, publishing and distribution of information of general interest at the expense of the City, as Council shall determine, provided that such information shall not express an opinion or promote any person, position or group of persons or any idea, theory or viewpoint of a political nature.
- (D) The procedure for making public improvements, for levying assessments, provided that two (2) or more public improvements, including the levying of assessments therefor, may be combined in one (1) proceeding if Council finds that it will be economical and practical to undertake said improvements jointly; and the procedure for the reduction of unpaid installments and the return of paid installments of assessments levied in larger amounts than necessary to pay for public improvements.
- (E) The advertising and awarding of contracts.
- (F) The appointment or employment of:
  - (1) An Auditor, a Law Director, Assistant Law Directors and other Attorneys at Law under contract with the City.
  - (2) Consultants to advise and assist the Mayor, Council or any Board, Commission, Committee or Department of the City regarding City issues.
- (G) The enforcement of attendance by Councilmembers, Directors, and City employees at its meetings; the removal of members of Boards and Commissions who either fail to attend Regular or Special meetings of the Board or Commission on which the member is serving or for other just cause; and the removal of Directors and Chiefs for just cause.

The removal of members of Boards and Commissions or of Directors and Chiefs shall require not less than fifteen (15) days written notice of the Regular or Special Council meeting where such removal is proposed and an opportunity for the member or Director to be heard at such meeting. An order of removal shall require a three-fourths vote of Council for passage and is not subject to veto by the Mayor.
- (H) The requirement that the Directors and City employees attend all Council meetings, when requested to attend by Council, and participate in all discussions relating to their respective Departments.
- (I) Such legislation, rules and/or regulations, or other acts as Council shall require to implement the Charter or any requirement of Council.
- (J) The manner of keeping a record of Council's proceedings and the establishment of rules, regulations and voting

requirements of Council and each of the Boards and Commissions created by Charter or by Council, other than the Civil Service Commission, unless otherwise provided in this Charter.

#### **Sec. 6. Ordinances and Resolutions.**

##### **1. Readings.**

All Ordinances and Resolutions, sometimes referred to as legislation, shall be read in full or by title only on three (3) separate days, unless Council, by a vote of not less than two-thirds of its members, suspends this rule and provides for a lesser or greater number of days.

##### **2. Final Passage.**

The final passage date of all Ordinances and Resolutions shall be on (1) the date the legislation is approved by the Mayor; (2) the date of the override of a Mayor's veto by Council, if disapproved; or (3) the last date the Mayor was eligible to sign the Ordinance or Resolution if the Mayor neither approves nor disapproves it.

##### **3. Effective Date.**

Ordinances (1) for the appropriation of money, (2) for providing for tax levies or (3) for improvements petitioned for by a majority of the owners of the property to be assessed, and (4) emergency or urgent measures declared by Council to be necessary for the immediate preservation of the public peace, health or safety or the efficient operation of the City, shall go into immediate effect, provided, however, that in the case of emergency or urgent measures, the reasons for the emergency or urgency shall be set forth in one section of the Ordinance or Resolution, and such emergency or urgent measures shall require a vote of at least two-thirds of the members of Council for passage. No other Ordinance or Resolution shall go into effect until thirty (30) days after its final passage.

##### **4. Emergency or Urgent Legislation Not Permitted.**

No legislation authorizing or providing for any (1) change in the zoning of any land or zoning regulations, (2) change in the boundaries of the City, (3) the surrender or joint exercise of any of its powers, (4) the granting of any franchise or (5) the compensation for elected officials, shall be passed as an emergency or urgent measure.

#### **Sec. 7. Voting; Effect of Vacancy in Office.**

##### **1. Voting.**

(A) All voting of Council whether after a reading or final vote shall be taken by roll call, the Clerk calling the names of each of the members in alphabetical order and recording the vote in the minutes of the meeting. A majority of the members of Council shall vote "yes" to pass any Ordinance, Resolution or Motion, at a first or second reading or to adopt the issue on the third or final reading unless a greater number is required or a lesser number is permitted by this Charter.

(B) All votes shall be recorded as "yes" or "no". A vote to "abstain" shall be counted as voting with the majority of those who do vote. A member who does not vote due to a conflict of interest shall not participate in discussion or vote on the issue and shall not sit with Council during the proceedings relating to that issue.

