

EXHIBIT “A”

Brecksville, Ohio, Code of Ordinances
CHARTER OF THE CITY OF BRECKSVILLE, OHIO

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The members of the Charter Commission, chosen by the voters at the general election in November, 1955, which framed and submitted the Charter were:

Fred O. Burkhalter — **Chairman** **Chairperson**

Julian R. Fredebaugh — Vice **Chairman** **Chairperson**

Geraldine S. McNabb — Secretary

Arthur C. Gravatt — Assistant Secretary

Robert F. Below
Marian A. Bourne
Ray E. Butler
William H. Claire
Donald G. Dobay

Dorothy L. A. Fernengel
L. Merle Hostetler
Elton R. Lube
M. Patricia Pohle
Kenneth H. Winter

Dates appearing in parenthesis following a section indicate those provisions were subsequently adopted or amended on the date given.

PREAMBLE

We, the people of Brecksville, in the County of Cuyahoga and State of Ohio, in order to secure for ourselves the benefits of municipal home rule and to exercise all the powers of local self-government under the Constitution and laws of the State of Ohio, do hereby adopt this Charter for our municipality.

ARTICLE I. BOUNDARIES

This municipality now existing in the County of Cuyahoga and State of Ohio shall continue to be a body politic incorporated under the name of BRECKSVILLE, with the same boundaries as now exist. It shall have the power and authority to change its boundaries in the manner authorized by the laws of Ohio, except that no territory shall be detached from or annexed to this municipality, nor shall the municipality be annexed to or merged with any other body politic, nor shall the corporate existence of this municipality be terminated, without the assent of a majority of the electors of this municipality. Any such question shall be submitted to the electors only at a regular election in such manner as Council shall by resolution or ordinance prescribe.

ARTICLE II. MUNICIPAL POWERS

The municipality of Brecksville shall have all the powers, general or special, governmental or proprietary, express or implied, which may now or hereafter lawfully be possessed or assumed by municipalities of the class of this municipality under the Constitution and laws of Ohio. No enumeration of specific powers in this Charter shall be held to be exclusive.

ARTICLE II. MUNICIPAL POWERS

All such powers shall be exercised in the manner prescribed in this Charter, or if not prescribed herein, in such manner as Council may determine, or unless a contrary intent appears in this Charter or in the enactments of the Council, in such manner as now or hereafter may be provided by the laws of Ohio.

ARTICLE III. THE MAYOR

Section 1. Term.

The Mayor shall be elected at the regular municipal election in the year 1975, and every fourth year thereafter, for a term of four (4) years. **His The Mayor's** term shall commence and **he the Mayor** shall assume office on the second day of January next following such election and shall serve until **His the Mayor's** successor has been duly elected and qualified. **He The Mayor** may be a candidate to succeed **himself** **themselves**.

(Amended 11-6-73)

Section 2. Qualifications.

The Mayor shall have been a qualified elector and a resident in this municipality for at least four (4) years immediately prior to the date of the Mayor's election, and shall continue to be a qualified elector and resident therein during the Mayor's term. The Mayor shall not, directly or indirectly, solicit, contract for, receive or be interested in any profit or emolument from or on account of any contracts job, work or service with or for the municipality.

If at any time the Mayor shall cease to possess any of the aforesaid qualifications of office, or shall be convicted of a felony or other crime involving moral turpitude, it shall be the duty of Council to declare the office of Mayor vacant, and upon such declaration the office of Mayor shall automatically and immediately become vacant. Such declaration by Council shall be made only after public hearing upon the charge or charges brought, and provided, further, that the Mayor shall have been notified in writing of the charge or charges against the Mayor at least fifteen (15) days in advance of such hearings; provided, further, that the Mayor or the Mayor's counsel shall have been given an opportunity to be heard, present evidence, and examine all witnesses appearing in support of such charge or charges. To be effective such declaration of vacancy in the office of Mayor must receive the affirmative vote of five (5) or more members of Council.

(Ord. No. 5606 , § 1, 7-18-23)

Section 3. Absence or vacancy.

When the Mayor is absent or inaccessible or is unable for any cause or reason to perform **His the Mayor's** duties, the President of Council shall become the acting Mayor, but **he the President of Council** shall not thereby cease to be a **councilman** **councilperson**.

In the event of a vacancy in the office of Mayor, the President of Council shall thereupon become acting Mayor for a period not to exceed sixty (60) days, and during such period **he the President of Council** shall continue to serve the offices of President of Council and **councilman** **councilperson**. Within such sixty (60) day period, Council shall appoint as Mayor a **councilman** **councilperson** or any qualified elector of the City of Brecksville who meets the qualifications of said office. Such appointee shall hold office for the unexpired term of the Mayor or until the beginning of the term of a successor duly elected for the unexpired term at the next regular Municipal election if the vacancy shall have occurred more than ninety (90) days prior to such election, provided such election shall occur two years or more prior to the expiration of the unexpired term. If the President of Council or

other **councilman councilperson** is appointed to the office of Mayor as provided for herein, then such office or offices shall become vacant upon the succession to the office of Mayor.

In the event the President of Council shall be absent or inaccessible or for any reason unable to perform **his the President of Council's** duties as acting Mayor, then Council, by a vote of a majority of the remaining members of Council, shall designate one of their number to act as Mayor.

(Amended 11-8-83)

Section 4. Powers of the mayor.

- A. *Judicial.* The Mayor shall have all the judicial powers now or hereafter granted by the laws of Ohio to Mayors of municipalities of the class of this municipality.
- B. *Legislative.* The Mayor shall be entitled to a seat in the Council and shall attend all meetings of Council. **He The Mayor** shall have the right to introduce ordinances, resolutions and motions, and the right to participate in the discussion of all matters coming before the Council, but **he the Mayor** shall have no vote in the Council.
- C. *Veto.* Every ordinance or resolution passed by Council shall be signed by the Clerk of Council and shall be presented to the Mayor by the Clerk of Council. If the Mayor approves such ordinance or resolution, **he the Mayor** shall sign it and file it with the Clerk of Council. If the Mayor disapproves any emergency ordinance or resolution, **he the Mayor** shall return it to the Clerk of Council within twenty-four (24) hours after its passage, and in case the Mayor disapproves any other ordinance or resolution, **he the Mayor** shall return it to the Clerk of Council within ten (10) days after its passage, together in each instance with **His the Mayor's** objections in writing. **His The Mayor's** objections shall be entered in full on the Journal of Council.

