

City Charter

City of Moraine, Ohio



Amended 05/05/2015
Effective 05/19/2015

CITY OF MORAINE, OHIO

Council

Mayor Elaine Allison
Ora Allen, At-Large
Jim McGuire, At-Large
Randy Daugherty, Ward 1
Teri Murphy, Ward 2
Shirley Whitt, Ward 3
Jeanette Marcus, Ward 4

City Manager David D. Hicks
Finance Director Richard Sexton
Clerk of Council Diane C. Werbrich
Law Director Buzz Portune

www.ci.moraine.oh.us

Amended by the Electors of the City of Moraine:
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PREAMBLE

We, the people of the City of Moraine, County of Montgomery, State of Ohio, in order to secure for ourselves the benefit of municipal home rule, and exercise all the powers of self-government under the Constitution and Laws of the State of Ohio, do enact and adopt this Charter for our City.

ARTICLE I: THE MUNICIPALITY

The Municipal corporation now existing in the County of Montgomery and State of Ohio, and known as the City of Moraine, Ohio (hereinafter sometimes referred to as “City”), shall continue to be a body politic incorporated under the name of the City of Moraine.

ARTICLE II: POWERS

The City shall have all of the powers and benefits of local self-government and municipal home rule. The City shall have all of the powers that now or hereafter may be granted to municipalities by the powers of the State of Ohio. All such powers of local self-government and municipal home rule and all such powers granted to municipalities now or hereafter by the powers of the State of Ohio, shall be exercised in the manner set forth in this Charter, or if not set forth herein, in such manner as shall be provided by ordinance or resolution of the Council. If not set forth herein by either the Charter or by ordinance or resolution of the Council, such powers shall be exercised in such manner as may now or hereafter be provided by the laws of the State of Ohio.

ARTICLE III: COUNCIL

Section 3.1: Powers.

The legislative power of the City shall be vested in a Council of seven electors of the City, one of who shall be elected as Mayor.

Section 3.2: Members and Terms.

At the general election of 1967, one member of the Council shall be elected from each of the four districts (wards) into which the City has been divided, for a term ending with the first business day of January, 1972, and, at the same election, two (2) Council Members and the Mayor shall be elected from the City at large for a term ending the first day of business on January, 1970.

The successors of the several members of the Council elected from districts (wards), shall be elected at the general Municipal election of November 1971 and every fourth (4) year thereafter. Successors of the several members of Council

elected from the City at large shall be elected at the general Municipal election of November, 1969, and every fourth (4) year thereafter.

The members of Council shall begin their terms on the first business day of January following their election.

Section 3.3: Qualifications.

Council Members shall be qualified electors of the City, residents of the City for at least three (3) years, and, if elected by district, a resident of the district (ward) to be represented for at least six (6) months prior to the date the nominating petition is filed. A Council Member who ceases to be a resident or qualified elector of the district (ward) represented shall immediately forfeit the office

Section 3.4: Removal and Vacancies.

The Council shall be the judge of the election and qualifications of its own members. In case of persistent failure to abide by the rules of Council, the seat of such member may be declared vacant by resolution of Council, five (5) members concurring. In case of absences without being excused by the Council for four (4) consecutive meetings, regardless if the meetings are Regular Meetings or Committee of the Whole Meetings, the seat of such member shall immediately become vacant.

The Council shall declare a vacant seat of any member for the following reasons:

- A. One who shall cease to be a qualified elector as required by the Charter or the law of Ohio.
- B. One who shall hold any other salaried public office of the City,
- C. One who shall violate any expressed provision of this Charter.
- D. One who shall violate any other provision of the State laws as applicable to public officials and the penalty includes forfeiture of office.

The remaining members of Council may appoint a qualified elector as defined in Section 3.3 to fill a vacancy on the Council within thirty (30) days of the occurrence of the vacancy. If the Council fails to fill any vacancy within thirty (30) days following the occurrence of a vacancy, the power of the Council to fill the vacancy shall lapse. Any appointee under this Section shall qualify under the provisions of this Charter and shall serve until the remaining unexpired term of the office is filled by special election as described herein.

Whether or not Council fills the vacancy, the Clerk of Council, by authority of this Charter, shall request the Board of Elections of Montgomery County to hold a special election to fill the unexpired term. Such special election shall be held at the next scheduled primary election in March or May (or as otherwise scheduled pursuant to the laws of the state of Ohio) or general election in November, whichever is earlier, and which occurs at least one hundred (100) days after the occurrence of the vacancy. The individual elected in such special election shall take office immediately following election certification by the Board of Elections and shall serve for the balance of the unexpired term.

If Council has filled the vacancy under this Section and the term of the vacated Council seat is twelve (12) months or less from the date of the expiration of the term, no special election shall be held, and the appointee shall serve for the balance of the unexpired term.

Section 3.5: Salaries.

The base salary of a Council Member shall be Twelve Hundred Dollars (\$1,200.00) annually. The base salary of the Mayor shall be Twenty-Four Hundred Dollars (\$2,400.00) annually. In addition, a Council Member and the Mayor shall receive, as additional salary, the sum of Twenty Dollars (\$20.00) for each Regular Council Meeting and each Committee of the Whole Meeting attended each month, not to exceed a total of Eighty Dollars (\$80.00) per month. In addition, the Mayor and Deputy Mayor shall receive, as additional salary, the sum of Twenty-Five Dollars (\$25.00) for each pre-scheduled court session attended each month, not to exceed a total of Thirteen Hundred Dollars (\$1,300) per year. Council Members and the Mayor shall not receive additional salary for attending special meetings of the Council. The salaries of the Council Members and the Mayor shall be changed only by a majority vote of the electors of the City of Moraine at a special or general election.

