

CITY OF MORAINE MUNICIPAL BUILDING



City Charter

Amended November 2023
Effective 11/21/2023

CITY OF MORAINES, OHIO

Council

Mayor Teri Murphy
Ora Allen, At-Large
Don Burchett, At-Large
Mike Daugherty, Ward 1
Dave Miller, Ward 2
Shirley Whitt, Ward 3
Jeanette Marcus, Ward 4

City Manager Michael Davis
Acting Finance Director Lora Perry
Clerk of Council Amy E. Brown
Law Director Martina Dillon

www.ci.moraine.oh.us

Amended by the Electors of the City of Moraine:
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PREAMBLE

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

DEFINITIONS

Officials - All persons elected to office and invested by law to engage in the direct function of government of the City.

City Officers – City Manager and Department and Division Heads.

City Employees - All other persons hired to perform City functions.

ARTICLE I: THE MUNICIPALITY

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

ARTICLE II: POWERS

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

ARTICLE III: COUNCIL

Section 3.1: Powers

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

Section 3.2: Members and Terms

As established in the general election of 1967, one member of Council shall be elected from each of the four districts (wards) into which the City has been divided and two (2) members of Council and the Mayor shall be elected from the City at large. The successors of the four members of Council elected from the districts (wards) shall be

elected at the general election of November 1971 and every fourth year thereafter. Successors of the members of Council elected from the City at large and the Mayor shall be elected at the general election of November 1969 and every fourth year thereafter. A member of Council's term begins on the first business day of January following his/her election.

Section 3.3: Qualifications

Members of Council shall be qualified electors of the City, residents of the City for at least three (3) years, and, if elected by district (ward), a resident of the district (ward) to be represented for a minimum of six (6) months prior to the date the nominating petition is filed.

Section 3.4: Removal and Vacancies

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

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

- A. A member who ceases to be a qualified elector of the City or a resident of the district (ward) represented shall immediately forfeit their seat on Council as required by this Charter or the laws of the State of Ohio;
- B. A member holds any salaried public office of the City;
- C. A member violates any expressed provision of this Charter; or,
- D. A member who violates any other provision of the laws of the State of Ohio as applicable to public officials and for which the penalty includes forfeiture of office.

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

Whether or not Council fills the vacancy, the Clerk of Council, by authority of this Charter, shall request the Montgomery County Board of Elections to hold a special election to

fill the vacancy for the unexpired term. Such special election shall be held at the next scheduled primary election in March or May (or as otherwise scheduled pursuant to the laws of the State of Ohio) or general election in November, whichever is earlier and occurs at least one hundred (100) days after the vacancy. The individual elected in such special election will take office immediately following election certification by the Montgomery County Board of Elections and shall serve the balance of the unexpired term.

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

Section 3.5: Salaries

The base salary of a Council Member and Mayor shall be Three Thousand Dollars (\$3,000.00) annually. In addition, a Council Member and the Mayor shall receive, as additional salary, the sum of Fifty-Seven Dollars (\$57.00) for each Regular Council Meeting and each Committee of the Whole Meeting attended each month, not to exceed a total of Two Hundred and Twenty-Eight Dollars (\$228.00) per month. In addition, the Mayor and Deputy Mayor shall receive, as additional salary, the sum of One Hundred Dollars (\$100.00) for each pre-scheduled court session attended each month, not to exceed a total of Five Thousand Two Hundred Dollars (\$5,200) per year. Council Members and the Mayor shall receive additional salary of Fifty Dollars (\$50.00) for each Special Meeting attended, not to exceed eight (8) special meetings per year, if the Special Meeting is for one of the following purposes: budget purposes, personnel hiring purposes, or workshops. The salaries of the Council Members and the Mayor shall be changed only by a majority vote of the electors of the City of Moraine at a special or general election.

Section 3.6: Travel Expense Reporting and Reimbursement Requirements

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

Members of Council and the Mayor shall, by ordinance, provide for the filing of expense reports, which must include a detailed listing of costs with receipts attached. The receipt requirement, however, does not apply to the use of standardized per diem amounts to

cover meals and other incidental expenses. An expense report must be filed with the Director of Finance within ten (10) business days after performance of their official duty. Said ordinance shall further provide that any unused funds advanced by the City for expenses must be accounted for and repaid within said ten (10) business day period. If a member of Council or the Mayor fails to file an expense report or fails to repay advanced funds within said ten (10) business day period, the travel privileges of that member of Council or Mayor shall immediately be suspended and the advance funds will be recovered through garnishment of said member of Council's or Mayor's salary until the advanced funds are repaid.