The Mayor may approve or disapprove the whole or any part of any ordinance appropriating money, but otherwise **His the Mayor's** approval or disapproval shall be addressed to the entire ordinance or resolution.

If the Mayor within the time specified after its passage does not sign or disapprove an ordinance or resolution so presented to **him the Mayor**, such ordinance or resolution shall take effect in the same manner as if **he the Mayor** had signed it within the time specified. When the Mayor has disapproved an ordinance or resolution or an item of it as herein provided, the Council may, but not later than its next regular meeting, reconsider the ordinance or resolution or part thereof disapproved by the Mayor and if, upon such reconsideration, the ordinance, resolution or item is approved by an affirmative vote of five (5) or more members of Council, such ordinance or resolution shall take effect, notwithstanding the disapproval of the Mayor.

- D. *Executive.* The Mayor shall be the chief executive officer of the municipality. **He The Mayor** shall supervise the administration of the affairs of the municipality, and supervise all the departments and divisions thereof except the Departments of Finance and Law and Clerk of Council. **He The Mayor** shall be the chief conservator of the peace within the municipality and shall see that all laws and ordinances are enforced therein. Except as otherwise provided by the Charter and subject to the laws of Ohio, the Mayor shall have the power to appoint, promote, transfer, reduce or remove any officer or employee of this municipality not required by this Charter to be elected. **He The Mayor** shall recommend to Council for adoption such measures as **he the Mayor** may deem necessary or expedient, keep the Council advised of the condition and needs of the municipality, and exercise such powers and perform such duties as are conferred upon **him the Mayor** or required by this Charter. The Mayor shall execute on behalf of the municipality all contracts, conveyances, evidences of indebtedness and all other instruments to which the municipality is a party. **He The Mayor** shall be the official and ceremonial head of the municipality and shall receive all civil processes in any action wherein the municipality is a party.

ARTICLE IV. THE COUNCIL

Section 1. Number and terms.

All the legislative powers of the municipality, except as otherwise provided by this Charter and by the Constitution of the State of Ohio, shall be vested in a Council of seven (7) members, all of whom shall be elected at large as hereinafter provided, and shall assume office on the second day of January next following their election.

The terms of **Councilmen Councilpersons** shall be staggered. Four (4) **Councilmen Councilpersons** shall be elected at each regular municipal election held after November 1957. Of the four candidates so elected the three (3) receiving the highest number of votes shall each serve for a term of four (4) years and the one (1) receiving the next highest number of votes shall serve for a term of two (2) years.

At the regular municipal election to be held in November 1957, and for that election only, and to start the above system of staggered terms, the three (3) candidates for Council receiving the highest number of votes shall each serve for a term of four (4) years and the four (4) candidates receiving the next highest number of votes shall each serve for a term of two (2) years.

Section 2. Qualifications.

Each member of Council shall have been for at least two years immediately prior to the date of **his each member of Council's** election and during **his each member of Council's** term of office shall continue to be, a resident in this municipality and qualified elector thereof. Except as otherwise provided in this Charter, no member of Council shall hold any other municipal office or municipal employment in this municipality. **He Each member of Council** shall not, directly or indirectly, solicit, contract for, receive, or be interested in any profit or emolument from or on account of any contract, job, work, or service with or for the municipality.

Section 3. President of council.

A member of Council shall be elected to the office of President of Council for a term of one year by a majority of the members of Council at the first regular meeting of Council in January of each calendar year, or as soon thereafter as is practicable.

The President of Council shall preside at all meetings of Council, but shall not by virtue of holding that office be deprived of **his the President of Council's** powers and rights or be relieved of any of **his the President of Council's** duties, functions or obligations as a member of Council.

(Amended 11-5-63)

Section 4. Removal.

The Council shall be the judge of the election and qualifications of its own members. It may expel or remove any member for gross misconduct or malfeasance or nonfeasance in or disqualification for office, or upon conviction while in office of a felony or other crime involving moral turpitude, or for violation of **his any member's** oath of office, or persistent failure to abide by the rules of Council, or absence without justifiable excuse from three (3) consecutive regular meetings of Council, provided, however, that such expulsion or removal shall be upon concurrence of five (5) or more members of Council after public hearing upon the charge or charges brought; and provided, further, that the accused member shall have been notified in writing of the charge or charges against **him the accused member** at least fifteen (15) days in advance of such public hearing; and provided, further that **he the accused member** or **his the accused member's** counsel shall have been given an opportunity to be heard, present evidence, and examine witnesses appearing in support of such charge or charges.

The decision of Council in expelling or removing a member of Council after compliance with this section shall be final and thereupon the office of any such removed or expelled member of Council shall be vacant.

Section 5. Vacancies.

Whenever the office of a **councilman councilperson** shall become vacant for any reason, the vacancy shall be filled by a majority vote of all the remaining members of the Council. If the Council shall not so fill such vacancy within thirty (30) days after it has occurred, the power of Council to do so shall lapse and the Mayor shall make an appointment to fill such vacancy. Such appointee shall hold office for the unexpired term of the member in whose office the vacancy has occurred, or until the beginning of the term of a successor duly elected for the unexpired term at the next regular municipal election if (a) such election shall occur two (2) years or more prior to the expiration of the unexpired term, and (b) the vacancy shall have occurred more than ninety (90) days prior to such election. Any vacancy in the office of President of Council, whether occurring by death, disqualification, recall, removal, resignation or by succession to the office of Mayor, shall be filled by a **councilman councilperson** elected by the majority of the remaining members of Council. The successor shall hold office for the balance of the unexpired term. If the vacancy be not so filled by the Council within thirty (30) days from the date such vacancy occurs, the power of Council to do so shall lapse, and the Mayor shall appoint one of the remaining **councilmen councilpersons** to fill such vacancy.

Section 6. Salaries.