Section 3.6: Travel Expense Reporting and Reimbursement Requirements

The Mayor and the Council Members shall receive their reasonable and necessary expenses incurred in the performance of their official duties. Reasonable and necessary expenses shall only include expenses actually incurred and paid by Council Members or the Mayor while in the performance of their official duties. Attendance at conventions and meetings occurring outside Montgomery County, Ohio, shall be authorized by resolution, stating the exact purpose thereof. Expenses for attendance at conventions and meetings or other travel outside of Montgomery County occurring between November 10 and December 31 shall not be reimbursed or advanced to the Mayor or Council Members whose term of office is ending and who will not be commencing a new term of office as Council Member or Mayor at the next first business day in January.

Council shall, by ordinance, provide for the filing of expense reports by Council Members and the Mayor. The expense reports shall include a detailed listing of costs with receipts attached. The receipt requirement, however, does not prohibit the use of standardized per diem amounts to cover meals and other incidental expenses. Expense reports must be filed with the Finance Director within ten (10) BUSINESS days after performance of said official duty. Said ordinance shall further provide that any unused funds advanced by the City for expenses shall be accounted for and repaid within said ten (10) BUSINESS day period. If a Council member fails to file expense reports or fails to repay advanced funds within said ten day period, the travel privileges of such Council member shall immediately be suspended and the advance funds recovered through garnishment of said Council member's salary until such time as the advanced funds are repaid.

Section 3.7: Mayor.

At the general Municipal election in 1967, a Mayor shall be elected by separate ballot from the City at large with the term ending with the first business day of 1970. A successor shall be elected at the general City election of November 1969, and every fourth year thereafter. The Mayor shall be a qualified elector of the City and a resident of the City for three (3) years prior to the date the nomination petition for the office is filed. A Mayor who ceases to be a resident or qualified elector of the city shall immediately forfeit the office.

The Mayor shall be a member of Council. The Mayor shall have a right to vote as a member of Council, but shall have no veto.

In addition to his power, rights and duties as a member of Council, the Mayor shall preside at all Regular Council and Special Meetings and Executive Sessions of the Council and shall be recognized as the official head of the City for ceremonial purposes, by the Governor for military purposes and by the courts for the purpose of serving civil process. The Mayor shall perform all other duties prescribed for him in this Charter and such other duties as may be imposed on him by any measure of the Council.

The Mayor shall also have jurisdiction in civil and criminal cases as provided by the laws of Ohio, including all statues now and hereafter enacted until such jurisdiction is placed elsewhere by law.

A vacancy in the office of the Mayor shall be filled by the Deputy Mayor until a successor is elected by special election subject to the same conditions as prescribed in Section 3.4 of the Charter, however the filling of the Mayor's office by the Deputy Mayor shall not be deemed to have created a vacancy in the Deputy Mayor's Council seat requiring further appointment by Council or a special election.

Section 3.8: Deputy Mayor.

At the Regular Organizational Meeting, and every two (2) years thereafter, Council shall choose one of its members as Deputy-Mayor to exercise all powers and perform all duties of the Mayor in case of his temporary absence or disability. In the event that the Deputy-Mayor is temporarily absent or disabled, Council shall choose one of its members as temporary Deputy-Mayor. Should the office of Mayor become vacant, the Deputy-Mayor shall assume the authority of the Mayor's office until the person elected to serve the remainder of the unexpired term takes office. Upon the Mayor's request, the Deputy-Mayor may assist in the performance of certain duties ordinarily performed by the Mayor.

Section 3.9: Meetings.

Council shall hold a Regular Meeting at such times as may be prescribed by its rules but not less frequently than once a month. All Regular Meetings, Special Meetings, and Committee of the Whole Meetings shall be open to the public, except executive sessions as authorized by State law and the ordinances of the City.

A Regular Organizational Meeting shall be held during the first week in January of even numbered years. Four members of Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time.

Special meetings may be called by the Mayor or any three (3) members of Council on twelve (12) hours notice served on each member personally, or left at the residence of record. The purpose of the special meeting shall be stated in the notice, and no other business shall be transacted at such meeting.

Section 3.10: Annual Audit.

During those years in which the State of Ohio shall make an audit of the affairs of the City, such audit, in Council's discretion, shall be accepted as valid. In such years and other years, Council may provide for an audit by a certified public accountant.

Section 3.11: Code of Ethics

Section 3.11.1 Personal Financial Interest

Any City officer, official, or employee who, by reason of employment with, ownership or investment in any business, has a direct or indirect financial interest in: (a) any contract with the City; (b) the sale of any land, material, supplies or services from or to the City; or (c) a contractor or vendor supplying the City, shall make known any and all such interests and shall refrain from voting upon

or otherwise participating in their official capacity in the making of such sale or performance of such contract. Any City officer, official, or employee who knowingly and willfully conceals such financial interest 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 City Council. The term "ownership" shall not include an ownership or investment interest constituting not more than 1% interest in a publicly traded corporation.

