

**BEAVERCREEK, OHIO  
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## **CHARTER**

The following Charter was adopted at an election held June 2, 1981 pursuant to Article XVIII, Section 8 of the Ohio Constitution. The first amendments to the Charter were approved at an election held November 4, 1986. The second amendments to the Charter were approved at an election held November 6, 1990. The third amendment to the Charter was approved at an election held November 3, 1992. The fourth amendment to the Charter was approved at an election held November 4, 1997. The fifth amendment to the Charter was approved at an election held November 2, 2004.

### ***PREAMBLE***

We, the people of the City of Beavercreek, Greene County, Ohio, in order to exercise all powers, and to secure the benefits, of local self-government under the Constitution of the State of Ohio, do adopt this Charter for the government of the City of Beavercreek.

### ***ARTICLE I NAME AND BOUNDARY***

#### **SECTION 1.01. NAME.**

The municipal corporation existing as the Village of Beavercreek under the general statutes of the State of Ohio shall continue to be a body politic and corporate under the name of the City of Beavercreek under this Charter.

#### **SECTION 1.02. BOUNDARY.**

The City shall have the same boundaries that exist on the effective date of this Charter, with power and authority to change its boundaries and annex territory in the manner authorized by the laws of the State of Ohio. Territory annexed to this City shall immediately be subject to the provisions of this Charter.

***ARTICLE II POWERS*****SECTION 2.01. POWERS OF THE CITY.**

The City shall have all the powers, both expressed and implied, of local self-government, and the benefits of city home rule that now or hereafter may be granted to cities by the Constitution and laws of the State of Ohio.

**SECTION 2.02. MANNER OF EXERCISE OF POWERS.**

All such powers shall be exercised in the manner prescribed in this Charter, or if not prescribed herein, in such manner as shall be provided by ordinance or resolution of the Council.

**SECTION 2.03. CONSTRUCTION OF POWERS.**

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power stated in this article.

**SECTION 2.04. INTERGOVERNMENTAL RELATIONS.**

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more political subdivisions, states, or civil divisions or agencies thereof, or the United States or any agency thereof.

***ARTICLE III FORM OF GOVERNMENT*****SECTION 3.01. FORM OF GOVERNMENT.**

The city government provided by this Charter shall be known as the Council-Manager form.

**ARTICLE IV THE COUNCIL****SECTION 4.01. POWERS; NUMBER.**

Except as provided in this Charter with regard to initiative and referendum, all legislative powers of the City of Beavercreek shall be vested in a Council consisting of seven (7) members. All members shall be nominated and elected at large by the qualified electors of the City.

(Amended 11-6-90)

**SECTION 4.02. SELECTION; TERM.**

All members shall be elected to four (4) year terms on a rotation of four (4) members selected in one election and three (3) members selected in the next. This rotation will begin with four (4) persons being selected in the 1991 November general election and three (3) selected in the 1993 November general election and will continue at the November general election subsequent off numbered years.

(Amended 11-6-90)

**(A) Term Limitation.**

(1) In no case shall any person be elected to either the office of council member, mayor, or a combination of the two offices, for more than two (2) consecutive terms of four (4) years each; provided that the term served in filling a vacancy or unexpired term shall not be considered as part of the two (2) consecutive terms of four (4) years each.

(2) Following the election to two (2) consecutive terms as either council member, mayor, or a combination of the two offices, no person shall immediately thereafter be eligible for election to either office, or a combination thereof, until a period of one (1) term consisting of four (4) years has elapsed.

(3) No person who has been elected to two (2) consecutive terms as Council member, Mayor, or a combination of the two offices, shall be appointed to fill a vacancy or unexpired term until a period of one (1) term consisting of four (4) years has elapsed since that same person last held office as either Council member or Mayor.

(4) Present members already elected to more than two (2) consecutive terms as either council member, mayor, or a combination of the two offices, shall finish the present term to which they were elected.

This proposed Charter amendment shall become effective from the time of its approval by the electors and shall apply to all present council members and mayor.

(Amended 11-3-92; Amendment passed by electorate 11-4-97)

**SECTION 4.03. QUALIFICATIONS.**

Each Council member shall be at the time of election or appointment, and shall remain throughout the term of office, a qualified elector of the City.

Council members shall begin their term of office on the first day of January following their election. They shall take the oath of office on or before January first.

(Amended 11-6-90)

**SECTION 4.04. OFFICERS OF THE COUNCIL.**

The City Council candidate receiving the highest number of votes from City electors at the most recent November general election in an odd numbered year will be the Mayor and will serve as such for the first two (2) years of his or her term. The candidate receiving the second highest number of votes at that election will be the Vice Mayor and will serve for the same two (2) years in that capacity. Tie votes in any Council election shall be resolved by a coin flip in the presence of the person then serving as Mayor or in the presence of two other members of Council.

(Amended 11-6-90)

(A) *Mayor*. The Mayor shall have the right to vote on all issues before the Council but shall have no power of veto. In addition to the powers, rights, and duties as a Council member, the Mayor shall preside at meetings of the Council, shall be recognized as head of the city government for all ceremonial purposes, by the Governor for purposes of military law, and by the courts for civil process involving the City. The Mayor may by ordinance have judicial powers and shall perform all other duties prescribed by ordinance or by resolution of the Council not inconsistent with the provisions of this Charter.

(B) *Vice Mayor*. The Vice Mayor shall exercise all the power and perform all the duties of the Mayor in case of temporary absence or disability. Should the office of Mayor become vacant, the Vice Mayor shall succeed to that office. If the office of Vice Mayor becomes vacant, the successor Vice Mayor shall be the member who received the next higher number of votes at the most recent rotation election of Council members. If it is not possible to identify a successor in that manner, the Council shall choose a new Vice Mayor at its next regular meeting.