##### **2. Effect of Vacancy in Office.**

In the event of one (1) or more vacancies on Council, the quorum shall be reduced to a majority of the remaining Councilmembers. The number of Councilmembers required to pass any Motion or legislation shall be the percentage of the voting requirement applied to the remaining Councilmembers.

##### **3. Effect of Conflict of Interest.**

In the event a member of Council declares an inability to vote due to a conflict of interest, the member shall make a full explanation of such conflict, which shall be recorded in the minutes of the meeting. The requirements for a quorum and other voting on that issue shall be the same as if the office were vacant.

#### **Sec. 8. Mayor's Veto.**

1. Every Ordinance or Resolution of Council shall be signed by the Clerk, an Assistant Clerk in the absence of the Clerk or two (2) members of Council, and presented to the Mayor forthwith for consideration noting the date of delivery to the Mayor.

2. If the Mayor approves the legislation, the Mayor shall sign it and file it with the Clerk within seven (7) days of its passage by Council. The Mayor may approve or disapprove the whole or any item of Ordinance appropriating money, but otherwise such approval or disapproval shall be addressed to the entire Ordinance or Resolution.

3. If the Mayor disapproves the legislation, or any item of it where permitted, the Mayor shall file a written notice of the disapproval with the Clerk noting the date of delivery to the Clerk. Unless written notice of disapproval is filed with the Clerk within seven (7) days after passage by Council, it shall take effect as though the Mayor had signed it.

#### **Sec. 9. Veto Override.**

When the Mayor has disapproved an Ordinance or Resolution or item of it as herein provided, Council may reconsider and override the Mayor's disapproval within thirty (30) days after the Mayor files the notice of disapproval with the Clerk. If upon such reconsideration the Ordinance, Resolution or item is passed by two-thirds of the members of Council, it shall then take effect notwithstanding the disapproval of the Mayor. If the Ordinance, Resolution or item is amended on such reconsideration, it shall again be presented to the Mayor as provided in Article III, Section 8.

### **ARTICLE IV**

#### **THE MAYOR**

##### **Sec. 1. Executive and Administrative Powers.**

The executive and administrative powers of the City shall be vested in the Mayor, and, under the Mayor's direction, in the Directors and other administrative officers provided for in this Charter at Article V or by Ordinance.

##### **Sec. 2. Term.**

The Mayor shall be elected at the Regular Municipal Election in November of 1997 and every fourth year thereafter for a term of four (4) years, commencing on the first day of January next after such election, and shall serve until a successor is elected and qualified.

##### **Sec. 3. Vacancy.**

1. In the event of the Mayor's temporary absence or inability for any cause to perform the duties of the office, the Council President, or if necessary, the Council Vice President, shall become the acting Mayor and have all of the powers and duties of the Mayor for such period, but not the power of veto, and shall continue to have all the powers and duties of the Council President or Council Vice President, and of a Councilmember.

2. In the event of the Mayor's death, resignation, removal or disqualification, the unexpired terms shall be filled as follows:

- (A) The Council President shall immediately become acting Mayor, with the same power and duties as provided in Article IV of this Charter to serve as follows:
- 1) If twenty-four (24) months or more remain of the Mayor's term, then the Council President shall serve as acting Mayor until a new Mayor is elected at a special election to be held within one hundred (100) days after the vacancy occurs. The petition filing deadline for each candidate shall be sixty (60) days prior to the election. During such tenure, the acting Mayor is permitted to conduct the business of the City on a part-time basis in order to maintain any prior or current full-time employment.
  - 2) If less than twenty-four (24) months remain of the Mayor's term, then the Council President shall become Mayor if the Council President accepts the office within fifteen (15) days after the vacancy occurs at a Regular or Special Council meeting or in writing to Council. During such tenure, the Council President who becomes Mayor shall use their best efforts to conduct the business of the City on a full-time basis.
  - 3) If within said fifteen (15) days the Council President declines the office of Mayor at a Regular or Special Council meeting of Council or in writing to Council, then the Council President shall continue as acting Mayor. If the Council President declines the office of the Mayor, the Council Vice President shall become Mayor if the Council Vice President accepts the office within fifteen (15) days after the Council President declines the office, at a Regular or Special Council meeting or in writing to Council. If within said fifteen (15) days the Council Vice President declines the office of Mayor at a Regular or Special Council meeting or in writing to Council, then the Council President shall continue as acting Mayor until Council meets and elects one of its members to be Mayor. Such election shall occur within fifteen (15) days of the receipt of notice that the Council President declines the Mayor's office. No Councilmember shall be so elected without the Councilmember's consent.
  - 4) The acting Mayor shall have no veto power during any tenure served under subsection 1 or 3, hereof.
- (B) If the Council President accepts the office of Mayor, then (1) the Council President's office as Councilmember and as Council President shall be vacant and filled in accordance with this Charter and (2) the Council President shall become Mayor with all the powers and duties as provided in Article IV.