Council shall fix the salaries or compensation of the Mayor, members of Council, and each officer, employee or member of any Board or Commission of the municipality, whether elected or appointed. Any such person may be required by Council to furnish a bond or bonds for the faithful performance of **his any such person's** duties, and Council may provide for the payment of the premium for any such bond by the municipality. The compensation of the Mayor and of each member of Council shall be fixed not less than one hundred twenty (120) days immediately preceding the date of the next municipal election, and shall not thereafter be changed in respect of any of the terms of the Mayor or **Councilmen Councilpersons** elected thereat. The compensation of every other officer, employee and member of any Board or Commission of the municipality as fixed by Council shall at all times be subject to the power of Council to provide otherwise by ordinance or resolution, and may be changed at any time at the discretion of Council. Council may authorize the payment or reimbursement of expenses incurred by any officer or employee or member of any Board or Commission of the municipality for traveling or other expenses incidental to the authorized furtherance of the interests of the municipality.

Section 7. Meetings.

- A. *Regular Meetings.* At 8:00 p.m. on the second day of January following a regular municipal election, the Council shall convene and organize at the Council Chambers of the municipality. Thereafter, the Council shall meet at such times as may be prescribed by its rules, regulations or by ordinance, except that it shall hold regular meetings at least twice during each calendar month. All regular meetings of Council shall be held at the Council Chambers, and all meetings of Council, whether regular or special, shall be open to the public, except as provided in subsection C. hereof.
- B. *Special Meetings.* Special meetings of the Council may be called in accordance with and as provided for by the rules, or by-laws adopted by the Council. In absence of such provisions, special meetings may be called by a vote of the Council taken at any regular or special meeting thereof, or shall be called by the Clerk of Council upon the written request of the Mayor or President of Council, or three (3) members of Council. Any such request shall state the time, place and date thereof, and the subject or subjects to be considered at the meeting, and no other subject or subjects shall be considered thereat. Notice in writing of each such special meeting called at the request of the Mayor, President of Council, or three (3) members of Council, shall be given to each member of Council and the Mayor, by serving on each of them personally or by leaving a copy thereof at **his their** usual place of residence, not less than twelve (12) hours preceding the date and hour of such meeting. Service of such notice may be waived in writing.

C. *Executive Sessions.* Council may call an executive session of its members for any regular or special Council meeting or committee meetings, or adjourn any regular or special Council meeting or committee meeting into executive session in any of the following circumstances:

1. In any matter involving personnel including the appointment, employment, dismissal, discipline, promotion, demotion or compensation of any public employee or official, or the investigation of charges or complaints against a public employee or official;
2. To consider the purchase, sale, lease or other disposition of real property;
3. Conferences with an attorney or attorneys for the City concerning issues of pending, imminent or potential litigation;
4. Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;
5. Matters required to be kept confidential by federal law or rules or state statutes;
6. Any situation where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for a violation of law.

(Amended 11-7-89)

Section 8. Quorum.

Four (4) members of Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance or resolution.

Section 9. Rules and journal of Council.

Council shall adopt its own rules, regulations or by-laws and shall keep a journal of all of its proceedings. The journal shall be open for public inspection at all reasonable times. The voting upon any ordinance, resolution, or motion shall be by roll call, and the vote of each **councilman** councilperson shall be entered upon the journal.

Section 10. Form of legislative action.

All legislative action by Council shall be by ordinance or resolution introduced in written or printed form except that action by Council not required by this Charter or law to be by ordinance or resolution, may be taken by motion approved by at least four (4) members of Council. An affirmative vote of at least four (4) members of Council shall be required for the passage or enactment of every ordinance or resolution. Every ordinance or resolution shall be fully and distinctly read at three (3) different regular Council meetings unless five (5) members of Council vote affirmatively to dispense with the rule, in which event the ordinance or resolution shall be fully and distinctly read at least once before passage. Ordinances and resolutions may be read by title only unless otherwise determined by the affirmative vote of at least four (4) members of Council. No ordinance or resolution shall contain more than one subject, which subject shall be clearly expressed in the title; and no ordinance or resolution shall be revised or amended unless said amendments or revisions are indicated by the use of highlighted or similar typeface for new or additional wording, and the use of dashes through words and letters which are to be deleted. This provision shall not apply to ordinances or resolutions that create new laws or regulations or that repeal existing laws or regulations in their entirety provided the ordinance or resolution so designates.

All ordinances, resolutions, statements, orders, proclamations and reports required by law or by this Charter or by ordinance to be published or posted, shall be posted in not less than three (3) public places in the municipality as determined by Council for a period of not less than fifteen (15) days prior to the taking effect

thereof. Any emergency ordinance or resolution shall also be published or posted as aforesaid, but said requirement shall not postpone the immediate taking effect as provided in Section II of this Article IV.

(Amended 11-6-90; Amended 11-2-93; Amended 11-4-03; Amended 11-5-13)

Section 11. Effective date of ordinances and resolutions.

Each ordinance or resolution providing for the appropriation of money or for an annual tax levy, or for improvements petitioned for by the owners of a majority of the front footage of property to be benefited and specially assessed therefor, and any emergency ordinance or resolution necessary for the immediate preservation of public peace, health or safety, shall take effect, unless a later date be specified therein, upon its approval by the Mayor, or upon the expiration of the time within which it may be vetoed by the Mayor, or upon its passage after veto by the Mayor, as the case may be. No other ordinance or resolution shall become effective until thirty (30) days after its approval by the Mayor or upon the expiration of the time within which it may be vetoed by the Mayor or upon its passage after veto by the Mayor, as the case may be. Each emergency measure shall contain a statement of the necessity for such emergency action, and shall require the affirmative vote of five (5) members of Council for its enactment. No action of Council authorizing the surrender or joint exercise of any of its powers, or in granting any franchise, or rezoning ordinance or amendment or repeal of any zoning ordinance, shall be designated an emergency measure or enacted under a suspension of the rules.

(Amended 11-4-03)

Section 12. Mandatory referral.

Any legislation passed by Council or proposed by initiative petition which refers to a change in existing zoning or to a change in any use regulations controlling the use or development of land shall not become effective or binding upon the municipality unless and until the same be submitted to the electors of the municipality and approved by a fifty-five percent (55%) favorable vote of all votes cast for this issue by the qualified electors of the city at the next general election in the case of legislation proposed by initiative petition and for legislation adopted by Council at the next general, regular, or primary election held in the municipality, which shall occur not less than ninety (90) days after its passage by Council or, in the case of legislation proposed by initiative petition, after its certification to the Board of Elections. The Clerk of Council shall advertise any proposed change in a newspaper of general circulation, whose circulation is either the largest, or second to the largest within the limits of the city for two consecutive times, with at least two weeks between notices and a third notice one week prior to the election.

