

CHARTER
CITY OF
DEFIANCE, OHIO

EDITOR'S NOTE: The Charter of the City of Defiance, Ohio, was approved by the voters on November 8, 1983. Dates appearing in parentheses following a section heading, if any, indicate that the section was amended or enacted on the date Given.

TABLE OF CONTENTS

PREAMBLE

ARTICLE I. INCORPORATION, POWERS, FORM OF GOVERNMENT, GENERAL PROVISIONS

- Sec. 1.01 Name and Boundaries
- Sec. 1.02 Form of Government
- Sec. 1.03 Powers Granted
- Sec. 1.04 Manner of Exercise of Powers
- Sec. 1.05 Construction
- Sec. 1.06 Amendment to Charter
- Sec. 1.07 Charter Review
- Sec. 1.08 Effect of Partial Invalidity
- Sec. 1.09 Meetings Open to the Public
- Sec. 1.10 Interpretation
- Sec. 1.11 Removal from Office

ARTICLE II. THE CITY COUNCIL

- Sec. 2.01 Number, Selection, Term (11-4-14)
- Sec. 2.02 Qualifications (11-3-09)
- Sec. 2.03 Organization
- Sec. 2.04 Vacancies (11-4-14)
- Sec. 2.05 Quorum
- Sec. 2.06 President of Council and Duties (11-4-14)
- Sec. 2.07 Compensation (11-7-89)
- Sec. 2.08 Council Employees
- Sec. 2.09 Rules and Journal of Council
- Sec. 2.10 Meetings and Special Meetings
- Sec. 2.11 Ordinances and Resolutions
- Sec. 2.12 Powers of Council

ARTICLE III. MAYOR/ADMINISTRATOR

- Sec. 3.01 Election and Term
- Sec. 3.02 Qualifications
- Sec. 3.03 Compensation
- Sec. 3.04 Filling Vacancy
- Sec. 3.05 Executive Powers
- Sec. 3.06 Legislative Powers
- Sec. 3.07 City Administrator
- Sec. 3.08 Qualifications

ARTICLE IV. NOMINATIONS AND ELECTIONS

- Sec. 4.01 Conduct of Elections
- Sec. 4.02 Special Elections
- Sec. 4.03 Outcome of Elections
- Sec. 4.04 Petition Signature Requirements
- Sec. 4.05 Appointments to Elective Office

ARTICLE V. INITIATIVE, REFERENDUM AND RECALL

- Sec. 5.01 Initiative
- Sec. 5.02 Referendum
- Sec. 5.03 Referral by Council to the Electors
- Sec. 5.04 Removal from Office and Recall (11-3-09)

ARTICLE VI. DEPARTMENTS AND DIVISIONS

- Sec. 6.01 Creation of Departments
- Sec. 6.02 Department Heads
- Sec. 6.03 Department of Finance
- Sec. 6.04 Department of Law
- Sec. 6.05(a) Department of Service and Safety (11-8-94)
- Sec. 6.05(b) Selection of Police and Fire Chiefs and Assistant Chiefs (11-8-94)
- Sec. 6.06 Sale of Municipally-Owned Utilities

ARTICLE VII. BOARDS AND COMMISSIONS

- Sec. 7.01 Civil Service Commission
- Sec. 7.02 Planning Commission
- Sec. 7.03 Board of Zoning and Building Appeals (11-7-89)
- Sec. 7.04 Human Relations Commission
- Sec. 7.05 Parks and Recreation Board (11-8-94)
- Sec. 7.06 Defiance Municipal Library Board
- Sec. 7.07 Additional Boards and Commissions

ARTICLE VIII. TAXATION

- Sec. 8.01 General
- Sec. 8.02 Limitation on Tax Rate
- Sec. 8.03 Limitation of Debt

ARTICLE IX. TRANSITIONAL PROVISIONS

- Sec. 9.01 Transition Provisions and Effective Dates of Charter
- Sec. 9.02 Continuation of Present Officials
- Sec. 9.03 Continuance of Present Employees
- Sec. 9.04 Effect of Charter on Existing Laws and Rights
- Sec. 9.05 Transfer of Records and Property

**CHARTER
CITY OF
DEFIANCE, OHIO**

PREAMBLE

We, the people of the Municipality of Defiance, in the County of Defiance, and in the State of Ohio, in order to insure an orderly system of self-rule for the common good of our citizens, children and posterity, do hereby ordain and establish the following Charter.

**ARTICLE I
INCORPORATION, POWERS, FORM OF GOVERNMENT, GENERAL PROVISIONS**

Section 1.01 Name and Boundaries.

The inhabitants of the City of Defiance, Defiance County, Ohio, within the corporate limits as established at the time of the adoption of the Charter, or as thereafter established in the manner provided by law, shall be and continue to be a municipal corporation, under the name of "The City of Defiance". The corporation will hereinafter be referred to as the City.

Section 1.02 Form of Government.

The form of government provided in this Charter shall be known as the "Mayor-Council Plan." The powers and functions of the City government shall be distributed among the City, its citizens, and various officers, bodies, boards and commissions as provided in this Charter.

Section 1.03 Powers Granted.

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

Section 1.04 Manner of Exercise of Powers.

All such powers shall be exercised in the manner prescribed in this Charter, or if not prescribed herein, in such manner as shall be provided by ordinance of the Council, and when not prescribed in this Charter or provided by ordinance of Council, then such powers shall be exercised in the manner provided by the general laws of the State of Ohio until the Council shall provide a different manner of exercising such powers by ordinance.

Section 1.05 Construction.

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

Section 1.06 Amendment to Charter.

