

CHARTER OF THE VILLAGE OF BROOKLYN HEIGHTS, OHIO

EDITOR'S NOTE: The Charter of the Village of Brooklyn Heights, Ohio, was adopted by the voters at a general election held on November 8, 1994. Dates appearing in parentheses following a section heading in the Table of Contents, or following a section in the text, indicate that the section was subsequently enacted, amended or repealed on the date given.

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PREAMBLE

We, the citizens of Brooklyn Heights, in order to secure home rule and the ability to order our affairs to perpetuate the unique character of our community for us and our children, do ordain this Charter as our governing instrument.

ARTICLE I

GENERAL POWERS AND CONFLICTS OF INTEREST

Section 1.01. Name and Change of Name.

The Village shall be known as the Village of Brooklyn Heights. Hereinafter in this Charter, Village shall refer to the Village of Brooklyn Heights. The Council may by a majority vote of all members recommend a change in the name of the Village. The change shall take effect only if it is approved by referendum as specified in Section 8.02(c).

Section 1.02. Powers of the Village.

The Village shall have all powers possible for a Village to have under the Constitution and laws of the State of Ohio as fully and completely as though they were specifically enumerated in this Charter. The municipal corporation now existing as the Village of Brooklyn Heights shall continue to be a body politic and corporate under the name of the Village of Brooklyn Heights and with the same boundaries, with authority to change its boundaries and annex other territory contiguous thereto in the manner authorized by the general laws of Ohio, but no territory shall be detached there from, nor shall the Village be annexed to any other Village or municipality, without the consent of the Council and majority of the electors voting on such questions.

(Nov. 6, 2007)

Section 1.03. Construction of the Charter and Application of the Ohio Revised Code

(a) Construction. The powers of the Village under this Charter shall be construed liberally in favor of the Village, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this Article.

(b) Application of the Ohio Revised Code. All items and activities of Village government not addressed by this Charter shall be conducted according to the appropriate provisions of the Ohio Revised Code.

Section 1.04. Intergovernmental Relations.

The Village may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one (1) or more states or any State civil division or agency, or the United States or any of its agencies.

Section 1.05. Ethical Conduct and Conflicts of Interest

The standards of ethical conduct and avoidance of conflicts of interest for all elected and appointed officers, officials, and employees of the Village shall be those established by the general laws of the State of Ohio.

The civil and criminal penalties imposable for violations of such standards shall be in accordance with the general laws of the State of Ohio.

(Nov. 4, 1997)

Section 1.06. Residency Requirements for Elected Officials.

(a) Residence shall be defined as an individual's place of abode or domicile.

(b) If the residency requirement for any elected official is allegedly violated, Council must hold a public hearing pursuant to Section 2.06 of this Charter within thirty (30) days. If the allegation is substantiated, the office is forfeited. The official shall resign at the next regularly scheduled Council meeting or shall be considered removed.

ARTICLE II

VILLAGE COUNCIL

Section 2.01. General Powers and Duties.

All legislative powers of the Village shall be vested in the Village Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Village by law.

Section 2.02. Composition, Eligibility, Election and Terms.

(a) Composition. There shall be a Village Council composed of seven (7) members elected by the voters of the Village at large for staggered terms.

(b) Eligibility. Only registered voters of the Village who have resided in the Village for three (3) consecutive years immediately prior to election and who continue to be residents during their term of office shall be eligible to hold the office of Council member.

(c) Election and Terms. The regular election of Council members shall be held on the first Tuesday after the first Monday of November in each odd numbered year, in the manner provided by Section 7.03 of this Charter. At the first election under this Charter, November, 1995, three (3) Council members shall be elected, including the member appointed by the Council according to Section 10.05(c). The terms of the four (4) Council members not elected at that time shall continue until the next regular Village election, November, 1997, as defined in Section 7.01. All Council members shall be elected for four (4)-year terms. The terms of Council members shall begin the first (1st) day of January after their election.

(Nov. 4, 1997)

Section 2.03. Compensation.

The Village Council may determine the annual salary of the Mayor and Council members by ordinance, but no such salary increase shall become effective until after the next election for that office.

Section 2.04. Prohibitions.

(a) Holding Other Office. No Council member shall hold any other elected public office during the term for which the member was elected to the Council. If a Council member seeks another elected office, they must vacate their present elected seat on January 1st of the year following the election. No Council member shall hold any other Village office or employment during the terms for which the member was elected to the Council. Nothing in this section shall be construed to prohibit the Council or the Mayor from selecting any current or former Council member to represent the Village on any Village board, commission or committee or on the governing board of any regional or other intergovernmental agency.

(b) Appointments and Removals. Neither the Village Council nor any of its members shall in any manner control or demand the appointment or removal of any Village administrative officer or employee whom the Mayor or any subordinate of the Mayor is empowered to appoint, but the Council may express its views and fully and freely discuss with the Mayor anything pertaining to appointment and removal of such officers and employees.

(c) Interference With Administration. Except for the purpose of inquiries and investigations under Section 2.07, the Council or its members shall deal with Village officers and employees who are subject to the direction and supervision of the Mayor solely through the Mayor, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

(Nov. 4, 1997; Nov. 2, 1999; Nov. 5, 2002)

Section 2.05. Vacancies; Forfeiture of Office; Filling of Vacancies

(a) Vacancies. The office of a Council member shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by this Charter.