#### **Sec. 4. General Powers and Duties.**

##### **1. Judicial Powers.**

The Mayor may establish a Mayor's Court and shall have all the judicial powers granted by the general law of Ohio to mayors of cities, including the ability to appoint a Magistrate to carry out the Mayor's judicial powers.

##### **2. Legislative Powers.**

The Mayor shall have the right to attend all meetings of Council, sit at the Council table, introduce legislation at Regular Council meetings and take part in discussions of Council, and shall have the power of veto as provided in Article III, Section 8, of this Charter. The Mayor shall require Directors or other City Employees to attend Council meetings and provide advice and opinions as may be requested by the Mayor or Council.

##### **3. Executive Powers and Duties.**

The Mayor shall be the Chief Executive Officer of the City and shall execute, on behalf of the City, all contracts, conveyances, evidences of indebtedness and other instruments to which the City is a party, and be recognized as the official and ceremonial head of the City government.

##### **4. Administrative and Enforcement Powers.**

The Mayor shall supervise the administration of the City's affairs, exercise control over all Departments and Divisions, except those reserved to Council, and shall be the chief conservator of the peace within the City. The Mayor shall require that all laws, Ordinances, Resolutions, and Regulations are enforced. The Mayor may act as the head of the Department of Public Safety. The Mayor's Office shall be at City Hall or other appropriate City Facility and, subject to a reasonable transition period for a newly seated Mayor, the Mayor shall conduct the business of the City on a full-time basis.

##### **5. Financial Duties.**

The Mayor shall be responsible for the preparation and submission to Council of the annual estimate of receipts and expenditures and appropriation measures and shall, at all times, keep Council fully advised as to the financial condition and needs of the City. The Mayor shall recommend to Council such measures as the Mayor deems necessary or expedient.

##### **6. Require Contracts to be Enforced.**

The Mayor shall require that all terms and conditions imposed in favor of the City or its residents in any franchise or contract to which the City is a party are faithfully enforced and performed.

##### **7. Mayoral Appointments.**

The Mayor shall appoint (1) the Directors, except those reserved to Council by this Charter, to serve at the Mayor's pleasure, but not to exceed the expiration of the Mayor's term of office, (2) the chairpersons and all members of all Boards and Commissions except those reserved to Council by this Charter, and (3) the Mayor's Court Magistrate.

##### **8. Council Confirmation of Mayoral Appointments.**

All Mayoral appointments, as provided for in Article IV, Section 4(7) of this Charter, except the Mayor's Court Magistrate, shall be confirmed by Council before they become effective. Unless two-thirds of Council votes not to confirm the Mayor's proposed appointment within thirty (30) days after it receives notice of such proposed appointment, the appointment shall be confirmed. Council's right not to confirm shall not otherwise be limited.

##### **9. Mayoral Appointments Not Subject to Confirmation.**

The Mayor shall appoint all officers and employees of the City, in addition to those referred to in Article IV, Section 4(7), except those reserved to Council. Such appointments shall not require confirmation of Council.

All persons appointed by the Mayor, may be promoted, transferred, reduced or removed by the Mayor in accordance with this Charter or Ordinance of the City.

#### **Sec. 5. Mayor's Estimate of Revenues and Expenditures.**

The fiscal year of the City shall begin on the first day of January. On or before the fifteenth day of July of the current fiscal year, the Mayor, with the assistance of the Finance Director, shall prepare and submit to Council an estimate of the revenues and expenditures of all Departments for the ensuing year. Council may require additional fiscal information from the Mayor or the Finance Director.