(Amended 11-6-90; Amendment passed by electorate 11-4-97)

**SECTION 4.05. PROHIBITIONS.**

(A) *Holding Other Offices*. Except where authorized by this Charter, Council members shall neither hold any other city office except as a representative of the City as authorized by the Council nor hold any employment by the City government during the term for which said Council members were elected or appointed.

(B) *Appointment and Removals.* Neither the Council nor any of its members shall in any manner dictate the appointment of any city officers or employees, except by approving or disapproving appointment of department directors under this Charter, nor dictate the removal of any city officers or employees; but the Council, as a body meeting with the Manager, may express its views, and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(C) *Interference with Administration.* Except for the purpose of inquiries and investigations permitted under this Charter, the Council or its members shall deal with the city officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor its members shall give any orders to any such officer or employee, either publicly or privately.

#### **SECTION 4.06. JUDGE OF QUALIFICATIONS.**

The Council shall be the judge of the election and qualifications of its members and the existence of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published one time in one or more newspapers or other printed publication regularly distributed of general circulation in the City at least seven (7) days in advance of the hearing. If the Council determines that grounds for forfeiture of office exist, the position shall be declared vacant by an affirmative vote of the majority of the remaining members of the Council.

#### **SECTION 4.07. VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES.**

(A) *Vacancies.* The office of a Council member or Council member-elect shall become vacant upon death, resignation, forfeiture, or removal from office in any manner authorized by this Charter.

(B) *Forfeiture of Office.* A Council member shall forfeit office if he/she: (1) lacks at any time during the term of office any qualifications for the office prescribed by this Charter; (2) violates any express prohibition of this Charter to such an extent as to warrant forfeiture of office; (3) is convicted of a felony; (4) fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council.

(C) *Filling of Vacancies.* Vacancies in the office of a Council member shall be filled within sixty (60) days following the occurrence of the vacancy by a vote of the majority of the remaining members of the Council. If the Council fails to fill any vacancy within sixty (60) days following the occurrence of the vacancy, the power of the Council to fill the vacancy shall lapse; and the Clerk of Council, by authority of this Charter, shall request the Board of Elections of Greene County to hold an election to fill the vacancy. Such election shall be held at the next general election or special election already scheduled, and such general or special election shall occur at least seventy five (75) days after the date

of the request to the Board of Elections by the Clerk of Council. The individual elected in such election shall take office immediately following election certification by the Board of Elections and shall serve for the balance of the unexpired term.

Any appointee under this section shall qualify under the provisions of this Charter, and shall serve until a successor for the term is certified at the next November general election whether in an odd or even year, which occurs at least one hundred (100) days after his or her appointment (so as to allow nominating petitions to be filed by the seventy-five (75) day deadline before such an election). That election shall be held to determine what person is elected to serve for the balance of the unexpired term.

In the event of a vacancy occurring between the time of election of a Council member-elect in a November general election and the time of taking office for that Council member-elect, the vacancy shall be filled in the manner provided for in this charter by the newly elected Council and at or following the first meeting of Council on or subsequent to the first day of January after such November general election. (Amended 11-6-90; Amendment passed by electorate 11-4-97)

#### **SECTION 4.08. PROCEDURES.**

(A) *Meetings.* A quorum of the Council shall be present to conduct official business. A majority of the members of the Council shall constitute a quorum. The Council shall meet regularly at least once every month at such times and places as the Council may prescribe. Special meetings may be held on the call of the Mayor or of four (4) or more members of the Council and, whenever practicable, upon no less than twelve (12) hours notice to each member.

(B) *Rules.* The Council shall determine and may amend its own rules and order of business in conformity with the requirements of this Charter.

(C) *Voting.* Votes shall be taken by voice or by show of hands. A roll-call vote shall be conducted if requested by any member of Council. Votes shall be recorded in a journal. Faced with the lack of a quorum, a smaller number of the members of the Council may convene and may compel the attendance of absent members in the manner, and subject to the penalties, prescribed by the rules of the Council, and may adjourn to a subsequent date.

(Amended 11-4-86)

#### **SECTION 4.09. INVESTIGATIONS.**

The Council may make investigations through and with the Manager into the affairs of the City and the conduct of any city department, division, board, or commission. For this purpose the Council shall establish investigative procedures by ordinance. The Council shall provide by ordinance the penalties for the failure or refusal of any person to obey a lawful order issued in the exercise of its investigative powers and establish procedures for enforcement.

**SECTION 4.10. COMPENSATION.**

(A) *Salary of the Council.* Members of the Council shall receive an annual salary in the amount of \$2,000.00 until such amount is changed by the Council in accordance with the provisions of this Charter. (Amended 11-6-90)

(B) *Increases and Expenses.* The Council may increase or decrease the salary of its members by ordinance. The Mayor and Vice Mayor shall receive no additional compensation for their duties. No member of the Council shall benefit from any increase in salary during such member's current term of office. Any ordinance changing the salary of members of the Council shall be adopted no later than June first of any odd numbered year. Council members may, by resolution, stating the exact purpose thereof, receive their necessary and reasonable expenses incurred in the performance of their official duties.