(b) Forfeiture of Office. A Council member shall forfeit that office if the Council member: (1) Lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law; (2) Violates any express prohibition of this Charter; (3) Is convicted of a crime involving moral turpitude; or (4) Fails to attend two (2) consecutive regular meetings of the Council without being excused by the Council within a calendar year.

(c) Filling of Vacancies. A vacancy in the Village Council shall be filled for the remainder of the unexpired term, if any, at the next regular Village election following not less than seventy-five (75) days upon the occurrence of the vacancy, but the Council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the Council fails to do so within thirty (30) days following the occurrence of the vacancy, the Mayor shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. Notwithstanding the requirement in Section 2.08(d), if at any time the membership of the Council is reduced to less than five (5), the remaining members may by majority action appoint additional members to raise the membership to five (5).

(Nov. 4, 1997; Nov. 5, 2002; Nov. 7, 2017)

Section 2.06. Judge of Qualifications.

The Village Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. The Council shall have the power, by a general ordinance for that purpose, to set additional standards of conduct for its members beyond those specified in the Charter and may provide for such penalties as it deems appropriate, including forfeiture of office. In order to exercise these powers, the Council shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one (1) or more newspapers of general circulation in the Village at least one (1) week in advance of the hearing. A member charged under this section shall not be able to vote on any issue connected with the charge. Decisions made by the Council under this section shall be subject to judicial review.

(Nov. 4, 1997)

Section 2.07. Investigations and Independent Audit.

(a) Investigations. The Village Council may make investigations into the affairs of the Village and the conduct of any Village department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the Council shall be a misdemeanor punishable by a fine of not more than one hundred dollars (\$100.00), or by imprisonment for not more than ten (10) days, or both.

(b) Independent Audit. The Village Council may provide for an independent annual audit of all Village accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the Village government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three (3) years, but the designation for any particular fiscal year shall be made no later than thirty (30) days after the beginning of such fiscal year. If the State of Ohio makes such an audit, the Council may accept it as satisfying the requirements of this section.

Section 2.08. Officers; Procedure.

(a) Officers. The Village Council shall elect a President Pro Tem at the first Council meeting of every year who shall serve as Mayor during the latter's absence or inability to perform. The President Pro Tem shall assume the office of Mayor upon the vacancy of that office until the next Village election.

(b) Meetings. The Council shall meet regularly twice every month on the first and third Tuesday of the month, except that in the months of June, July and August the Council shall meet once a month on the first Tuesday of the month. Special meetings may be held on the call of the Mayor or of three (3) or more members and, whenever practicable, upon no less than twenty-four (24) hours notice to each member. Except as allowed by State law, all meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session, limited to its own membership, the Mayor, Clerk/Treasurer, Law Director and any other executive officer the Council deems necessary to accomplish the purpose of the closed or executive session, any matter which would tend to defame or prejudice the character or reputation of any person, if the general subject matter for consideration is expressed in the motion calling for such session and final action on such motion is not taken by the Council until the matter is placed on the agenda.

(c) Rules and Journal. The Village Council shall determine its own rules and order of business and shall provide for keeping a detailed journal of its proceedings. This journal shall summarize the major arguments on each issue by name and be a public record.

(d) Voting. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Five (5) members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section 2.05, shall be valid or binding unless adopted by the affirmative vote of four (4) or more members of the Council.

(Nov. 5, 2002)

Section 2.09. Action Requiring an Ordinance.

(a) An ordinance is a legislative act which prescribes a permanent rule to continue in force until repealed. A resolution is an expression of opinion concerning a particular item of business of a temporary nature.

(b) In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the Village Council shall be by ordinance which: (1) Adopt or amend an administrative code or establish, alter, or abolish any Village department, office or agency; (2) Provide for a fine or other penalty or establish a rule or regulation for a violation for which a fine or other penalty is imposed; (3) Levy taxes; (4) Grant, renew or extend a franchise; (5) Authorize the borrowing of money; (6) Convey or lease or authorize the conveyance or lease of any lands of the Village; (7) Regulate land use and development; and (8) Amend or repeal any ordinance previously adopted. Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

(Nov. 4, 1997)

2003 Replacement

Section 2.10. Ordinances in General.

(a) Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one (1) subject, which shall be clearly expressed in its title. The enacting clause shall be "The Village of Brooklyn Heights hereby ordains..." Any ordinance which repeals or amends an existing ordinance or part of the Village Code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing them in brackets or by strikeout type and shall indicate new matters by underscoring or by italics.

(b) Procedure. An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Village Clerk shall distribute a copy to each Council member and to the Mayor, shall file a reasonable number of copies in the office of the Village Clerk and such other public places as the Council may designate, and shall publish the ordinance, together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the publication by at least seventy-two (72) hours, may be held separately or in connection with a regular or special Council meeting, and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the ordinance with or without amendment or reject it. As soon as practicable after adoption, the Clerk shall have the ordinance and a notice of its adoption published and available at a reasonable price.

(c) Effective Date. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of thirty (30) days after adoption or at any later date specified therein.

(d) "Publish" Defined. As used in this section, the term "publish" means to make available for public inspection at the Village Municipal Center and other places as established by Council: (1) The ordinance or a brief summary thereof; and (2) The places where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price.