Section 3.11.2 Acceptance of Gifts

No City officer, official, or employee shall solicit, loan or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the City officer, official or employee with respect to that person's duties. (Ref. Ohio Rev. Code Section 102.03)

Section 3.11.3 Conflicts of Interest, Ethics and Campaign Financing

The laws of the State of Ohio governing conflicts of interest, criminal misbehavior, ethics, financial disclosure by municipal officials and employees, campaign financing, and election practices shall apply under this Charter.

ARTICLE IV: LEGISLATION

Section 4.1: 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 4.2: 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:

- A. Adopting or amending an administrative code or establishing, altering, or abolishing any City department, division or office, other than those established by this Charter.
- B. Providing for a fine or other penalty or establishing a rule or regulation for violation of which a fine or other penalty is imposed.

C. Granting or renewing a franchise.

D. Granting or renewing any permit, license, or authorization to construct, operate or expand any sanitary landfill, waste-disposal facility or waste processing facility.

E. Regulating the rate charged for its services by a public utility.

F. Authorizing the borrowing of money.

G. Conveying, leasing or authorizing the conveyance or lease of any lands of the City.

H. Amending or repealing any ordinance previously adopted.

Section 4.3: Majority Required.

The affirmative vote of four (4) members of the Council shall be necessary for the passage of any ordinance unless otherwise provided herein. A resolution may be enacted on a formal motion by a majority vote of the members of Council present, being a quorum as defined in Section 3.8.

Section 4.4: Procedure of Passage of Ordinances.

Every ordinance shall be introduced in written form. A complete text shall be published by posting in not less than three (3) of the most public places in the City to be determined by the Council and on the City of Moraine website, with a notation as to the time and place of its first reading. A summary of the action taken by the ordinance shall be read as a first reading.

The notice of second reading and consideration for final adoption of the ordinance shall be published by posting as above set forth with the complete text of the ordinance attached and shall contain the time and place of its consideration for final adoption. The publication by posting shall be at least one (1) week prior to the time set forth in the summary of the ordinance.

Section 4.5: Second Reading.

For the second reading, at the time and place so published by posting, such ordinance shall be read by title only. All interested persons shall be given an opportunity to be heard prior to the final vote. After such reading, the Council may finally adopt such ordinance, except if an amendment changes it in substance. When an ordinance is amended, it shall not be finally adopted until a summary of the amended section is published by posting in not less than three (3) of the

most public places in the City as determined by the Council and on the City of Moraine website, together with the time and place, when and where, such amended ordinance will be further considered. Publication by posting shall be at least one (1) week prior to the date set forth in the summary of the ordinance.

Section 4.6: Final Adoption.

The effective date of any ordinance shall be thirty (30) days after the adoption, unless the ordinance shall specify a later date or as otherwise provided for in this Charter or by the Constitution of the State of Ohio. A resolution takes effect immediately upon its adoption.

Every ordinance or resolution, upon its final passage, shall be recorded in a book kept for this purpose and shall be authenticated by the signature of the presiding officer and Clerk of Council.

Section 4.7: Rule Suspension.

The Council, on an affirmative vote of five (5) members, may suspend the rule preventing adoption of an ordinance at the meeting at which it was introduced. A notice of adoption of the complete text of an ordinance adopted under Rule Suspension shall be published by posting within one (1) week.

Section 4.8: Emergency Measures.

The Council may, with an affirmative vote of not less than five (5) members, pass emergency ordinances to take effect immediately upon their passage, or at the time indicated therein in order to preserve the public interest or to provide for special emergencies in the operation of the usual City services. Each emergency ordinance shall set forth the specific facts necessitating the emergency legislation. No legislation involving the granting, renewing or extending of a franchise or regulating the rate to be charged for public utility services or granting or renewing any permit, license, or authorization to construct, operate or expand any sanitary landfill, waste disposal facility, or waste processing facility or to adopt, amend, enact or repeal any zoning regulation affecting the use and occupancy of land or structures shall be passed as an emergency measure. In lieu of publication by posting before adoption, the notice of adoption of an emergency measure shall be published by posting thereof within one (1) week after its adoption in not less than three (3) of the most public places in the City, to be determined by Council and placed on the City's website.

Section 4.9: Effective Date.

The effective date of any ordinance shall not be earlier than thirty (30) days following its adoption, except as otherwise provided in the preceding section,

and in the second paragraph of this section. A resolution takes effect immediately upon its adoption.

Ordinances provided for appropriations for the current expenses in the City, or for street improvements petitioned for by the owners of the majority of the front footage of the property benefited to be assessed for the improvements, shall go into immediate effect.

ARTICLE V: THE CITY MANAGER

Section 5.1: Appointment.

A City Manager shall be appointed by the Council to serve at the will of the Council, the majority of all the members of the Council being required for his appointment.

Section 5.2: Qualifications.

The City Manager shall be chosen solely on the basis of his executive and administrative qualifications with actual experience and training in the accepted practices and duties of such office. Residency requirements shall be consistent with applicable laws of the State of Ohio as determined by Council at the time of appointment and thereafter. Neither Council Member nor Mayor shall receive such an appointment during the elected term, nor within one (1) year after the expiration of the term.

Section 5.3: Powers and Duties.

The City Manager shall be the Chief Executive Officer of the City, and shall be responsible to the Council for the proper administration of the City government. The duties shall be:

- A. To see that this Charter, the law, and the ordinances and resolutions of the City are faithfully observed and enforced.
- B. Except as provided in this Charter, to appoint or remove all officers and employees of the City, all such action to be upon merit and fitness alone, and subject to the merit service provisions.
- C. To exercise control over all departments created by Council. The City Manager shall not exercise control over the Director and employees of the Department of Law or the Director and the employees of the Department of Finance.
- D. To recommend to Council such measures as may be deemed necessary or

expedient.