The classification of the estimate of expenditures shall be uniform for the main functional divisions of all Departments and shall provide the following information:

1. An estimate of the anticipated revenue from each source during the next fiscal year, with comparative statements of the amount received from such source during the preceding year and the current year plus an estimate of such amounts for the remainder of the current year.
2. A detailed estimate of the expense of conducting each Department and activity of the City for the next fiscal year, together with comparative statements as provided in the preceding paragraph, with reasons for proposed increases or decreases as compared with the current fiscal year.
3. The amount of the total and net debt of the City together with a schedule of maturities of outstanding bonds and notes.
4. A statement of the unencumbered balance in each bond and improvement fund.

## **ARTICLE V**

### **ADMINISTRATIVE OFFICERS**

#### **AND DEPARTMENTS**

##### **Sec. 1. General Provisions.**

Departments of Law, Finance, Audit, Public Safety, Public Works, Building and Community Services are established. Council may combine or abolish Departments and Divisions, and may authorize one (1) person to be head of two (2) or more Departments or Divisions, except that Council shall not combine or abolish the Departments or Directors of Law, Finance or Audit. Council may, by Ordinance, establish new Departments or Divisions.

##### **Sec. 2. Department of Law.**

###### **1. Appointment.**

The Department of Law shall be headed by a Law Director who shall be appointed and supervised by Council for a term not beyond the next organizational meeting of Council. Council may also provide for Assistant Law Directors and special legal counsel.

###### **2. Qualifications.**

The Law Director shall be duly admitted to the practice of law in the State of Ohio and shall have had at least seven (7) years of experience in the active practice of law, including a minimum of five (5) years full-time and/or substantial part-time experience in the practice of municipal and/or governmental law.

###### **3. Duties.**

The Law Director shall serve the Mayor, the various Departments, Boards, Commissions and officers of the City and the Council, as attorney and legal counsel, and shall represent the City in all proceedings in court or before any administrative body. The Law Director shall be general legal counsel to the City, its elected and appointed officers, and all Boards, Commissions and employees of the City, in their official capacity. The Law Director, or an Assistant Law Director, as designated by the Law Director, shall act as the City's prosecuting attorney before the Mayor's Court, Municipal Court and upon appeals. The Law Director shall perform all duties required by this Charter, the Mayor and Council and all other duties now or hereafter imposed by law upon legal counsel for cities unless otherwise provided by Ordinance by Council.

##### **Sec. 3. Department of Finance.**

###### **1. Finance Director.**

The Department of Finance shall be headed by the Finance Director.

###### **2. Qualifications.**

The Finance Director shall be a graduate of an accredited college or university. In addition, the Finance Director must possess an active Ohio License as a certified public accountant and at least five (5) years of full-time and/or substantial part-time professional experience in municipal government accounting and finance.

###### **3. Duties.**

The Finance Director shall keep accurate financial records and accounts of the City, including all taxes and assessments, all monies due to and all receipts and disbursements by the City, all the assets and liabilities of the City and all appropriations made by Council. The Finance Director shall examine payrolls, bills and other claims; approve, if proper; and if appropriations therefor have been duly made, prepare and approve all payments. The Finance Director shall assist the Mayor and Council in the preparation of estimates, budgets and appropriations, and shall perform all other duties required by this Charter or by Ordinance. The Finance Director shall be the Treasurer of the City and shall be the custodian of all monies of the City.

##### **Sec. 4. Department of Audit.**

###### **1. Appointment.**

The Department of Audit shall be headed by the Auditor, who shall be appointed and supervised by Council for a term not beyond the next organizational meeting of Council.

###### **2. Qualifications.**

The Auditor shall be a Certified Public Accountant with at least seven (7) years of experience in auditing or financial accounting including two (2) years of experience in governmental finance and accounting.

###### **3. Duties.**

The Auditor shall make an audit of the books and all records of the Finance Department. The Auditor shall make reports to the Mayor and Council annually and when requested, and shall approve all financial reports and statements of the Finance Department. The Auditor shall perform any other duty required by this Charter, or by Ordinance or Resolution of Council.

##### **Sec. 5. Department of Public Safety.**

The Department of Public Safety shall be headed by the Safety Director. The Safety Director shall administer the Department of Police and the Department of Fire and Rescue.

##### **Sec. 6. Department of Public Works.**

The Department of Public Works shall be headed by the Public Works Director. The Public Works Director shall supervise street and utility maintenance, maintenance of public properties and service collections.

