

CHARTER
OF THE
CITY OF BARBERTON, OHIO

EDITOR'S NOTE: The Charter of the City of Barberton was approved by the voters on November 6, 1973. Dates appearing in parentheses, if any, indicate that the section or subsection was enacted, amended or repealed on the date given.

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**CHARTER
OF THE
CITY OF BARBERTON, OHIO**

PREAMBLE

We, the people of the City of Barberton, in the County of Summit and State of Ohio, grateful to Almighty God for the freedoms we enjoy, in order to secure for ourselves the benefits of municipal home rule and exercise all the powers of local self government under the Constitution and laws of the State of Ohio, do adopt this Charter for our Municipality.

INTERPRETATION OF 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.

**ARTICLE 1
THE MUNICIPALITY**

SECTION 1.01. Name and Boundaries..

The municipal corporation now existing in the County of Summit and State of Ohio and known as the City of Barberton, shall continue to be a body politic and corporate in perpetuity under the name of the City of Barberton.

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

SECTION 1.02. Form of Government.

The Municipality shall be governed and administered under this Charter by the municipal Mayor-Council form of government. All powers of the Municipality, except as otherwise provided by the Constitution of the State of Ohio and this Charter, shall be vested in an elected Mayor-Council who shall execute the laws and administer the government of the Municipality.

**ARTICLE 2
POWERS OF THE MUNICIPALITY**

SECTION 2.01. Powers.

The Municipality shall have all the powers, general or special, governmental or proprietary, that may now or hereafter lawfully be possessed or exercised by municipal corporations under the Constitution and the general laws of the State of Ohio.

SECTION 2.02. Manner of Exercise.

The powers of this Municipality shall be exercised in the manner prescribed in this Charter, or to the extent not prescribed herein, in such manner as shall be provided by ordinance or resolution of Council, and when not prescribed in this Charter or by ordinance or resolution of Council, such powers shall be exercised in such manner as may now or hereafter be provided by the general laws of the State of Ohio.

**ARTICLE 3
MAYOR**

SECTION 3.01. Term of Office.

The Mayor shall be elected at the general Municipal election in the year 1975, and every fourth (4th) year thereafter, for a term of four (4) years. His term shall commence, and he shall assume office, on the 1st day of January next following such election and shall serve until his successor is qualified. He may be a candidate to succeed himself.

SECTION 3.02. Qualifications.

The Mayor shall have been a qualified elector and a resident of this City for at least one year immediately prior to the last date on which his declaration of candidacy or nominating petition may be filed, and shall continue to be a qualified elector and resident therein during his term. During his said term of office, he shall not serve on continuous active military service in excess of thirty (30) days; either state or national, nor shall he hold any other public office, except that of notary public or member of the State Militia or Reserve Corps of the Armed Forces of the United States. (Nov. 6, 1990)

SECTION 3.03. Removal.

Council may remove the Mayor from office for gross misconduct, or malfeasance, misfeasance or nonfeasance in or disqualification for office, or for conviction while in office for a crime involving moral turpitude, or if adjudicated legally incompetent, or for a violation of his oath of office, or persistent failure to perform the duties of his office; provided, however, that such removal shall not take place without the affirmative vote of two-thirds of the entire Council; nor until the accused Mayor shall have been notified in writing of the charge or charges against him at least fifteen (15) days in advance of the public hearing upon such charge or charges; and he or his counsel shall have been given an opportunity to be heard, present evidence, and examine, under oath, all witnesses appearing in support of such charge or charges.

SECTION 3.04. Vacancy in the Office of Mayor.

(a) Absence. When the Mayor is temporarily absent, inaccessible, or unable for any cause or reason to perform his duties, the President of Council shall become the acting Mayor and while so acting shall have and exercise all of the powers of the Mayor, but he shall not thereby cease to be President of Council.

(b) Vacancy. In the event the office of Mayor shall become vacant for any cause or reason, or if a Mayor-elect fails to qualify for office, the President of Council shall thereupon become the Mayor, and serve for the unexpired term or until the beginning of the term of a successor duly elected as hereinafter provided, and this office as President of Council shall become vacant. In the event the President of Council is unable to or declines to serve as Mayor, Council by a vote of a majority of the members of Council shall appoint one of its members as Mayor to serve for the unexpired term or until the beginning of the term of the successor duly elected as hereinafter provided, and the office of the member of Council so appointed shall immediately become vacant.

(c) Absence of President of Council. In the event the President of Council shall be absent or inaccessible or for any reason unable to perform his duties as acting Mayor, the Vice-President of the Council, as provided in Section 5.07 of this Charter, shall serve as acting Mayor.

(d) Election of Successor in the Event of Vacancy. In the event the office of Mayor shall become vacant, a successor for the unexpired term shall be elected as Mayor at a special election to be held on the day of the next general municipal election, provided that: (1) such election shall occur more than two (2) years prior to the expiration of the unexpired term, and (2) the vacancy shall have occurred more than one hundred twenty (120) days prior to such election. A President of Council or a Councilman who has become Mayor pursuant to subsection (b) of this section, may be a candidate to succeed himself. In all other instances in which the office of Mayor shall become vacant, the provisions of subsection (b) of this section shall apply.
(Nov. 5, 1985; Nov. 8, 1988)

SECTION 3.05. Duties and Powers of the Mayor.

(a) Executive Powers. The Mayor shall be the chief executive officer of the City. He shall supervise the administration of the City's affairs and shall exercise control over all departments and divisions. He shall be the chief conservator of the peace within the City and shall cause all laws and ordinances to be enforced. He shall be responsible for the preparation and submission of the annual budget indicating an estimate of receipts and expenditures, and of appropriation measures, and shall at all times keep the Council fully advised as to the financial condition and needs of the City. He shall cause all terms and conditions imposed in favor of the City or its inhabitants in any franchise or contract to which the City is a party to be faithfully kept and performed.

Except as may be otherwise provided by this Charter and the provisions of the Civil Service laws of the State of Ohio, the Mayor shall have the power to appoint, promote, transfer, reduce, or remove any officer or employee of the City except those required by this Charter to be elected.

Unless otherwise provided by ordinance, the Mayor shall execute on behalf of the City all contracts, conveyances, evidences of indebtedness, and all other instruments to which the City is

a party. He shall have custody of the seal of the City and may affix it to all of said instruments, but the absence of the seal shall not affect the validity of any such instrument.

The Mayor shall serve as Chairman of the Board of Control as established by this Charter in Section 4.01 and he shall be recognized as the official and ceremonial head of the City government by the Governor for military purposes and by the courts for the purpose of serving civil processes.

He shall recommend to Council such measures as he deems necessary or expedient for the welfare of the City and shall keep Council advised of the condition and future of the City.

(b) Legislative Powers. The Mayor shall attend Council meetings but shall have no vote therein. He shall have the right to recommend and introduce legislation and to take part in the discussion of all matters coming before Council.

