

NOTE FROM THE 2020 CHARTER REVIEW COMMITTEE:

Throughout this Charter, the provisions proposed to be stricken are in red with a strikethrough such as this ~~example~~ while the provisions proposed to be added to the charter are highlighted such as this **example**.

CHARTER OF THE CITY OF KIRTLAND, OHIO

Editor's notes:

(a) *The Kirtland Charter was approved by the voters on November 3, 1970. Dates appearing in parentheses at the end of section headings indicate that the section was subsequently enacted, amended or repealed on the date given.*

(b) *Masculine pronouns have been changed to include feminine pronouns.
(Enacted 11-7-2000)*

(c) *In this charter the terms Municipality, City and City of Kirtland are one and the same.
(Enacted 11-7-2000)*

(d) *All references to day time limits in this Charter, unless otherwise specified, pertain to calendar days.
(Enacted 11-2-2010)*

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PREAMBLE

We, the people of the Municipality of Kirtland, in the County of Lake and State of Ohio, in order to secure for ourselves the benefits of municipal home rule and the exercise of all powers of local self government, do adopt this Charter for our Municipality:

ARTICLE I - THE COUNCIL

Section 1. Number and Terms.

The Council shall consist of seven (7) members, of which three (3) members shall be elected at large and four (4) members shall be elected from wards, one from each ward.

The three (3) at large members shall be elected for a four (4) year term in the year 2001, and every fourth year thereafter. The four (4) ward members shall be elected for a two (2) year term in the year 2001. The four (4) ward members shall be elected for a four year (4) term in the year 2003, and every fourth year thereafter. Council members shall commence serving on the first day of December following their election and shall serve until their successors are elected and qualified.

Council shall, on or before January 31, 1971, divide the Municipality into four (4) wards having as near as practical, equal population, and thereafter the then existing Council shall have the power to change the boundaries of the wards, as required, to make them, as near as practical, equal in population; and at least once every four years, shall review ward apportionments. Upon the annexation of any territory, the Council shall have the power to place said district, or any part thereof, in any existing ward or wards as will most efficiently keep said wards of near equal population.

(Amended 11-3-1981; 11-6-1990; 11-7-2000; 11-2-2010)

Section 2. Qualifications.

Each member of Council shall have been a resident and qualified elector of the Municipality for at least two (2) years immediately prior to his/her election and shall continue to be a resident of the Municipality throughout his/her term of office. A member of Council shall

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not hold any other elected public office, and shall not have financial interest in any contract with the City, and no such member shall hold administrative public employment in the City, nor hold employment with the City of Kirtland during his/her term.

A Ward Councilperson shall reside within the voting ward he/she represents and shall continue to reside within the ward during his/her term. If, however, the boundaries of the wards are changed, and this action results in placing the residence of the Ward Councilperson outside the boundaries of the district he/she was elected to represent, he/she shall continue to represent the ward that elected him/her for the remainder of his/her term.

No member of Council for a period of one (1) year after the expiration of his/her term, shall have financial interest in any contract with the City, nor while in office be on a Council committee the purpose of which shall conflict or may tend to conflict with the personal or professional interests of such member. Any member of Council who shall cease to possess, or who violates, any of the qualifications herein enumerated may be removed from his/her office, but failure to maintain said qualifications shall not render void or ineffective any action of Council in which such member has participated unless declared void by two-thirds (2/3) of all the remaining members of Council.

(Amended 11-4-1980; 11-6-1990; 11-7-2000; 11-2-2010)

Section 3. Organization.

On the first day of December, in odd-numbered years, following the November election of Council members (or if such date be a Saturday or Sunday, the following Monday) and on the first Monday of December of each even-numbered year, the Council shall meet in Council chambers for the purpose of organization. The Council shall adopt its own rules, regulations and/or bylaws otherwise provided in this Charter.

(Amended 11-3-1981; 11-6-1990; 11-2-2010)

Section 4. President of Council and President pro-tem.