Section 3.7: Mayor

The Mayor must be a qualified elector of the City and a resident of the City for three (3) years prior to the date the nominating petition is filed. A Mayor who ceases to be a resident or qualified elector of the City must immediately forfeit the office.

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

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

The Mayor will have judicial powers and other powers and privileges to which Mayors are entitled under the general laws and constitution of the State of Ohio in civil and criminal cases as provided by the laws of Ohio, including all statutes now and hereafter enacted until such jurisdiction is placed elsewhere by law.

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

Section 3.8: Deputy Mayor

At the Regular Organizational meeting (See Section 3.9), Council shall choose one of its members as Deputy Mayor who will exercise all powers and perform all duties of the Mayor in case of an absence or disability. In the event that the Deputy Mayor is temporarily absent or disabled, Council will choose one of its members to temporarily fill the Deputy Mayor position. Should the office of Mayor become vacant, the Deputy Mayor will assume the authority and duties of the Mayor until the person elected to serve

the remainder of the unexpired term takes office. Upon the Mayor's request, the Deputy Mayor may assist in the performance of certain duties ordinarily performed by the Mayor.

Section 3.9: Meetings

Council shall hold Regular meetings at such times as may be prescribed by its rules but not less frequently than once a month. All meetings of Council are open to the public, except Executive Sessions as authorized by laws of the State of Ohio and the ordinances of the City.

A Regular Organizational meeting shall be held during the first week in January of even numbered years.

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

Four (4) members of Council constitutes a quorum to do business, but a lesser number may adjourn in the event of an emergency or sudden illness of a member of Council.

Section 3.10: Annual Audit

An annual financial audit shall be performed by either the State of Ohio or an independent public accounting firm. The City may disagree with the comments or citations made by the auditors and provide a written response(s).

Section 3.11: Code of Ethics

- A. Personal Financial Interest. Any City officer, official or employee who, by reason of employment with, ownership or investment in any business, has a direct or indirect financial interest in: (a) any contract with the City; (b) the sale of any land, material, supplies or services from or to the City; or (c) a contractor or vendor supplying the City, must make known any and all such interests and must refrain from voting upon or otherwise participating in any capacity in the making of such sale or performance of such contract. Any City officer, official or employee who knowingly and willfully conceals such financial interest shall be guilty of malfeasance in office or position and will forfeit their office or position. Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by Council. The term "ownership" does not include an ownership or investment interest constituting not more than 1% interest in a publicly traded corporation.

- B. Acceptance of Gifts. No City officer, official, or employee shall solicit, loan or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the City officer, official or employee with respect to that person's duties. (Ref. Ohio Rev. Code Section 102.03)
- C. Conflicts of Interest, Ethics and Campaign Financing. The laws of the State of Ohio governing conflicts of interest, criminal misbehavior, ethics, financial disclosure by municipal officials and employees, campaign financing, and election practices shall apply under this Charter.

ARTICLE IV: LEGISLATION

Section 4.1: Ordinances and Resolutions

Legislative action taken by Council shall be by ordinance or resolution. Ordinances establish permanent rules of conduct or of government. Resolutions express the policy or opinion of Council and deal with a specific matter and are temporary in nature and do not establish permanent or general legislation.

Section 4.2: Actions Requiring an Ordinance

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

- A. Adopting or amending an administrative code or establishing, altering, or abolishing any City department, division or office, other than those established by this Charter.
- B. Providing for a fine or other penalty or establishing a rule or regulation for violation of which a fine or other penalty is imposed.
- C. Granting or renewing a franchise.
- D. Granting or renewing any permit, license, or authorization to construct, operate or expand any sanitary landfill, waste-disposal facility or waste processing facility.
- E. Regulating the rate charged for its services by a public utility.
- F. Authorizing the borrowing of money.

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

H. Amending or repealing any ordinance previously adopted.

Section 4.3: Majority Required

An ordinance requires an affirmative vote of four (4) members of the Council for passage unless otherwise provided herein (See Sections 4.7 and 4.8).