If this section is violated and a building is under construction or completely constructed it shall be mandatory for the Mayor, Safety Director, Law Director, and Building inspector equally to have the building or structure removed completely within sixty (60) days at the owner's expense as these officials are charged with the enforcement of this section. The Planning Commission shall have on display at all times in the Council Chambers, available to the public, a zone map, showing a legend and summary of zoning regulations by district, major use, minimum and maximum lot width and that each district, City park, playground and City lands be accurately located and identified with the date of adoption and the date of revisions to date. Any and all revisions shall be posted to the zone map within ninety (90) days of their occurrence. Maps shall be available to each landowner of the city for a nominal cost.

(Amended 11-6-90; Amended 11-4-03; Amended 5-3-11)

ARTICLE V. ADMINISTRATIVE OFFICERS, DEPARTMENTS, BOARDS, AND COMMISSIONS

Section 1. General provisions.

This Municipality shall have a Department of Finance, Department of Public Safety, Department of Public Service, Department of Law, a Board of Zoning Appeals, Planning Commission, Recreation Commission, and Civil Service Commission, and Council shall provide by ordinance for the organization and duties thereof not provided for by this Charter. The Council may establish by ordinance new departments or divisions and new boards and commissions, and with the exception of the departments, divisions, boards and commissions established by this Charter, the Council may continue or abolish existing departments, divisions, boards and commissions as it may deem necessary.

The Council may authorize and require one person to be the head of two or more departments or divisions or perform the duties of two or more offices or positions subject to the following exceptions: The Director of Finance may, while holding that office, also be appointed Clerk of Council and be required to perform the duties thereof, but the Director of Finance shall not be authorized or required to perform any other duties except those imposed upon **him** the Director of Finance by this Charter or directly related to the fiscal and accounting matters of this municipality. The Mayor shall hold no other municipal office or municipal employment in this municipality except as otherwise expressly provided in this Charter.

(Amended 11-5-63)

Section 2. Director of Finance.

- (a) The Director of Finance shall be the head of the Department of Finance and have charge of the administration of the fiscal affairs of the municipality. The Director of Finance and any assistants shall be appointed by Council and shall be subject to removal by Council. The Director of Finance shall serve the Mayor and Council as financial adviser in municipal affairs. The Director of Finance's duties shall include the preparation of data for the annual estimate, custody of all public funds of the municipality, keeping and supervision of all accounts, the certification for collection of special assessments, the collection of all license fees and permit fees, and the performance of such additional duties in fiscal matters as Council may direct.
- (b) The Director of Finance shall establish and maintain accounting procedures necessary for keeping complete financial records accurately showing all moneys received and expended, all property owned by the municipality, all revenues accrued and liabilities incurred, and the financial transactions of all departments and officers of the municipality. Such accounting procedures and financial records shall be adequate in form and in such detail as necessary for the making of all financial reports and furnishing such other financial data and statements as may be required of **him** the Director of Finance under this Charter.
- (c) All public funds shall be kept and preserved in the place or places authorized by ordinance, and the Director of Finance shall disburse said funds only as authorized by law or ordinance. **He or she** the Director of Finance shall not allow the amount set aside for any appropriation to be overdrawn or drawn for any purpose other than the purpose provided by ordinance of Council. **He or she** the Director of Finance shall have the right to examine and audit the accounts of all departments, officers, employees, boards and commissions of the municipality.

No warrant for the payment of public funds shall be issued and no claim against or obligation of the municipality shall be paid except upon voucher first approved in writing by the department head or officer for whom the obligation or claim was incurred, and in case of purchases, such vouchers shall also be approved in writing by the Director of Purchasing.

- (d) The Director of Finance shall assist the Mayor in the preparation of an annual estimate as provided in Article VI hereof, and shall prepare financial statements at least quarterly and submit same to the Council not later than fifteen (15) days after the end of each accounting period, detailed as to appropriations and funds in

such manner as to show the true financial condition of the municipality, and each department and division thereof as of the last day of the accounting period. **He the Director of Finance** shall furnish such other financial reports, data and statements as shall be required by the Mayor, Council or laws of the State of Ohio.

(Amended 11-2-93; Amended 11-5-13)

Section 3. Director of Public Safety.

- (a) The Director of Public Safety shall be the head of the Public Safety Department and shall be appointed by the Mayor with the approval of Council. The Director of Public Safety shall be the executive head of the Fire Department and Police Department and Building Department, and shall be charged with the duty of enforcing all police, health, safety, sanitary and building regulations that may be prescribed by the ordinances of the municipality or the general laws of the State of Ohio.

The Police Department shall consist of a Chief of Police and such other officers, **patrolmen**, **patrol officers** and personnel as Council and the Mayor shall deem advisable, all of whom shall be appointed by Council upon recommendation of the Director of Public Safety.

The Fire Department shall consist of a Fire Chief and such other officers, **firemen**, **firefighters** and personnel as Council and the Mayor shall deem advisable, all of whom shall be appointed by Council upon recommendation of the Director of Public Safety.

The Building Department shall consist of a Building Commissioner and such other personnel as Council and the Mayor shall deem advisable, all of whom shall be appointed by Council upon recommendation of the Director of Public Safety.

- (b) The Director of Public Safety shall make and publish, with the approval of Council, written rules for the government of the Police, Fire, and Building Departments and the conduct and discipline of members and personnel thereof.
- (c) The Mayor, in addition to the Mayor's other duties, shall be and perform the duties of the Director of Public Safety. Should the Mayor determine that it is not in the best interest of this municipality for the Mayor to serve as the Director of Public Safety, the Director of Public Safety shall be appointed by the Mayor with the approval of the Council.

(Amended 11-5-13)

Section 4. Director of Public Service.

- (a) The Director of Public Service shall be the head of the Department of Public Service, and shall be appointed by the Mayor with the approval of the Council. **He or she The Director of Public Service** shall manage and supervise the construction, improvement, and maintenance of all public works, public construction, buildings, grounds, cemeteries, streets and lanes, alleys and bridges, and other public places, and shall supervise and manage the cleaning, resurfacing, repairing, and lighting of streets and all other public places, and the collection and disposal of wastes, and the preservation and maintenance of all municipal property.