(Nov. 4, 1997; Nov. 2, 1999)

Section 2.11. Emergency Ordinances

To meet a public emergency affecting life, health, property or the public peace, the Village Council may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, or regulate land use and development. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five (5) Council members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at the time specified in the ordinance. An emergency ordinance may be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(Nov. 4, 1997)

Section 2.12. Codes of Technical Regulations

The Village Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that: (1) the requirements of Section 2.10 for the distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance; and (2) a copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the Village Clerk pursuant to Section 2.13(a). Copies of any adopted code of technical regulations shall be made available by the Village Clerk for distribution or for purchase at a reasonable price.

Section 2.13. Authentication and Recording; Codification; Printing

(a) Authentication and Recording. The Village Clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Village Council.

(b) Codification. The Village Council shall provide for the annual preparation of a general codification of all Village ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form. The general codification, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Ohio, and such codes of technical regulations and other rules and regulations as the Council may specify, shall be available for public inspection and purchase at the Village Municipal Center and other locations as specified by the Council. This compilation shall be known and cited officially as the Village of Brooklyn Heights Code. Copies of the Code shall be furnished to Village officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) Printing. The Village Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the Council. Following publication of the first Village of Brooklyn Heights Code and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Ohio, or the codes of technical regulations and other rules and regulations included in the Code.

ARTICLE III

OFFICE OF THE MAYOR

Section 3.01. Executive Power

The executive power of the Village shall be vested in the Mayor. The Mayor shall be the chief executive officer of the Municipality. The Mayor shall appoint all Village employees provided for by or under this Charter, except for appointive administrative officers, departments headed by elected officials and as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. The Mayor shall appoint administrative officers with the approval of the Council. The Mayor shall have the sole power to remove and suspend Village employees, including administrative officers, subject to

Section 5.06 below. The Mayor shall supervise the administration of the affairs of the Village, and supervise all the departments and divisions thereof, except as otherwise provided by this Charter and for those offices headed by an elected official. The Mayor shall be chief conservator of the peace within the Village and shall see that all laws and ordinances are enforced.

(Nov. 5, 2002)

Section 3.02. Election and Qualifications.

The Mayor shall be elected for a term of four (4) years by a direct vote of the people at the regular Village election. The current term of the Mayor is extended through December 31, 2000. Any candidate for the office of Mayor must be a resident of the Village for three (3) consecutive years immediately prior to the election and shall continue to be a resident during the term of office. (Nov. 4, 1997)

Section 3.03. Annual Message and Reporting to Council

(a) Mayor's Messages to the Council The Mayor shall, at the beginning of each calendar year, and may at other times, give the Council information about the affairs of the Village and recommend measures he or she considers necessary and desirable.

(b) Mayor's Reporting to Council The Mayor shall make such other reports as the Village Council may require concerning the operations of Village departments, offices and agencies subject to the Mayor's direction and control.

Section 3.04. Judicial Powers of the Mayor

The Mayor shall have all the judicial powers now or hereafter granted by the laws of Ohio to mayors of the class of this Municipality.

Section 3.05. Legislative Powers of the Mayor

The Mayor shall preside at all meetings of the Council and may vote in the case of a tie. The Mayor may introduce ordinances and resolutions and take part in the discussion of all matters coming before the Council.

Section 3.06. Absence and Vacancy of Mayoral Office; Succession

(a) Temporary Absence From Office. In the event the Mayor shall be temporarily absent or unable to perform his or her duties, the President Pro Tem shall be the Acting Mayor and shall perform all of the duties and exercise all of the powers of Mayor, including his or her judicial duties. During the temporary absence or disability of the Mayor, the President Pro Tem shall continue to be a Council member with all the powers and duties of a Council member.

(b) Vacancy of Mayoral Office. In the event that Council determines that the Mayor is unable to perform his or her duties because of death, prolonged illness, physical or mental disability or absence from the Village for a period in excess of sixty (60) days, Council may, upon the affirmative vote of five (5) members, after a public hearing is held, declare the office of Mayor vacant. In that event, the President Pro Tem of Council shall thereupon become Mayor and his or her Council office shall become vacant. The Council President Pro Tem shall serve as Mayor for the unexpired term of his or her predecessor or until the beginning of the term of a successor duly elected as hereinafter provided. In case the office of Mayor shall be vacant, a successor for the unexpired term shall be elected as Mayor at the next general or primary Village election, whichever is sooner, provided the general or primary election occurs not less than ninety (90) days from the date on which the vacancy occurs. In the event the primary or general Village election is scheduled to occur less than ninety (90) days from the date of the vacancy, the Council President Pro Tem shall serve until the next following general or primary Village election.

(Nov. 4, 1997)

ARTICLE IV

OFFICE OF CLERK/TREASURER

Section 4.01. Office of the Clerk/Treasurer; Term; Qualifications.

(a) Office of Clerk/Treasurer. The office of Clerk/Treasurer is hereby created and shall perform those duties and possess the authority specified in Section 4.03 below.

(b) Term. The Clerk/Treasurer shall be elected for a four (4)-year term. The term shall begin on the first day of April following the Village election in November and end on midnight, March 31. The current term of the Clerk/Treasurer is extended through March 31, 2001.