This Charter and any section thereof may be amended as provided by the Constitution of the State of Ohio, by submission of the proposed amendment or amendments to the electors of the City. If any such proposed amendment shall be approved by a majority of the electors voting thereon, it 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 higher number of affirmative votes, not less than a majority, shall become a part of the Charter. In the event that two conflicting amendments to the Charter are approved at the same election by a majority of the total number of votes cast, the one receiving the higher number of affirmative votes shall be the amendment to the Charter.

Section 1.07 Charter Review.

In January, 1989, and in January each five (5) years thereafter, the Council may appoint five qualified electors of the City, holding no other employment in the government of the City, as members of the Charter Review Commission. Such Commission shall review the Charter of the City, and within six (6) calendar months after such appointment, recommend to Council such alterations, revisions and amendments, if any, to the Charter, as in its judgment are desirable. The Council shall submit to the electors any such proposed alterations, revisions or amendments to this Charter in accordance in each instance with the provisions of the Constitution of Ohio. The members appointed to the Charter Review Commission shall serve without compensation. Meetings of the Charter Review Commission shall be open to the public.

Section 1.08 Effect of Partial Invalidity.

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

Section 1.09 Meetings Open to the Public.

All regular and special meetings of Council and all boards and commissions of the City government shall be subject to the Ohio Revised Code on Open Meetings.

Section 1.10 Interpretation.

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

Except as otherwise expressly provided in this Charter, or as the context otherwise requires, the masculine term or pronoun includes the feminine, the singular term includes the plural and the plural term includes the singular. The time within or by which any action is to be taken is required to be done by any of the provisions of this Charter shall be computed by excluding the first day and including the last day, except that when the last day falls on Saturday, Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Saturday, Sunday or a legal holiday.

In order that a ready means may be at hand for reconciling any conflicts, resolving any inconsistencies and clarifying any obscurities which may be discovered in the language of the Charter, the power is hereby vested in the Council to interpret the various sections and parts of the Charter in harmony with the spirit thereof, by ordinance, resolution or other measure of said Council adopted by the affirmative vote of at least two-thirds (2/3) of its members.

Section 1.11 Removal from Office.

Whenever in this Charter certain acts on the part of City officials or employees are described as constituting malfeasance or misfeasance in office, the procedure for complaint, trial and judgment thereon shall be that prescribed in the Ohio Revised Code.

ARTICLE II THE CITY COUNCIL

Section 2.01 Number, Selection, Term.

All legislative authority, expressed or implied, shall be vested in the elected Council of the City of Defiance.

There shall be three members elected at-large and one member from each ward. All Council members shall be elected for four (4) year terms, beginning January 1 following the Municipal elections, except as provided in Article IX, Section 9.01. Candidates for election to terms beginning on and after January 1, 2016, shall be nominated by petition conforming to the requirements of Ohio law then in effect and be elected in a nonpartisan election. No primary election shall be held for the nomination of candidates after November 4, 2014, and any vacancy occurring after November 4, 2014, shall be filled in the manner provided by Section 2.04. (Amended November 4, 2014)

Section 2.02 Qualifications.

No person shall be eligible to be a member of Council unless he or she is a qualified elector of the City and has been a resident of the City and, in the case of a ward Council member of the respective ward which he or she represents, for one (1) year immediately prior to his or her election or appointment, and no member shall serve as a member of Council unless he or she shall continue to reside in and be an elector of the City and, in the case of a ward Council member, of the respective ward which he or she represents throughout the term of office. Except as otherwise provided herein, no member of Council shall hold any other public office, or any other office or employment with the City of Defiance.

Council, by a majority vote, shall be the sole and final judge of the qualifications of its members. Any member of Council who shall cease to possess or who violates any of the qualifications herein enumerated shall forfeit his or her office. Removal of a Council member shall follow the procedure set forth in Section 1.11 of this Charter. Failure of any member of Council to maintain said qualifications shall not render void or ineffective any action of the Council taken during the time he or she was not qualified. (Amended 11-3-09)

Section 2.03 Organization.

Within seven (7) days after January 1 following the Municipal elections, as provided herein or as determined by a majority of Council members, the Council shall meet for the purpose of organization and shall elect one of its members to serve as its President Pro Tem, who shall preside at meetings in the absence of the President of Council.

Section 2.04 Vacancies.

Should a vacancy occur on Defiance City Council (including the President of Council), the Council shall select and appoint a replacement by majority vote within 30 days. If the Council fails to fill a vacancy within 30 days, the President of Council shall appoint a replacement within 15 days of Council's failure to do so. If the Council fails to fill a vacancy in the office of President of Council within 30 days, the Mayor shall appoint a replacement within 15 days of Council's failure to do so. Appointed replacements shall serve until a successor is elected and qualified to hold office for the unexpired term. If Ohio statutes then in effect do not provide for the election of a successor, the appointed replacement shall hold office for the unexpired term.

If a majority of the Council, for any reason, shall vacate their positions on Council, any elector of the City may appeal to the Court of Common Pleas of Defiance County to appoint the required number of new members from the list of registered voters to fill the vacancies on Council. The new members shall serve until the end of the terms of the former Council members whose positions they fill by Court appointment. (Amended November 4, 2014)

Section 2.05 Quorum.

A majority of the members of Council shall constitute a quorum for the transaction of business at any meeting of Council, but a number less than a quorum may adjourn the meeting from time to time and compel the attendance of absent members in such manner and under such penalties as Council may prescribe. At any meeting at which a quorum is present, any action may be taken by the affirmative vote of a majority of the members of Council present, except that the passage of ordinances and resolutions shall require a majority of those elected or appointed to Council.

Section 2.06 President of Council and Duties.