A resolution requires an affirmative vote of the majority of the members of Council present for passage, being defined as a quorum in Section 3.9 of the Charter

Section 4.4: Procedure of Passage of Ordinances

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

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

Section 4.5: Second Reading

For the second reading, at the time and place so published by posting, such ordinance shall be read by title only. All interested persons shall be given an opportunity to be heard prior to the final vote. After such reading, the Council may finally adopt such ordinance, except if an amendment changes it in substance. When an ordinance is amended, it shall not be finally adopted until a summary of the amended section is published by posting in not less than three (3) of the most public places in the City as determined by the Council and on the City of Moraine website, together with the time and place, when and where, such amended ordinance will be further considered. Publication by posting shall be at least one (1) week prior to the date set forth in the summary of the ordinance.

Section 4.6: Final Adoption

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

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

Section 4.7: Rule Suspension

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

Section 4.8: Emergency Measures

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

Section 4.9: Effective Date

The effective date of any ordinance shall not be earlier than thirty (30) days following its adoption, except as otherwise provided in the preceding section, and in the second paragraph of this section. A resolution takes effect immediately upon its adoption.

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

ARTICLE V: THE CITY MANAGER

Section 5.1: Appointment

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

Section 5.2: Qualifications

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

Section 5.3: Powers and Duties

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

- A. To see that this Charter, the law, and the ordinances and resolutions of the City are faithfully observed and enforced.
- B. Except as provided in this Charter, to appoint or remove all officers and employees of the City, all such action to be upon merit and fitness alone, and subject to the merit service provisions.
- C. To exercise control over all departments created by Council. The City Manager shall not exercise control over the Director and employees of the Department of Law or the Department of Finance.
- D. To recommend to Council such measures as may be deemed necessary or expedient.
- E. To keep the Council fully advised as to the condition and needs of the City.
- F. To prepare and submit to Council such reports as may be required by that body.
- G. To submit to the Council as such date as Council shall designate, a budget, which shall include:
 - (1) An itemized estimate of the expenses of conducting each department.
 - (2) Comparison of such estimates with the corresponding items of the expenditure for the last two complete years and with the expenses of the current fiscal year, plus an estimate of the expenditures necessary to complete the current fiscal year.

- (3) Reasons for the proposed increases or decreases for such items as expenditures compared to the current fiscal year.
 - (4) A separate schedule of each department showing the things necessary for the department to do during the year, and the things to do if funds permit.
 - (5) A statement of the amounts to be appropriated to pay the debts of the City.
 - (6) Such other information as may be required by the Council
- H. To prepare and submit to the Council as of the end of the fiscal year, a complete report on the administrative activities of the City for the preceding year.
 - I. To be in charge of all purchases of the City.
 - J. To execute and deliver all contracts for the City, except franchises for public utility service.
 - K. To attend all meetings of the Council, with the right of discussion but without a vote.
 - L. To perform such other duties as may be described by this Charter or required by ordinance or resolution of Council.
 - M. To appoint, with the approval of Council, such advisory committees as may be deemed necessary and to discharge them with the approval of Council, when their duties have been completely discharged.
 - N. To exercise control over all official maps of the City and to keep such maps indexed to support legislation and otherwise current.

Section 5.4: Capital Program

- A. Submission to Council. The City Manager shall prepare and submit to the Council a five-year capital program at least three (3) months prior to the final date of submission of the budget.
- B. Contents. The Capital Program shall include:
 - (1) A clear general summary of its contents.
 - (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements.

(3) Cost estimates, methods of financing and recommended time schedule for each such improvements.

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

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

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

Section 5.5: Interference by Council

Members of Council, the Mayor or any of its board or commission members shall not interfere in any way with the appointment or removal of any of the officers or employees in the administrative service except as provided in this Charter. Except for the purpose of inquiry or investigation incident to carrying out their powers, duties and responsibilities as set forth in this Charter, the Mayor and members of Council shall deal with that part of the administrative service for which the City Manager is responsible, solely through the City Manager.

Section 5.6: Resignation

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

Section 5.7: Removal

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

Section 5.8: Absence or Disability of City Manager

In the event that the City Manager shall be absent, he or she shall notify all administrative positions and Council by electronic means. He/She may designate a qualified administrative officer to perform the duties of the City Manager until the City Manager's return. In the event that the City Manager becomes unable to perform their duties due to illness or disability, Council will convene to appoint, by resolution, a City Manager in the interim.