(c) Qualifications. The Clerk/Treasurer shall have been a resident and qualified elector of the Village for at least three (3) consecutive years prior to the election and shall continue to be a resident of the Village throughout the term of office. The Clerk/Treasurer shall hold a four-year accounting/finance degree from an accredited college or university and have a

minimum of five (5) years recent accounting experience. Upon qualification for the position, the Law Director shall confirm a candidate's qualifications for the office. The Clerk/Treasurer shall not hold any other elected public office. If the Clerk/Treasurer shall cease to possess any of the qualifications herein enumerated, the office shall be forfeited pursuant to the procedures contained in Section 2.06, but failure to maintain the qualifications shall not render void or ineffective any action in which the Clerk/Treasurer has participated. Nothing in this section shall be construed to prohibit the Council or the Mayor from selecting any current or former Clerk/Treasurer to represent the Village on any Village board, commission or committee or on the governing board of any regional or other intergovernmental agency.

(Nov. 4, 1997; Nov. 5, 2002)

Section 4.02. Vacancy in the Office of Clerk/Treasurer

In case the office of Clerk/Treasurer shall be vacant the Mayor shall appoint an interim Clerk/Treasurer with Council approval. The interim appointee shall serve until a Clerk/Treasurer shall be elected at the next general or primary Village election, whichever is sooner, provided the general or primary election occurs not less than ninety (90) days from the date on which the vacancy occurs. In the event the primary or general Village election is scheduled to occur less than ninety (90) days from the date of the vacancy, the appointee shall serve until the next following general or primary Village election. If the Clerk/Treasurer fails to qualify for the office, a vacancy shall be deemed to exist. Any person appointed to the office by Mayor must meet the qualifications for the office established in Section 4.01(c), except that it may not be necessary that he/she be a resident and qualified elector of the Village.

(Nov. 4, 1997; Nov. 7, 2000; Nov. 6, 2007)

Section 4.03. Duties and Authority of the Office of Clerk/Treasurer

(a) Duties and Responsibilities. The Clerk/Treasurer shall attend all meetings of the Council and keep a record of its proceedings and of all rules, by-laws, resolutions and ordinances passed or adopted which shall be subject to the inspection of all interested persons. In addition, the Clerk/Treasurer shall keep the books of the Village, exhibit accurate statements of all moneys received and expended, of all property owned by the Village and the income derived therefrom, and of all taxes and assessments, and perform all other duties required by this Charter or by ordinance or resolution of Council. The Clerk/Treasurer shall keep an accurate account of all moneys, taxes and assessments due to and all receipts and disbursements made by the Village and of all appropriations made by Council, and shall reserve all moneys due or belonging to the Village. The Clerk/Treasurer shall disburse the Village's funds on the order of any person authorized by ordinance or resolution of Council to issue orders therefor and subject to any further conditions which Council may, by ordinance or resolution, prescribe. The Clerk/Treasurer shall present the Village accounts to Council no less than quarterly and shall perform all other duties required by this Charter or by ordinance or resolution of Council.

(b) Submitting Ordinances and Information to Council. In the performance of his or her duties, the Clerk/Treasurer may present information to the Council and shall be able to submit ordinances and other proposals.

(c) Applicability of the Ohio Revised Code. In the performance of his or her duties, the Clerk/Treasurer shall adhere to all of the requirements of the Ohio Revised Code and appropriate regulations issued under the authority of the Ohio Revised Code.

ARTICLE V

ADMINISTRATIVE DEPARTMENTS, BOARDS AND COMMISSIONS

Section 5.01. General Provisions.

The Village shall have a Law Director and Prosecutor, and the following departments: Police, Fire and Service. Council shall provide by ordinance for the organization and duties not provided for by this Charter. Council may by ordinance establish new administrative offices, departments, boards and commissions, or divisions thereof. The Mayor shall have the power to appoint all members of boards and commissions subject to confirmation by the Council. Council may combine or abolish such offices, departments, boards and commissions, or divisions thereof, subject to any contract rights of officers and employees, as it may deem necessary or desirable, and may authorize one (1) person to be the head of two (2) or more departments, boards, or commissions, or divisions thereof.

Section 5.02. Office of Law Director.

There shall be a Law Director of the Village appointed by the Mayor, subject to confirmation by the Council. The Law Director shall serve as chief legal adviser to the Council, the Mayor and all Village departments, offices and agencies, shall represent the Village in all legal proceedings, except those for which the Office of Prosecutor has authority, and shall perform any other duties prescribed by State law, by this Charter or by ordinance.

Section 5.03. Office of Prosecutor.

There shall be a Prosecutor of the Village appointed by the Mayor, subject to confirmation by the Council. The Prosecutor shall serve as chief legal adviser for criminal issues to the Council, the Mayor and all Village departments, offices and agencies, shall represent the Village in all criminal legal proceedings and shall perform any other duties prescribed by State

law, by this Charter or by ordinance.

Section 5.04. Police Department.

The Chief of Police and such police officers and members of the Police Department as shall be provided for by the ordinances of Council, shall be appointed by the Mayor, subject to confirmation by a majority vote of the members of Council. They shall perform such duties as may be assigned to them from time to time by the Mayor, ordinances of Council and the general laws of the State of Ohio.

Section 5.05. Fire Department.

The Fire Chief and such officers and members of the Fire Department as shall be provided for by the ordinances of Council, shall be appointed by the Mayor, subject to confirmation by a majority vote of the members of Council. They shall perform such duties as may be assigned to them from time to time by the Mayor, ordinances of Council and the general laws of the State of Ohio.

Section 5.06. Personnel System.

(a) Merit Principle. All appointments and promotions of Village officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.