The President of Council shall be elected from the City-at-large during the regular Municipal election in November 1983. The term of office shall be for four (4) years beginning January 1 after the Municipal election. Candidates for election to terms beginning on and after January 1, 2018, shall be nominated by petition conforming to the requirements of Ohio law then in effect and be elected in a nonpartisan election. No primary election shall be held for the nomination of candidates after November 4, 2014, and any vacancy occurring after November 4, 2014, shall be filled in the manner provided by Section 2.04. The President of Council shall preside at all meetings of Council, but shall render a vote only in case of a tie. When the Mayor is absent or for any reason unable to perform the duties of Mayor, the President of Council shall become the acting Mayor and, during such periods, shall be invested with the same powers and be required to perform the same duties as Mayor. While the President of Council is absent from office or acting Mayor, the President Pro Tem shall perform the duties of President of Council. (Amended November 4, 2014)

Section 2.07 Compensation.

The salary of Council members shall be established by ordinance, but no member of Council, at the time of the enactment of any ordinance increasing such salaries, shall receive the benefit of any such increase during his or her then current term of office. Any change in the salary of members of Council shall be effective commencing with the terms of office of members of Council elected at the next regular Municipal election; said ordinance providing for a change in salary shall be passed on or before the filing deadline for declaration of party candidacy for members of Council. (Amended November 7, 1989)

Section 2.08 Council Employees.

Council shall appoint a Clerk of Council and may appoint other employees who shall serve at the pleasure of Council and shall perform such duties as Council may require. Compensation shall be determined by Council for all employees of Council.

Section 2.09 Rules and Journal of Council.

Council shall adopt its own rules and shall keep a journal of its proceedings. Voting upon any ordinance or resolution shall be by roll call and the vote of each member shall be entered upon the journal.

Section 2.10 Meetings and Special Meetings.

After the meeting for organization, the Council shall meet at such times as may be prescribed by its rules, regulations or ordinance, but it shall hold regular meetings at least twice during each calendar month.

Special Meetings: 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 upon the written request of the Mayor or President of Council or of three 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. Notice, in writing, of each such special meeting called, except by vote of Council, shall be given to each member of Council and the Mayor by

serving the same on each of them personally or by leaving a copy thereof at his or her usual place of residence not less than twenty-four (24) hours prior to such meeting. Public notice of such meetings must comply with the Ohio Revised Code. Service of such notice may be waived in writing and shall be deemed conclusively to be waived by attendance at such a special meeting. In the event that a special meeting is called by a vote of Council at a meeting from which the Mayor or any member of Council is absent, written notice of such special meeting shall be given each absentee in the manner hereinbefore described.

Section 2.11 Ordinances and Resolutions.

1. Each proposed ordinance or resolution shall be introduced in written or printed form and the adoption, effective date, revision or amendment and signing thereof, shall be in the manner provided by the laws of the State of Ohio except as otherwise in this Charter provided.

2. Ordinances and resolutions of a general or permanent nature, or granting a franchise, or creating a right, or involving the expenditure of money or the levying of a tax, or the purchase, lease, sale or transfer of property, shall be published once in a newspaper of general circulation in the City, except that in the case of such an ordinance or resolution containing more than 1,000 words in the recitals and text thereof, it shall be sufficient to publish an abstract of the ordinance, except the annual budget of the City of Defiance which shall be published in total. If there is no newspaper of general circulation in the City, Council may prescribe some other method of publication or giving notice of ordinances and resolutions.

3. Council shall establish an Administrative Code, prescribing the manner of giving notice of all other ordinances, resolutions, orders, proclamations, reports and notices required by law or by this Charter or by ordinance to be published and any other acts or proceedings of the City which Council deems it proper to publish or give notice.

4. The Council may adopt model or standard codes prepared and published by public or private agencies on such matters as building construction, plumbing, heating, ventilating, air conditioning, electric wiring, smoke regulation, fire prevention and other similar regulatory subjects by reference to the date and source of the code without reproducing the same in full in the ordinance. In all cases in which such a code shall be adopted by reference, publication of the code, at length, by the City, shall not be required. At least six copies of all such codes shall be kept in the office of the Clerk of Council for reference and consultation by interested persons during regular office hours, and additional copies shall always be available for sale, at cost, by the Clerk of Council.

5. All proposed ordinances shall be reviewed and/or revised by the City Law Director before enactment of the same.

6. In all appropriation ordinances, the purpose and the amount must be stated in the ordinance.

7. All ordinances must have the following enacting clause wording ("Be it enacted by the Council of the Municipality of Defiance that..."). Resolution wording should be ("Be it resolved by the Council of Defiance that...").

Section 2.12 Powers of Council.

Council as a body shall have and possess the authority to:

1. Create, change and abolish additional boards and commissions not created by this Charter. Members of created boards and commissions shall be appointed by the Mayor with the advice and consent of a majority of Council.

2. Advise and consent to the appointments by the Mayor of members of boards and commissions created by this Charter. A majority vote of Council shall be required to approve.

3. Adopt an Administrative Code which shall provide in detail the organization of the Municipal Government, define the powers and duties of each organizational unit and define the administrative procedures to be followed, subject to the provisions of this Charter, and after consultation with the Mayor. Amendments to and revisions of the Administrative Code shall be made by Council after consultation with the Mayor. Where the Administrative Code is silent, with such exceptions as provided by this Charter, the officers and employees of the City shall have, and may exercise, all powers and duties provided for similar officers and employees by General Law.

4. Fix the number of employees in the various departments of the City and fix the rate of their compensation and may require any officer, employee or member of any department, board or commission of the City, whether elected or appointed, to furnish a bond for the faithful performance of their duties and provide for payment by the City of the premium for such bond.

5. Employ a qualified accountant to make an audit of the financial affairs of any office or department of the City whenever such audit is deemed necessary by Council.

6. Inquire into the conduct of any office, department or agency of the City.

7. Make investigations of any office, department or agency of the City.

8. Cause subpoenas to be issued for witnesses and require the production of books and papers which may be necessary in the conduct of any hearing or investigation.