He The Director of Public Service shall have charge of and supervise the maintenance of all municipal equipment and the storage of all materials and supplies, and keep and submit to Council and the Mayor an inventory thereof or such other report with respect thereto as either of them may require.

- (b) It shall be the responsibility of the Director of Public Service to see that all terms and conditions imposed in favor of the municipality or its inhabitants in any franchise to which the municipality is a party, are fully and faithfully kept and performed.

(c) ~~He or she~~ **The Director of Public Service** shall assist the Mayor in the preparation of the annual estimate, and shall perform such other duties as may be required of ~~him or her~~ **the Director of Public Service** by the Mayor.

(d) The Director of Public Service may, as approved by the Mayor, employ and discharge such assistants and employees as may from time to time be necessary for the proper discharge of the Director's duties.

(Amended 11-2-93; Amended 11-5-13)

Section 5. Law Director.

The Law Director shall be head of the Department of Law, and shall be appointed and may be removed by Council. The Law Director shall be an attorney at law in good standing, admitted to practice in the courts of Ohio and shall have been engaged in the active practice of law for a period of five (5) years or more immediately prior to the Law Director's appointment. The Law Director shall be the legal adviser and attorney for the municipality.

The Law Director shall perform such duties as are consistent with the office as may be required by Council and/or the Mayor.

(Amended 11-5-13)

Section 6. Clerk of Council.

A Clerk of Council shall be appointed and may be removed by Council. Council may employ such other employees as it deems necessary for the proper discharge of the duties of Council.

The Clerk of Council shall keep an accurate and complete journal of the proceedings of Council, authenticate by ~~his~~ **the Clerk of Council's** signature and have custody of and properly file and index all laws, ordinances and resolutions of Council, and shall have custody of other official documents, reports, papers and communications received by the Council, and have custody and control of all files of Council, and perform such other duties as Council shall require.

Section 7. Board of Zoning Appeals.

A. *Membership.* The Board of Zoning Appeals shall consist of the Mayor, one member of Council to be appointed by Council for a term of two years, and in addition five (5) qualified electors of the municipality not holding other municipal office or appointment who shall be appointed by the Council. The members of the Board of Zoning Appeals shall receive no compensation. The term of the present members of the Board of Zoning Appeals shall terminate on December 31, 1957. Those persons other than the ~~councilman~~ **councilperson** appointed to the Board by the Council shall be appointed for a term of five years, except that of the five (5) appointed for the term beginning January 1, 1958, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and the fifth member for a full term of five years. Any member of the Board of Zoning Appeals appointed by the Council may be removed for any cause by a vote of five (5) members of Council. A vacancy occurring during the term of any member of the Board shall be filled for the unexpired term in the manner authorized for an original appointment.

B. *Jurisdiction.* The Board of Zoning Appeals shall have such duties and power as are now or may be granted to it by ordinances of Council to hear and decide appeals for exceptions to and variances in the application of zoning ordinances and regulations, and orders and regulations of administrative officials or agencies governing zoning.

Procedure before the Board of Zoning Appeals shall be in accordance with the ordinances of Council or rules and regulations established by the Board of Zoning Appeals not inconsistent therewith. Any and all such variances and exceptions allowed by the Board of Zoning Appeals shall be subject to the review and approval of Council before becoming effective.

(Amended 11-5-63)

Section 8. Planning Commission.

- A. *Membership.* The Planning Commission shall consist of the Mayor, one member of Council to be appointed by the Council for a two year term, and in addition five (5) electors of the municipality not holding other municipal office or appointment who shall be appointed by the Council. The members of the Planning Commission shall receive no compensation. The term of the present members of the Planning Commission shall terminate December 31, 1957. The five (5) electors appointed to the Commission by Council as provided under authority of this Charter shall be appointed for a term of five (5) years, except that of the five (5) appointed for the term beginning January 1, 1958, one shall be appointed for a term of one (1) year, one for a term of two (2) years, one for a term of three (3) years, one for a term of four (4) years and one for a full term of five (5) years. Any member of the Planning Commission appointed by Council may be removed for any cause by a vote of five (5) members of Council. A vacancy occurring during the term of any member of the Planning Commission shall be filled for the unexpired term in the manner authorized for an original appointment.
- B. *Powers and Duties.* Subject to approval by the Council, the Planning Commission shall:
- (a) Make, amend, extend or add to the Master Plan for the physical development of the municipality;
 - (b) Exercise control over platting or subdividing land within the Municipality;
 - (c) Draft an official map of the Municipality, showing the present and planned streets and use of public land, and adopt changes in such map;
 - (d) Propose zoning regulations, subdivision regulations and a zoning map, and make recommendations as to amendments to zoning regulations, subdivision regulations, and zoning code;
 - (e) Promote public interest and understanding of the Master Plan, zoning regulations, subdivision regulations and general physical improvement and development of the Municipality;
 - (f) Hold public meetings and public hearings on matters presented for its consideration as may be provided by ordinance of Council, and keep a public record of its proceedings, findings and determinations, and report in writing its findings and determinations to Council;
 - (g) Exercise such other powers and perform such other duties as are now or may hereafter be provided by ordinance of Council.
- C. *Mandatory Referral.* No public building, street, boulevard, parkway, park, public land, playgrounds, dock, aviation field, utility, bridge, tunnel, or part thereof, shall be constructed or authorized to be constructed in the Municipality, or purchased or sold, nor shall any street, avenue, parkway, boulevard or alley be opened for any purpose whatsoever, nor shall any street, avenue, parkway, boulevard or alley be widened, narrowed, located, relocated, vacated or its use changed, nor any ordinance referring to zoning or other regulations controlling the use or development of lands, be passed or become effective or binding upon the Municipality unless and until a public hearing shall have been held thereon by the Planning Commission and Council shall have received a report and recommendation of the Planning Commission with respect thereto, which recommendation and report may be made by the Planning Commission to the Council on its own initiative, or in the event such matter is referred to it by Council, the Planning Commission shall make its recommendation and report with respect thereto within sixty (60) days after such matter is referred to the

Planning Commission, unless a longer period is allowed by Council. If the Planning Commission shall fail to act within the time allotted with respect to any matter referred to it by the Council, the Council may act thereon as if it had received a recommendation of approval in such matters.