Every ordinance or resolution adopted by Council shall be signed by the President of Council or other presiding officer, attested by the Clerk of Council, and presented promptly to the Mayor for consideration before it goes into effect. If the Mayor approves such ordinance or resolution, he shall sign and return it to the Clerk of Council within ten (10) days after its adoption by Council, but if he does not approve it, he shall return it to Council within said ten (10) days with his written objections, by delivery to the Clerk of Council, which objections shall be entered in full on the journal of the Council. The Mayor may approve or disapprove the whole or any item of an ordinance or resolution appropriating money, but otherwise his approval or disapproval shall be addressed to the entire ordinance or resolution. If he does not return an ordinance or resolution within said ten day period, it shall take effect in the same manner as if he had signed it. When the Mayor has disapproved an ordinance or resolution, or a part or item thereof as herein provided, the Council shall, not later than its next regular meeting, proceed to reconsider it, and if upon reconsideration the ordinance or resolution or part or item thereof be approved by the affirmative vote of two-thirds (2/3) of the entire Council, it shall then take effect as if it had received the approval of the Mayor.

(c) Judicial Powers. The Mayor shall have all the judicial powers granted by this Charter, the ordinances of the City, and the general laws of the State of Ohio.

ARTICLE 4 ADMINISTRATIVE DEPARTMENTS

SECTION 4.01. General Provisions.

A Department of Public Safety, a Department of Public Service, a Department of Finance, and a Department of Law are hereby established, and the Council shall provide by ordinance for their organization. The Council may establish by ordinance additional departments or divisions and, except for the Departments of Public Service, Public Safety, Finance, and Law, may combine or abolish departments or divisions.

Any department head, as defined by ordinance (Ord. No. 187-2004. Passed 11-22-04), hired after November 2, 2004, must reside, or must become a resident of the City of Barberton within six (6) months of said appointment, and must remain a resident for the period during which said position is occupied. If said appointee refuses to comply with the six-month

residency rule and/or fails to remain a resident of the City of Barberton during the period of time he/she holds said position, termination of the appointee shall ensue. (Nov. 2, 2004)

A Board of Control is hereby established and shall consist of three (3) members: the Mayor, as chairman, the Director of Finance; and the Director of Law. The function of the Board of Control shall be the awarding of all contracts to which the City is a party, except as otherwise provided in this Charter. (Nov. 7, 1995)

SECTION 4.02. Department of Public Service.

There shall be a Director of Public Service who shall be the head of the Department of Public Service. He shall be appointed by and shall serve at the pleasure of the Mayor. The Director of Public Service shall have charge of all public works and improvements and the construction thereof, and of all engineering and inspection in connection therewith. He shall be charged with the construction, improvement, repair and maintenance of streets, sidewalks, alleys, lanes, bridges; of water mains, pumps, systems, pipes, purification and filtration plants, and the water distribution system; of sewers, sewage systems, drains, ditches, culverts, streams, watercourses; and of all public buildings and other public places belonging to the Municipality or dedicated to public use. He shall manage and control market houses, sewage treatment plants, waterworks, and all public utilities of the Municipality supported in whole or in part by taxation, and shall enforce all the obligations of privately owned or operated public utilities enforceable by the Municipality. He shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for public work; the cleaning, resurfacing, repairing, sprinkling and lighting of streets and public places; the collection and disposal of waste and the preservation of all property belonging to the Municipality and pertaining to the functions thereof. He shall perform such other duties, consistent with his office, as may be required by this Charter, by ordinance, or as directed by the Mayor.

(a) Division of Building Inspection. There shall be within the Department of Public Service a Division of Building Inspection under the direction of a Building Commissioner, who shall be appointed by the Mayor and shall be under the supervision of the Director of Public Service. He shall carry out the duties of a Building Commissioner as provided by ordinance or, if not by ordinance, as provided by general law. This shall be an unclassified position.

(b) Division of Engineering. There shall be within the Department of Public Service a Division of Engineering under the direction of the City Engineer who shall be a registered State of Ohio professional civil engineer and who shall be appointed by the Mayor and shall be under the supervision of the Director of Public Service. He shall carry out the duties of City Engineer as provided by ordinance or, if not by ordinance, as provided by general law. This shall be an unclassified position. (Nov. 4, 2008)

(c) Division of Utilities. There shall be within the Department of Public Service a Division of Utilities under the direction of a Superintendent of Utilities, who shall be appointed by the Mayor and shall be under the supervision of the Director of Public Service. He shall carry out the duties of a Superintendent of Utilities as provided by ordinance or, if not by ordinance, as provided by general law. This shall be an unclassified position.

To be eligible for appointment, the applicant must hold a college degree in science or engineering with broad experience in operation and maintenance of waterworks and wastewater works. Courses in chemistry and sanitary engineering are desirable, together with management ability. (Nov. 4, 1980; Nov. 7, 1995)

SECTION 4.03. Department of Public Safety.

There shall be a Director of Public Safety who shall be the head of the Department of Public Safety. He shall be appointed by and shall serve at the pleasure of the Mayor. The Director of Public Safety shall make all necessary rules and regulations for the government of the Department of Public Safety and the several divisions thereof, and he shall be charged with the duty of enforcing all police, health, safety, and sanitary regulations that may be prescribed by ordinances or rules of the City or the general laws of the State of Ohio. He shall perform such other duties, consistent with his office, as may be required by this Charter, by ordinance, or as directed by the Mayor.

(a) Division of Police. There shall be within the Department of Public Safety a Division of Police under the direction of a Chief of Police. This division shall consist of a Chief of Police and such other officers, patrolmen, and personnel as provided by ordinance, all of whom shall be appointed by the Director of Public Safety in accordance with the Civil Service provisions of this Charter.

(b) Division of Fire. There shall be within the Department of Public Safety a Division of Fire under the direction of a Fire Chief. This division shall consist of a Fire Chief and such other officers, firemen, and personnel as provided by ordinance, all of whom shall be appointed by the Director of Public Safety in accordance with the Civil Service provisions of this Charter.

SECTION 4.04. Department of Finance.

There shall be a Director of Finance who shall be head of the Department of Finance.

The City Auditor, elected at the 1971 general Municipal election, and the City Treasurer, elected at the 1973 general Municipal election, shall carry out their duties as provided by general law until the expiration of their respective terms of office, at which times these offices shall be abolished.

At the general Municipal election to be held in 1975 and every fourth (4th) year thereafter, the Director of Finance shall be elected for a term of four (4) years. His term shall commence and he shall assume office on the first day of January next following his election. He may be a candidate to succeed himself.

As of January 1, 1978 there shall also be an assistant Director of Finance who shall be appointed by and shall serve at the pleasure of the Director of Finance. He shall carry out all duties prescribed to him by the Director of Finance and shall be responsible for the operation of the Department of Finance in the absence of the Director of Finance. This shall be an unclassified position.

(a) Qualifications. The Director of Finance shall have been a qualified elector and a resident of this City for at least one (1) year immediately prior to the last date on which his declaration of candidacy or nominating petition may be filed, and shall continue to be a qualified elector and resident therein during his term. During his said term of office, he shall not serve on

continuous active military service in excess of thirty (30) days either state or national, nor shall he hold any other public office except that of notary public or member of the State Militia or reserve Corps of the Armed Forces of the United States.

The Director of Finance shall further have the following minimum qualifications: He shall be a person who has had at least two years experience in corporate, business, municipal, county, state or federal finance in a management level.

The provisions of Section 11.02 of this Charter shall prevail with regard to the presently employed Director of Finance, and said officer's rights and privileges shall be preserved.