**SECTION 4.11. CLERK OF COUNCIL.**

There shall be a Clerk of Council selected by an affirmative vote of four members of the Council. The Clerk shall be chosen from outside the membership of the Council. The Clerk shall give notice of Council meetings, advertise public hearings, record in journals all ordinances, and resolutions approved by the Council, and see that such enactments are published as required by this Charter. The Clerk shall also perform such other duties as may be assigned by this Charter, or by ordinance or resolution of the Council. The Clerk may be appointed to serve full or part time and shall receive a salary as established by ordinance for rendered services. Any employee of the City may be assigned the duties of the Clerk of Council. The Clerk may be removed by an affirmative vote of four members of the Council. (Amendment passed by electorate 11-4-97)

**SECTION 4.12. INDEPENDENT AUDIT.**

The Council shall provide for an independent annual audit of all City accounts and may provide for more frequent audits as they determine necessary. Such audits shall be made by a certified public accountant or firm of accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City of Beavercreek or any of its officials. If the State of Ohio makes an audit, it may be accepted by the Council as satisfying the requirements of this section. (Amendment passed by electorate 11-4-97)

**ARTICLE V LEGISLATION****SECTION 5.01. ORDINANCES AND RESOLUTIONS.**

Council legislative action shall be by ordinance or resolution. Ordinances shall be the enactments of the Council establishing permanent rules of conduct or of government. Resolutions shall be orders of the Council dealing with a specific matter of a temporary nature which expresses the policy of the Council or opinion regarding such matter and which do not establish permanent or general legislation.

**SECTION 5.02. ACTION REQUIRING AN ORDINANCE.**

In addition to other acts required by general law or by specific provision of this Charter to be performed by ordinance, those acts of the Council which shall be by ordinance shall include but not be limited to:

(1) Adopting or amending an Administrative Code or establishing, altering, or abolishing any City department, division, or office, other than those established by this Charter.

(2) Providing for a fine or other penalty or establishing a rule or regulation for violation of which a fine or other penalty is imposed.

(3) Granting or renewing a franchise.

(4) Regulating the rate charged for its services by a public utility.

(5) Authorizing the borrowing of money.

(6) Conveying, leasing, or authorizing the conveyance or lease of any lands of the City.

(7) Adopting without amendment, or with amendment that does not affect the substance, ordinances proposed under the initiative power.

(8) Adopting or amending a budget and adopting or amending a capital program.

(9) Amending or repealing any ordinance previously adopted.  
(Amendment passed by electorate 11-4-97)

**SECTION 5.03. INTRODUCTION AND ADOPTION OF ORDINANCES.**

A proposed ordinance may be introduced by any Council member at any regular or special meeting of the Council. Every proposed ordinance shall be introduced in written or printed form after review by the City Attorney. It shall be in the form required by the Council for final adoption. No

ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be, "The City of Beavercreek hereby ordains..." A written summary shall also accompany each proposed ordinance at the time of introduction. The fact that the summary contains errors or is incomplete shall not affect the validity of any ordinance.

(A) *First Reading.* Upon introduction of any proposed ordinance, a copy shall be distributed to each Council member and to the City Manager, and the summary of the proposed ordinance shall be read.

After the first reading and upon approval for additional readings by the Council, the Clerk shall: file copies of the proposed ordinance in office of the Clerk of Council; post the proposed ordinance in full in the city offices; and publish one time the summary of the proposed ordinance or the ordinance in full in one or more newspapers or other printed publication regularly distributed and of general circulation in the City or public media forums as required by law. The publication of the ordinance shall also include the date, time and place for a public hearing, and for the third reading and final consideration on the proposed ordinance. The public hearing on the proposed ordinance shall follow the publication by at least seven (7) days. The public hearing shall be held in connection with a regular or special Council meeting, and may adjourn from time to time.

(B) *Second Reading and Public Hearing.* At the date, time and place of the Council meeting so advertised, the summary of the proposed ordinance shall be read for the second time, unless a member of the Council present requests a reading of the ordinance in full. All persons present shall be given an opportunity to be heard on the proposed ordinance subject to the rules of the Council. Following this hearing, the Council may cause the proposed ordinance to be returned to the first reading, or proceed to the third reading.

(C) *Third Reading and Adoption.* At the next meeting of the Council following the public meeting, the summary of the proposed ordinance shall be read for the third time. After such reading, the Council may adopt such ordinance by an affirmative vote of the majority of the members of Council, except that if an amendment changes it as to any matter of substance. In such case, the Council shall not adopt the ordinance until it shall have caused a summary of the amended ordinance to be published at least once, together with a notice of the date, time and place where such amended ordinance will further be considered. A public hearing on the amended ordinance shall be held. After such hearing, the Council may adopt such amended ordinance or again amend it subject to the same conditions.

(D) *Notice of Adoption.* Within ten days after adoption of any ordinance, the Clerk shall post the summary of the ordinance in a designated place for public view in City Hall, and shall publish one time the summary of the ordinance or the ordinance in full in one or more newspapers or other printed publication regularly distributed of general circulation in the City, or public media forums as required by law together with a notice of its adoption.

(Amendment passed by electorate 11-4-97; Amendment passed by electorate 11-2-04)

**SECTION 5.04. EFFECTIVE DATE.**

Except as otherwise provided in this Charter, each ordinance shall become effective thirty (30) days after adoption or at any later date specified therein.

**SECTION 5.05. SUBMISSION OF ORDINANCES TO ELECTORS.**

The Council may at any time submit proposed ordinances to the electors of the City. Such ordinances shall become effective only upon approval by a majority of those voting on the ordinance and shall not be subject to referendum.

**SECTION 5.06. EMERGENCY ORDINANCES.**

To meet a public emergency affecting life, health, safety, or the public welfare, or a special emergency in the operation of a city department, the Council may adopt one or more emergency ordinances. Such ordinances shall not:

- (1) Grant or renew a franchise.
- (2) Establish, abolish, or alter the basic purpose or structure of any department.
- (3) Adopt or amend a zoning regulation.
- (4) Adopt with or without amendment ordinances proposed under the initiative power.
- (5) Adopt an administrative code.
- (6) Regulate the rate charged by any public utility for its services.
- (7) Grant any special privileges.