9. Refer any criminal violation within City Government to either the City or County Prosecutor for the appropriate court action.

10. Provide, by ordinance, the procedure to be adopted in all bidding in which the City of Defiance is involved.

11. Purchase, lease, sell and dispose of property.

Council shall have power to do all things necessary and proper to enforce the provisions of this Charter.

ARTICLE III MAYOR/ADMINISTRATOR

Section 3.01 Election and Term.

The Mayor shall be elected at the regular Municipal election held in the year 1983, and every fourth year thereafter, for a term of four (4) years. His or her term shall commence and he or she shall assume office on the first day of January next following such election. He or she shall serve until his or her successor is elected and qualified.

Section 3.02 Qualifications.

The Mayor shall be a qualified elector of the City for at least one (1) year prior to his or her election, and shall continue to be an elector therein through his or her term of office, failing which he or she shall forfeit his or her office. He or she shall not hold any other full-time position.

Section 3.03 Compensation.

The Council shall fix the salary schedule of the Mayor and if the salary is thereafter to be changed in respect to a succeeding term of office, such change shall be made by Council not later than the first day of January immediately preceding the commencement of a new term of office of the Mayor and shall become effective upon the commencement of such term. The salary of the Mayor may, with his or her consent, be decreased or relinquished during his or her term of office.

Section 3.04 Filling Vacancy.

In the event the office of Mayor shall become vacant, it shall be filled within thirty (30) days by the Central Committee of the party of the former Mayor who are electors of the City. If the vacancy is not filled within thirty (30) days, a special election shall be held. If the unexpired term is six (6) months or less, the President of Council shall fill the remainder of the term.

In the absence of the Mayor, the President of Council shall conduct the business of the City.

Section 3.05 Executive Powers.

1. The Mayor shall be the Chief Executive Officer of the City. He or she shall supervise the administration of the affairs of the City and shall exercise control over all departments and divisions thereof. He or she shall be the chief conservator of the peace within the City and shall cause all laws and ordinances to be enforced therein.

2. The Mayor shall possess all powers and privileges granted by this Charter, by the Ohio Revised Code and by the Constitution of the State of Ohio.

3. He or she shall be recognized by the Governor of the State for purposes of military law and recognized by the Courts for all civil processes involving the City.

4. He or she shall be responsible for the preparation and submission of the annual estimate of receipts and expenditures and of appropriation measures and for furnishing to the Council full information on the financial condition and needs of the Municipality. He or she shall be responsible for the faithful observance and performance of the conditions imposed in favor of the City or its inhabitants by any franchise or contract to which the City is a party.

5. The Mayor shall have the power to appoint the City Administrator, the Law Director and the Finance Director, with the advice and consent of the majority of Council.

6. Except as otherwise provided by this Charter, the Mayor shall have the power to appoint, promote, transfer, suspend, reduce or remove any officer or any non-elected employee of the City.

7. The Mayor may call a special session of Council, by written request through the office of the Clerk of Council under the provisions of this Charter.

8. The Mayor shall perform duties as prescribed by ordinance and by the Charter.

Section 3.06 Legislative Powers.

1. General. The Mayor should attend meetings of Council but shall have no vote therein. The Mayor may, however, take part in the discussion upon all matters under consideration by Council and may introduce and propose ordinances and resolutions, and if the adoption of the same shall be moved by a member of Council, they shall be considered and acted upon as if introduced and proposed by a member of Council.

2. **Veto Power.** Every ordinance and resolution of the Council shall be signed by its President and shall be promptly presented to the Mayor. If the Mayor approves such ordinance or resolution, he or she shall sign and return it within five (5) days after its passage or adoption by Council. If he or she does not approve it, he or she shall return it to the Council in such five (5) day period together with a written statement of his or her objections, which statement shall be entered in its entirety on the Journal of Council. The Council may reconsider the vote on the passage of such legislation disapproved by the Mayor not later than thirty (30) days after the date upon which the Mayor returned the same to Council with his or her objections. If, on reconsideration, such legislation is approved by at least two-thirds of the members of Council, it shall take effect at the time of the vote of such approval or at such later date as shall be specified in such ordinance or resolution. If any ordinance or resolution shall not be returned by the Mayor within five (5) days after its passage or adoption by Council it shall become effective in the same manner as if he or she had signed it. The Mayor may approve or disapprove, in the manner provided above, the whole or any item of an ordinance appropriating money. The item or items so disapproved shall be returned to the Council for its consideration and shall be void unless repassed by the Council in the manner herein prescribed, but otherwise his or her approval or disapproval shall cover the entire ordinance or resolution.

3. **Charter Amendments.** The Mayor may not veto an ordinance by Council submitting a Charter Amendment to the vote of the people.

Section 3.07 City Administrator.

There shall be a City Administrator whose appointment and removal shall be as stipulated in this Charter for the appointment and removal of department heads. He or she shall be the principal managerial aide to the Mayor and shall perform such full-time duties as may be assigned to him or her by the Mayor and this Charter.

Section 3.08 Qualifications.

The City Administrator shall be chosen on the basis of his or her executive, administrative and managerial qualifications as judged by the adequacy of his or her training and his or her successful experience in private or public administration. At the time of his or her appointment, he or she need not be a resident (elector) of the City, but during his or her tenure of office, he or she must become a resident and elector of the City within six (6) months after taking office.

**ARTICLE IV
NOMINATIONS AND ELECTIONS**

Section 4.01 Conduct of Elections.

Council shall have the authority to mandate elections by appropriate arrangements with the County Board of Elections. All elections of this City shall be conducted according to the provisions of the Ohio Revised Code, except as otherwise provided in this Charter. Where the Charter is silent, the provisions of the Ohio Revised Code shall be followed.