(b) Removal. Council may remove the Director of Finance from office for gross misconduct, or malfeasance, misfeasance or nonfeasance in or disqualification for office, or for conviction while in office for a crime involving moral turpitude, or if adjudicated legally incompetent, or for a violation of his oath of office or persistent failure to perform the duties of his office; provided, however, that such removal shall not take place without the affirmative vote of two-thirds (2/3) of the entire Council; nor until the accused Director of Finance shall have been notified in writing of the charge or charges against him at least fifteen (15) days in advance of a public hearing upon such charge or charges and he or his counsel shall have been given an opportunity to be heard, present evidence, and examine, under oath, all witnesses appearing in support of such charge or charges.

(c) Powers and Duties. The Director of Finance shall be the head of the Department of Finance and fiscal officer of the Municipality. He shall keep the financial records of the Municipality, exhibiting accurate statements of all moneys received and expended, of all property owned by the Municipality and of all taxes and assessments. He shall be the custodian of all public money of the Municipality, shall keep and preserve such money in the place or places authorized by ordinance, and shall disburse the same as may be required by law or ordinance. He shall not allow the amount set aside for any appropriation to be overdrawn or drawn for any other purpose. He shall examine and audit the accounts of all other officers, employees and departments. He shall require evidence that the amount of any claim presented to him is due. He shall be responsible for the preparation and submission of appropriation measures and shall assist the Mayor and Council in the preparation of estimates, budgets and other financial matters and at all times keep the Mayor and Council fully advised as to the financial condition and needs of the Municipality. He shall perform all other duties that may now or hereafter be imposed upon city auditors or treasurers under the general laws of the State of Ohio, unless otherwise provided by this Charter or by ordinance of Council, and shall perform such other duties, consistent with his office, as may be required by this Charter, by ordinance of Council, or as directed by the Mayor.

(d) Vacancy. In the event the office of the Director of Finance shall become vacant for any cause or reason, the Mayor, with the approval of a majority of Council, shall choose his successor to serve his unexpired term, or until the beginning of the term of a successor duly elected as provided in subsection (e) of this section.

(e) Election of Successor in the Event of Vacancy. In the event the office of Director of Finance shall become vacant, a successor for the unexpired term shall be elected as Director of Finance at a special election to be held on the day of the next general Municipal election,

provided that: (1) such election shall occur more than two (2) years prior to the expiration of the unexpired term and (2) the vacancy shall have occurred more than one hundred twenty (120) days prior to such election. A successor who has become Director of Finance pursuant to this section may be a candidate to succeed himself. In all other instances in which the office of Director of Finance shall become vacant the provisions of subsection (d) of this section shall apply. (Nov. 3, 1981; Nov. 7, 1995)

SECTION 4.05. Department of Law.

There shall be a Director of Law who shall be the head of the Department of Law. Until the commencement of the term of the first Director of Law elected under this Charter, the City Solicitor elected at the November 1971 general Municipal election or any successor appointed to fill a vacancy in that office in the manner provided by general law shall continue to carry out the duties of that office. The office of City Solicitor shall be abolished by this Charter on December 31, 1975 at 11:59 p.m.

At the general Municipal election to be held in the year 1975 and every fourth (4th) year thereafter, the Director of Law shall be elected for a term of four (4) years. His term shall commence and he shall assume office, on the first day of January next following his election. He may be a candidate to succeed himself.

(a) Qualifications. The Director of Law shall be an attorney at law duly admitted to the practice of law in the State of Ohio. He shall have been a resident of the City of Barberton for at least one (1) year immediately prior to the last date on which his declaration of candidacy or nominating petition may be filed, and shall continue to be a qualified elector and resident during his term. During his said term of office he shall not serve on continuous active military service in excess of thirty (30) days either state or national, nor shall he hold any other public office except that of notary public or member of the State Militia or Reserve Corps of the Armed Forces of the United States.

(b) Removal. Council may remove the Director of Law from office for gross misconduct, or malfeasance, misfeasance or nonfeasance in or disqualification for office, or for conviction while in office for a crime involving moral turpitude, or if adjudicated legally incompetent, or for a violation of his oath of office or persistent failure to perform the duties of his office; provided, however, that such removal shall not take place without the affirmative vote of two-thirds (2/3) of the entire Council or until the accused Director of Law shall have been notified in writing of the charge or charges against him at least fifteen (15) days in advance of a public hearing upon such charge or charges and he or his counsel shall have been given an opportunity to be heard, present evidence, and examine, under oath, all witnesses appearing in support of such charge or charges.

(c) Powers and Duties. The Director of Law shall prepare all contracts, bonds, and other instruments in writing in which the City is concerned. He shall be the chief legal adviser of all offices, departments, commissions, boards, agencies, officers, and employees of the City in the matters relating to their official powers and duties. He shall represent the City in all legal proceedings and shall serve as Prosecuting Attorney of the Municipal Court. Further, it shall be his duty to perform all services incident to this office as may be required by statute, by this Charter, or by ordinance.

(d) Vacancy. In the event the office of the Director of Law shall become vacant for any cause or reason, the Mayor, with the approval of a majority of Council shall choose his successor to serve his unexpired term, or until the beginning of the term of a successor duly elected as provided in subsection (e) of this section.

(e) Election of Successor in the Event of Vacancy. In the event the office of Director of Law shall become vacant, a successor for the unexpired term shall be elected as Director of Law at a special election to be held on the day of the next general Municipal election, provided that: (1) such election shall occur more than two (2) years prior to the expiration of the unexpired term and (2) the vacancy shall have occurred more than one hundred twenty (120) days prior to such election. A successor who has become Director of Law pursuant to this section may be a candidate to succeed himself. In all other instances in which the office shall become vacant, the provisions of subsection (d) of this section shall apply.

In all other instances in which the office shall become vacant, the provisions of subsection (d) of this section shall apply.

(f) Charter Correction in Form Only. The Law Director shall be authorized to make typographical corrections to or changes or deletions in, as well as changes in the form of, the Charter; however, the changes shall relate to matters of form only. Any such modification, change, or correction shall, in all cases, be approved by resolution of Council, prior to going into effect. In no event shall any such modification, change, or correction affect the construction, meaning, substance, or intent of the Charter as adopted and amended by the people.

The Law Director may correct obvious misspellings and typographical errors.

The Law Director may divide the text of any section or paragraph into shorter paragraphs or subparagraphs and letter or number the same to improve clarity and ease of reference.

The Law Director may renumber the sections and rearrange their order to provide:

- (1) More coherent grouping of sections related in subject matter; and
- (2) Continuous, consecutive numbering of sections.

Upon the adoption of any amendment that creates or abolishes an office or offices or changes the powers or duties of any officer or agency of the City, the Law Director shall make necessary correlative changes in existing sections that refer to such offices, officers, or agencies by deleting therefrom, as the case may be, the name of the office created or the title of the officer or agency then having such powers or duties. (Nov. 5, 1985; Nov. 6, 1990; Nov. 7, 1995)

ARTICLE 5 COUNCIL

SECTION 5.01. Powers.

The legislative power of the City, except as otherwise provided by this Charter and by the Constitution of the State of Ohio, shall be vested in the Council.

SECTION 5.02. Number and Term.

The Council shall be composed of nine (9) members, two (2) of whom shall be elected at large, six (6) of whom shall be elected from wards, and the President of Council. For purposes of the first election for members under this Charter and until changed by ordinance, the aforesaid wards shall be the wards in effect on the effective date of this Charter.

Members of Council shall be elected at large or from their respective wards at general Municipal elections for staggered terms of four (4) years each, the members of Council at large being elected as a group at one general Municipal election and the members from wards being elected at the next such election, and shall serve until their successors are elected and assume office. They may be candidates to succeed themselves.