(Amended 11-6-90)

An emergency ordinance shall be introduced in the form and manner prescribed for regular ordinances, except that it shall be designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. A proposed emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of at least five (5) members of the Council shall be required for adoption. The emergency ordinance shall be published and posted as prescribed for other adopted ordinances and shall become effective upon adoption or at such later time as specified therein.

An emergency ordinance may be repealed by adoption of a repealing ordinance in the same manner specified for adoption of emergency ordinances. Emergency ordinances shall be subject to initiative.  
(Amended 11-4-86)

#### **SECTION 5.07. ADOPTION OF CODES OF TECHNICAL REGULATIONS.**

The Council may adopt model or standard codes of technical regulations prepared and published by any public or private agency by reference to the date and source of the code without reproducing it at length in the ordinance. However, if the Council desires to modify any such code, any section or part thereof, such modification shall be clearly stated in the ordinance. In all such cases in which such a code shall be adopted by reference, publication of the code at length by the City shall not be required. However, a reasonable number of copies of all such codes, including all amendments thereto, shall be kept in the office of the Clerk of Council for consultation by interested persons during regular office hours, and additional copies shall be available for sale, at cost, from the office of the Clerk.

#### **SECTION 5.08. RESOLUTIONS.**

Action by the Council which is not required by this Charter to be taken by ordinance may be taken by resolution. Such a resolution shall be in written or printed form and shall be introduced by a member of the Council. No waiting period, notice, public hearing or publication shall be required and a resolution shall become effective upon its adoption by an affirmative vote of four (4) of its members. Any issue or ordinance may be submitted to the electors of the City by resolution of the Council. All resolutions shall be public records.

(Amendment passed by electorate 11-4-97)

#### **SECTION 5.09. AUTHENTICATION AND RECORDING; REVIEW; CODIFICATION; REPRODUCTION.**

(A) *Authentication and Recording.* All ordinances and resolutions adopted by the Council shall be authenticated by the signature of both the Clerk and the Mayor, and shall then be recorded in full in properly indexed journals kept for that purpose.

(B) *Review.* Within two years after adoption of this Charter, and at least every ten (10) years thereafter, the Council shall appoint an Ordinance Review Commission of not less than seven (7) qualified electors of the City. It shall be the duty of this Commission to review the existing ordinances of the City and make recommendations to the Council for removal from the records of the City any such ordinances which may have outlived their usefulness or practicality. The Commission shall submit its report to the Council within one year after its appointment. The Council shall then take such action as it deems warranted with respect to the recommendations of the Commission.

(C) *Codification.* Within three years after adoption of this Charter, and at least every ten (10) years thereafter, the Council shall provide a general codification of all city ordinances and resolutions. The general codification shall be adopted by the Council and shall be published in bound or loose-leaf form, together with this Charter and any amendments thereto, including any pertinent provisions (as the Council may specify) of: the Ohio Constitution; other laws of the State of Ohio; codes of technical regulations; and other rules and regulations or pertinent supplementary matter of service or interest. This compilation shall be known and cited officially as the Beavercreek City Code. Copies of the Code shall be furnished to city officials, placed in public city offices and the local public library for free public reference, and made available for purchase at cost.

(D) *Reproduction of Ordinances and Resolutions.* The Council shall cause each ordinance and resolution, and each amendment to this Charter, to be reproduced as soon as reasonably possible following its adoption. The reproduced ordinances, resolutions, and Charter amendments, shall be distributed or sold to the public at cost.

## ***ARTICLE VI CITY MANAGER***

### **SECTION 6.01. APPOINTMENT; QUALIFICATIONS; COMPENSATION.**

The Council, by an affirmative vote of the majority of members of Council, shall appoint a City Manager and shall authorize the Mayor to sign on behalf of the Council, a contract with the City Manager setting forth the terms of employment, compensation, and separation from employment with the City Manager as deemed appropriate by the Council. No term established herein shall establish an expectation of continued employment except as provided in the contract. At the time of the appointment, the City Manager need not be a resident of the City, but shall become a resident within six months after appointment, unless otherwise authorized by the Council and shall reside therein during his or her tenure. (Amended 11-4-86; Amendment passed by electorate 11-2-04)

### **SECTION 6.02. POWERS AND DUTIES.**

The Manager shall be the chief administrative officer of the City and shall be responsible to the Council for the administration of all city affairs placed in the Manager's charge by or under this Charter. The Manager shall have the following powers and duties:

(1) Enforce this Charter and all ordinances and resolutions of the Council.

(2) Delegate to subordinate officers and employees of the City any duties conferred upon the Manager by this Charter and by ordinance, and hold them responsible for their faithful discharge.

(3) Submit to the Council and make available to the public a report on the finances, administrative activities, and an inventory of the properties of the City as of the end of each fiscal year.

(4) Prepare and submit the annual budget and capital program to the Council.

(5) Keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations concerning the affairs of the City as deemed desirable, or as the Council may require.

(6) Make other reports as the Council may require concerning the operations of the city departments, offices, and agencies subject to the Manager's direction and supervision.

(7) Arrange and prepare contracts, franchises, and agreements in cooperation with the City Attorney. To the extent such contracts, franchises, and agreements involve obligations included in the budget for which sufficient funds have been appropriated, the Manager shall have authority to sign those documents on behalf of the City without necessity of further action by the Council. Provided, however, that any action by the City to acquire, construct, own, lease, or operate a public utility, or to contract with any person therefor, must be authorized according to the provisions of Article XVII of the Constitution of the State of Ohio.

(8) Direct and supervise the administration of all departments, offices, and agencies, of the City except as otherwise provided by this Charter.

(9) Appoint and, when necessary in the discretion of the Manager, remove any appointed officers and employees of the City except as otherwise provided in this Charter.