Section 4.02 Special Elections.

The Council may at any time, by ordinance or resolution, order a special election, the purpose of which shall be set forth in the ordinance or resolution.

Section 4.03 Outcome of Elections.

The outcome of elections involving issues shall be determined by a simple majority of those voting.

Section 4.04 Petition Signature Requirements.

The percentage of electors required to sign any petition provided for herein shall be based upon the total vote cast at the last preceding General Municipal Election.

Section 4.05 Appointments to Elective Office.

Any person who is appointed to an elective office shall continue in office until a successor is elected and qualified.

**ARTICLE V
INITIATIVE, REFERENDUM AND RECALL****Section 5.01 Initiative.**

The electors of this City shall have the same right and power to initiate or propose any ordinance or resolution as is now or may be hereafter provided by the Constitution and laws of Ohio.

Section 5.02 Referendum.

The electors of this City shall have the same right and power to approve or reject any ordinance or other measure passed by the Council as is now or may be hereafter provided by the Constitution and laws of Ohio.

Section 5.03 Referral by Council to the Electors.

By a two-thirds (2/3) vote of the members elected to the Council, any pending ordinance or resolution may be referred to the electors of the City at a general, primary or special election. The action of referral shall be taken by resolution, and such resolution shall be passed not less than sixty (60) days prior to the date of the primary or general election at which such referral ordinance or resolution is to be submitted. In the event that such ordinance or resolution is to be referred for approval or rejection at a special election, the Council shall fix a date for such special election at a date not less than sixty (60) days after the date of the passage of the resolution to refer, and the Clerk of Council shall cause notice of the special election to be published on the same day of each week for two consecutive weeks in a newspaper determined by Council to be in circulation in the City. At such primary, general or special election, this question shall be placed upon the ballot: "Shall an (ordinance or resolution) providing: (the wording contained in the title of the proposed ordinance or resolution shall be inserted here) be adopted?"; with the provision on the ballot for voting affirmatively or negatively. In the event a majority of those voting on the issue shall be in the affirmative, the ordinance or resolution shall go into immediate effect, without the need for further publication.

Section 5.04 Removal from Office and Recall.

The electors shall have the power to remove officer of the City holding an elective position. The procedure for recall shall be as provided by Section 705.92 of the Ohio Revised Code on the date the Petition is filed with the Board of Elections. (Amended 11-3-09)

**ARTICLE VI
DEPARTMENTS AND DIVISIONS****Section 6.01 Creation of Departments.**

The administrative functions of the City shall be carried out by a Department of Finance, a Department of Law, a Department of Service and Safety and such divisions of these departments as may be created by ordinance after consultation with the Mayor. Divisions under each department shall be assigned by Council under its authority to pass an Administrative Code. Pending the adoption of such a Code by Council, the Mayor may establish temporary divisions by administrative order.

The department heads of Law, Finance, Service and Safety and the Mayor shall constitute the Board of Control. Their duties shall include conducting daily business, establishing policy, dealing with emergencies and other duties as defined by Council in the Administrative Code.

Section 6.02 Department Heads.

Each department head shall be appointed by the Mayor with the advice and consent of a majority of Council. Two or more departments may be directed by the same person, and the Administrator may serve as the director of one or more departments in addition to his or her duties as Administrator when so instructed by the Mayor. Department heads may be removed by the Mayor as provided for in this Charter. Under the Administrative Code, Council, by a majority vote, shall give each department head an initial two (2) year contract. After two (2) years, the Mayor shall review the contract of each department head annually and recommend for renewal or for termination thereof. Under this Charter, five of seven Council votes shall be required to reverse the recommendation of the Mayor. If the department head had been formerly covered under the Defiance City Civil Service System, upon removal he or she may revert to his or her former position under the Civil Service System.

Section 6.03 Department of Finance.

The Finance Director shall perform those functions performed by the auditor and treasurer of a city under the general laws of Ohio. He or she shall have the authority to appoint lesser officials of the Department of Finance with the advice and consent of the Mayor.

He or she shall be the fiscal officer of the City, and shall be responsible for the accounting, collection and custody of funds and control over disbursements. He or she shall countersign all bonds and notes issued by the City and perform such other functions as may be assigned by ordinance or order of the Mayor.

The Finance Director shall be a full-time position, and the Director must reside within the City limits of Defiance. If not a resident at the time of appointment, he or she must become a resident and elector within six (6) months after taking office.

Section 6.04 Department of Law.

The Director of the Department of Law shall be known as the Law Director. He or she shall be an attorney-at-law, admitted to practice law in the State of Ohio. The Law Director shall perform such duties as may be assigned to the office of the Law Director by law, as well as those imposed by the Administrative Code. He or she shall be the appointing authority for the Department of Law, with the advice and consent of the Mayor.

Beginning January 1, 1986, the Law Director shall become a full-time position. The Director appointed at that time and thereafter must become a resident and elector of the City within six (6) months after taking office.

The Law Director and his or her assistants may not serve as counsels to any school district, county, township or other municipality, political subdivision or local government. He or she may represent the Defiance City School District pursuant to a contract approved by such School District and the City Council, with any compensation under such contract for such services being paid into the City's treasury.

Section 6.05 (a) Department of Service and Safety.

The City Administrator shall direct the Department of Service and Safety. The City Administrator shall be the appointing authority of the Department. Police and Fire Division Heads shall remain under Civil Service due to the nature of their enforcement responsibilities. The City Administrator shall be a resident of the City or shall become a resident and elector of the City within six (6) months of appointment. The City Administrator's Office shall be a full-time position.

(Amended November 8, 1994)

Section 6.05 (b): Selection of Police and Fire Chiefs and Assistant Chiefs.