##### **Sec. 7. Department of Building.**

The Department of Building shall be headed by the Building Commissioner who shall administer and enforce all building and zoning codes. The Building Commissioner shall meet the requirements of the Ohio Board of Building Standards and the Ohio Administrative Code in order to be the certified building official, residential plans examiner, building inspector, and either electrical safety inspector or commercial plumbing inspector, or any other applicable requirement that may be implemented by the State.

## **Sec. 8. Department of Community Services.**

The Department of Community Services shall be administered by the Community Services Director who shall administer all Human Services and recreation regulations and programs.

## **ARTICLE VI**

### **COMMISSIONS AND BOARDS**

#### **Sec. 1. General Provisions.**

A Planning and Zoning Commission and Civil Service Commission are established by this Charter. Council may establish other Commissions or Boards for any proper City purpose. A member of any Commission or Board is an officer of the City. Any vacancy on a Commission or Board shall be promptly filled according to this Charter.

#### **Sec. 2. Planning and Zoning Commission.**

##### **1. Composition.**

The Planning and Zoning Commission shall consist of seven (7) members as follows:

- (A) The Mayor.
- (B) One (1) Councilmember, to be appointed by Council.
- (C) Four (4) residents of the City appointed by the Mayor with one (1) from each of the three (3) districts established by Council pursuant to Section 3 below and one (1) resident appointed at-large.
- (D) One (1) resident of the City appointed at-large by Council.

##### **2. Terms of Commission Members.**

Resident members of the Commission shall serve staggered terms of three (3) years and shall hold no other City office.

The terms of the four (4) members appointed by the Mayor shall commence as follows:

one (1) district member on January 1, 1995.

one (1) district member on January 1, 1996.

one (1) district member on January 1, 1997.

one (1) at-large member on January 1, 1997.

The term of the one (1) member appointed by Council shall commence as follows: one (1) at-large member on January 1, 1995.

##### **3. Districts.**

Council shall maintain three (3) districts, each with approximately an equal number of residents. Recognizing the need to also have a reasonable amount of geographical distribution of resident members, Council may adjust the size and location of such districts in accordance with the most recent decennial U.S. Census Bureau population figures.

##### **4. Powers and Duties.**

The Planning and Zoning Commission shall have such powers and duties as this Charter or Council shall provide concerning the plan, design, location, removal, relocation, and alteration of any public buildings or structure or those located on public streets or property; the location, relocation, widening, extension, and vacation of streets, parkways, playgrounds and other public places; the approval of plats for the subdivision of land; the zoning of the City for any lawful purpose and such other powers as are now or may hereafter be conferred upon it by Ordinance of the Council or the general laws of Ohio.

#### **Sec. 3. Civil Service Commission.**

1. The Civil Service Commission shall consist of three (3) electors of the City not holding any other City office to be appointed by the Mayor and confirmed by a majority of members of Council to serve staggered terms of six (6) years, with one (1) member's term expiring every two (2) years on January 1, following a Regular Municipal Election. A vacancy occurring during the term of a member of the Civil Service Commission shall be filled for the unexpired term in the same manner as the original appointment was made. The civil service of the City is divided into the unclassified and classified service.

(A) The unclassified service shall include all elected, appointed and employed persons of the City except those included in the classified service.

(B) The classified service shall consist of all Police Officers and Fire Fighters who are appointed and/or promoted by competitive civil service examination, excluding the Chief and any Deputy Chief of the Police Department and the Chief and any Deputy Chief of the Fire and Rescue Department, to be known as the safety forces. Council, by Ordinance, shall create each rank in the safety forces and the number of persons to serve in each rank. Such Ordinance shall be known as the table of organization.

2. Appointments and promotions within the classified service of the City shall be determined on the basis of merit and fitness and in the manner provided for cities by the Constitution and the general laws of the State of Ohio, except as otherwise provided in this Charter or City Ordinance. The Civil Service Commission shall adopt rules and regulations implementing the provisions of the general law and as to any matter not controlled by the general law may provide by general rule therefor, except:

(A) That the Civil Service Commission may by rule establish a probationary period of not more than two (2) years for persons appointed to the Classified Service; and

(B) The percentage of any other job related training and/or education credit or military service may be established by rule of the Civil Service Commission. Notwithstanding the percentage of each such credit established by rule of the Civil Service Commission, the total additional credit which may be added to any passing grade on an entrance examination shall not exceed ten percent (10%).