(10) Attend all Council meetings and have the right to take part in discussion but may not vote.

(11) Be responsible for supervising the purchasing functions of the City.

(12) Perform such other duties as are specified in this Charter or may be required by the Council within the limits of this Charter.

*Editor's note: Division (7) of this section incorrectly cites Article XVII of the Ohio Constitution. The correct cite is Article XVIII, Section 4 of the Ohio Constitution.*

### **SECTION 6.03. REMOVAL.**

The City Manager shall be subject to removal by the Council at any time by an affirmative vote of the majority of the Council. In any case, the former Manager shall be paid all due sums pursuant to any contractual agreement the City Manager may have with the City, or in the event there is no contract, the former City Manager shall be paid any unpaid balance of salary and benefits.

(Amendment passed by electorate 11-02-04)

**SECTION 6.04. ACTING MANAGER.**

During the absence or disability of the Manager, the Manager may designate in writing the appointment of a person who is currently employed by the City to act as the temporary chief administrative officer, to exercise the powers and perform the duties of the Manager. Such exercise of powers shall not exceed 90 consecutive days without an affirmative vote of the majority of the Council. In the event the Manager does not designate an appointee, the Council may appoint an interim manager. (Amended 11-4-86)

**SECTION 6.05. RESIGNATION.**

The City Manager shall have the right to resign his or her position at any time, subject to any notice requirements contained in any contractual agreement the City Manager may have with the City. In the event there is no agreement, the City Manager shall give a thirty (30) day notice of intention to resign. The requirement of notice may be waived by resolution or motion of the Council.

***ARTICLE VII ADMINISTRATIVE DEPARTMENTS*****SECTION 7.01. CREATION OF DEPARTMENTS.**

The Council may establish, alter, or abolish departments as deemed necessary to provide for the health and welfare of the citizens. This shall not preclude the ability for the Council to provide such services through joint participation with other governmental agencies or to contract outside of its departments for services.

**SECTION 7.02. DEPARTMENT DIRECTORS.**

Each department shall be administered by a full-time director appointed by the City Manager with the approval of the Council. At the time of appointment the City Manager, with concurrence of the Council, will determine which Department Directors are required to become residents of the City. If residency is mandated, then such Department Directors must establish residency within the City limits within six (6) months after their respective appointments. Two or more departments may be headed by the same person. The City Manager may serve as the director of one or more departments in addition to the duties of City Manager, if the Council approves. The Director shall have supervision and control of the department subject to the direction of the City Manager.  
(Amendment passed by electorate 11-2-04)

**SECTION 7.03. CITY ATTORNEY.**

The City shall have a City Attorney who shall be appointed in the same manner as department directors. The City Attorney shall be an attorney-at-law admitted to practice law in the State of Ohio, be in good professional standing, and need not be a resident of the City. A law firm as well as an individual attorney may serve as the City Attorney. The City Attorney shall serve as chief legal advisor to the Council, the Manager, and all city departments, divisions, offices, and agencies, shall represent the City in all legal proceedings, and shall perform any other duties prescribed by this Charter, by ordinance, or by the Administrative Code. When necessary, the City Manager may appoint special legal counsel to represent the City, together with or in place of the City Attorney.

(Amendment passed by electorate 11-2-04)

**SECTION 7.04. ADMINISTRATIVE CODE.**

Subject to the provisions of this Charter, the Council shall adopt an Administrative Code which shall provide the organization of the City government, define the powers and duties of each organizational unit, and determine administrative procedures to be followed. Amendments to and revision of the Administrative Code shall be made by the Council.

***ARTICLE VIII PERSONNEL*****SECTION 8.01. MERIT PRINCIPLE.**

Appointments and promotions in the city service shall be made according to merit and fitness to be determined as far as practicable by competitive examination.

**SECTION 8.02. PERSONNEL BOARD.**

There shall be a Personnel Board consisting of three members appointed by the Council for terms of three years. Members of the first Board shall be appointed for terms of one, two and three years, respectively. Thereafter, all members of the Board shall be appointed for the full three year term. Any vacancy occurring during the term of any member shall be filled for the unexpired term by appointment of the Council.

Each member of the Board shall be a qualified elector of the City known to be sympathetic with the merit principle of public employment; shall neither hold nor be a candidate for any other public office nor be employed by the City; and shall not be an officer of any local, state, or national political party, or of any partisan political organization.

**SECTION 8.03. DUTIES OF THE PERSONNEL BOARD.**

The Board shall serve without compensation and shall hear appeals from any nonexempt employee who has successfully completed a probationary period, or applicant for non-exempt position who has successfully completed a probationary period, upon such issues as may be subject to appeal as defined by rules established pursuant to Section 8.05. The Board shall have the power to subpoena witnesses and require the production of records. The decision of the Board shall be final.

**SECTION 8.04. APPLICABILITY TO SCHOOL DISTRICT.**

The City and the Personnel Board shall have no jurisdiction over, nor be obligated to perform, any duties with regard to employees of the Beavercreek City School District, if such a school district is established.

**SECTION 8.05. PERSONNEL RULES AND REGULATIONS.**

The City Manager shall prepare and propose to the Council personnel rules and regulations. The Council may by ordinance adopt the proposed rules and regulations with or without amendment. Personnel rules and regulations shall be reviewed and/or updated at least every five (5) years.  
(Amendment passed by electorate 11-2-04)

**SECTION 8.06. LOCAL RULE TO PREVAIL.**

The Council shall have the authority to adopt personnel ordinances or personnel rules and regulations which modify, supplement, or supersede the laws of the State of Ohio and which, in the case of conflict, shall prevail over the laws of the State of Ohio.