When a vacancy occurs in the position or office of Police Chief, Fire Chief, Assistant Police Chief or Assistant Fire Chief of the City of Defiance, Ohio, this Charter permits filling these vacancies from inside and outside the Police or Fire Divisions.

The Civil Service Commission, on the basis of merit and fitness, shall determine the qualifications of each applicant hereunder by administering such written examinations, psychological examinations and evaluations, oral assessments and examinations, and such other examinations, evaluations, and/or screening processes and procedures as said Civil Service Commission deems appropriate and practicable in determining the relative capacity and abilities of the applicants to discharge the duties and responsibilities of the position or office to which they aspire. Thereafter, on the basis of its evaluation and determination, the Civil Service Commission shall certify to the City Administrator the names of not more than three (3) applicants who are eligible to serve in the position or office which is vacant and to which they aspire whom the Civil Service Commission deems best qualified and able to perform the duties and responsibilities of said position.

The City Administrator shall select any candidate certified which, in his or her judgment, would best serve the City. The Police Chief, Fire Chief, Assistant Police Chief and Assistant Fire Chief shall be chosen on the basis of their executive, administrative, and managerial qualifications as judged by the adequacy of their training and successful experience in law enforcement and/or fire protection.

Once a Police Chief, Fire Chief, Assistant Police Chief or Assistant Fire Chief is selected, in all other respects (including the probationary period), they shall remain under Civil Service due to the nature of their enforcement responsibilities.

(Amended November 8, 1994)

Section 6.06 Sale of Municipally-Owned Utilities.

Council shall pass no ordinance authorizing the City to cease to operate or to sell, lease, abandon or in any other way dispose of any Municipally-owned utility, unless the question of such proposed action shall first have been submitted to the electors of the City at a general election and approved by a majority of the electors voting on such a question.

ARTICLE VII BOARDS AND COMMISSIONS

Section 7.01 Civil Service Commission.

There shall be a Civil Service Commission appointed in accordance with and having the powers provided by general law for Civil Service Commissions in Ohio, not inconsistent with the provisions of this Charter.

All persons specified by law, ordinance or Charter as involved in directing the functions of the Municipal government of Defiance, Ohio, shall be classified as officials. All persons engaged for hire shall be classified as employees.

All compensated positions in the service of the City shall be in the classified service and shall be appointed pursuant to competitive examinations, as provided by the laws of the State of Ohio, except:

1. Members of Council,
2. The Clerk of Council and other employees of the Council,
3. The City Administrator,
4. The Mayor,
5. The Director of Law and assistant law directors,
6. The Director of Finance,
7. Appointed secretaries of the Mayor and department heads,
8. Members of boards and commissions established by this Charter or by ordinance of Council,
9. Volunteer members of the Division of Fire and members of the auxiliary police unit within the Division of Police,
10. The secretary of each board and commission established by this Charter, provided that if such secretary holds other employment within the classified service of the City, this section shall not exempt such person from the requirement of competitive examination to hold such other employment,
11. Persons of exceptional professional or scientific qualifications engaged as consultants,
12. Unskilled laborers as defined and authorized by the Civil Service Commission, and,
13. Temporary employees who are not employed for more than ninety (90) continuous days or for more than ninety (90) days in one year.

The Civil Service Commission shall be governed by the laws of Ohio applicable to cities and its own rules not inconsistent with this Charter.

Section 7.02 Planning Commission.

There shall be a City Planning Commission of at least seven members as herein provided. The Mayor, the City Administrator, the Chairperson of the Parks and Recreation Board during their tenure in their respective offices and four citizen members of the Planning Commission, who shall be qualified electors and residents of the City, and shall be appointed for terms of four (4) years each. The four citizen members of the Planning Commission appointed by the Mayor pursuant to this section shall be as follows: one member shall be appointed for a one (1) year term, one member shall be appointed for a two (2) year term, one member shall be appointed for a three (3) year term and one member shall be appointed for a four (4) year term, and thereafter, each citizen member shall be appointed for a four (4) year term and shall be continued in office until his or her successor is appointed. The citizen members of the Planning Commission shall not hold any other Municipal office or employment with the City.

Chairperson and Vice-Chairperson. At the first meeting of the Planning Commission each year, the members thereof shall elect a Chairperson and Vice-Chairperson by a majority vote of all members of the Commission. The Chairperson shall preside at all meetings of the Commission and shall have the right to vote on any matter before the Commission. In the absence of the Chairperson, the Vice-Chairperson shall act in his or her capacity with all rights and duties of the Chairperson. The Chairperson and Vice-Chairperson shall serve until their successors are elected as hereinabove provided.

Secretary. At the first meeting of the Planning Commission each year, the members thereof shall appoint a secretary, who may be a member of the Commission, a person holding other employment with the City or a person from without the employment of the City. The secretary, unless a member of the Commission, shall not have any voting rights. The compensation, if any, of the secretary of the Planning Commission shall be fixed by Council, except that a member of the Commission who is appointed secretary shall not receive any compensation.

Meetings and Organization. The Planning Commission shall hold at least one regular meeting in each month during the year. A majority of the members of the Planning Commission shall constitute a quorum. The secretary of the Commission shall keep an accurate journal of the proceedings and actions of the Planning Commission. By a majority vote of the members of the Planning Commission, rules may be adopted governing the conduct and government of meetings and providing for regular and special meetings in addition to the minimum number of meetings required herein.

Powers and Duties. The Planning Commission shall conduct studies and surveys and prepare reports and maps relative to the overall planning of the growth, development, redevelopment and renewal of the City, and may make such recommendations relative thereto to the Council as it feels are in the best interest of the City. The Planning Commission shall continuously review and report to the Council its recommendations concerning the City's capital improvement programs and subdivision, platting and zoning ordinances and regulations. The Planning Commission shall cooperate with other governmental or private planning agencies to secure the maximum benefit to the City of the work, studies, surveys and reports of such other planning agencies.