3. All rules promulgated by the Civil Service Commission shall be approved by Council. (Amended 11-7-17)

#### **Sec. 4. Removals.**

The Mayor may remove any member of a board or commission, except a member appointed by Council. The member recommended to be removed shall be entitled to:

(1) An administrative hearing before the Mayor with a statement of the Mayor's reasons for removal being presented. Such member shall have an opportunity to respond.

(2) An appeal to Council, if an appeal is filed in writing with the Clerk of Council within five (5) days of the receipt of the Mayor's order of removal. In such event, Council shall conduct a hearing within thirty (30) days and vote whether or not to affirm the order of removal by the Mayor. A vote of two-thirds of Council is required to overrule the order of removal by the

**ARTICLE VII**

**INITIATIVE, REFERENDUM AND RECALL**

**Sec. 1. Initiative.**

1. The electors of the City shall have power to propose any Ordinance or Resolution, except an Ordinance for the appropriation of money or an Ordinance making a tax levy, and to adopt or reject the same at the polls, such power being known as the initiative, subject to the conditions hereinafter set forth.

2. Prior to the circulation of a petition to initiate an Ordinance or Resolution, the circulators shall register such petition with the Clerk of Council. Such registration shall set forth in full the proposed Ordinance or Resolution and shall also designate a committee of five (5) electors who shall represent all the petitioners in all matters relating to such petition. Notice of all matters required by law to be served on the committee shall be served either personally or by certified mail, or by leaving such notices at the usual place of residence of any member of the committee.

3. Such petition shall be in the form prescribed by Ohio R.C. § 3519.05 and shall be valid only if submitted as hereinafter set forth within ninety (90) days from the date of registration.

4. An initiated Ordinance or Resolution may be submitted to the Clerk of Council by petition signed by at least ten percent (10%) of the votes cast within the City in the most recent Governor's election, as certified by the Board of Elections. When so submitted, the Clerk shall forthwith determine the sufficiency of the petition, and if found sufficient, Council shall have the proposed Ordinance or Resolution read at its next regular Council meeting and referred to an appropriate committee, which may be a Committee of the Whole. Council shall conduct at least one (1) public hearing on the proposed Ordinance or Resolution. Council shall, within sixty (60) days after such Ordinance or Resolution is submitted, take final action thereon, either adopting or rejecting the proposed Ordinance or Resolution. If Council fails or refuses to pass such proposed Ordinance or Resolution, or passes it in some form different from that set forth in the petition therefor, the committee of the petitioners may require that it be submitted to a vote of the electors either in its original form or in the amended form by filing a letter with the Clerk of Council within ten (10) days after Council either rejects the legislation proposed by the initiative or passes it in some form different than requested.

Council shall thereupon provide for submitting such Ordinance or Resolution to the vote of the electors at the next regular election if one occurs in not less than ninety (90) days from the date of receipt of the letter, or at a special election to be held in not more than one hundred twenty (120) days from receipt of the letter. If an Ordinance or Resolution is adopted by the electors, it shall be in full force and effect from the date the election result is officially certified by the Board of Elections, and Council shall not repeal it for at least two (2) years thereafter.

**Sec. 2. Referendum.**

1. The electors shall have the power to approve or reject at the polls any Ordinance or Resolution passed by Council, except as hereinafter provided.

2. Within thirty (30) days after the final passage date of an Ordinance or Resolution, a petition signed by at least ten percent (10%) of the votes cast within the City in the most recent Governor's election may be filed with the Clerk of Council, requesting that such Ordinance or Resolution either be repealed or submitted to a vote of the electors. When such petition is filed, the Clerk shall first ascertain the sufficiency of the petition, and if found sufficient, Council shall, within thirty (30) days of the filing of such petition, reconsider such Ordinance or Resolution. If upon such reconsideration the Ordinance or Resolution is not repealed, Council shall provide for submitting it to a vote of the electors at the next regular election if one occurs in not less than ninety (90) days from the date Council, upon reconsideration, fails to repeal the Ordinance or Resolution, or at a special election to be held in not more than one hundred twenty (120) days from the date Council, upon reconsideration, fails to repeal the Ordinance or Resolution. No such Ordinance or Resolution shall go into effect until approved by a majority of those voting thereon. When Council is required to pass more than one (1) Ordinance or Resolution necessary to complete a legislative objective, the referendum provision shall apply only to the first Ordinance or Resolution required to be passed and not to any subsequent Ordinance or Resolution relating thereto. Ordinances providing for tax levies or for improvements petitioned for by the owners of a majority of the property to be specially assessed therefor, appropriation Ordinances limited to the subject of appropriations and emergency or urgent Ordinances and Resolutions, shall not be subject to referendum, but all other Ordinances and Resolutions shall be subject to referendum.