(b) Merit System. Consistent with all applicable Federal and State laws on equal employment opportunity, affirmative action and related topics, the Village Council shall provide by ordinance for the establishment, regulation and maintenance of a merit system governing personnel policies necessary for effective administration of the employees of the Village's departments, offices and agencies, including, but not limited to, promotion and appointments, classification and pay plans, examinations, certification lists, force reduction, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations. In addition, Council shall by ordinance determine which officers are "administrative officers", as that term is used in this Charter.

(c) Suspensions and Removals. The directors of the departments have the exclusive right to suspend any of their deputies, officers, and employees who are under their management and control, for incompetence, gross neglect of duty, gross immorality, habitual drunkenness, failure to obey orders given them by a proper authority, or for any other reasonable or just cause. If an employee is suspended, the director shall immediately certify this in writing, stating the cause for the suspension, to the Mayor and shall serve a true copy of the charges against whom they are made. Within five (5) days after receiving the certification, the Mayor shall inquire into the cause of the suspension and render a judgment on it. If the Mayor agrees with the charges, he or she may suspend, reduce in rank or remove the person from the department. Suspensions for more than three (3) days, reduction in rank, or removal from the department may be appealed to the Village Council within five (5) days from the date of the Mayor's judgment. After reviewing the case in executive session, the Village Council may uphold, dismiss, or modify the decision of the Mayor. Any dismissal of the charges or modification of the Mayor's decision by Council shall require a two-thirds (2/3) vote of all Council members, or the Mayor's decision shall be deemed upheld. In all cases, the person against whom the charges are made shall be able to appeal the action to the appropriate State court as specified in the current Ohio Revised Code.

(d) Collective Bargaining. The Village recognizes the rights of its employees to form and join labor organizations. The Village will negotiate and bargain in good faith with a labor organization representing its employees, and, should a collective bargaining agreement be reached, enter into a valid and enforceable contract with the labor organization. The Village will adhere to the procedures outlined in Ohio R.C. Chapter 4117 for impasse resolution of disputes with its safety forces.

(Nov. 4, 1997; Nov. 2, 1999; Nov. 5, 2002)

Section 5.07. Planning.

Consistent with all applicable Federal and State laws with respect to land use, development and environmental protection, the Village Council shall create a Planning Commission, a Zoning Board of Appeals, and an Architectural Review Board to carry out the planning function and such decision-making responsibilities as may be specified by ordinance. Council also shall adopt a Comprehensive Plan, which shall be reviewed every five (5) years, and updated every ten (10) years, and determine to what extent zoning and other land use control ordinances must be consistent with the Plan. Council shall adopt development regulations, to be specified by ordinance, to be specified by ordinance, to implement the Plan.

(Nov. 5, 2002; Nov. 6, 2007)

ARTICLE VI

FINANCIAL PROCEDURES

Section 6.01. General Financial Procedures.

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

Section 6.02. Limitation on Rate of Taxation

The taxing authority of this Municipality shall be in all respects subject to the limitations thereon provided by the Constitution and laws of Ohio and nothing in this Charter shall be construed to authorize the levying of any taxes by this Municipality in excess of said limitations without a vote of the people.

Section 6.03. Bidding, Contracts and Procurement

Council shall, by ordinance, provide rules and regulations for the bidding of contracts and services for the Village.

ARTICLE VII

ELECTIONS

Section 7.01. Regular Village Elections

Regular Village election means the non-partisan election held on the first Tuesday after the first Monday in November in each odd-numbered year. Regular general elections in this Charter refer to general State elections.

Section 7.02. Nomination of Candidates

The nominating petitions of nonpartisan candidates for election as officers of the Village of Brooklyn Heights shall be signed by not less than twenty-five (25) qualified voters of the Village. Any nominating petition filed under this section shall be filed with the Board of Elections not later than 4:00 p.m. of the ninetieth (90th) day before the day of the general Village election, provided that no such nominating petition shall be accepted for filing if it appears to contain signatures aggregating in number more than three (3) times the minimum number of signatures required by this section. When a petition of a candidate has been accepted for filing by the Board of Elections, the petition shall not be deemed invalid if, upon verification of signatures contained in the petition, the Board of Elections finds the number of signatures accepted exceeds three (3) times the minimum number of signatures required. The Board of Elections may discontinue verifying signatures when the number of verified signatures on a petition equals the minimum required number of qualified signatures.

(Nov. 8, 2012)

Section 7.03. Ballots and Elections

(a) Names on Village Ballots. The names of all candidates for an office at any Village election shall be arranged in a group under the title of that office. Each candidate's name shall have reasonably equal position by rotation as provided by the Ohio Revised Code currently in effect.

(b) Conduct of Elections. All Village elections shall be conducted under the relevant Ohio Revised Code currently in effect for that type of election.

Section 7.04. Recount of Vote When Winning Margin Less Than One-Half Percent of Total Vote

If the number of votes cast in any Village election for the declared winning nominee, candidate, question, or issue, does not exceed the number of votes cast for the declared defeated candidate, question, or issue by a margin of one-half (1/2) of one (1) percent or more of the total vote, the Board of Elections shall order a recount which shall be conducted as provided in the Ohio Revised Code currently in effect.