E. To keep the Council fully advised as to the condition and needs of the City.

F. To prepare and submit to Council such reports as may be required by that body.

G. To submit to the Council as such date as Council shall designate, a budget which shall include:

- (1) An itemized estimate of the expenses of conducting each department.
- (2) Comparison of such estimates with the corresponding items of the expenditure for the last two complete years and with the expenses of the current fiscal year, plus an estimate of the expenditures necessary to complete the current fiscal year.
- (3) Reasons for the proposed increases or decreases for such items as expenditures compared to the current fiscal year.
- (4) A separate schedule of each department showing the things necessary for the department to do during the year, and the things to do if funds permit.
- (5) A statement of the amounts to be appropriated to pay the debts of the City.
- (6) Such other information as may be required by the Council.

H. To prepare and submit to the Council as of the end of the fiscal year, a complete report on the administrative activities of the City for the preceding year.

I. To be in charge of all purchases of the City.

J. To execute and deliver all contracts for the City, except franchises for public utility service.

K. To attend all meetings of the Council, with the right of discussion but without a vote.

L. To perform such other duties as may be described by this Charter or required by ordinance or resolution of Council.

M. To appoint, with the approval of Council, such advisory committees as may be deemed necessary and to discharge them with the approval of Council, when their duties have been completely discharged.

N. To exercise control over all official maps of the City and to keep such maps indexed to support legislation and otherwise current.

Section 5.4: Capital Program.

A. Submission to Council. The City Manager shall prepare and submit to the Council a five-year capital program at least three (3) months prior to the final date of submission of the budget.

B. Contents. The Capital Program shall include:

- (1) A clear general summary of its contents.
- (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements.
- (3) Cost estimates, methods of financing and recommended time schedule for each such improvements; and
- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

C. Posting. The Capital Program and revisions thereto shall be published by posting in not less than three (3) of the most public places in the City as determined by the Council and on the City of Moraine website.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 5.5: Interference by Council.

Neither the Council nor Mayor, nor any of its committees or members shall interfere in any way with the appointment or removal of any of the officers and employees in the administrative service except as provided in this Charter. Except for the purpose of inquiry or investigation incident to carrying out their powers, duties and responsibilities as set forth in this Charter, the Mayor, Council and its members shall deal with that part of the administrative service for which the City Manager is responsible, solely through the City Manager.

Section 5.6: Resignation.

The City Manager shall have the right to resign the position at any time, subject to the requirement that a sixty (60) day notice of intention to resign be provided. Requirement of notice may be waived by resolution of Council.

Section 5.7: Removal.

Action resulting in suspension or removal shall be by resolution of the Council with an affirmative vote of at least four (4) members of the Council. Should such removal become necessary, Council shall, thirty (30) days before the effective date, notify the City Manager of such intent, stating cause for removal, and may immediately suspend the City Manager from office and appoint a non-elected officer of the City to perform the duties of the City Manager during the suspension. The City Manager may, within one (1) week after notice of suspension, reply in writing and request an appearance before Council. The Council shall grant this request within two (2) weeks from the date the request is received. After full consideration, the Council may then declare the City Manager removed. The decision of the Council shall be final. In any case of removal, the former City Manager shall be paid any unpaid balance of salary for the next two (2) months following the adoption of the resolution.

Section 5.8: Absence or Disability of City Manager.

To perform the duties in the City Manager's temporary absence or disability, the City Manager may designate by letter filed with the Municipal Clerk a qualified administrative officer of the City. In the event of failure of the City Manager to make such designation, the Council, by resolution, shall appoint an officer of the City to perform the duties of the City Manager until the City Manager shall return or until the disability shall cease.

ARTICLE VI: ADMINISTRATIVE DEPARTMENTS

Section 6.1: Departments.

A Department of Law, a Department of Finance, a Department of Public Service and a Department of Public Safety are hereby established by this Charter and the Council shall provide by ordinance for the organization thereof.

The administrative activities of the City shall be carried on by a Department of Finance, a Department of Law, a Department of Public Service and a Department of Public Safety and such other departments as may be created by ordinance after consultation with the City Manager.

At the head of each department there shall be a full-time or part-time director, except for the Department of Public Service and the Department of Public Safety, which said departments will report directly to the City Manager. The City Manager, with the approval of Council, shall appoint the directors of all departments other than the Director of the Department of Law and the Director of Finance, who shall be appointed by Council. Each director shall be an administrative officer of the City. Each director shall have supervision and control of the department he has

subject to the direction of the City Manager except the Department of Law and the Department of Finance shall be subject to the direction of the Council. With the approval of Council, the City Manager may serve as the head of one or more such departments, except that the City Manager may not serve a Director of Law or Director of Finance, or the City Manager may appoint one person as the head of two or more departments. Each department head shall be a resident of the City at the time of his appointment and during the tenure of office, but such requirement may be waived by action of Council.

Section 6.2: Creation of New Departments.

The Council by ordinance, may create, change and abolish offices, departments and agencies, other than those established by this Charter. The Council may assign additional duties to the departments established by this Charter, but may not discontinue or assign to any other office, department or agency any function assigned by this Charter to a particular office, department or agency.