At the general Municipal election to be held in the year 1989 and every fourth (4th) year thereafter the two (2) members of Council-at-Large and the President of Council shall each be elected for a term of four (4) years.

All members of Council shall qualify for office by giving any required bond and taking the oath of office following the official certification by the election authorities of their election and shall assume office on the first day of January next following their election. (Nov. 8, 1988)

SECTION 5.03. Qualifications.

All members of Council including the President of Council shall be qualified electors for at least one (1) year and shall have been residents of the Municipality, and members from wards shall have resided in their respective wards for at least one (1) year immediately prior to the last date on which their declarations of candidacy or nominating petitions may be filed, and shall continue to be a resident of the Municipality throughout their terms of office. No person elected or appointed from a ward as a member of Council shall serve unless during his term of office he shall be and continue to be a resident of that ward. A member of Council and the President of Council shall not hold any other public office, except as otherwise provided in this Charter or by ordinance enacted thereunder, and except that of notary public or membership in the State Militia or Reserve Corps of the Armed Forces of the United States.

Any member of Council or President of Council who shall cease to possess, or who violates, any of the qualifications herein enumerated shall forfeit his office, but failure to maintain such qualifications shall not render void or ineffective any action of Council in which such member has participated. (Nov. 8, 1988; Nov. 7, 1995)

SECTION 5.04. Organization.

At 7:30 p.m. on the second day of January in the year of 1990 and each even-numbered year thereafter (or if such date be Saturday or Sunday, then the following Monday), the Council shall meet in the Council Chamber for the purpose of organization. The Council shall elect its Vice-President and Clerk of Council and adopt its own rules, regulations and by-laws except as otherwise provided in this Charter. (Nov. 8, 1988)

SECTION 5.05. Removal.

The Council shall be the judge of the election and qualifications of its own members. It may remove any member for gross misconduct, or malfeasance, misfeasance or nonfeasance in or disqualification for office, or for conviction while in office for a crime involving moral turpitude, or if adjudicated legally incompetent, or for a violation of his oath of office or persistent failure to abide by the rules of Council, or absence from five (5) consecutive regular

meetings of the Council unless one (1) or more of such absences shall have been excused by the Council; provided, however, that such removal shall not take place without the affirmative vote of two-thirds (2/3) of the remaining members of Council; nor until the accused member shall have been notified in writing of the charge against him at least fifteen (15) days in advance of a public hearing upon such charge; and he or his counsel shall have been given an opportunity to be heard, present evidence, and examine, under oath, any witness appearing in support of such charge. The accused member shall not vote on the question of his removal.

SECTION 5.06. Vacancies in Council.

(a) Vacancies. In the event the office of any member of Council shall become vacant for any cause or reason, Council shall, by a majority vote of the remaining members elected thereto, choose his successor. In the event that Council fails to elect such a successor on or before the expiration of thirty (30) days after such vacancy shall have occurred, Council shall be divested of its power to appoint his successor and the Mayor shall appoint a successor. Such successor, whether elected by Council or appointed by the Mayor, shall serve for the unexpired term or until the beginning of the term of a successor duly elected as hereinafter provided.

(b) Election of Successor in the Event of Vacancy. In the event the office of any member of Council shall become vacant, a successor for the unexpired term shall be elected to the office at a special election to be held on the day of the next general Municipal election, provided that: (1) such election shall occur more than two (2) years prior to the expiration of the unexpired term, and (2) the vacancy shall have occurred more than one hundred twenty (120) days prior to such election. A member of Council who was elected or appointed according to subsection (a) of this section, may be a candidate to succeed himself.

SECTION 5.07. President of Council and Vice President.

The person who shall have been elected to the office of President of Council at the general election in November 1989 shall serve a four (4) year term commencing January 1, 1990. The person holding said office may be a candidate to succeed himself.

Beginning in January 1990 the Council shall at the time of its organization choose one of its members as Vice President of Council who shall preside at meetings of Council in the absence of the President of Council.

If the Mayor is absent or inaccessible or for any reason is unable to perform his duties as Mayor, the President of Council shall become the acting Mayor, and while so acting shall have and exercise all powers of the Mayor, but he shall not thereby cease to be a member of Council. If the Mayor is unable to perform his duties as Mayor for a period exceeding sixty (60) days due to a mental or physical incapacity, Council may pay the President of Council additional compensation in an amount it deems reasonable while performing the duties as acting Mayor.

In the event the President of Council is absent or inaccessible or for any reason unable to perform his duties as acting Mayor, the Vice President of Council shall become the acting Mayor, and while so acting shall have all the powers and duties of the Mayor, but he shall not thereby cease to be a member of Council.

In case of vacancy of the office of Mayor, the President of Council shall forthwith become Mayor and his office as Councilman shall become vacant. If the office of President of Council becomes vacant, the Vice President of Council shall forthwith become President of Council in which case the Council seat vacated by the Vice President of Council shall be filled in

the manner provided in Section 5.06 of the Charter; and the Council shall choose a new Vice President from its remaining members.

The President of Council shall have all the powers, duties, functions, obligations and rights of any other member of Council, but he shall not have the right to vote unless his vote is necessary to determine the outcome of any matter before the Council as in the case of a tie vote or when a certain minimum number of votes are required; shall preside at all meetings of Council; and shall appoint the various committees of Council, coordinating the work of the various committees appointed by him. (Nov. 8, 1988; Nov. 7, 1995)

SECTION 5.08. Clerk of Council.

The Clerk of Council, who may hold other employment in the Municipal government, shall be appointed by Council and may be removed by Council. The Clerk of Council shall keep an accurate and complete journal of the proceedings of Council and perform such other duties as Council may require. Council may employ such other employees as it deems necessary for the proper discharge of its duties.

SECTION 5.09. Council Meetings.

Council shall, by ordinance, make provision for the time and place of regular meetings of Council and the method of calling special meetings of Council. A majority of the members of Council, excluding the President of Council, shall constitute a quorum for the transaction of business at any meeting, but a lesser number may adjourn the meeting from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. At any meeting at which a quorum is present, any ordinance or resolution may be passed or adopted, or any other action may be taken, by the affirmative vote of five (5) members of Council unless a larger number be required by the provisions of this Charter. The Clerk of Council shall keep a record of its proceedings in a journal in which the yea and nay vote of each Councilman voting on an ordinance, resolution, or other measure shall be recorded. All meetings of Council shall be open to the public as per Section 121.22 of the Ohio Revised Code and its journal shall be available for public inspection at all reasonable times. (Nov. 8, 1988; Nov. 6, 1990; Nov. 5, 1996; Nov. 4, 1997; Nov. 8, 2005)

SECTION 5.10. Legislative Procedure.

All legislative action of Council shall be by resolution or ordinance introduced in written or printed form, each of which shall contain no more than one subject, which subject shall be clearly expressed in its title.

No resolution or ordinance shall be revised or amended unless the resolution or ordinance superseding it contains the entire resolution or ordinance so revised or amended; or the section or sections so revised or amended, and, having been revised or amended, the original resolution or ordinance, or section or sections, shall be considered to be repealed.

An affirmative vote of at least five (5) members of Council shall be required for the enactment of every resolution or ordinance, unless a larger number be required by the provisions of this Charter.