Upon receiving a recommendation or report of the Planning Commission the Council shall approve or disapprove the recommendation or report within sixty (60) days after the receipt thereof. In the event that implementation of the action of Council thereon requires adoption of legislation, such legislation shall be put on first reading within sixty (60) days after Council's approval or disapproval, and final legislative action shall be taken within sixty (60) days from such first reading.

The Planning Commission shall give such notice of public hearings as is now or may hereafter be provided for by ordinance of Council. Disapproval of any recommendation or report made pursuant to formal action of the Planning Commission shall require a concurrence of not less than five (5) members of Council.

(Amended 11-5-63)

Section 9. Recreation Commission.

The Recreation Commission shall consist of seven (7) members who shall serve without compensation. The Mayor shall appoint six (6) members thereof with the approval of Council. Each of the appointees by the Mayor shall serve for a term of four (4) years. The terms of the present members of the Recreation Commission shall continue until expiration thereof. The two (2) new appointments herein established shall be for a term of five (5) years commencing January 2, 1974. The seventh member of the Recreation Commission shall be a council member appointed by the Mayor with the approval of Council, who shall serve until the next organizational meeting of Council following the council member's appointment. Any member of the Recreation Commission appointed by the Mayor may be removed for any cause at the direction of the Mayor with the approval of at least five (5) members of City Council. A vacancy occurring during the term of any member of the Recreation Commission shall be filled for the unexpired term in the manner authorized for an original appointment. The powers and duties of the Recreation Commission shall be as provided by ordinance of Council.

(Amended 11-6-73; Amended 11-2-93; Ord. No. 5607 , § 1, 7-18-23)

Section 10. Civil Service Commission.

A. *Appointment of Members.* The Civil Service Commission shall consist of three (3) members of the Municipality not holding other municipal office or appointment, to be appointed by the Mayor with the approval of Council, for terms of six (6) years, commencing upon the expiration of the respective terms of the present members of the Civil Service Commission. A vacancy occurring during the term of any member of the Civil Service Commission shall be filled for the unexpired term in the manner authorized for an original appointment.

The Commission shall designate one of its members as **Chairman** **Chairperson**, and may appoint a Secretary, who need not be a member of the Commission and may hold other municipal office or appointment.

B. *Compensation.* The members of the Civil Service Commission shall serve without compensation unless otherwise provided by ordinance. A sufficient sum shall be appropriated by the Council to carry out the civil service provisions of this Charter.

C. *Powers and Duties.*

(a) In all matters dealing with the Civil Service of the City, the Commission shall provide by rule for ascertainment of merit and fitness as a basis for appointment and promotion in the Classified Service of the municipality as required by the Constitution of the State of Ohio; for the basis and method for

determination of eligibility, certification, appointment and promotion of candidates for positions in the Classified Service; for the conduct of the affairs of the Commission; and for appeals in case of transfer, reduction, suspension or removal.

- (b) The Commission shall keep a record of its proceedings and results of examinations which shall be open to public inspection, and shall have such other powers and duties as are given to Municipal Civil Service Commissions by the laws of the State of Ohio and not contrary to the provisions of this Charter.

D. *Procedures.* The Commission shall conduct its affairs in accordance with the provisions of the laws of the State of Ohio in all matters not otherwise provided for in this Charter.

E. *Classification of Service.* The Civil Service of the Municipality is hereby divided into Unclassified and Classified Service.

The Unclassified Service shall include:

- (a) All officers elected by the people or persons to fill vacancies in such office.
- (b) All directors of departments, department heads, division heads, supervisors and foremen, including their assistants, except Chief of Police and Fire Chief.
- (c) The members of all boards and commissions appointed by the Mayor or the Council.
- (d) Clerk of Council.
- (e) Municipal clerks and secretaries.
- (f) All persons duly licensed to practice a profession by the State of Ohio and employed in such capacity.
- (g) All employees of the Building, Finance, Service and Recreation Departments
- (h) All unskilled labor, temporary, part-time, and volunteer employees.

The Classified Service shall include:

All other persons or positions not included in the Unclassified Service. Any person who shall have served the Municipality for at least one (1) year immediately prior to January 1, 1964, may be retained in the same or any similar position without examination. In the case of volunteer **firemen firefighters**, part-time paid in the Fire Department of the Municipality, any **fireman firefighter** who has been continuously employed by the Municipality in such position since February 16, 1983, and is otherwise qualified, shall be eligible for full-time appointment to such position, when established, without written examination. When such list of eligible **firemen firefighters** is exhausted, thereafter all appointments to the Fire Department shall be made from the eligibility list provided by the Civil Service Commission.

F. *Removal.* The Mayor may at any time suspend any member of the Commission for inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office, incapacity or incompetency, provided, however, that such suspension shall not become final without the concurrence of at least five (5) members of Council.

(Amended 11-6-79; 5-8-84; Amended 11-7-89; Amended 11-2-93)

Section 11. Residence qualifications.

To be eligible for appointment to the Board of Zoning Appeals, Planning Commission, Recreation Commission or Civil Service Commission, each appointee shall have been a qualified elector and a resident of this municipality not less than two (2) years next preceding the commencement of his term. During **his their** term each of said appointees shall continue to be a resident of this Municipality and a qualified elector thereof.

(Adopted 11-5-63)

ARTICLE VI. FINANCES

Section 1. General.

The laws of Ohio relating generally to budgets, appropriations, deposits, expenditures, debts, bonds, contracts and other fiscal matters applicable to municipalities of the class of this municipality shall be applicable to this municipality except as modified by or necessarily inconsistent with the provisions of the ordinances of the Council or this Charter.

(Amended 11-2-93)

Section 2. Annual budget and appropriations.

The fiscal year of this municipality shall, unless Council by proper action shall adopt a different date, be the same as that established from time to time for municipalities of the class of this municipality by the general laws of Ohio. The Mayor, with the assistance of the Director of Finance and the Service Director, shall prepare and submit to the Council an estimate of revenues and expenditures of this municipality for the succeeding fiscal year. This estimate shall be compiled from information which shall be furnished by the head of each department, division, board or commission, in such form and detail as Council or the Mayor may require. The Mayor, with the assistance of the Director of Finance, shall furnish to the Council an ordinance making appropriations for the expenditures of this municipality.