3. Ordinances and Resolutions submitted to Council by initiative petition and passed by Council either with or without change, but not required to be submitted to a vote of the electors, shall be subject to referendum in the same manner as other Ordinances and Resolutions.

**Sec. 3. Recall.**

The electors shall have the power to remove from office by recall any elected officer or a person appointed to fill a vacancy in an elected office. At any time after any elected or appointed officer has held office for six (6) months of the term for which the officer was elected or appointed, a petition demanding such officer's removal from such office may be filed with the Clerk of Council. A copy of such petition shall be filed with the Clerk of Council before circulation and shall be circulated and re-filed with the Clerk within thirty (30) days. Such petition shall comply with the provisions of Section 4 of Article VII and shall be signed by electors equal in number to at least twenty percent (20%) of the total votes cast at the last preceding Regular Municipal Election. If the Clerk shall find the petition sufficient, the Clerk shall promptly so certify to Council and to the officer whose removal is sought, and, if the officer does not resign within five (5) days thereafter, Council shall thereupon order and fix a day for holding a recall election not less than ninety (90) nor more than one hundred and twenty (120) days from the date of the Clerk's certificate of sufficiency. At such recall election, the name of the officer whose removal is sought shall be placed on the ballot substantially in the following form:

Shall ( ) be recalled and removed from the office of ( ) for the term beginning ( ) and ending ( )?

Yes

No

If a majority of those voting to recall and remove such officer vote to remove, such officer is removed effective on the date the result of the election is certified by the Board of Elections to the Clerk of Council. All vacancies created as a result of a recall election shall be



filled as stated in Article III, Section 3 or Article IV, Section 3 of this Charter.

**Sec. 4. Petitions.**

An initiative, referendum or recall petition may be circulated in separate parts but shall be bound together and filed as one (1) instrument with the Clerk of Council or an Assistant Clerk of Council only. Each part shall contain, in the case of the initiative or referendum, a full and correct copy of the title and text of the proposed or referred Ordinance or Resolution, and in the case of a recall, the name and office of the person whose removal is sought and a statement in not more than two hundred (200) words of the grounds for the removal.

**ARTICLE VIII**

**MISCELLANEOUS PROVISIONS**

**Sec. 1. Contracts and Fiscal Matters.**

The general law of Ohio relating to budgets, appropriations, deposits, expenditures, debts, bonds, contracts and other fiscal matters of cities shall be applicable to the City if mandated by the general law of the State of Ohio.

**Sec. 2. Public Utilities and Franchises.**

1. Public Utilities.

Council may by Ordinance grant permission to any person to construct and operate a public utility on, across, under or above any public street or ground within the City on terms and under regulations conducive to the public interest. However, such grant, and any amendment or renewal thereof shall be subject to applicable laws and regulations established by the state and/or federal governments.

2. Franchises.

Council shall not pass an Ordinance or Resolution making, amending or renewing a franchise as an emergency or urgent measure. If a franchise is for a period of more than one (1) year, Council shall hold a public hearing before final passage. At least two (2) weeks prior to the public hearing, notice of the proposed Ordinance or Resolution shall be published in a newspaper of general circulation in the City and by any other means provided for by Ordinance.

**Sec. 3. Salaries and Bonds.**

1. Salaries.

- (A) Council shall establish, by Ordinance, or amend as necessary, the salary and compensation of the Mayor, Council and all officers and employees of the City.
- (B) An Ordinance providing for any compensation received by the Mayor or Council shall be read three (3) times and not be passed as an emergency or urgent legislation.
- (C) Council may not amend its compensation later than thirty (30) days before the time for filing nominating petitions for a Council term. Such an amendment shall be effective for all Council persons on January 1, following the next regular Council election, two (2) years thereafter.

2. Bonds.

Council may require any officer or employee to be bonded for the faithful performance of duties.

**Sec. 4. Pension and Relief Funds.**

Council shall provide for the maintenance of pension, relief and retirement funds required by the general law of the State of Ohio.