Every resolution or ordinance shall be read at three (3) different, regular Council meetings, unless Council votes to suspend the rule requiring separate readings, which reading or readings shall be by title only unless otherwise directed by a majority vote of Council. Such suspension of the rule shall require the affirmative vote of at least six (6) members of Council if

all members are present, or the affirmative vote of at least five (5) members if one or more members are absent.

SECTION 5.11. Public Notice.

Public notice, as required by law, or by this Charter, or by resolution or ordinance, shall be given resolutions, ordinances, statements, measures, orders, proclamations, and reports in the manner determined by Council; except that if public posting be selected as the medium, then not less than six (6) public places in the Municipality shall be established for such public posting.

Council shall cause each resolution and ordinance to be given public notice commencing not later than seven (7) days after its first reading in the event that the rule requiring three (3) readings is not suspended; and within seven (7) days, like public notice shall also be given each resolution and ordinance after its adoption and 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.

SECTION 5.12. Effective Date of Resolutions and Ordinances.

Each resolution or ordinance 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 therefore, and any emergency resolution or ordinance 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. Such legislative action is subject to the referendum provisions of Section 8.02 of this Charter.

No other resolution or ordinance 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.

SECTION 5.13. Emergency Resolutions and Ordinances.

Each emergency resolution or ordinance shall contain a statement of the necessity for such emergency action, and its enactment shall require the affirmative vote of at least six (6) members of Council if all members are present, or the affirmative vote of at least five (5) members if one or more members are absent.

No action of Council authorizing the surrender of joint exercise of any of its powers or in granting any franchise, or in the enactment, amendment, or repeal of any zoning or building resolution or ordinance, or in the changing of any ward boundaries, or in authorizing any change in the boundaries of the Municipality shall be enacted as an emergency measure.

SECTION 5.14. Compensation and Bonds.

Council shall fix the compensation of the Mayor, and each officer and employee, or members of any board or commission of the Municipality, whether elected or appointed, except as specifically prohibited otherwise in this Charter. In no event shall an elected official be entitled to severance pay.

Not less than one hundred twenty (120) days immediately preceding the date of the next Municipal election, the compensation of the Mayor shall be fixed for the next term and shall not thereafter be changed with respect to such term.

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.

The Mayor, Director of Finance, Director of Public Service and such other officials or employees, or members of boards or commissions as Council may by resolution or ordinance require, shall give bond in such amount and with such surety as may be approved by Council. The premium on such bonds shall be paid by the Municipality. (Nov. 8, 1988; Nov. 7, 1995)

SECTION 5.15. Vacation or Sale of Park Property.

Notwithstanding any other provisions of this Charter, including, but not limited to, Section 6.01(b), Council, by passage of an ordinance, shall submit any ordinance to vacate or sell any portion of real property owned and used by the City for park and recreational purposes to the electors on the date fixed in the ordinance and, if not so fixed, at the general election in any year occurring more than ninety (90) days from the passage of said ordinance. If such proposal shall be approved by two-thirds (2/3) of the electors voting thereon, it shall be effective as an ordinance on the fifth (5th) day after the day on which the Board of Elections certifies the official results thereof. (Nov. 3, 1998)

**ARTICLE 6
BOARDS AND COMMISSIONS**

SECTION 6.01. Planning Commission.

(a) Membership and Organization. There is hereby established a Planning Commission which shall consist of a total of five (5) citizen members who shall be electors of the Municipality, not holding other Municipal office or appointment. The Mayor shall appoint each member of the Planning Commission, with confirmation by a majority of Council, for a term of four (4) years to serve without compensation unless otherwise provided by ordinance.

Any vacancy occurring during the term of any member shall be filled for the unexpired term in the manner authorized for an original appointment.

The Commission shall choose from its five (5) members a Chairman, Secretary and such other officers as it shall deem necessary, shall make Its own rules and regulations, and shall keep a journal of its proceedings. The Commission shall appoint or reappoint its officers at its regular meeting in January of each year.

The Commission shall, at its first meeting in January of each year, adopt a schedule of meeting dates for the calendar year. The Commission shall schedule at least one (1) meeting in each of not fewer than eleven (11) months in each year. Meetings shall be open to the public and a record shall be kept showing the vote of each member on each question.

A majority of the voting membership of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of three (3) voting members of the Commission shall be necessary for any official action.

The Mayor, the Director of City Planning, and a member of Council selected annually by Council from its committee having responsibility for planning and zoning matters, shall be ex-officio members of the Commission and shall have all the powers, duties and rights of any other member of the Commission except that they shall not have the right to vote on any issue.

(b) Powers and Duties. The Commission shall appoint and provide for the duties of a Director of City Planning who shall serve at the pleasure of the Commission. The position of Director of City Planning shall be an unclassified position. The Commission may provide for such other employees as are necessary for the execution of its duties. Such other full time employees authorized by the Commission shall be certified and classified under Civil Service rules and regulations. (Nov. 7, 2000)

Council shall appropriate sufficient funds each year to carry out the planning and zoning provisions of this Charter.

The Planning Commission shall act as the platting Commissioners of the Municipality, and as such it shall have control of planning and shall provide regulations relating to the platting of all lands within the Municipality so as to secure the harmonious development thereof in accordance with the official master plan for the entire Municipality.

It shall make such regulations as it deems necessary as to the manner in which streets and other public ways shall be graded and improved and the manner in which and the extent to which water, sewer and other utility mains, piping or other facilities shall be installed, and in addition may establish any other conditions precedent to the approval of a proposed plat.

The Planning Commission shall maintain a comprehensive general plan to be known as the official master plan which shall provide for the overall development of the Municipality and shall review said plan periodically and may revise the same as it deems necessary.

The Commission may make, review, and revise such other plans and maps of the whole or any portion of the Municipality, where said plans or maps, in the opinion of the Commission, bear a reasonable relation to the planning of the Municipality, provided that said plans or maps are not found to be in conflict with an approved comprehensive general plan.

It shall have such powers as may be conferred upon it by ordinance of Council concerning the plan, design, location, removal, relocation, and alteration of any public building or structure or any building or structure located on public streets or property; the location, relocation, widening, extension and vacation of streets, alleys, public ways, parks, playgrounds, recreation areas, parkways, and other public places; the regulation and restriction of the location of buildings and other structures and of premises to be used for trade, industry, residence, or other specified uses; the regulation and limitation of height of buildings and other structures to be erected or altered; the regulation of the bulk and location of buildings and other structures to be erected or altered, including the percentage of lot occupancy, setback building lines, and the area of yards, courts and other open spaces; the zoning and rezoning of the Municipality for any lawful purpose; and such other powers as now or may hereafter be conferred upon it by ordinances or by the general law to the extent not inconsistent with this Charter or such ordinances.

(c) Mandatory Referral. No public building, street, boulevard, parkway, park, playground, dock, bridge, tunnel, publicly or privately owned utility or part thereof shall be constructed or authorized to be constructed in the Municipality; 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, relocated, vacated, or its use changed, or any ordinance referring to zoning or other regulations controlling the use or development of land be adopted unless and until the action proposed to be taken, or the ordinance or regulation proposed to be adopted, shall have been submitted to the Planning Commission for report and recommendation. Any matter so referred to the Planning Commission shall be acted upon by it

within sixty (60) days from the date of referral unless an additional period of time not to exceed thirty (30) days is provided by Council. If the Planning Commission shall fail to make a report and recommendation on such matter within the time allotted, it shall be deemed to have approved such matter. Any resolution, ordinance or order, or any part of provision thereof, disapproved by formal action of the Planning Commission shall require a two-thirds (2/3) vote of the entire Council's voting membership for adoption or authorization.