(Amended 11-6-73)

Section 3. Limitation on rate of taxation.

The aggregate amount of taxes that may be levied by the taxing authority of the City of Brecksville without a vote of the people, on any taxable property assessed and listed for taxation according to value, shall not in any one year exceed the amount currently authorized by the Ohio Constitution to be so levied, plus an additional 4.40 mills for each dollar of assessed valuation. The additional 4.40 mills as specified above shall exclusively be used for the purposes described in subsections 3-A and 3-B of this section. The limitation upon the power of Council to levy taxes as specified herein shall not operate as a limitation upon the power of Council to levy taxes upon such other subjects and for such other purposes as may be lawful under the Constitution and laws of this State.

3-A. Within the maximum levy provided for in Section 3 herein, the Council may levy an amount not to exceed 3.40 mills for the purpose of creating a fund for the operation, including equipment and personnel, of a fire and ambulance service.

3-B. Within the maximum levy provided for in Section 3 herein, the Council may levy an amount not to exceed 1.00 mill for the purpose of creating a fund for road repair, maintenance, reconstruction and improvement.

(Amended 5-5-87; Ord. 3164, passed 7-16-91)

Section 4. Limitation upon expenditures without prior Council approval.

No expenditures shall be made or liability incurred in an amount of more than six thousand dollars (\$ 6,000.00) without prior authorization and approval by Council.

(Amended 11-2-93; Amended 11-4-03; Ord. No. 5608 , § 1, 7-18-23)

Section 5. Advertisement for bids.

Competitive bidding shall be had and carried on as required by the laws of Ohio now or hereafter in effect and governing competitive bidding in municipalities of the class of this municipality.

There shall be no splitting of orders or making of multiple contracts to avoid the effect of Section 4 hereinabove or this Section 5, or both, and any order placed and any contract made contrary to or in evasion of the provisions of Section 4 or of this Section 5 or both, shall be illegal and void.

Section 6. Sale of municipal property.

At public sale the Director of Purchasing and/or the Service Director may sell personal property not needed for municipal purposes having an estimated value of one thousand dollars (\$1,000.00) or less without prior authorization and approval of Council.

(Adopted 11-5-63; Amended 11-2-93; Amended 11-4-03; Ord. 5609 , § 1, 7-18-23)

Section 7. Procedure for selecting depositories and deposit of public monies.

Council shall by ordinance provide for the procedure of selecting depositories and the deposit and custody of public monies of the Municipality. Such ordinance shall establish the standards on which the selection of depositories for public monies is to be made, which standards shall include consideration of the interest to be earned and the security to be provided for public monies.

(Adopted 11-5-63)

Section 8. Purchasing.

Purchasing for the municipality shall be conducted by the Director of Purchasing who shall be appointed by the Mayor and serve at the Mayor's pleasure. All such purchasing, and the procedures therefor, shall be in accordance with this Charter and the ordinances of Council. The Director of Purchasing shall have the responsibility to make certain that all terms and conditions imposed in favor of the Municipality or its inhabitants in any purchasing contract to which the Municipality is a party are fully and faithfully kept and performed. The Director of Purchasing shall administer all competitive bidding as required by this Charter and the ordinances of Council. The Director of Purchasing shall perform such other duties and functions as may be required by the Mayor.

(Adopted 11-2-93; Ord. No. 5610 , § 1, 7-18-23)

ARTICLE VII. NOMINATIONS AND ELECTIONS

Commencing with the Regular Municipal election to be held on November 8, 2011, nominations for elective offices of this municipality shall be made only by petition filed with the election authorities prescribed by the general laws of Ohio, not more than one hundred twenty (120) days nor less than ninety (90) days next preceding the date of the election, signed by registered electors of the municipality not less in number than two percent (2%) of the number voting at the last preceding general election. Each petition shall be accompanied by the written acceptance of the nomination by the nominee. The nomination of each candidate shall be made by a separate petition. No primary election shall be held for the selection of any candidate for any elective office of this municipality, and no nomination for such office shall be of any effect unless made as required by this Section. The ballot used in the election of officers of this municipality shall be without party mark or designation. The names of all candidates for any municipal office shall be placed upon the same ballot and shall be rotated in the manner

provided by the laws of Ohio. Except as otherwise provided in this Charter, the laws of Ohio now or hereafter in effect shall govern the nomination and election of the elective officers of this municipality.

(Amended 5-3-11)

ARTICLE VIII. INITIATIVE, REFERENDUM AND RECALL

Section 1. Initiative.

The electors of this municipality shall have the power to propose by initiative petition ordinances and other measures providing for the exercise of powers granted by the Constitution of Ohio and the laws of the General Assembly to municipalities of the class of this municipality. The exercise of said power of initiative shall be in accordance with the provisions of the Constitution and laws of Ohio now or hereafter in effect.

Section 2. Referendum.

The electors of this municipality shall have the power to approve or reject at the polls any ordinance or other measure passed by Council, except as otherwise provided by the laws of Ohio. The exercise of said power of referendum shall be in accordance with the provisions of the Constitution and laws of Ohio now or hereafter in effect.

Section 3. Recall.

The electors shall have the power to remove from office by a recall election any elected officer of this municipality. If an elected officer shall have served for six months of **his** **their** term, a petition demanding **his** **the elected officer's** removal may be filed with the Clerk of the Council who shall note thereon the name and address of the person filing the petition and the date of such filing. Such petition shall be signed by at least that number of electors which equals 25% of the electors voting at the last preceding general election. Within ten (10) days after the day on which such petition shall have been filed, the Clerk shall determine whether or not it meets the requirements ~~here of~~ **hereof**. If the Clerk shall find the petition insufficient, **he** **the Clerk** shall promptly certify the particulars in which the petition is defective, deliver a copy of his certificate to the person who filed the petition with **him** **the Clerk**, and make a record of such delivery. Such person shall be allowed a period of twenty (20) days after the day on which such delivery was made in which to make the petition sufficient. If the Clerk shall find the petition sufficient, **he** **the Clerk** 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 such officer shall not resign within five (5) days after the day on which such delivery shall have been made, the Council shall thereupon fix a day for holding a recall election, not less than seventy-five (75) nor more than ninety (90) days after the date of such delivery. At such recall election this question shall be placed on the ballot: "Shall (naming the officer) be allowed to continue as (naming the office)?" with provision on the ballot for voting affirmatively or negatively on such question. If a majority of the votes cast at such election shall be voted affirmatively, such officer shall remain in office. If a majority of the votes cast shall be voted negatively, such officer shall be considered as removed, **his** **such officer's** office shall be deemed vacant, and such vacancy shall be filled as provided in this Charter. The officer removed by such recall election shall not be eligible for appointment to the vacancy created thereby.