***ARTICLE IX BOARDS AND COMMISSIONS*****SECTION 9.01. CREATION OF BOARDS AND COMMISSIONS.**

The City shall have a Planning Commission; a Board of Zoning Appeals; a Parks, Recreation, and Culture Board; a Personnel Board; and such other boards and commissions as may be created by ordinance.

**SECTION 9.02. GENERAL RULES FOR BOARDS AND COMMISSIONS.**

Unless otherwise provided for in this Charter:

(1) Each Board or Commission created in Section 9.01 shall consist of members appointed by the Council for overlapping terms of three years. Members of the first boards shall be appointed for terms of one, two, and three years, respectively. Thereafter, all members of boards and commissions shall be appointed for the full three-year term.

(2) Appointments and removals shall be subject to the procedures as specified in the Administrative Code.

(3) Each member of a Board or Commission of the City shall be and shall remain an elector of the City.

(4) Members of a Board or Commission of the City shall not hold any other elected or appointed office in the City or be an employee thereof.

(5) A vacancy occurring during the term of any member of a Board or Commission shall be filled for the unexpired term in the same manner as original appointments.

(6) Vacancies shall be filled within sixty (60) days.

(7) Each Board and Commission shall keep a journal of its proceedings. An affirmative vote of a majority of all members shall be necessary to adopt any question, motion, or order.

(8) Each Board and Commission shall establish its own operating procedures.

(9) All members of Boards and Commissions shall serve without compensation unless otherwise provided for by the Council.

(10) Boards and Commissions shall perform all duties and functions imposed upon them by this Charter and by the Council.

(Amendment passed by electorate 11-2-04)

**SECTION 9.03. PLANNING COMMISSION.**

The Planning Commission shall act as platting commissioners of the City, and as such shall have control of platting and shall provide regulations covering the platting of all lands within the City.

(1) It shall adopt and recommend to the Council a comprehensive general plan for the physical development of the City, which shall include the location of public ways, property, bridges, utilities, buildings, parks, playgrounds, and recreation areas. The comprehensive general plan shall show all

existing school locations in the City and shall show the projected locations of new schools as determined by the Board of Education.

(2) It shall prepare and recommend to the Council, ordinances creating areas, zones, and districts of permitted and excluded uses, including rules, regulations, restrictions, and limitations governing the design, height, floor area, size of structures, area and size of lots, size of yards, courts, open spaces, use and occupancy of public and private buildings, structures, and land for trade, industry, off-street parking, residences, parks, playgrounds, and other uses or purposes as will promote the general welfare of the City and its inhabitants.

(3) Before the Planning Commission shall recommend to the Council the rezoning of any lands it shall hold a public hearing on the question. The Planning Commission shall cause to be published one time in a newspaper or other printed publication regularly distributed and of general circulation within the City or in one or more public media forums, as required by law, a notice of the public hearing. Such notice shall be published at least fifteen (15) days prior to the public hearing and shall contain a summary of the question and the date, time and place of the public hearing. The fact that the summary contains errors or is incomplete shall not affect the validity of the recommendation of the Planning Commission. The Planning Commission shall also notify all property owners of the proposed rezoning in accordance with the zoning ordinance.

(4) The Planning Commission shall make a base map to be titled the "Official Map of the City of Beavercreek."

(5) The Planning Commission shall have control over the platting and subdivision of lands and the improvement or development thereof.

(Amendment passed by electorate 11-2-04)

#### **SECTION 9.04. BOARD OF ZONING APPEALS.**

The Board of Zoning Appeals shall hear and determine applications for variances from the provisions of the zoning ordinance, in harmony with the intent and purposes of that zoning ordinance and in accordance with procedures provided therein. The Board of Zoning Appeals shall also hear and determine appeals from any order, requirement, decision, or determination made by the administrative department or administrative officer who enforces and applies the zoning ordinance.

#### **SECTION 9.05. APPEALS TO THE COUNCIL FROM PLANNING COMMISSION AND BOARD OF ZONING APPEALS.**

Decisions of the Planning Commission and the Board of Zoning Appeals may be appealed to the Council of the City by filing a petition with the Clerk of Council within fifteen (15) days from the date of the decision and setting forth the facts of the case. Procedures governing such appeals shall be

established by the zoning ordinance or by other ordinances. The Council shall hold a public hearing on such appeal not later than thirty (30) days after such appeal has been filed with its Clerk. The Council by an affirmative vote of four (4) of its members shall decide the matter, and their decision shall be final.

#### **SECTION 9.06. PARKS, RECREATION, AND CULTURE BOARD.**

The Parks, Recreation, and Culture Board shall recommend a program to the Manager for the conduct of public parks, and recreational and cultural facilities.

(Amended 11-4-86)

#### **SECTION 9.07. PERSONNEL BOARD.**

There shall be a Personnel Board as prescribed in Section 8.02.

### ***ARTICLE X FINANCE, TAXATION AND DEBT***

#### **SECTION 10.01. GENERAL.**

The procedure provided in this Article shall be in addition to the financial procedure required by the State of Ohio.

(Amended 11-4-86)

#### **SECTION 10.02. FISCAL YEAR.**

The Council may specify by ordinance, a fiscal year other than that prescribed by Ohio Revised Code, if such change would be beneficial to the City.

(Amended 11-4-86)

***Statutory reference:***

*Fiscal year defined, see R.C. §5747.01(F)*

#### **SECTION 10.03. CAPITAL IMPROVEMENT PLAN.**

The manager shall prepare and submit to the Council annually a five-year capital program in such a manner as Council may direct.