The Council, at its yearly organizational meeting, shall choose one of its members as President of Council and another as President pro-tem, who shall preside at meetings of Council in the absence of the President of Council. The President of Council shall serve as such until a successor is chosen and shall have all the powers, duties, functions, obligations and rights of any other member of Council, including the right to vote; shall preside at all meetings of Council; and shall appoint the various committees of Council, coordinating the work of the various committees appointed by him/her.

(Amended 11-4-1980)

Section 5. Removal.

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The Council shall be the judge of the election and qualifications of its own members. It may remove any member for gross misconduct, or malfeasance, misfeasance or nonfeasance in or disqualification for office, or for the conviction while in office of any felony or other crime involving moral turpitude, or if adjudicated legally incompetent, or for a violation of his/her oath of office, or persistent failure to abide by the rules of the Council; provided, however, that such removal shall not take place without the affirmative vote of two-thirds (2/3) of the remaining members of Council nor until the accused member shall have been notified in writing of the charge against him/her at least ten (10) days in advance of a public hearing upon such charge, and he/she or his/her counsel has been given an opportunity to be heard, present evidence, or examine any witness appearing in support of the charge. The accused member shall not vote on the question of his/her removal.

(Amended 11-4-1980; 11-7-2000)

Section 6. Vacancies.

Any vacancy in the Council shall be filled by a majority vote of the remaining members of Council for the unexpired term. If the vacancy is not filled within thirty (30) days after it shall have occurred, the Mayor shall fill it by appointment. A vacancy for ward Council member must be filled by a person residing in the ward where the vacancy exists.

(Amended 11-7-2000)

Section 7. Council Meetings.

The Council shall hold at least two (2) regular meetings in each calendar month provided, however, that it may recess during the month of August. A majority of the members of the Council shall constitute a quorum for the transaction of business at any meetings of the Council, but a lesser number may adjourn the meeting. At any meeting at which a quorum is present, any ordinance or resolution may be passed or adopted, or any other action may be taken, by the affirmative vote of four (4) members of the Council unless a larger number be required by the provisions of this Charter. The Clerk of Council shall keep a record of its proceedings in minutes in which the yea or nay vote of each Councilperson voting on every ordinance or resolution or the reconsideration of legislation vetoed by the Mayor, and the action of Council on other measures shall be recorded.

All meetings of the Council shall be open to the public, except when Council authorizes an executive session. All motions to hold an executive session shall state the matter or matters to be considered in the executive session. Council may hold an executive session after a majority vote of a quorum of Council determines to hold such a session for the purpose of consideration of any of the following matters:

(a) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or

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complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law or ordinance, Council shall not hold an executive session for the discipline of an elected official for conduct related to the performance of his/her official duties or for his/her removal from office.

(b) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding; if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. Council shall not use this division as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of Council that has not been disclosed to the general public in sufficient time for other prospective buyers and sellers to prepare and submit offers. If the minutes or legislation of Council show that all meetings and deliberations have been conducted in compliance with this section, any instrument executed by the City purporting to convey, lease, or otherwise dispose of any right, title, or interest in any City property shall be conclusively presumed to have been executed in compliance with this section insofar as title or other interest of any bona fide purchasers, lessees, or transferees of the property is concerned.

(c) Conferences with an attorney for the City concerning disputes involving the City that are the subject of pending or imminent court action;

(d) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;

(e) Matters required to be kept confidential by Federal law or rules or State statutes;

(f) Specialized details of security arrangements where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.

(Amended 11-6-1990; 11-7-2000; 11-2-2010)

Section 8. Powers and Duties.