ARTICLE VIII

INITIATIVE, REFERENDUM AND RECALL

Section 8.01. Initiative

(a) Right to Initiate Ordinances. The people shall be able to propose ordinances by a petition process. Ordinances and other measures providing for the exercise of any powers of government granted by the Ohio Constitution, delegated to any municipal corporation by the General Assembly or created by this Charter, may be proposed by an initiative petition.

(b) Petition. Whoever seeks to propose an ordinance or measure in the Village by initiative petition shall, before circulating the petition, file a certified copy of the proposed ordinance or measure with the Village Clerk. Initiative petitions must contain the signatures of not less than ten percent (10%) of the number of electors who voted at the preceding regular general election. Any initiative petition may be presented in separate parts, but each part of any initiative petition shall contain a full and correct copy of the title and text of the proposed ordinance or other measure. Each signer of an initiative petition must be a registered voter of the Village. When a petition is filed with the Village Clerk, signed by the required number of electors proposing the ordinance or other measure, the Clerk shall, after ten (10) days, transmit a certified copy of the text of the proposed ordinance or measure to the Board of Elections. The Clerk shall transmit the petition to the Board, together with the certified copy of the proposed ordinance or other measure. The Board shall examine all signatures on the petition to determine the number of electors of the Village who signed the petition. The Board shall return the petition to the

Clerk within ten (10) days after receiving it, together with a statement attesting to the number of such electors who signed the petition. Whoever knowingly signs an initiative petition more than once, signs a name other than his or her own, or signs when not a legal voter, is liable to prosecution as Council has determined by a general ordinance concerning the acts specified in this section.

(c) Referendum. The Board shall submit such proposed ordinance or measure for the approval or rejection of the electors of the Village at the next regular Village or general election, occurring seventy-five (75) days or later after the Clerk certifies the sufficiency and validity of the initiative petition to the Board of Elections. Any ordinance approved by the voters shall take effect the same as an ordinance passed according to Sections 2.08 to 2.10 of this Charter.

(d) Validity of Ordinance or Other Measure. No ordinance or other measure submitted to the voters of the Village, and receiving an affirmative majority of those voting, shall be held ineffective or void on account of the insufficiency of the petitions by which such submission of the ordinance or measure was procured, nor shall the rejection, by a majority of the votes cast thereon, of any ordinance or other measure submitted to the voters of the Village, be held invalid for such insufficiency.

(e) Certified Defined. As used in this section, "certified copy" means a copy containing a written statement attesting it is a true and exact reproduction of the original proposed ordinance or other measure.

Section 8.02. Referendum

(a) Right to Referendum. Any ordinance or other measure passed by the Village Council shall be subject to the referendum rights of voters of the Village.

(b) Petition. Whoever files a referendum petition against any ordinance or measure shall, before circulating the petition, file a certified copy of the proposed ordinance or measure with the Village Clerk. When a petition, signed by ten percent (10%) of the voters who voted at the last regular general election, is filed with the Village Clerk within thirty (30) days after any ordinance or other measure is passed by the Village Council, ordering that the ordinance or measure be submitted to the voters of the Village for their approval or rejection, the Clerk shall, after ten (10) days, and not later than 4:00 p.m. of the seventy-fifth (75th) day before the day of election, transmit a certified copy of the text of the ordinance or measure to the Board of Elections. The Village Clerk shall transmit the petition to the Board, together with the certified copy of the ordinance or measure. The Board shall examine all signatures on the petition to determine the number of voters of the Village who signed the petition. The Board shall return the petition to the Clerk within ten (10) days after receiving it, together with a statement attesting to the number of voters who signed the petition. Any referendum petition may be presented in separate parts, but each part shall contain the number and a full and correct copy of the title of the ordinance or other measure sought to be referred. Each signer of any such petition must be a registered voter of the Village. Whoever knowingly signs a referendum petition more than once, signs a name other than his or her own, or signs when not a legal voter, is liable to prosecution as Council has determined by a general ordinance concerning the acts specified in this section.

(c) Referendum. The board shall submit the ordinance or measure to the voters of the Village, for their approval or rejection, at the next regular Village or general election occurring seventy-five (75) days or later after the Clerk certifies the sufficiency and validity of the petition to the Board of Elections. No such ordinance or measure shall go into effect until approved by the majority of those voting upon it.

(d) Validity of Ordinance or Other Measure. No ordinance or other measure submitted to the voters of the Village, and receiving an affirmative majority of those voting, shall be held ineffective or void on account of the insufficiency of the petitions by which such submission of the ordinance or measure was procured, nor shall the rejection, by a majority of the votes cast thereon, of any ordinance or other measure submitted to the voters of the Village, be held invalid for such insufficiency.

(e) Certified Defined. As used in this section, "certified copy" means a copy containing a written statement attesting that it is a true and exact reproduction of the original ordinance or other measure.

Section 8.03. Statement of Initiative and Referendum Petitions

The circulator of an initiative or referendum petition, or his or her agent, shall, within five (5) days after such petition is filed with the Village Clerk, file an itemized statement, made under penalty of election falsification as determined by the Village Council by a general ordinance concerning the acts specified in this section, showing in detail: (1) All moneys or things of value paid, given, or promised for circulating such petition; (2) Full names and addresses of all persons to whom such payments or promises were made; (3) Full names and addresses of all persons who contributed anything of value to be used in circulating such petitions; and (4) Time spent and salaries earned while circulating or soliciting signatures to petitions by persons who were regular salaried employees of some person who authorized them to solicit signatures for or circulate the petition as a part of their regular duties. The statement provided for in this section is not required from persons who take no other part in circulating a petition than signing declarations to parts of the petition and soliciting signatures to them. All statements under this section shall be open to public inspection for a period of one (1) year.