Other powers and duties of the Planning Commission shall be established by the Council by ordinance, but until such ordinances shall be passed, it shall possess such other powers and duties as are provided by the general laws of Ohio, to the extent that such general laws do not conflict with the provisions of this Charter.

Section 7.03 Board of Zoning and Building Appeals.

There is hereby created and established a Board of Zoning and Building Appeals which shall consist of five members as hereinafter provided. The Mayor shall appoint as members of the Board of Zoning and Building Appeals one member from the Planning Commission who shall serve a one (1) year term and one (1) member who shall be a qualified elector of the City who shall be appointed to a one (1) year term. In addition to the members hereinabove provided, three (3) citizen members of the Board of Zoning and Building Appeals, who shall be qualified electors of the City and shall not hold any other Municipal office, shall be appointed for terms of five (5) years each by the Mayor; provided that the first persons appointed as citizen members by the Mayor pursuant to this section shall be appointed as follows: one member shall be appointed for a one (1) year term, one member shall be appointed for a two (2) year term and one member shall be appointed for a three (3) year term and shall continue in office until their successors are appointed and thereafter citizen members shall serve for five (5) year terms.

Chairperson. At the first meeting each year of the Board of Zoning and Building Appeals, the members of said Board shall elect a Chairperson from its membership by a majority vote of the members appointed to said Board and the Chairperson so elected shall serve at the pleasure of the Board and until a successor is elected.

Secretary. At the first meeting of the Board of Zoning and Building Appeals each year, the members thereof shall appoint a secretary, who may be a member of the Board, a person holding other employment with the City or a person from without the employment of the City. The secretary, unless a member of the Board, shall not have any voting rights. The compensation, if any, of the secretary shall be fixed by Council, except that a member of the Board who is appointed secretary shall not receive any compensation.

Meetings and Organization. A majority of the members of the Board of Zoning and Building Appeals shall constitute a quorum. Unless otherwise provided by ordinance, rules may be adopted by a majority vote of the members of the Board of Zoning and Building Appeals to provide for the number of meetings and special meetings, and to provide for the conduct and government of meetings.

Powers and Duties. The Board of Zoning and Building Appeals shall hear and decide appeals made for exceptions to or overruling of determinations made by administrative officials or agencies in the application of resolutions, ordinances, regulations, measures and orders governing zoning and building in the City. They shall grant variances from such resolutions, ordinances, regulations, measures or orders as may be required to afford justice and avoid unreasonable hardship, subject to such procedures and reasonable standards as shall be established by Council. It shall include, but not be limited to, the existence of practical difficulties or unnecessary hardships in the strict interpretation of the aforesaid resolutions, ordinances, regulations, measures or orders, provided that the granting of such exception or variance will be in harmony with the general purpose and intent thereof. The Board of Zoning and Building Appeals shall, in addition, exercise such power and carry out such duties not inconsistent with the foregoing as may be prescribed in the Zoning Ordinance or the Administrative Code.
(Amended November 7, 1989)

Section 7.04 Human Relations Commission.

There shall be a Human Relations Commission appointed in accordance with and having the powers provided by general law for Human Relations Commissions in the cities of Ohio.

In all respects, the Human Relations Commission shall be governed by the laws of Ohio applicable to cities, and its own rules shall not be inconsistent therewith.

Section 7.05 Parks and Recreation Board.

There shall be a Parks and Recreation Board which shall consist of nine (9) members appointed by the Mayor with the advice and consent of City Council. Members of the Parks and Recreation Board shall not hold any other Municipal office or employment, except as otherwise provided in this Charter, and shall be residents and electors of the City. Three (3) of the initial members would serve a one (1) year term, and three (3) would serve a two (2) year term, and three (3) would serve a three (3) year term, one (1) of whom shall be nominated by the Board of Education of the City of Defiance School District. No individual would be allowed to serve more than two (2) consecutive three (3) year terms unless the initial members whose term expires after the first year are reappointed. A member in this category could serve seven (7) years. Except for the initial members, all terms of appointment will be for three (3) years. If the Board of Education of the Defiance City School District shall fail to nominate a member within sixty (60) days after the effective date of this section, or within sixty (60) days after any vacancy shall occur for which said Board of Education is to make the appointment, or if it is determined by any Court that said

Board of Education does not have the power under the laws of the State of Ohio to make such appointment, then and in those events the Mayor shall make the appointment of such member. The terms of all current Park Board members shall terminate December 31, 1994, however, current Park Board members can be considered for reappointment. New appointments will be made effective January 1, 1995. Board members would serve without compensation. The Director of Parks & Recreation would serve in an advisory capacity only.

When considering appointments, it is recommended the Mayor consider balanced citizen representation from user groups, not to exclude non-users.

Chairperson. At the first meeting of the Parks and Recreation Board each year, the members of said Board shall elect a Chairperson from its membership by majority vote of the members appointed to said Board. The Chairperson so elected shall serve one (1) year at the pleasure of the Board and until a successor is elected by said Parks and Recreation Board.

Vice-Chairperson. At the first meeting of the Parks & Recreation Board each year, the members of said Board shall elect a Vice-Chairperson from its membership by a majority vote of the members appointed to said Board. The Vice-Chairperson shall service one (1) year at the pleasure of the Board and until a successor is elected by said Parks and Recreation Board. The duty of the Vice-Chairperson is to become the Acting Chairperson in case of the absence of the said Chairperson.