The legislative powers of the Municipality, except as otherwise provided by this Charter and by the Constitution of the State of Ohio, shall be vested in the Council. The Council shall by ordinance or resolution make provision for:

(a) The time and place of regular meetings of the Council;

(b) The method of calling special meetings of the Council;

(c) The method of giving public notice of the enactment of its ordinances and resolutions and of any other of its acts or proceedings which it deems proper to publish, provided, however, that until so provided for, such public notice shall be in the manner provided by the statutes of the State of Ohio;

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(d) Fixing the salary of its members which in no event shall be increased during the term for which the members were elected;

(e) The procedure for making public improvements and levying assessments, including the procedure for combining two (2) or more public improvements, and the levying of assessments therefor, in one proceeding, if the Council finds that it will be economical and practical to undertake such improvements jointly;

(f) The advertising and awarding of contracts;

(g) Such other general regulations as the Council may deem necessary;

(h) The form and method of enactment of its ordinances and resolutions, provided that:

(1) No ordinance or resolution shall contain more than one subject which shall be clearly expressed in its title;

(2) Each ordinance and resolution shall be read by title only, provided the Council may require any reading to be in full by a majority vote of its members;

(3) Each ordinance and resolution shall be read on three (3) different days. Council may dispense with this rule by a vote of at least two-thirds (2/3) of its members;

(4) The vote of the passage of each ordinance or resolution shall be taken by yeas and nays and entered upon the journal;

(5) No ordinance or resolution shall be passed without the concurrence of a majority of all the members of Council;

(6) Each emergency measure necessary for the immediate preservation of the public peace, health or safety of the community shall contain the reasons for such necessity and shall require the affirmative vote of two-thirds (2/3) of the members of the Council for its enactment;

(7) No action of the Council authorizing any change in the boundaries of the City, or the surrender or joint exercise of any of its powers, or granting any franchise, **or any zoning amendment or change in the zoning map**, or contracting for the supply to the City or its inhabitants of the product or service of any utility, whether Municipally owned or not, shall be taken as an emergency measure.

(Amended 11-4-1980; 11-6-1990; 11-2-2010)

Section 9. Effective Date of Ordinances and Resolutions.

Each ordinance or resolution shall go into effect thirty (30) days after its final passage by the Council except for the following:

(a) any ordinance providing for the appropriation of money, or for an annual tax levy, or for improvements petitioned for by the owners of a majority of the foot frontage of the property benefitted and to be specially assessed therefor;

(b) any emergency ordinance or resolution necessary to promote and/or preserve the public peace, health, safety, comfort, prosperity, morals and general welfare of the City;

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which ordinances shall take effect, unless a later time be specified therein, upon signature by the Mayor, or as otherwise provided in Article II, Section 6 of this Charter, as the case may be.
(Amended 11-4-1980; 11-7-2000; 11-2-2010)

Section 10. Employees of Council.

Council shall appoint a Clerk, who shall perform those duties prescribed by Council consistent with the provisions of this Charter or any ordinance or resolution of the Municipality of Kirtland and the laws of the State of Ohio.
(Amended 11-7-2000)

ARTICLE II - THE MAYOR

Section 1. Term of Office.

Commencing with the regular Municipal election of the year 1991, and every four years thereafter, the Mayor shall be elected for a term of four (4) years, beginning on the first day of December next following his/her election, and shall serve until his/her successor is elected and qualified. The Mayor shall hold office in a part-time capacity.
(Amended 11-3-1981; 11-6-1990)

Section 2. Qualifications.

The Mayor, for at least three (3) years immediately prior to his/her election, shall have been a resident and qualified elector of the Municipality, and shall continue to be a resident of the Municipality throughout his/her term of office. He/she shall not hold any other elected public office, and shall not have financial interest in any contract with the City, and shall not hold administrative public employment in the City, nor hold employment with the City of Kirtland during his/her term except as otherwise provided by this Charter.
(Amended 11-4-1980; 11-6-1990; 11-7-2000; 11-2-2010)

Section 3. Removal.

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The Council may remove the Mayor for gross misconduct, or malfeasance, misfeasance or nonfeasance in or disqualification for office, or for the conviction while in office of any felony or other crime involving moral turpitude, or if adjudicated legally incompetent, or for a violation of his/her oath of office; provided, however, that such removal shall not take place without the concurrence of two-thirds (2/3) of the members of the Council nor until the Mayor has been notified in writing of the charge against him/her at least ten (10) days in advance of a public hearing upon such charge, and he/she or his/her counsel has been given an opportunity at such hearing to be heard, present evidence or examine any witness appearing in support of the charge.