(Amended 11-4-86)

**SECTION 10.04. TRANSFER OF APPROPRIATIONS.**

At any time during the fiscal year the Manager may transfer part or all of any unencumbered balance among budget allotments within a single appropriation; and upon written request by the City Manager, the Council may by ordinance transfer any unencumbered balance from one appropriation to another.  
(Amended 11-4-89; Amended 11-6-90)

**SECTION 10.05. INCOME TAX.**

The Council shall have no power to adopt and levy a city income tax without a majority vote of the electors voting on such levy.  
(Amended 11-4-86)

**SECTION 10.06. TAX LEVIES.**

Any taxes beyond the limit set by the Constitution of the State of Ohio must be approved by a majority of the electors voting at any election wherein the tax levy question, or proposition has been authorized by the Council, stating the purpose, rate, and number of years of said tax.  
(Amended 11-4-86; Amended 11-6-90)

**SECTION 10.07. SPECIAL FUNDS, TRUSTS, GIFTS, DONATIONS OR BEQUESTS TO THE CITY.**

(A) Any gift, donation or bequest to the City of Beavercreek shall be used, appropriated and expended under the direction of the Council, unless provided for in such gift, donation or bequest.

(B) Trusts, gifts, and special funds shall continue in force until the purposes for which they are made have been accomplished or abandoned. The purpose of any such appropriation may be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation, or shall be deemed abandoned upon passage of an ordinance to that effect. When the purpose of the fund has been abandoned, all residuals shall be dispersed in a manner determined by the Council.  
(Amended 11-4-86)

**SECTION 10.08. COMPETITIVE BIDDING.**

(A) Purchase of all supplies, materials, non-professional services, and equipment on behalf of the City shall be made pursuant to and in conformance with the purchasing procedures established by the Ohio Revised Code. In cases of public emergency affecting life, health, safety, property, or public welfare, such purchases may be made without competitive bidding in accordance with procedures established by Council.

(B) Professional services are to be contracted for through a competitive process established by the City Manager.  
(Amended 11-06-90; Amendment passed by electorate 11-4-97; Amendment passed by electorate 11-2-04)

**SECTION 10.09. PUBLIC ACCESS.**

Copies of the budgets and capital program shall be public record and shall be made available to the public at suitable places in the City as may be determined by the Council.  
(Amended 11-4-86)

**SECTION 10.10. ANNUAL APPROPRIATION ORDINANCE.**

At the meeting of the Council at which the revised final budget estimates for the appropriation ordinance are submitted, the Council shall adopt the estimates as submitted, or as amended, as the appropriation ordinance of the City of Beavercreek for the ensuing fiscal year:

The appropriation ordinance shall become effective upon adoption and shall constitute an appropriation for the budgeted items and approval of the work projects without further legislation  
(Amended 11-06-90)

***ARTICLE XI NOMINATIONS AND ELECTIONS***

**SECTION 11.01. CITY ELECTIONS.**

The regular election for members of the Council shall be held on the first Tuesday after the first Monday in November in the odd numbered years. The Council may, by resolution, order a special election, the purpose of which shall be set forth in the resolution. The date for special elections shall be set in accordance with the state election calendar.  
(Amended 11-4-86)

**SECTION 11.02. CONDUCT OF ELECTIONS.**

Both regular and special elections shall be conducted by the Board of Elections of Greene County, Ohio, as required by law with such exceptions as provided by this Charter. Non-partisan ballots shall be used for all elective offices.

**SECTION 11.03. NOMINATIONS.**

No primary election shall be held for the nomination of candidates for the Council. Candidates for the Council to be elected at large shall be nominated by petitions signed by seventy-five (75) qualified electors of the City. Petitions shall be the standard forms provided by the Greene County Board of Elections for the nomination of individual nonpartisan candidates for such offices. Group petitions shall not be used for individual offices. Each circulator of a nominating petition shall be a qualified elector of the City. The signatures to a nominating petition need not be all affixed to one paper, but to each separate paper of a petition there shall be attached an affidavit executed by its circulator stating the number of signers of the paper, that each signature on it was affixed in his/her presence and that he/she believes each signature to be the genuine signature of the person whose name it purports to be. The signatures shall be executed in ink or indelible pencil. Each signer shall indicate next to his/her signature the date of signing and the place of residence. Petitions shall be filed with the Board of Elections by 4 p.m. at least seventy-five (75) days before the election.

(Amended 11-6-90)

**SECTION 11.04. PLURALITY.**

A plurality of valid votes cast shall be sufficient to elect.

***ARTICLE XII INITIATIVE AND REFERENDUM*****SECTION 12.01. INITIATIVE.**

Ordinances and other measures providing for the exercise by this City of any of its powers of government may be proposed by initiative and shall be by petition. The forms and procedures to be used and followed with regard to any initiative petition shall be as provided by state statutes dealing with the initiative process in municipal government, except as provided in Section 12.03.

(Amended 11-4-86; Amended 11-6-90)

**SECTION 12.02. REFERENDUM.**

Any ordinance or other legislative action enacted by the Council of this City shall be subject to the referendum to the extent provided in state statutes dealing with the referendum process in municipal government. The forms and procedures to be used and followed with regard to any referendum shall be as provided by those same state statutes, except as provided in Section 12.03.

(Amended 11-4-86; Amended 11-6-90)

**SECTION 12.03. ELECTION.**

Legislation proposed by initiative petition, and legislation submitted by referendum petition for approval or rejection, shall be placed before the electors at the next succeeding election occurring subsequent to 75 days after the initiative or referendum petition is certified to the Board of Election.  
(Amended 11-6-90)

**SECTION 12.04. RECALL.**

Any elected officer of the City may be removed from office by the qualified voters of the City. The forms and procedures to be used and followed with regard to recall shall be as provided in Revised Code 705.92, the state statute dealing with recall in municipal corporations, except to the extent set forth below:

(1) The question of recall of any elected official may be submitted to the qualified voters after that official has served one year of his or her elected term.