Secretary. At the first meeting of the Parks and Recreation Board each year, the members thereof shall appoint a secretary, who may be a member of the Board, a person holding other employment with the City or a person from without the employment of the City. The secretary, unless a member of the Board, shall not have any voting rights. The compensation, if any, of the secretary of the Parks and Recreation Board shall be fixed by Council, except that a member of the Board who is appointed secretary shall not receive any compensation. The secretary shall keep an accurate journal of the proceedings and actions of the Parks and Recreation Board.

Meetings and Organization. A majority of the members of the Parks and Recreation Board shall constitute a quorum, and a majority vote of the members appointed to such Board shall be necessary to take any action and for the passage of motions. Rules providing for the number and manner of calling meetings and special meetings, and providing for the conduct of meetings, may be adopted by a majority vote of the members appointed to the Board.

Powers, Duties and Functions. The Parks and Recreation Board shall promote the development, maintenance and operation of the parks, playgrounds and recreational facilities and programs of the City; render assistance to and cooperate with organized groups conducting recreation programs; stimulate interest in the care and preservation of historical and scenic sites; make recommendations to the Council concerning the general state of the City's recreation and parks programs and facilities; and perform such other duties and functions as the Council shall require by ordinance; provided, however, that the power to acquire, purchase and accept as donations, or to sell, lease or otherwise dispose of, real property for parks and recreation purposes shall be vested in the Council. (Amended November 8, 1994)

Section 7.06 Defiance Municipal Library Board.

There shall be a Municipal Library Board appointed in accordance with and having the powers provided by general law for Municipal Library Boards in cities.

Section 7.07 Additional Boards and Commissions.

Not inconsistent with the provisions of this Charter, City Council, with the advice of the Mayor, has the authority to create additional boards and commissions to promote the health and general welfare of the City of Defiance.

**ARTICLE VIII
TAXATION****Section 8.01 General.**

The laws of the State of Ohio relating generally to budgets, appropriations, debts, bond assessments and other fiscal matters of the City shall be applicable to the City, except as modified by or necessarily inconsistent with provisions of this Charter or ordinances of Council enacted pursuant thereto, and except when provision therefor is made in the Constitution of the State of Ohio.

Section 8.02 Limitation on Tax Rate.

The power of Council to levy taxes shall be subject to the limitations now or hereafter provided by the Constitution and the general laws of the State of Ohio, and nothing contained in this Charter shall be construed as authorizing the levy of any taxes in excess of such limitations without a vote of the people. Should the Constitution or general laws of the State of Ohio increase or decrease the limitation of City income tax above or below one percent, that limitation of one percent shall still apply unless the increase or decrease shall receive the approval of the electorate at a general or special election. Other provisions of this Charter 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 the State of Ohio, nor shall the authority of Council to submit additional levies to a vote of the people under the authority of the Constitution or laws of the State of Ohio be deemed impaired or abridged by reason of any provision of this Charter.

Section 8.03 Limitation of Debt.

The City shall not incur debt in excess of the limitations imposed by the Constitution and the laws of the State of Ohio.

**ARTICLE IX
TRANSITIONAL PROVISIONS****Section 9.01 Transition Provisions and Effective Dates of Charter.**

For the purpose of providing an equitable transition for the provisions of this Charter, the following provisions shall be observed:

A. The City Auditor elected at the municipal election on November 8, 1983 shall assume the duties of the Finance Director effective January 1, 1984, and shall serve a two year term through December 31, 1985, and shall thereafter be succeeded by the Mayoral appointee, whose appointment shall become effective January 1, 1986.

B. The Law Director elected at the municipal election on November 8, 1983 shall assume the duties of the Law Director effective January 1, 1984, and shall serve a two year term through December 31, 1985, and shall thereafter be succeeded by the Mayoral appointee, whose appointment shall become effective January 1, 1986.

C. The President of Council elected at the municipal election on November 8, 1983 shall serve a two year term. Subsequent terms shall be of four years.

D. The Ward Council Members elected at the municipal election on November 8, 1983 shall serve a two year term, and shall then serve a two year extension of that term until December 31, 1987 at which time their successors shall have been elected and qualified. Subsequent terms shall be of four years.

E. The Council Members-At-Large elected at the municipal election on November 8, 1983 shall serve a two year term. Subsequent terms shall be of four years.

F. For all other intents and purposes, this Charter shall be submitted to the electors of the City of Defiance at the municipal election held no later than November 8, 1983, and all the provisions contained therein, unless otherwise specifically stated, shall become effective January 1, 1984.

Section 9.02 Continuation of Present Officials.

All officers and members of boards and commissions of the City holding elective or appointive office on the effective date hereof shall continue in office and in the performance of their duties until the respective terms for which they were elected or appointed shall have expired. Any such office which is discontinued by this Charter shall thereupon be abolished. The powers which are conferred and the duties which are imposed upon any officer, commission, board or department of the City under general law, or under any ordinance or contract of the City in force on the effective date hereof, shall, if such office, commission, board, or department is abolished or altered by this Charter, be thereafter exercised 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 of the Council thereafter enacted.

Section 9.03 Continuance of Present Employees.

Every employee of the City government on the effective date of this Charter shall continue in such employment and thereafter shall be subject in all respects to the provisions of this Charter.

Section 9.04 Effect of Charter on Existing Laws and Rights.

The adoption of this Charter shall not affect any pre-existing rights of the City, nor any right or liability or pending suit or prosecution, either on behalf of or against the City or any officer thereof, nor any franchise granted by the City, nor pending proceedings for the authorization of public improvements or the levy of assessments therefor. All ordinances and resolutions in force on the effective date of this Charter and not inconsistent with the provisions of this Charter shall continue in full force and effect until amended or repealed by Council.

Section 9.05 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 by or pursuant to the Charter 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 or pursuant to 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, board or department to which such powers and duties are so assigned, as the Mayor shall direct.