(Amended 5-3-11)

Section 4. Petitions.

A recall petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain the name and office of the person whose removal is sought and a statement in not more than 200 words of the grounds for the removal. The manner of signing, the method of circulating, the form and requirements as to the affidavit, and the other requirements of the general law regulating initiative and referendum petitions, shall apply to recall petitions in this municipality except as otherwise provided in this Charter.

ARTICLE IX. FRANCHISES

The Council may by ordinance grant a nonexclusive franchise to any person, firm or corporation to construct or operate a public utility on, across, under or above any public street or public real estate within the municipality for a period not in excess of twenty-five (25) years; and it may prescribe in the ordinance the kind or quality of service or product to be furnished, the rate or rates to be charged therefor, and such other terms as it shall deem conducive to the public interest. Such franchise may be amended or renewed in the manner and subject to the provisions established herein for original grants. No consent of the owner of property abutting on any public street or public real estate shall be necessary to the effectiveness of any such grant, amendment or renewal.

All such grants, amendments and renewals shall be made subject to the continuing right of the Council to provide reasonable regulations for the operation of such utilities with reference to such streets and public real estate, including the right to require such reconstruction, relocation, alteration or removal of structures and equipment used in such streets or public real estate as shall, in the opinion of the Council, be necessary in the public interest.

ARTICLE X. AMENDMENTS TO CHARTER

The Council may, by affirmative vote of five (5) or more of its members, submit to the electors any proposed amendment or amendments to this Charter, and upon petition signed by not less than ten percent (10%) of the registered electors of the municipality setting forth any proposed amendment or amendments to this Charter, the Council shall forthwith submit such proposed amendment or amendments to the electors in accordance, in each instance, with the provisions of the Constitution and laws of Ohio now or hereafter in effect. The Council shall determine the manner of submission of any proposed amendment or amendments to the electors to the extent that such submission is not governed by this Charter or the Constitution or the laws of the State of Ohio.

If any such proposed amendment or amendments shall be approved by a majority of the electors voting thereon, it or they shall become a part of this Charter; except that if two or more inconsistent proposed amendments on the same subject shall be submitted at the same election, only the one of such amendments receiving the largest affirmative vote, not less than a majority, shall become a part of the Charter.

ARTICLE XI. CHARTER REVIEW COMMISSION

On September 1, 2022, and each ten (10) years thereafter, the Mayor shall, with approval of Council, appoint a Commission of nine (9) qualified electors of the municipality holding no other office or appointment in this municipality, as members of a Charter Review Commission. In addition to the aforementioned nine (9) members, the Mayor shall appoint, with the approval of the Council, a tenth (10th) alternate member, who shall not be a voting member of the Commission at the time of such appointment. Should one of the said nine (9) members be unable or unwilling to continue to service as a member of the Commission, the alternate member shall replace said member and become a full voting member of the Commission. Such Commission shall review the municipal

Charter, and within nine (9) calendar months after such appointment, deliver to Council such alterations, revisions and amendments, if any, to this Charter as in the Commission's judgment are desirable. The Council shall forthwith without amendment submit to the electors any such proposed alterations, revisions or amendments to this Charter within the time frame provided in the Constitution and laws of Ohio.

The members appointed to said Commission shall serve without compensation. Meetings of the Charter Review Commission shall be open to the public.

(Amended 11-8-83; Amended 11-5-13)

Editor's note(s)—Pursuant to Resolution No. 3529, passed 1-21-03, the Charter Review Commission is hereby re-established in accordance with Article XI hereof.

ARTICLE XII. MISCELLANEOUS PROVISIONS

Section 1. Effective date of Charter.

For the purpose of nominating and electing officers of this municipality and fixing the compensation of those to be elected in 1957, this Charter shall be in effect from and after the date of its approval by the electors and for all other purposes the Charter shall be in effect on and after the second day of January, 1958.

Section 2. Saving clause.

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

Section 3. Effect of the Charter upon existing laws and rights.

The adoption of this Charter shall not affect any pre-existing rights of the municipality, or any right or liability or pending suit or prosecution, either on behalf of or against the municipality or any officer thereof, nor any franchise granted by the municipality, nor pending proceedings for the authorization of public improvements or the levy of assessments therefor. Except as a contrary intent appears herein, all acts of the Council of the municipality shall continue in effect until lawfully amended or repealed.

Section 4. Interpretation of the Charter.

The Article and Section headings herein have been inserted for convenient reference and are not intended to define or limit the scope of, or otherwise affect any provision of this Charter.

Section 5. Misspellings, errors in grammar, renumbering upon codification and gender neutral designations.

All legislation and all amendments to the Codified Ordinances shall henceforth contain gender neutral language. Following any election at which any amendment to this Charter is adopted and prior to any reprinting of this Charter, the Clerk of Council, with the majority approval of Council and the Law Director, shall make the following changes therein, provided that no substantive changes to the Charter language are made:

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- A. *Misspellings and Errors in Grammar.* Any misspellings and errors of grammar or construction may be corrected.
 - B. *Making Language Gender Neutral.* Any gender specific terms shall become gender neutral.
 - C. *Renumbering upon Codification.* Any changes in the numbering of the provisions of this Charter or the cross referencing of provisions of this Charter by the addition or deletion of Articles, Sections, or Subsections may be made.

(Adopted 11-2-93; Ord. No. 5611 , § 1, 7-18-23)

Editor's note(s)—Ord. No. 5611 , § 1, adopted July 18, 2023, amended the title of Art. XII, Section 5 to read as herein set out. The former Art. XII, Section 5 title pertained to gender neutral designations.