Section 6.3: Department of Law.

A. Establishment: The Department of Law shall be headed by a Director of Law who shall be an attorney-at-law qualified to practice in the State of Ohio and shall serve at the will of Council.

B. Duties of the Law Director: The Law Director shall be the head of the Department of Law and shall serve the City Manager, Mayor, the Council, the administrative departments, and the officers, boards and commissions of the City as legal counsel in connection with City affairs, and, subject to the direction of Council, shall represent the City in all proceedings in court or before administrative boards. The Department of Law shall act as the prosecuting attorney before the Mayor or before any appeal of decisions of the Mayor. The Law Director shall perform all other duties now or hereafter imposed upon city solicitors by the laws of the State of Ohio unless otherwise provided by ordinance of the Council. The Law Director shall perform such other duties as the Council may impose upon him consistent with the office.

Section 6.4: Department of Finance.

A. Establishment: There shall be a Department of Finance, the head of which shall be the Director of Finance and shall serve at the will of Council.

B. Duties of the Finance Director: The Department of Finance shall perform those functions customarily performed by the Auditor and the Treasurer under State law. The Director of Finance shall be the fiscal officer of the City and shall be responsible for accounting, collection and custody of public funds, and control over disbursements. The Director of Finance shall advise

the City Manager and the Council concerning the financial condition of the City and shall examine all payrolls, bills and other claims against the City and shall issue no warrants unless he finds that the claim is in proper form, correctly computed, duly approved and that an appropriation has been made therefore. The Finance Director shall counter sign all bonds and notes issued by the City and shall perform such other functions as may be assigned by ordinance or by order of the Council.

Section 6.5: Department of Public Service.

There shall be a Department of Public Service, that shall report directly to the City Manager and which shall have charge of construction, operation and maintenance of all public works, properties and improvements.

Section 6.6: Department of Public Safety.

There shall be a Department of Public Safety that shall report directly to the City Manager and shall include the Police and Fire Divisions and such other divisions set forth by ordinance not inconsistent with this Charter or general law.

Section 6.7: Municipal Clerk.

The Council shall appoint a Municipal Clerk, also known as the Clerk of Council, for an indefinite term whose duty it shall be to keep the journal and other records of the Council. Council may also appoint a Deputy Clerk to provide assistance to the Clerk. Subject to the direction of Council, the Clerk and Deputy Clerk shall serve the Mayor, Council, City Manager, administrative departments and the officers, boards and commissions of the City in connection with City affairs.

ARTICLE VII: COMMISSIONS AND BOARDS

Section 7.1: Planning Commission.

A. Membership: The Planning Commission shall consist of five (5) electors appointed by Council to serve without compensation for terms of two (2) years. The first three (3) electors appointed shall serve for two (2) years, and the remaining two (2) for one (1) year. Thereafter, appointments shall be made for two (2) year terms. Council, by majority vote of four (4) of its members shall choose a successor to fill any vacancy of electors.

B. Powers and Duties: It shall be the function and duty of the Planning Commission to act as the platting commissioners of the City, and as such it shall have control of planning and shall provide regulations covering the platting of all land within the City.

The Planning Commission 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 proposed location of new schools as determined by the Board of Education.

The Planning Commission shall prepare and recommend to the Council, ordinances creating areas, zones, and districts (wards) of permitted and excluded uses, including rules, restrictions, and limitations governing the design, heights, floor areas, size of structures, area 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.

Before the Planning Commission shall recommend to Council the rezoning of any lands, it shall hold a public hearing on the question. The Planning Commission shall cause to be posted in not less than three (3) of the most public places in the City as determined by the Council and on the City of Moraine website, a notice for the public hearing. Such notice shall be posted at least ten (10) days prior to the public hearing and shall contain the time and place of the public hearing, a description of the property, a present zoning classification, and what zoning change is sought. In addition thereto, the notice shall be mailed to all property owners within a radius of two hundred feet of the property sought for rezoning, and said mailing shall be by certified mail, return receipt requested. Failure of receipt of notice shall not invalidate any proceedings.

The Planning Commission shall, within thirty (30) days after the hearing, forward its recommendations to the Council and the Council shall within ninety (90) days accept or reject said recommendation. The decision of the Planning Commission shall be posted in not less than three (3) of the most public places in the City as determined by the Council and on the City of Moraine website within three (3) days subsequent to its decision.

The Planning Commission shall make a base map to be titled "The Official Map of the City of Moraine." It shall have control over the platting and subdivision of lands and the improvement or development thereof.

In the performance of its function, the Planning Commission may enter upon any land and make examinations and surveys, and place and maintain necessary monuments and marks thereon.

C. Appeals from Planning Commission to Council: Any person, firm, corporation, or any officer, department, board or agency of the City, or any elector of the City who has been affected by any final decision of the Planning Commission in regard to its platting and subdivision duties or its duties to approve and implement a comprehensive general plan may appeal from such final decision 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 basis for the appeal.

Council shall hold a public hearing on such appeal not later than forty-five (45) days after such appeal has been filed with its Clerk. The Council shall cause to be posted, in not less than three (3) of the most public places in the City as determined by the Council and on the City of Moraine website, a notice for the public hearing. Such notice shall be posted at least ten (10) days prior to the public hearing and shall contain the time and place of the public hearing as well as a description of the action being appealed. Council by an affirmative vote of four (4) of its members shall decide the matter, and their decision shall be final.