(d) Qualification for Director. The Director of City Planning shall have at least the following minimum qualifications at the time of original appointment to the position of Director: Bachelor degree in planning or a related field, as recognized by the American Planning Association. In the event such certifications are revised or discontinued, the Commission shall designate or provide for equivalent certifications. (Nov. 5, 1985; Nov. 5, 1996; Nov. 7, 2000; May 2, 2006)

SECTION 6.02. Board of Zoning and Building Appeals.

(a) Membership and Organization. There is hereby established a Board of Zoning and Building Appeals which shall consist of the Director of Public Service who shall serve as Chairman of this Board, and six (6) electors of the City holding no other public office. Six (6) members shall be appointed by the Mayor, with confirmation by a majority of Council, to serve without compensation for a term of six (6) years; except that of original appointments for terms beginning January 1, 1974, one (1) shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, one (1) for a term of four (4) years, one (1) for a term of five (5) years, and one (1) for a term of six (6) years. The Board of Zoning Appeals and Board of Building Appeals heretofore existing shall be abolished on the effective date of this Charter.

The Building Commissioner, the Director of City Planning, and a member of Council selected annually by Council from its committee, having responsibility for planning and zoning matters shall be ex-officio members of the Board of Zoning and Building Appeals, and shall have all of the powers, duties, and rights of the other members, except they shall have no voting rights on issues before the Board.

Any vacancy occurring during the term of any member of the Board of Zoning and Building Appeals shall be filled for the unexpired term in the manner authorized for the original appointment.

(b) Jurisdiction. The Board of Zoning and Building Appeals shall have the power to hear and decide appeals for exceptions to, and variances in the application of resolutions, ordinances, regulations, measures, and orders of administrative officials or agencies governing zoning and building in the Municipality, as may be required to afford justice and avoid unreasonable hardship, subject to such reasonable standards as shall be prescribed by Council, and such other powers as may be granted to it by Council.

(c) Meetings and Procedure. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. Meetings shall be open to the public and a record shall be kept showing the vote of each member on each question. Procedure before the Board of Zoning and Building Appeals shall be in accordance with ordinance of Council or rules or regulations established by the Board, not inconsistent therewith.

(d) Appeals to the Board. A written appeal may be submitted to the Board of Zoning and Building Appeals within twenty (20) days after refusal of the issuing authority to issue a zoning or building permit.

The Board of Zoning and Building Appeals shall hold a public hearing on each appeal and shall give ten (10) days public notice of the time and place of the public meeting in a newspaper of general circulation in the City.

Written notice of the hearing shall also be sent by the Board, by first class mail, at least ten (10) days before the date of the public hearing, to the owners of property contiguous to, or across the street from, the area which is the subject of the appeal. Such written notices shall be mailed to the addresses of such owners appearing on the current tax duplicate of the County. Failure of delivery of any such notice shall not invalidate the public hearing.

Each appeal received by the Board of Zoning and Building Appeals shall be acted upon by said Board within forty-five (45) days of receipt of the appeal unless an additional period of time, not to exceed thirty (30) days, is provided by Council.

The Board of Zoning and Building Appeals shall perform such other duties and functions as may be imposed upon it by ordinances and resolutions of Council.

SECTION 6.03. Parks and Recreation Commission.

(a) Membership and Organization. There is hereby established a Parks and Recreation Commission which shall consist of five (5) members who are electors of the City, holding no other public office. Three (3) members shall be appointed by the Mayor, with confirmation by the majority of Council, to serve without compensation for the term of five (5) years, except that of original appointments for terms beginning on January 1, 1974, one (1) shall be appointed for a term of one (1) year, one (1) for a term of three (3) years, and one (1) for a term of five (5) years. The remaining two (2) members of the Parks and Recreation Commission shall be appointed by the Barberton Board of Education with the confirmation of a majority of Council, and shall consist of one (1) member of the Board of Education, with the remaining member being a person appointed by the Board of Education, and shall serve without compensation for the terms of five (5) years, except that of the original appointments for terms beginning on January 1, 1974, one (1) shall be for a term of two (2) years and one (1) for a term of four (4) years. In any case where the Board of Education shall fail within sixty (60) days to make the appointments or to fill a vacancy on the Commission, the Mayor shall make the appointments with confirmation by Council. The Board of Park Commissioners heretofore existing shall be abolished on the effective date of this Charter.

The Mayor and one member of Council selected annually by the Council shall be ex officio members of the Parks and Recreation Commission and shall have all of the powers, duties, and rights of the other members, except they shall have no voting rights on issues before the Commission.

The Parks and Recreation Commission shall meet at least monthly and shall elect a chairman and a secretary at its first meeting each year for a one-year period. Vacancies on the Commission shall be filled in the same manner as original appointments. Meetings shall be open to the public and a record shall be kept showing the vote of each member on each question.

(b) Powers and Duties. The Parks and Recreation Commission shall appoint a Director, and if deemed necessary, an Assistant Director, and such other employees as are necessary for the execution of its duties, and it shall control, equip and manage parks,

playgrounds, playfields, gymnasiums, swimming pools, indoor recreation centers, and any lands or buildings owned or used by the City for park or recreation purposes. The Commission shall also have the authority to establish fees and charges relative to operation of various programs and to expend funds received from sources other than Municipal funds.

The Director and Assistant Director shall serve at the pleasure of the Parks and Recreation Commission. These shall be unclassified positions. Such other full-time employees as authorized by the Commission shall be certified and classified under Civil Service rules and regulations.

(c) Qualifications for Director. The Director of Parks and Recreation should have the following minimum qualifications at the time of his original appointment to the position of Director: Bachelor degree in Park and Recreation Administration, Recreation Administration, or Park Management, and certification as a Parks and Recreation Administrator by the Ohio Parks and Recreation Association. In the event such certifications are revised or discontinued, the Commission shall designate or provide for equivalent certifications.

SECTION 6.04. Other Commissions or Boards.

(a) Board of Health. There is hereby established a Board of Health which shall consist of a total of seven (7) members, five (5) citizen members who shall be electors of the City holding no other public office or appointment, the Mayor, and a member of Council selected annually by Council from its committee having responsibility for health matters. Five (5) members shall be appointed by the Mayor with confirmation by the majority of Council to serve without compensation for a period of five (5) years from the date of appointment, except that of those first appointed one (1) shall serve for five (5) years, one (1) for four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year, and thereafter one (1) shall be appointed each year. A majority of the members of the Board shall constitute a quorum. The Mayor shall be President of the Board by virtue of his office.

The Board, in conformance with Section 3709.05 of the Ohio Revised Code, or otherwise by provisions of this Charter or general law, shall make all necessary rules and regulations for safeguarding the public health, and shall enforce all health and sanitary regulations.

(b) Civil Service Commission. There shall be a Civil Service Commission as provided in Chapter 124 of the Ohio Revised Code or otherwise by general law, except that the Mayor shall appoint each member of the Civil Service Commission, with confirmation by a majority of Council.