(2) A recall election shall be held at the next election occurring subsequent to seventy-five (75) days after the recall petition is certified by the County Board of Elections.  
(Amended 11-4-86; Amended 11-6-90; Amendment passed by electorate 11-4-97)

***ARTICLE XIII GENERAL PROVISIONS*****SECTION 13.01. OATH OF OFFICE.**

All elected officers, members of boards and commissions, and the Manager of the City shall, before entering upon their duties, take and subscribe to the following oath or affirmation to be filed and kept in the office of the Clerk of Council:

"I solemnly swear (or affirm) that I will support the Constitution of the United States and of the State of Ohio and will obey the laws thereof, and that I will, in all respects, uphold and enforce the provisions of the Charter and ordinances of the City of Beavercreek, Ohio, and will faithfully discharge the duties of \_\_\_\_\_ upon which I am about to enter."

**SECTION 13.02. OFFICIAL BONDS.**

The City shall furnish all surety bonds for its officers, employees, appropriate board and commission members, and any other persons required by the Council to be bonded. The amount of such bonds shall, in each case, be fixed by the Council or all persons whose duties require that they handle or be

concerned with the management of the money or other property of the City. These surety bonds shall be issued by a company authorized to do business in the State of Ohio, and the premium on such bonds shall be paid from the funds of the City.

### **SECTION 13.03. FEES.**

All fees, gratuities, gifts, or other emoluments received by officers or employees of the City in connection with their employment with the City shall be accounted for and paid into the City treasury, except as otherwise provided by ordinance.

### **SECTION 13.04. PERSONAL FINANCIAL INTEREST.**

Any city officer or employee who has a substantial financial interest, direct or indirect, or by reason of ownership of stock in the corporation, in any contract with the City or in the sale or purchase of any land, material, supplies, or services to the City or to a contractor supplying the City, as may subsequently be defined by the Council, shall make known that interest and shall refrain from voting upon or otherwise participating in that capacity as a city officer or employee in the making of such sale or purchase, or in the making or performance of such contract. Any city officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit the office or position. Violation of this section with the knowledge express or implied of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the Manager or the Council.

### **SECTION 13.05. POLITICAL SOLICITATIONS PROHIBITED.**

No elected or appointed City officer or City employee shall solicit, or cause to be solicited, any contributions, political, financial or otherwise, from any elected or appointed City officer or City employee, unless approved by the City Manager. The Council shall enact ordinances to enforce this provision.

(Amendment passed by electorate 11-2-04)

### **SECTION 13.06. DEPARTMENTAL DIVISIONS.**

Pending the adoption of an Administrative Code by the Council, the Manager may establish temporary divisions by administrative order.

**SECTION 13.07. CHARTER REVIEW.**

At least every five (5) years, the Council shall appoint a committee of seven (7) qualified electors of the City to be known as the Charter Review Commission. This Commission shall review the whole Charter and shall recommend to the Council any alterations, revisions, and amendments to this Charter as in the Charter Review Commission's judgment seem advisable. The Council may submit to the electors any such proposed alterations, revisions, or amendments to this Charter at the next regular election in accordance with Article XVIII, Section 9, of the Constitution of the State of Ohio. Each Charter Review Commission shall cease to function the day following the election at which its proposals are submitted to the electorate or earlier as Council may direct. The members shall serve without compensation. In addition, the Council may appoint additional such commissions for the limited purpose of reviewing specified portions of the Charter.

(Amended 11-4-86; Amended 11-6-90)

**SECTION 13.08. CHARTER AMENDMENT.**

This Charter may be amended as provided in Article XVIII, Section 9, of the Constitution of the State of Ohio. The Council is granted the authority by affirmative vote of five (5) members to, by ordinance; incorporate administrative changes to this Charter provided no substantive changes to the Charter are caused. Such administrative changes shall be limited to errors of grammar, sentence construction, standardization of similar terms and paragraph renumbering as necessary. Such administrative changes shall be made at the next reprinting of the Charter.

(Amendment passed by electorate 11-2-04)

**SECTION 13.09. OPEN MEETINGS.**

Where a majority of a board, commission, committee, or similar decision-making public body of the City, including the Council, shall prearrange a discussion of the public business of the public body, it shall be required to take official action and to conduct all deliberations upon official business only in public meetings in accordance with the laws of the State of Ohio. Executive sessions shall be permitted in accordance with the laws of the State of Ohio.

**SECTION 13.10. GENERAL PROCEDURE.**

If no procedure, requirement, or limitation is established either by this Charter or by ordinance, then that provided by general state law shall be followed until the Council shall provide a different procedure, requirement or limitation by ordinance, unless otherwise provided by this Charter.

**SECTION 13.11. SEPARABILITY.**

If any provision of this Charter is held invalid, the other provisions shall not be affected thereby.

***ARTICLE XIV TRANSITIONAL PROVISIONS*****SECTION 14.01. CONTINUATION OF ORDINANCES.**

All ordinances, resolutions, and other acts of the Village of Beavercreek in effect at the time this Charter becomes effective shall remain in effect, except as superseded by the provisions of this Charter, until amended or repealed by the Council or by the electors as provided in Article XII.

(Amended 11-6-90)

**SECTION 14.02. SUCCESSION AND VESTED RIGHTS.**

The City of Beavercreek, under this Charter, is hereby declared to be the legal successor of the Village of Beavercreek, under the general laws of the State of Ohio; and as such it has title to all property, real, personal, and mixed, owned by its predecessor, including all moneys on deposit and all taxes in process of collection together with all accounts receivable and rights of action. Adoption of the Charter or any amendments of it shall not impair rights vested in the City nor discharge any liability previously incurred by the City.

(Amended 11-6-90)