Section 7.2: Board of Zoning Appeals.

A. Membership: There shall be a Board of Zoning Appeals composed of five (5) electors, appointed by the Council to serve without compensation for terms of two (2) years. The first appointed elector shall serve: three (3) for two (2) years and two (2) for one (1) year. Thereafter, appointment shall be for two (2) year terms. Council, by a majority vote of four (4) of its members, shall choose a successor to fill any vacancy.

B. Powers and Duties: It shall be the duty of the Board of Zoning Appeals to hear and determine appeals made for exceptions to a variations in the application of the provisions of the zoning ordinances in harmony with the intent and purposes thereof, and from any other ordinances, regulations, rules restriction or limitation or order of any administrative officials or agency where the Board of Zoning Appeals has by ordinance or resolution been granted authority to hear and determine such matter.

Section 7.3: Merit System Commission.

A. Membership: The Merit System Commission shall consist of five (5) electors of the City and shall be appointed by the Council in staggering terms. Thereafter, members shall be appointed for a term of two (2) years and until their successors have been appointed and qualified. The Members of the Merit System Commission shall serve without compensation and shall avoid all conflicts of interest and specifically no member shall participate or vote on any matter involving a relative of such member.

B. Powers and Duties: The Merit System Commission shall provide by rule for determination of merit and fitness as the basis for appointment and promotion in the service of the City as required by the Constitution of Ohio relative to civil service, and for appeals from the action of the City Manager or other officer in any case of transfer, reduction or removal. The action of the Commission shall be final.

C. Classification of Service: The Merit Service of the City is hereby divided into classified and unclassified service.

D. The Classified Service: The classified service shall include only the following full-time employees:

(1) Members, including officers, of the following departments and divisions:

- a) Division of Streets
- b) Division of Parks and Buildings Maintenance
- c) Department of Public Safety

(2) Specifically excluded from the classified service are the following positions within the above departments and divisions:

- a) Chiefs and Deputy Chiefs
- b) Directors and Assistant Directors
- c) Clerks, Secretaries and Receptionists
- d) Unsworn Community Services Officer
- e) Superintendents and their Assistants
- f) Police Lieutenants appointed after January 1, 2009

E. The Unclassified Service: The unclassified service shall include:

- (1) All officers elected by the people.
- (2) All part-time and seasonal personnel
- (3) All positions not specifically included by this Charter in the classified service.

F. Merit Service for Classified Employees: The general law applying to civil service shall remain in full force and effect and be applied to the merit system referred to herein, unless otherwise provided.

Section 7.4: Parks and Recreation Board.

A. Membership: There shall be a Parks and Recreation Board composed of five (5) electors, appointed by the Council in staggered terms, to serve without compensation for terms of two (2) years after the expiration of the current terms of the City Manager appointee and the Mayor appointee.

B. Powers and Duties: The Parks and Recreation Board may recommend a program to the City Manager for the conduct of public parks and recreation facilities and programs.

Section 7.5: Removal of Members of Boards and Commissions.

By concurrence of four (4) or more of its members, Council shall have the power to remove members of Commissions or Boards for just cause. The decision of the Council in removing a member of such Commission or Board pursuant to this section shall be final.

ARTICLE VIII: ELECTIONS

Section 8.1: Time of Elections.

The regular Municipal election shall be held on the first Tuesday after the first Monday in November in the odd-numbered years commencing with the year 1967. All candidates for Council, including the Mayor, shall be nominated by petition, and all petitions, ballots and ballot labels shall be without party mark or designation. The names of all candidates shall be rotated insofar as possible in the manner provided by the election laws of the State of Ohio. Except as otherwise provided in this Charter, all elections shall be held and conducted and the results thereof ascertained and certified as provided by the laws of the State of Ohio.

Section 8.2: Nomination for Council and Mayor.

Nomination for members of Council shall be made by petition, signed by qualified electors of the City and not less in number than twenty-five (25). Nominations for members of Council-at-large and the Mayor shall be made only by petition signed by qualified electors of the City and not less in number than fifty (50). Such petition shall be accompanied by a declaration of candidacy, and shall be filed with the Board of Elections of Montgomery County by 4:00 p.m. at least seventy-five (75) days before the date of the regular City election or special election as set forth in Article III, Section 3.4. No primary election shall be held for Council or Mayoral candidates.

Section 8.3: Requirements for Elections.

The candidate receiving the highest number of votes in a given district shall be declared elected. The two (2) candidates at large for Council Members receiving the highest number of votes shall be declared elected. The candidate for Mayor receiving the highest number of votes shall be declared elected. In the event that there is a tie between candidates receiving the highest number of votes, the Council shall request the Board of Elections of Montgomery County to hold a special runoff election.

ARTICLE IX: INITIATIVE, REFERENDUM AND RECALL

Section 9.1: Initiative.

Ordinances and other measures may be proposed by initiative petition and adopted by election to the extent and the manner now or hereafter provided by the Constitution and the laws of Ohio.

Section 9.2: Referendum.