Civil Service Commission shall have authority to limit application to the position of Chief and Deputy Chief in the Fire and Police Service to applicants who possess at least one (1) year of departmental experience in the City of Barberton above the rank of firefighter or patrolman. When less than two (2) applicants with the above qualifications have applied for the position of Chief or Deputy Chief in the Fire or Police Service, the Civil Service Commission shall have the authority to advertise and receive qualified applicants from outside the service of the City. (Nov. 7, 2000)

(c) The Plumbing, Electrical, Warm Air Heating, and Air Pollution Control Advisory Boards, Community Action Council, Traffic Safety, and Boxing and Wrestling Commissions, Civil Defense and Metropolitan Regional Transit Authority, hereto established by ordinance of

the Council, shall continue to operate under, and to have the functions, powers and duties set forth in the provisions of existing ordinances of the Council applicable thereto, except that the Mayor shall appoint each member of these Boards, with confirmation by a majority of Council, subject to the right of the Council to amend or repeal any or all of such provisions by later ordinance at any time, and to transfer, reassign or delegate such functions, powers and duties, or any part thereof, to another officer, individual, board, or commission.
(Nov. 4, 1980; Nov. 5, 1996)

SECTION 6.05. Creation of New Boards and Commissions.

Council shall have the further power to create and establish, by ordinance, boards and commissions other than those created and established by this Charter.

SECTION 6.06. Removal.

Except as otherwise provided by this Charter, the Mayor may remove any of the appointed citizen members of the boards and commissions. Notification of removal shall be submitted in writing to the person(s) being removed. Said removal may be overridden by a two-thirds (2/3) vote of the entire Council within thirty (30) days of the notification by the Mayor to the member being removed.

SECTION 6.07. Time Limitations for Appointments to Boards or Commissions.

Should the Mayor fail to fill a vacancy in a board or commission as provided in this Charter within forty-two (42) days of receiving notice of said vacancy, the Council by a majority vote of its membership shall fill said vacancy. (Nov. 5, 1985)

**ARTICLE 7
ELECTIONS**

SECTION 7.01. Time for Holding Elections.

General Municipal elections shall be held on the first Tuesday after the first Monday of November in odd-numbered years. Such other elections shall be held as may be required by law or authorized by this Charter. Any matter which, by the terms of this Charter may be submitted to the electors of the City at any special election, may be submitted at the time of a primary or general election.

SECTION 7.02. Nominating Elections (Primaries).

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 general laws of the State of Ohio and by the election authorities therein provided for.

Candidates for all offices at any general Municipal election under the provisions of this Charter, with the exception of independent and write-in candidates, shall be nominated at a primary election to be held on the eighth (8th) Tuesday prior to such general Municipal election. The method of nomination shall be as provided by general law.
(Nov. 6, 1990)

ARTICLE 8
INITIATIVE, REFERENDUM, RECALL

SECTION 8.01. Initiative.

The electors of the City shall have power to propose any ordinance or resolution, except an ordinance for the appropriation of money or an ordinance making a tax levy, and to adopt or reject the same at the polls, such power being known as the initiative. An initiated ordinance or resolution may be submitted to the Clerk of the Council by petition signed by at least that number of electors which equals ten percent (10%) of the electors who voted at the next preceding regular Municipal election. The petitions shall designate a committee of the petitioners to act in their behalf. When such a petition has been submitted, the Clerk shall forthwith determine the sufficiency of the petition and if found sufficient, the Council shall at once have the proposed ordinance or resolution read and referred to an appropriate committee which may be a committee of the whole. A public hearing, to be conducted in such manner and preceded by such notice as the Council shall prescribe, shall be held on the proposed ordinance or resolution not later than thirty (30) days after the date on which such ordinance or resolution was submitted to the Clerk. The Council shall, within forty (40) days after such ordinance or resolution is submitted, take final action thereon by enacting the proposed ordinance or resolution in the form submitted or in an amended form or by failing or refusing to pass the same. If the Council fails or refuses to pass such proposed ordinance or resolution or passes it in an amended form, the committee of the petitioners may, at their option, require that it be submitted to a vote of the electors either in the form submitted or in the amended form adopted by Council, provided that there is filed with the Clerk a supplemental petition signed by that number of additional electors which, when taken together with those who signed the original petition, will total at least twenty percent (20%) of the electors of the City. Such supplemental petition shall be filed within ten (10) days after the passage by the Council of such ordinance or resolution or its repassage over the Mayor's veto, whichever is later. The date of such election may be fixed in the supplemental petition but not less than sixty (60) days from the time of filing such supplemental petition and the Council shall provide for submitting such ordinance or resolution to the vote of the electors at the date so fixed, or, if not so fixed, at the next general election in any year occurring more than sixty (60) days from the filing of such supplemental petition. An initiated ordinance or resolution, receiving an affirmative majority of the votes cast thereon, shall become effective on the fifth (5th) day after the day on which the Board of Elections certifies the official results thereof.

SECTION 8.02. Referendum.

The electors shall have the power to approve or reject at the polls any ordinance or resolution passed by the Council, except as hereinafter provided. Within sixty (60) days after the passage by the Council of such ordinance or resolution or its repassage over the Mayor's veto, whichever is later, a petition signed by at least that number of electors which equals ten percent (10%) of the electors who voted at the next preceding regular Municipal election may be filed with the Clerk of the Council, requesting that such ordinance or resolution be either repealed or submitted to a vote of the electors. If said petition is signed by twenty percent (20%) or more of such electors, the date of the election may be fixed therein, not less than ninety (90) days from the time of filing thereof. When such petition is filed, the Clerk shall first ascertain the sufficiency of the petition, and if found sufficient, the Council shall thereupon, within thirty (30)

days of the filing of such petition, reconsider such ordinance or resolution. If, upon such reconsideration, the ordinance is not repealed, the Council shall provide for submitting it to a vote of the electors on the date so fixed; or, if not so fixed, at the first general election in any year occurring more than ninety (90) days from the filing of such petition. No such ordinance or resolution shall go into effect until approved by a majority of those voting thereon, in which event such ordinance or resolution shall go into effect on the fifth day after the day on which the Board of Elections certifies the official results thereof. When the Council by general law or under provisions of general ordinance is required to pass more than one ordinance or resolution necessary to make and pay for any public improvement, the referendum provision shall apply only to the first ordinance or resolution required to be passed and not to any subsequent ordinances or resolutions relating thereto. In addition, ordinances providing for an annual tax levy or for improvements petitioned for by the owners of a majority of the foot front of the property benefited and to be specially assessed therefor, bond and note ordinances, and appropriation ordinances limited to the subject of appropriations shall not be subject to referendum; but, except as herein provided, all other ordinances and resolutions necessary for the immediate preservation of the public peace, health, or safety, shall be subject to referendum, except that such emergency ordinances and resolutions shall go into effect at the time indicated therein. If, when approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder; but such measure shall be deemed sufficient authority for payment, in accordance therewith, of any expense incurred previous to the referendum vote thereon.

Ordinances or resolutions submitted to the Council by initiative petition and passed by the Council either with or without change, but not submitted to a vote of the electors shall be subject to referendum in the same manner as other ordinances and resolutions. (Nov. 5, 1985; Nov. 7, 1995)

SECTION 8.03. Recall.