**Sec. 5. Limitation on the Rate of Taxation.**

The aggregate amount of taxes that may be levied by the taxing authority of the City without the vote of the people on any taxable property assessed and listed for taxation according to value for all purposes of the City shall not in any one (1) year exceed nine and two-tenths (9.2) mills for each dollar of assessed valuation.

Within the maximum levy provided for in this Charter, Council shall annually levy an amount sufficient to pay the interest, sinking fund and retirement charges on all notes and bonds of the City heretofore or hereafter lawfully authorized to be issued without the authority of the electors, which levy shall be placed before and in preference to all other levies and for the full amount thereof.

**Sec. 6. Effect of Limitation.**

The limitation of Article VIII, Section 5, of this Charter upon the power of Council to levy taxes shall not operate as a limitation upon the power of Council to levy taxes upon such other subjects and for such other purposes as may be lawful under the Constitution and laws of this State.

**Sec. 7. Amendments.**

1. By Council or Petition.

Amendments to this Charter may be submitted to the electors of the City by a two-thirds vote of Council, and shall be submitted by Council when a petition signed by ten percent (10%) of the electors of the City, as of the last Regular Municipal Election prior to the time said petition is submitted, setting forth a proposed amendment, is filed with Council in the manner and form prescribed herein for the submission of Ordinances by an initiative petition. The Ordinance providing for the submission of any such amendment shall be submitted to the electors at the next Regular Municipal Election if one shall occur not less than seventy-five (75) nor more than one hundred and twenty (120) days after its passage by Council or the delivery to Council of a petition. Otherwise, Council shall provide for the submission of the proposed amendment at a special election to be called and held within the time aforesaid.

2. By Charter Review Commission.

- (A) Commencing on or about September 1st of 2027 and then eight (8) years thereafter, a Charter Review Commission composed of nine (9) Commissioners who are and continue to be electors of the City, shall be established to review this Charter. Each City Council Member shall be entitled to nominate one (1) Commissioner for appointment by Council, and the Mayor shall appoint two (2) Commissioners. In making appointments, Council and the Mayor shall make a good faith effort to ensure that the Charter Review Commission is reflective of the City in terms of diversity, and that each Commissioner has relevant experience and qualifications. No Commissioner may hold any other office or employment with the City. Members shall serve until the Commission's recommendations have been submitted to Council.
- (B) The Charter Review Commission shall, in public meetings, review in a comprehensive and thorough manner the City's Charter. In the calendar year following the establishment of each Charter Review Commission, the Commission shall recommend to Council and the Mayor such amendments, including alterations, additions, or deletions, if any, to this Charter as in its judgment are conducive to the public interest. The Charter Review Commission shall invite and consider proposed amendments and revisions from the City Administration, Council and Residents. In

presenting its recommendations, the Commission shall reserve sufficient time for Council and the public to review the proposed amendments and for Council to make appropriate alterations, additions, or deletions prior to formal Council action on them. Any proposed amendment that Council approves by a two-thirds vote shall be timely submitted to the County Board of Elections for presentation to the electors of the City at the November General Election of 2028, and then each eight (8) years thereafter, in a manner otherwise in accordance with the provisions of this Charter and the Constitution of Ohio.

3. Citizen Notification.

Not less than thirty (30) days prior to such election the Clerk of Council shall mail a copy of the proposed amendment to each elector whose name is made known to the Clerk from the registration books of the Board of Elections and to such other households as Council shall require. If such proposed amendment is approved by a majority of the electors voting thereon, it shall become a part of this Charter.

**Sec. 8. Saving Clause.**

The determination that any part of this Charter is invalid shall not invalidate nor impair the force or effect of any other part hereof, except to the extent that such other part is dependent for its operation upon the part declared invalid. Should Council find that it acted in any manner in violation of this Charter or the laws of the City, it is authorized to make necessary corrections by further legislation to correct such error or omission.

**Sec. 9. Effect of Charter Upon Existing Laws.**

This Charter shall not affect any pre-existing rights of the City, nor any right or liability or pending suit or prosecution either on behalf of or against the City, nor any contract entered into by the City nor for its benefit, nor any franchise granted by the City, nor pending proceedings for the authorization of public improvements or the levy of assessments therefor.

Except as contrary intent appears herein, all acts of Council shall continue in effect until amended or repealed.

**CODIFIED ORDINANCES OF BEACHWOOD**