ARTICLE VI: ADMINISTRATIVE DEPARTMENTS

Section 6.1: Departments

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

The administrative activities of the City shall be carried out by the departments listed above and such other departments as may be created by ordinance after consultation with the City Manager.

At the head of each department there shall be a full-time or part-time director, except for the Departments of Public Service and Public Safety. The City Manager, with the approval of Council, shall appoint the directors of all departments other than the Directors of the Departments of Law and Finance, who shall be appointed by Council. Each director shall be an administrative officer of the City and have supervision and control of their department subject to the direction of the City Manager except the Departments of Law and Finance who are subject to the direction of Council. With the approval of Council, the City Manager may serve as the head of one or more such departments, except that the City Manager may not serve as Director of Law or Director of Finance. The City Manager may appoint one person as the head of two or more departments. Residency requirements shall be consistent with applicable laws of the State of Ohio as determined by Council at the time of appointment and thereafter.

Section 6.2: Creation of New Departments

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

Section 6.3: Department of Law

- A. Establishment: The Department of Law shall be headed by a Director of Law who shall be an attorney-at-law qualified to practice in the State of Ohio and serve at the will of Council.
- B. Duties of the Law Director: The Law Director serves as legal counsel for the City in connection with City affairs, and, subject to the direction of Council, shall represent the City in all proceedings in court or before administrative boards. The Law Director serves the City Manager, the Mayor, Council, the administrative departments and the officers and boards and commissions of the City. The Department of Law shall act as the prosecuting attorney before the Mayor or before any appeal of decisions of the Mayor. The Law Director shall perform all other duties imposed upon City Solicitors by the laws of the State of Ohio unless otherwise provided by ordinance and shall perform such other duties as Council may impose upon him/her consistent with the office.

Section 6.4: Department of Finance

- A. Establishment: There shall be a Department of Finance, the head of which shall be the Director of Finance and shall serve at the will of Council.
- B. Duties of the Finance Director: The Department of Finance shall perform those functions customarily performed by the Auditor and the Treasurer under State law. The Director of Finance shall be the fiscal officer of the City and shall be responsible for accounting, collection and custody of public funds, and control over disbursements. The Director of Finance shall advise the City Manager and the Council concerning the financial condition of the City and shall examine all payrolls, bills and other claims against the City and shall issue no warrants unless he finds that the claim is in proper form, correctly computed, duly approved and that an appropriation has been made therefore. The Finance Director shall counter sign all bonds and notes issued by the City and shall perform such other functions as may be assigned by ordinance or by order of the Council.

Section 6.5: Department of Public Service

The Department of Public Service shall have charge of construction, operation and maintenance of all public works, properties and improvements. The superintendent of the divisions under this department reports directly to the City Manager.

Section 6.6: Department of Public Safety

The Department of Public Safety includes the Police and Fire Divisions and such other divisions set forth by ordinance not inconsistent with this Charter or general law of the State of Ohio. The chief of the divisions under this department reports directly to the City Manager.

Section 6.7: Municipal Clerk

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

ARTICLE VII: COMMISSIONS AND BOARDS

Section 7.1: Planning Commission

- A. Membership: The Planning Commission shall consist of five (5) electors appointed by Council to serve without compensation for terms of two (2) years. The first three (3) electors appointed shall serve for two (2) years, and the remaining two (2) for one (1) year. Thereafter, appointments shall be made for two (2) year terms. Council, by majority vote of four (4) of its members shall choose a successor to fill any vacancy of electors.
- B. Powers and Duties: The Planning Commission shall maintain a comprehensive development plan, and the official maps of the City. The Planning Commission serves as the platting authority for the City and shall make recommendations to Council on amendments to the text of the City's Zoning Code or to the official zoning map of the City. The Planning Commission will have such duties, rights and powers as may be granted by the laws of the State of the Ohio, or by the ordinances or resolutions of the City.
- C. Appeals from Planning Commission to Council: Any person, firm, corporation, or any officer, department, board or agency of the City, or any elector of the City who has been affected by any final decision of the Planning Commission in regard to its platting and subdivision duties, or its duties to approve and implement a comprehensive general plan, may appeal from such final decision to the Council of the City by filing a petition with the Clerk of Council within fifteen (15) days from the date of the decision and setting forth the basis for the appeal.