The electors shall have the power to remove from office by a recall election, any elected officer of the City. If an elected officer shall have served six (6) months of his term, a petition demanding his removal may be filed with the Clerk of Council, who shall note thereon the name and address of the person filing the petition and the date of such filing, and deliver to such person a receipt therefor and attach a copy thereof to said petition. Such petition may be circulated in separate parts, but the separate parts shall be bound together, numbered, 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 two hundred (200) words of the grounds for the removal. Such petition shall be signed by at least that number of electors which equals twenty percent (20%) of the electors voting at the next preceding regular Municipal election for the office of the officer sought to be recalled. A petition for removal of a ward councilman shall be signed by electors of the ward represented by that councilman. 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 hereof. If the Clerk shall find the petition insufficient, he shall promptly certify the particulars in which the petition is defective, deliver a copy of his certificate to the person who filed the petition, 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 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 sixty (60) days nor more than seventy-five (75) days after the date of such delivery. In the case of a recall election for a ward councilman the election shall be held in the ward represented by that councilman. At such recall election, this question shall be placed upon the ballot: "Shall (naming the officer) be allowed to continue as (naming the office)?" with the provision on the ballot for voting affirmatively or negatively, and in the event a majority of the vote is negative, such officer shall be considered as removed, his 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.

ARTICLE 9 FRANCHISES

SECTION 9.01. Franchise.

The Council may by ordinance grant a non-exclusive franchise to any person, firm or corporation, to construct or operate a public utility on, across, under, over or above any public street or public real estate within the Municipality for a period not in excess of twenty (20) 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 Council shall deem conducive to the public interest. Such franchise may be amended or renewed in the manner and subject to the provisions established by this Charter for original grant of franchises. 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 realty, at the expense of the public utility or public service as shall, in the opinion of Council, be necessary in the public interest.

SECTION 9.02. Extension by Annexation.

Every such grant shall provide that upon the annexation of any territory to the Municipality the portion of any such utility or service that may be located within such annexed territory and upon the streets, alleys, or public grounds thereof, shall thereafter be subject to all the terms of the grant as though it were an extension made thereunder.

SECTION 9.03. Merger.

Should the voters of Barberton and the voters of another municipality or township approve a merger of the two entities, then and in that event, the agreement reached by the Merger Study Commission, and approved by the voters of both communities, shall take precedence over any conflicting provisions of this Charter. (Nov. 5, 1985)

**ARTICLE 10
FINANCES AND TAXATION**

SECTION 10.01. General.

The provisions of the Constitution and laws of the State of Ohio relating generally to budgets, appropriations, deposits, expenditures, debts, bonds, the submission to the electors of bond issues or tax levies, and other fiscal matters of the Municipality, shall be applicable to the Municipality, except as modified by or necessarily inconsistent with the provisions of this Charter and except when provision therefor is made in the Constitution of the State of Ohio.

SECTION 10.02. Contracts and Purchasing.

Contracts and agreements for furnishing the Municipality with labor and materials and for the purchase by the Municipality of supplies, materials, and equipment shall be made after competitive bidding pursuant to plans and specifications approved by Council, in the manner provided by this Charter and by ordinance, or, to the extent not so provided, in the manner provided by general law. Plans and specifications shall be prepared by, or under the supervision of the Board of Control. The Board of Control shall open bids and determine the lowest and/or best bidder. The Board of Control shall be entitled to enter into such contracts and agreements without competitive bidding in such amounts as may be authorized by general law.

**ARTICLE 11
GENERAL**

SECTION 11.01. Effective Date of Charter.

The provisions of this Charter shall become effective January 1, 1974, except that all officials elected on November 6, 1973, including the President of Council, shall complete their respective terms except as otherwise provided in this Charter.

SECTION 11.02. Continuation of Present Officials.

Except as otherwise provided by this Charter, all officers and members of boards and commissions of the Municipality holding elective office or appointive office on December 31, 1973, shall continue in office, and in the performance of their duties until provision shall have been otherwise made in accordance with this Charter for the performance or discontinuance of the duties of any such office. When such provision shall have been made, the term of any such officer or member shall expire and his office be deemed abolished. The powers which are conferred and the duties which are imposed upon any officer, commission, board or department of the Municipality under the laws of the State, or under any ordinance or contract of the Municipality in force on December 31, 1973, shall, if such office, commission, board, or department is abolished by this Charter, be thereafter exercised and discharged by the officer, commission, board, or department upon whom are imposed corresponding functions, powers, and duties by this Charter or by any ordinance or resolution thereafter enacted.

SECTION 11.03. Continuance of Present Employees.

Every employee of the Municipal government on December 31, 1973, shall continue in such employment and thereafter shall be subject in all respects to the provisions of this Charter.

SECTION 11.04. Effect of Charter upon Existing Laws and Rights.

The adoption of this Charter shall not affect any preexisting rights of the Municipality, nor any right or liability or pending suit or prosecution either on behalf of or against the Municipality 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 this Municipality shall continue in effect until lawfully amended or repealed.

SECTION 11.05. Transfer of Records and Property.

All records, property, and equipment whatsoever of any office, commission, board, or department or part thereof, all the powers and duties of which are assigned to any office, commission, board, or department shall be transferred and delivered to the office, commission, board, or department to which such powers and duties are so assigned. If part of the powers and duties of any office, commission, board, or department or part thereof are by this Charter assigned to another office, commission, board, or department, all records, property, and equipment relating exclusively thereto shall be transferred and delivered to the office, commission, board, or department to which such powers and duties are so assigned, as the Mayor shall direct.

SECTION 11.06. Oath of Office.

Every officer of the City shall, before assuming the duties of his office, take and subscribe to an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Ohio and the Charter of the Municipality, and faithfully, honestly, and impartially to discharge the duties of his office. (Nov. 4, 1980)

SECTION 11.07. Conflict of Interest.

No member of Council or any officer or employee of the Municipality, elective or otherwise, shall have any financial interest, direct or indirect, in any contract with or sale to the Municipality of any materials, supplies, or services, or any land or interest in land, or any financial interest, direct or indirect, in any contract with, or expenditure of money by, the Municipality other than his fixed compensation and expenses of travel. Any person who wrongfully and willfully violates this section is guilty of malfeasance in office and shall thereafter be ineligible to hold office in the Municipality, in addition to other penalties provided by law. Any contract or agreement made in violation of this section shall be voidable at the option of Council.

SECTION 11.08. 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 11.09. Meetings Open to the Public.

All regular and special meetings of Council and all boards and commissions of the Municipal government at which any formal action is to be taken or decision rendered shall be open to the public as per Section 121.22 of the Ohio Revised Code. (Nov. 5, 1996; Nov. 4, 1997; Nov. 8, 2005)

ARTICLE 12
AMENDMENTS TO CHARTER

SECTION 12.01. Methods and Procedure.

The Council may, by affirmative vote of two-thirds (2/3) of its entire membership, submit to the electors any proposed amendment or amendments to this Charter; or upon petition signed by not less than ten percent (10%) of the 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.

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 to 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.

SECTION 12.02. Charter Review Commission.

In January, 1980, and each fifth (5th) year thereafter, the Mayor shall, with confirmation by Council, appoint a commission of seven (7) qualified electors of the Municipality, no more than four (4) of whom are members of the same political party. No member shall hold an elective office, appointment or employment in the government of this Municipality. The members of the Charter Review Commission shall serve until their duties as provided herein are completed. The members shall serve without compensation. The Charter Review Commission shall, in meetings open to the public, review the Municipal Charter, and, no later than August 1 of the same year, recommend to Council such amendments, if any, to this Charter, as in its judgment, are conducive to the public interest. Council may submit to the electors any such proposed amendments to this Charter in accordance, in each instance, with the Constitution of Ohio.