Section 8.04. Prohibited Practices Relative to Initiative and Referendum Petitions

No person shall, directly or indirectly: (a) Willfully misrepresent the contents of any initiative or referendum petition; (b) Pay or offer to pay any elector anything of value for signing an initiative or referendum petition; (c) Promise to help another person to obtain appointment to any office provided for by the Ohio Constitution or laws of Ohio or by the ordinances of any

municipal corporation, or to any position or employment in the service of the State or any political subdivision thereof as a consideration for obtaining signatures to an initiative or referendum petition; (d) Obtain signatures to any initiative or referendum petition as a consideration for the assistance or promise of assistance of another person in securing an appointment to any office or position provided for by the Ohio Constitution or laws of this State or by the ordinance of any municipal corporation therein, or employment in the service of the State or any subdivision thereof; (e) Alter, add to, or erase any signatures or names on the parts of a petition after such parts have been filed with the Village Clerk; (f) Sell, purchase, steal, attempt to steal, or willfully destroy or mutilate an initiative or referendum petition which is being or has been lawfully circulated; (g) Intimidate or threaten, influence or seek to influence, directly or indirectly, any person to sign or abstain from signing, or to solicit signatures to or abstain from soliciting signatures to an initiative or referendum petition; or (h) Fail to file the itemized statement required in Section 8.03 of this Charter. The Village Council may provide by a general ordinance appropriate penalties for any person convicted of one (1) or more of the above prohibitions.

Section 8.05. Removal and Recall of Elected Officials

(1) The remedies contained in this Charter for the removal of elected officials shall be the sole and exclusive remedies.

(2) Any elected official of the Village may be removed from office by the qualified voters of the Village. The removal procedure shall be as follows: (a) Petition. A petition signed by at least fifteen percent (15%) of the total votes cast at the last preceding regular general election, and demanding the election of a successor to the person sought to be removed, shall be filed with the Board of Elections. The petition shall contain a general statement in not more than two hundred (200) words specifying the grounds upon which the removal of an elected official is sought; (b) Election. If the petition is sufficient, and if the person whose removal is sought does not resign within five (5) days after the sufficiency of the petition has been determined, the Village Council shall thereupon order and fix a day for the holding of an election to determine the question of his or her removal, and for the selection of a successor to each officer named in the petition. Such election shall be held not less than ninety (90) nor more than one hundred twenty (120) days from the time of the determination of the sufficiency of the petition. The election authorities shall publish notice and make all arrangements for holding such election, which shall be conducted and the result returned and declared in all respects as are the results of regular Village elections; (c) Nomination of Successors. The nomination of candidates to succeed each officer sought to be removed shall be made, without a primary election, by the filing with the election authorities, at least seventy-five (75) days prior to the special election, a petition proposing a person for each office whose holder's removal is sought, signed by electors equal in number to five percent (5%) of the total votes cast in the last preceding regular general election; (d) Ballot Wording and Voting. The ballots at the recall election shall, with respect to each person whose removal is sought, submit the question: "Shall [name of person] be removed from the office of [name of office] by recall?" Immediately after each question above, the following two (2) propositions shall be printed on the ballots in this order: "For the recall of [name of officer]." "Against the recall of [name of officer]." Immediately to the left of the proposition shall be placed a square in which the voters, by making an appropriate mark, may vote for one (1) of the propositions. The names of candidates to fill the vacancy shall be listed after each set of propositions. The officer whose removal is sought cannot be a candidate in the election. In a recall election, if a majority of the votes cast on the question of removal are affirmative, the officer whose removal is sought shall be removed from office upon the announcement of the official canvass of that election, and the candidate receiving the plurality of the votes cast for candidates for that office shall be declared elected. The candidate who is elected shall hold the office for the unexpired term of the officer who was removed; and (e) Timing and Expenses. No removal of any officer can be submitted to the voters until the officer has served at least one (1) year. If, at any recall election, the officer whose removal is sought is not recalled, he or she shall be repaid his or her actual and legitimate expenses incurred during the recall election from the Treasury of the Village, up to fifty percent (50%) of what the candidate could have spent in a regular Village election, but not to exceed five hundred dollars (\$500.00).

(Nov. 7, 2017)

ARTICLE IX

AMENDMENTS TO THE CHARTER

Section 9.01. Proposal of Amendment

Amendments to this Charter may be framed and proposed: (a) By ordinance of the Village Council passed by a two-thirds (2/3) vote (five (5) affirmative votes) containing the full text of the proposed amendment; (b) By report of a Charter Review Commission created under Section 9.02; or (c) By the voters of the Village. Voters may initiate proceedings to amend the Charter by filing with the Village Clerk an affidavit stating they will constitute the petitioner's committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed Charter amendment. Promptly after the affidavit of the petitioners' committee is filed, the Clerk shall issue the appropriate petition blanks to the petitioners' committee. The petitions shall contain or have attached thereto throughout their circulation the full text of the proposed Charter amendment and must be signed by registered voters of the Village in the number of at least ten percent (10%) of the total number of those who voted at the last regular general election as required in all initiative procedures as stated in Section 8.01(b). The petitioners' committee may withdraw the petition at any time before the fifteenth (15th) day immediately preceding the day scheduled for the Village vote on the amendment.