All ordinances, except those passed as an emergency measure or provided for appropriations for the current expenses in the City or for street improvements petitioned for by the owners of the majority of the front footage of the property benefited to be assessed for improvement, shall be subject to referendum as provided by the Constitution and the laws of Ohio and this Charter. Resolutions shall not be subject to referendum. The manner in which referendum petitions are presented shall be as now or hereafter provided by the Constitution and the laws of Ohio and this Charter, provided however, that all referendum petitions shall be filed directly with the Montgomery County Board of Elections within thirty (30) days after any ordinance is passed by the Council. The Board shall submit the ordinance to such electors, for their approval or rejection, at the next succeeding general or municipal election, occurring subsequent to seventy-five (75) days after the filing of such petition with the Board of Elections. No ordinance subject to a referendum petition duly filed with the Board of Elections shall go into effect until approved by the majority of those voting upon it.

Section 9.3: Recall.

The electors shall have the power to remove from office by recall election any elected officer of the City who has served at least six months of the elected term.

The petition to recall an elected officer shall meet the following requirements:

- A. The petition shall be on 8½” by 14” paper, and each page shall be printed on both sides and shall include a Montgomery County Board of Elections

Certificate of Validity at the bottom of the second side.

B. The title of the petition shall include the name and office of the person whose removal is sought as well as a statement of not more than two hundred words of the grounds for removal.

C. The title, as described above, shall appear on every page. Pages may be circulated separately, but the separate pages must be bound together and filed as a single instrument.

D. The petition for recall of the Mayor shall be signed by not less than the number of qualified electors of the City equal to thirty percent of the ballots cast in the election of the officer whose removal is sought.

The petition for recall of a Ward Member of Council shall be signed by not less than the number of qualified electors of the Ward equal to thirty percent of the ballots cast in the election of the officer whose removal is sought.

The petition for recall of a Council Member At Large shall be signed by not less than the number of qualified electors of the City equal to fifteen percent of the ballots cast in the election of the officer whose removal is sought.

E. All qualified electors may sign the petition, regardless of whether they voted in the election of the officer whose removal is sought.

F. The signature section of the petition shall be divided into the following four columns in this specific order: printed name, printed address, signature and date.

G. The petition shall include the following warning: “Whoever commits election falsification is guilty of a felony of the fifth degree.”

H. The petition shall include the following circulator statement: “I, _____, declare under penalty of election falsification that I am a qualified elector of the State of Ohio, City of Moraine, and I reside at the address appearing below my signature; that I am the circulator of the foregoing petitions containing _____ signatures; that I witnessed the affixing of signature; that all signers were to the best of my knowledge and belief qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be.

Prior to circulation, the petition for recall shall be submitted to the Clerk of Council for review. The Clerk of Council shall approve the petition as to form and shall certify that the petition meets the above criteria as to form within two business days of the receipt of said petition. If the Clerk of

Council determines the petition does not meet the required criteria as to form, the Clerk shall notify the person who submitted the petition of the specific defects of said petition. The Clerk shall make a record of such determination and notification.

The completed and approved petition for recall shall be filed with the Montgomery County Board of Elections. The Board of Elections shall note thereon the name and address of the person filing the petition and the date of such filing. Within ten business days of the receipt of said petition for recall, the Montgomery County Board of Elections shall certify the number of valid signatures of qualified electors contained on the petition for recall and shall determine if the completed petition meets the requirements of Section 9.3(D). The Board of Elections shall deliver a copy of their certificate to the person who filed the petition for recall and shall make a record of such delivery. If the Board of Elections determines the number of valid signatures of qualified electors on the petition is insufficient, the person who filed the petition shall be allowed a period of twenty days from the date such determination is delivered to make the petition sufficient.

If the Board of Elections shall find the petition contains a sufficient number of valid signatures of qualified electors, they shall promptly so certify to the Council, shall deliver a copy of such certificate to the officer whose removal is sought, and shall make a record of such delivery. If the officer whose removal is sought does not resign within five days of the date said delivery is made, the Clerk of Council shall schedule a recall election. The recall election shall occur not less than ninety (90) days following said five-day period and be scheduled to take place on the same date as the next scheduled primary election in March or May (or as otherwise scheduled pursuant to the laws of the state of Ohio) or general election in November, whichever is the earlier. The following question shall be placed on the ballot at a recall election: "Shall (naming the officer) be removed from (naming the office)?" The ballot shall also contain the provision for voting "Yes" or "No." If the majority of the votes cast is in the negative, the officer shall remain in office and shall not be subject to recall for a period of one (1) year from the date of such recall election. If the majority of the votes cast is in the affirmative, the office shall immediately be deemed vacant. Such vacancy shall be filled as described in Section 3.4 of this Charter, provided that the officer removed by the recall election shall not be eligible for appointment to the vacancy created.

ARTICLE X: GENERAL PROVISIONS

Section 10.1: Ordinances in Effect.

All existing ordinances, resolutions and other acts of the City which are not

inconsistent with this Charter, shall remain in effect until amended or repealed by the Council.

Section 10.2: Vested Rights.

The adoption of this Charter shall not impair any right vested in the City or discharge any liability incurred by the City at the time of its adoption.

Section 10.3: Debt and Tax Limitations.

The limitation on debt and tax rates without vote of the electors shall be continued as provided in the Ohio Constitution and the general law.

The above provision shall not limit or affect the authority of the Council of the City to adopt and levy a Municipal income tax without a vote of the electors.

Section 10.4: Succession of Powers.

Any department or office of the City to which are assigned the powers, duties or functions of a previously existing department or office, shall be deemed to constitute a continuation thereof as to matter within the jurisdiction for the purpose of succession to its powers, duties, rights and obligations.

Section 10.5: Amendment.