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

Section 7.2: Board of Zoning Appeals

- A. Membership: There shall be a Board of Zoning Appeals composed of five (5) electors appointed by the Council to serve without compensation for terms of two (2) years. The first appointed elector shall serve: three (3) for two (2) years and two (2) for one (1) year. Thereafter, appointment shall be for two (2) year terms. Council, by a majority vote of four (4) of its members, shall choose a successor to fill any vacancy.
- B. Powers and Duties: It shall be the duty of the Board of Zoning Appeals to hear and determine appeals related to exceptions and variations in the application of the provisions of the zoning ordinances and from any other ordinances, regulations, rules, restriction or limitation or orders of any administrative officials or agency where the Board of Zoning Appeals has by ordinance or resolution been granted authority to hear and determine such matter.

Section 7.3: Merit System Commission

- A. Membership: The Merit System Commission shall consist of five (5) electors of the City appointed by the Council to serve a term of two (2) years without compensation. Thereafter, members shall be appointed for a term of two (2) years and until their successors have been appointed and qualified. The members of the Merit System Commission shall avoid all conflicts of interest and specifically no member shall participate or vote on any matter involving a relative of such member.
- B. Powers and Duties: The Merit System Commission shall provide by rule for determination of merit and fitness as the basis for appointment and promotion in the service of the City as required by the Constitution of Ohio relative to civil service, and for appeals from the action of the City Manager or other officer in any case of transfer, reduction or removal. The action of the Commission shall be final.
- C. Classification of Service: The Merit Service of the City is hereby divided into classified and unclassified service.
- D. The Classified Service: The classified service shall include only the following full-time employees:

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

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

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

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

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

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

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

Section 7.4: Parks and Recreation Board

- A. Membership: There shall be a Parks and Recreation Board composed of five (5) electors, appointed by the Council in staggered terms, to serve without compensation for terms of two (2) years after the expiration of the current terms of the City Manager appointee and the Mayor appointee.
- B. Powers and Duties: The Parks and Recreation Board may recommend a program to the City Manager for the conduct of public parks and recreation facilities and programs.

Section 7.5: Removal of Members of Boards and Commissions

Any Board or Commission member may be removed for just cause by an affirmative vote of four (4) or more members of Council. Council's decision to remove a member of a Board or Commission shall be final.

ARTICLE VIII: ELECTIONS

Section 8.1: Time of Elections

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

Section 8.2: Nomination for Council and Mayor

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

Section 8.3: Requirements for Elections

The district (ward) candidate receiving the highest number of votes shall be declared elected. The two (2) at large candidates receiving the highest number of votes shall be declared elected. The mayoral candidate receiving the highest number of votes shall be declared elected. In the event that there is a tie between candidates receiving the highest number of votes, the Montgomery County Board of Elections will conduct a recount and hold a special runoff election if necessary.

ARTICLE IX: INITIATIVE, REFERENDUM AND RECALL

Section 9.1: Initiative

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

Section 9.2: Referendum

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

Section 9.3: Recall

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

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

- A. The petition shall be on 8½" by 14" paper, and each page shall be printed on both sides and shall include a Montgomery County Board of Elections Certificate of Validity at the bottom of the second side.
- B. The title of the petition shall include the name and office of the person whose removal is sought as well as a statement of not more than two hundred words of the grounds for removal.
- C. The title, as described above, shall appear on every page. Pages may be circulated separately, but the separate pages must be bound together and filed as a single instrument.

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

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

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

- E. All qualified electors may sign the petition, regardless of whether they voted in the election of the officer whose removal is sought.
- F. The signature section of the petition shall be divided into the following four columns in this specific order: printed name, printed address, signature and date.
- G. The petition shall include the following warning: "Whoever commits election falsification is guilty of a felony of the fifth degree."
- H. The petition shall include the following circulator statement: "I, _____, declare under penalty of election falsification that I am a qualified elector of the State of Ohio, City of Moraine, and I reside at the address appearing below my signature; that I am the circulator of the foregoing petitions containing _____ signatures; that I witnessed the affixing of signature; that all signers were to the best of my knowledge and belief qualified to sign; and that every signature is to the best of my knowledge and belief the signature of the person whose signature it purports to be."