Section 9.02. Charter Review Commission

(a) Creation. A Charter Review Commission shall be appointed in 1996 and every five (5) years thereafter.

(b) Composition and Appointment. The Charter Review Commission shall have nine (9) members who shall be registered voters of the Village and who shall serve for one (1) year, beginning on the first (1st) day of January following their appointment. The Mayor, Clerk/Treasurer and each member of the Village Council shall appoint one (1) member. No more than three (3) members of the Charter Review Commission shall hold an elected or appointed office with the Village. All members shall be compensated in the same amount and manner as members of the Village Planning Commission.

(c) Authority and Responsibilities. The Charter Review Commission shall examine the Village Charter and recommend amendments for the improvement of the Village government. The Commission shall adopt the amendments by a majority vote of all of its members. The proposed amendments to the Village Charter shall be submitted to the voters under the provisions of Section 9.03. (Nov. 4, 1997)

Section 9.03. Referendum.

Upon delivery to the Village Council of a report of the Charter Review Commission or delivery by the Village Clerk of an adopted ordinance proposing an amendment pursuant to Section 9.01(a) or a petition finally determined sufficient proposing an amendment pursuant to Section 9.01(c), the Village Council shall submit the proposed amendment to the voters of the Village at an election. Such election shall be announced by a notice containing the complete text of the proposed amendment and published in one (1) or more newspapers of general circulation in the Village at least thirty (30) days prior to the date of the election. If the amendment is proposed by petition, the amendment may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for the election by filing with the Village Clerk a request for withdrawal signed by at least four (4) members of the petitioners' committee. The election shall be held not less than sixty (60) and not more than one hundred and twenty (120) days after the adoption of the ordinance or report or the final determination of sufficiency of the petition proposing the amendment. If no regular election is to be held within that period, the Village Council shall provide for a special election on the proposed amendment. Otherwise, the holding of a special election shall be as specified in the Ohio Revised Code currently in effect.

Section 9.04. Adoption of Amendment.

If a majority of the registered voters of the Village voting upon a proposed Charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, thirty (30) days after its adoption by the voters. If conflicting amendments are adopted, the one (1) receiving the most votes shall prevail.

ARTICLE X

TRANSITION AND SEPARABILITY PROVISION

Section 10.01. Officers and Employees.

(a) Rights and Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are Village officers or employees at the time of its adoption.

(b) Continuance of Office or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect a Village administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he or she shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he or she vacate the office or position.

(c) Personnel System. An employee holding a Village position at the time this Charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position, but in all other respects shall be subject to the personnel system provided for in Section 5.06(a) and (b).

Section 10.02. Departments, Offices and Agencies.

(a) Transfer of Powers. If a Village department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the Village department, office or agency designated in this Charter or, if the Charter makes no provision, designated by the Village Council.

(b) Property and Records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one (1) or more departments, offices or agencies designated by the Village Council in accordance with this Charter.

Section 10.03. Pending Matters.

All rights, claims, actions, orders, contracts and legal administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the Village department, office or agency appropriate under this Charter.

Section 10.04. State and Municipal Laws.

(a) In General. All Village ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Ohio permit, all laws relating to or affecting this Village or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

(b) Specific Provisions. Council shall repeal any ordinance or other Village law inconsistent with this Charter.

Section 10.05. Schedule.

(a) First Election. The first (1st) election shall be held on the first Tuesday after the first Monday of November, 1995, and shall be conducted in accordance with the provisions of this Charter.

(b) Time of Taking Full Effect. The Charter shall be in full effect for all purposes on January 1, 1995.

(c) First Council Meeting. The Village Council shall meet at the Village Municipal Center in January, 1995, at the regularly scheduled time as set by the previous Council. It shall exercise all the powers and duties granted to the Village Council. It shall also: (1) Appoint a seventh (7th) member according to the process for filling vacancies established in Section 2.05(c) of this Charter; (2) Elect the President Pro Tem; and (3) Adopt ordinances and resolutions necessary to effect the transition of government under this Charter and to maintain effective Village government during that transition.

(d) Temporary Ordinances. In adopting ordinances as provided in Section 10.05(c), the Village Council shall follow the procedures prescribed in Article II, except that at its first (1st) meeting or any meeting held within sixty (60) days thereafter, the Council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective Village government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption of a temporary ordinance, the Council shall cause it to be printed and published as prescribed for other adopted ordinances. A temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not extend to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the ninety-first (91st) day following the date on which it was adopted, renewed or otherwise continued, except by adoption in the manner prescribed in Article II for ordinances of the kind concerned.

(e) Initial Expenses. The initial expenses of the Village Council shall be paid by the Village on vouchers signed by the Clerk/Treasurer.

(f) Initial Salary of Mayor and Council Members Members of Council, the President Pro Tem of the Council and the Mayor shall receive annual salaries equal to those paid immediately prior to the implementation of this Charter until their salaries are changed by the Council in accordance with the provisions of Section 2.03 of this Charter.

Section 10.06. Comprehensive Plan.

The Village Council shall, within two (2) years of the implementation of this Charter, but no later than the first of January, 1997, adopt a Comprehensive Plan for the Village. The Plan shall be updated as required by Section 5.07.

Section 10.07. Separability.

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.