This Charter may be amended as provided in the Constitution of the State of Ohio; that is, by action of the voters of the City. The proposed amendment to be submitted to the voters either by:

- A. Concurrence of two-thirds (2/3) of the members of Council, or
- B. Petition of ten percent (10%) of the electors of the City.

At the first meeting of the Council in January 1973, and every five (5) years thereafter, Council shall appoint a Charter Review Commission of not less than nine (9) electors of the City. It shall be duty of the Commission to review the existing Charter and make such recommendations as it may see fit for revision. The Commission shall conduct its affairs pursuant to "Roberts Rules of Order." The Commission shall submit its report to Council not later than August 1 of the same year. Thereupon, Council may take such action as it deems warranted with respect to such recommendation.

Section 10.6: General Powers.

The Municipality shall have and may exercise, any or all powers, either expressed

or implied, which under the Constitution of Ohio, it would be competent for this Charter to enumerate, as fully and completely as though such powers specifically were included herein.

Section 10.7: Precedence.

In the event of conflict between any ordinance or resolution of this City and any law, other than a law enacted in conformity with the powers reserved to the General Assembly by the Constitution of Ohio, the provisions of the ordinance or resolution shall prevail and control.

Section 10.8: Effect of Partial Invalidity.

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

Section 10.9: Official Bonds.

The Council shall determine whether any officer, clerk or employee shall give a bond and the amount thereof, which bond shall be procured from a regularly accredited surety company authorized to do business under the laws of Ohio. Premiums on such bonds shall be paid by the City.

Section 10.10: Oath of Office.

Every office of the City shall, before entering upon the duties of his office, 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 and will obey the laws of the United States and of the State of Ohio; that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Moraine and will faithfully discharge the duties of the office of _____.”

Section 10.11: Definition of Officials and Employees.

All persons invested by law and engaged in the direct function of government shall be classified as officials.

All persons engaged for hire by any official of the City shall be classified as employees.

Section 10.12: Political Belief, Assembly and Activity.

No appointed officer or employee of the City of Moraine or applicants seeking employment shall be appointed, employed, promoted, transferred, reduced in position or salary, removed from employment, or in any way favored or discriminated against because of race, color, religion, sex, national origin, age, disability, marital status, veteran status, and political affiliation. The appointing authority shall base such personnel decisions on a person's qualifications for the position.

No appointed officer or employee of the City of Moraine shall directly or indirectly solicit or receive from any other officer or employee of the City any assessment, subscription or contribution for any political party or political purpose.

No appointed officer or employee of the City of Moraine shall take any part in political campaigns conducted for the City of Moraine during his or her work hours. A "political campaign" as used herein is defined to be any concerted or systematic effort to influence citizens to act in the exercise of their right of franchise in favor of or against a candidate for public office or a person seeking public office in the City of Moraine.

Any person guilty of violating any of the above provisions may be dismissed or otherwise punished as provided by statute, rule or regulation applicable to his or her position or office.

Section 10.13: Annual Report.

The Council shall annually publish a comprehensive financial report to the people of Moraine covering the financial status or condition of the Municipal government of Moraine. The Council may from time to time publish a comprehensive report to the people of Moraine covering the activities of the Municipal government of Moraine.

Section 10.14: Management of Funds.

The Council shall have exclusive authority to determine the management and deposit of all Municipal funds, except funds that are pre-empted by general law.

Section 10.15: Codification.

Once the current codification is effected, the Council shall, at least every two years, provide for the preparation of a general codification of the Municipal ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be printed promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent

provisions of the Constitution and other laws of the State of Ohio, and such other codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the Moraine Codified Ordinances. Copies of the Code shall be furnished to Municipal Officers and are found on the City's website for the public and public offices to view free of charge

Section 10.16: Public Documents.

All official maps and ordinances and resolutions of the City shall be kept in the Municipal Building and made available to the public during working hours.

Section 10.17: Nonsubstantive Changes.

The Council is granted the authority by ordinance to provide for nonsubstantive changes in the language of this Charter to make the Charter gender neutral and to provide for renumbering of Sections and Articles as necessary.

ARTICLE XI: FOUNDING PROVISIONS

Section 11.1: Effective Date.

For the purpose of nominating and electing the elective officers of the City of Moraine, this Charter shall be in effect from and after the time of its approval by the electors. For all other purposes, this Charter shall be in effect on and after the first day of January, 1968.

Section 11.2: Continuance of Office.

All other officers, employees and commissions of the City of Moraine, who shall be in employment or office on the thirty-first day of December, 1967, shall continue in their respective offices and employments with the same duties as before until their successors are designated as permitted or required by this Charter.

Section 11.3: Division into Districts (Wards).

The Council of the City of Moraine shall, prior to January 1, 1967, divide the City into four (4) districts (wards). The districts (wards) shall be as equal as possible in geographic area, compactness and contiguousness. Council shall have the authority to alter the district boundaries, except that such alteration shall not be made between the date of filing nomination petitions for office and the date of the following election, nor shall any redistricting become effective until the next regular Municipal election following such redistricting.

CERTIFICATION

This shall certify that the foregoing is a true and accurate copy of the Charter of the City of Moraine as amended and approved at the May 5, 2015, General Election, the results of which were certified by the Montgomery County Board of Elections on May 19, 2015.

A handwritten signature in black ink, appearing to read "Diane C. Werbrich", enclosed within a large, loopy oval scribble.

Diane C. Werbrich
Clerk of the City of Moraine