Prior to circulation, the petition for recall shall be submitted to the Clerk of Council for review. The Clerk of Council shall approve the petition as to form and shall certify that the petition meets the above criteria as to form within two business days of the receipt of said petition. If the Clerk of Council determines the petition does not meet the required criteria as to form, the Clerk shall notify the person who submitted the petition of the specific defects of said petition. The Clerk shall make a record of such determination and notification.

The completed and approved petition for recall shall be filed with the Montgomery County Board of Elections. The Board of Elections shall note thereon the name and address of the person filing the petition and the date of such filing. Within ten business days of the receipt of said petition for recall, the Montgomery County Board of Elections shall certify the number of valid signatures of qualified electors contained on the petition for recall and shall determine if the completed petition meets the requirements of Section

9.3(D). The Board of Elections shall deliver a copy of their certificate to the person who filed the petition for recall and shall make a record of such delivery. If the Board of Elections determines the number of valid signatures of qualified electors on the petition is insufficient, the person who filed the petition shall be allowed a period of twenty days from the date such determination is delivered to make the petition sufficient.

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

ARTICLE X: GENERAL PROVISIONS

Section 10.1: Ordinances in Effect

All existing ordinances, resolutions and other acts of the City which are not inconsistent with this Charter, shall remain in effect until amended or repealed by Council.

Section 10.2: Vested Rights

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

Section 10.3: Debt and Tax Limitations

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

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

Section 10.4: Succession of Powers

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

Section 10.5: Amendment

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

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

Charter Review Commission: At the first meeting of the Council in January 1973, and every five (5) years thereafter, Council shall appoint a Charter Review Commission of not less than nine (9) electors of the City who serve without compensation. It shall be the duty of the Commission to review the existing Charter and make recommendations as it may see fit for revision. The Commission will submit a report to Council not later than August 1 of the same year. Thereupon, Council may take such action as it deems warranted with respect to such recommendation. The Commission shall conduct its affairs pursuant to "Roberts Rules of Order."

Section 10.6: General Powers

The City shall have and may exercise, any and all powers, expressed or implied, conferred to it by the Constitution of the State of Ohio as if specifically written herein.

Section 10.7: Precedence

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

Section 10.8: Effect of Partial Invalidity

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

Section 10.9: Official Bonds

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

Section 10.10: Oath of Office

Elected officials, appointed or hired employees and board or commission members of the City shall, before entering upon the duties of their office or appointment, take and subscribe to the following oath or affirmation, to be filed and kept in the Clerk of Council's office:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Ohio; that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Moraine and will faithfully discharge the duties of the office of _____."

Section 10.11: Political Belief, Assembly and Activity

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

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

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

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

Section 10.12: Annual Report

The City shall publish an annual report covering the activities of the City.

Section 10.13: Management of Funds

Council shall have exclusive authority to determine the management and deposit of all City funds. The Finance Director shall provide periodic reports to the City Council regarding the management and deposit of City funds. Funds shall be deposited and invested following State of Ohio law.

Section 10.14: Codification

Once the current codification is effected, Council shall, at least every two years, provide for the preparation of a general codification of the City's ordinances having the force and effect of law. The general codification shall be adopted by ordinance of Council, printed promptly in bound or loose-leaf form together with this Charter and updated on the City's website together with any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Ohio, and such other codes of technical regulations and other rules and regulations as Council may specify. This compilation shall be known and cited officially as the Moraine Codified Ordinances (MCO). Copies of the MCO shall be furnished in paper form to City officials who require the updates in that form; otherwise, the MCO will be available on the City's website for usage and review.

Section 10.15: Public Documents

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

Section 10.16: Nonsubstantive Changes

The Council is granted the authority by ordinance to provide for nonsubstantive changes in the language of this Charter, including but not limited to changes to make the Charter gender neutral and to provide for renumbering of Sections and Articles as necessary.

ARTICLE XI: FOUNDING PROVISIONS

Section 11.1: Effective Date

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

Section 11.2: Continuance of Office

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

Section 11.3: Division into Districts (Wards)

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

CERTIFICATION

This shall certify that the foregoing is a true and accurate copy of the Charter of the City of Moraine as amended and approved at the November 7, 2023, General Election, the results of which were certified by the Montgomery County Board of Elections November 21, 2023.

A handwritten signature in black ink that reads "Amy E. Brown". The signature is written in a cursive style with a long, sweeping underline.

Amy E. Brown
Clerk of the City of Moraine

Dated: October 2024