(Amended 11-4-1980; 11-7-2000)

Section 4. Judicial Powers.

The Mayor shall have all the judicial powers granted by this Charter, the ordinances of the Municipality, and the general laws of the State of Ohio to Mayors of municipalities of the class of this Municipality.

Section 5. Legislative Powers.

The Mayor shall attend all Council meetings, and be entitled to a seat in the Council. He/she shall not have a vote in the Council but shall have the right to introduce ordinances and resolutions and take part in the discussion of all matters coming before the Council.

Section 6. Veto Powers.

Every ordinance or resolution passed by the Council shall be attested by the Clerk of Council and promptly presented to the Mayor within forty-eight (48) hours. If the Mayor approves such ordinance or resolution, he/she shall sign it within ten (10) days after its passage or adoption by the Council, but if he/she does not approve it, he/she shall return it to the Council with his/her written objections within said ten (10) days by delivery to the Clerk of Council, which objections shall be entered in full into the minutes of the Council.

The Mayor may approve or disapprove the whole or any part or item of an ordinance or a resolution appropriating money, but otherwise his/her approval or disapproval shall be addressed to the entire ordinance or resolution. If the Mayor does not sign or veto an ordinance or resolution after its passage or adoption within said ten (10) day period, it shall take effect in the same manner as if he/she had signed it. When the Mayor has disapproved an ordinance or a resolution or a part or item thereof as herein provided, the Council shall, not later than the next regular meeting, proceed to reconsider it, and if upon reconsideration the ordinance or resolution or part or item thereof be approved by a vote of two-thirds (2/3) of the members of Council it

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shall take effect as if it had received the signature of the Mayor. In all such cases the vote shall be taken by yeas and nays and entered into the minutes of the Council.
(Amended 11-2-2010)

Section 7. Executive Powers.

The Mayor shall be the chief executive officer of the Municipality. He/she shall supervise the administration of the affairs of the Municipality and shall exercise control over all departments and divisions. He/she shall be the chief conservator of the peace within the Municipality and shall cause all laws and ordinances to be enforced therein.

He/she shall recommend to the Council such measures as he/she deems necessary or expedient. He/she shall see to it that all terms and conditions imposed in favor of the Municipality or its inhabitants in any franchise or contract to which the Municipality is a party are faithfully kept and performed.

Except as may otherwise be provided by this Charter or the laws of the State of Ohio, the Mayor shall have the power to appoint, promote, transfer, reduce or remove any officer or employee of the Municipality except those required by this Charter to be elected, and those whose terms of office may be fixed by this Charter. The Director of Public Safety, the Director of Public Service, the Director of Finance, and the Director of Law, and all appointive officers may be removed by the Mayor; provided, however, that such removal shall not take effect without the concurrence of two-thirds (2/3) of the members of Council.

The finances of the Municipality shall be conducted upon an annual budget which shall be adopted by the Council as required by law. For the purposes of the budget, each office, department or agency of the Municipality shall furnish to the Mayor, at such times and in such forms as the Mayor may require, estimates of revenue and expenditures of that office, department or agency and such other supporting data as the Mayor may request, together with an estimate of all capital projects pending or which the head of each office, department or agency believes should be undertaken (a) within the succeeding fiscal year, and (b) within the next five years. The Mayor may review such estimates, conduct hearings in connection therewith and make such revisions as he/she may deem advisable.

The Mayor shall execute on behalf of the Municipality all contracts, conveyances, evidences of indebtedness, and all other instruments to which the Municipality is a party. He/she shall have custody of the seal of the Municipality and may affix it to all of said instruments, but the absence of the seal shall not affect the validity of any such instrument. The Mayor shall be recognized as the official and ceremonial head of the Municipal government by the Governor for military purposes and by the courts for the purpose of serving civil processes.
(Amended 11-7-2000)

Section 8. Vacancy of Office.

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In the event of the death, resignation or removal of the Mayor, the President of Council shall become the Mayor and shall hold office until the Mayor's successor is elected and qualified. The President of Council shall serve as Mayor until the next regular Municipal election, provided the vacancy does not occur within one hundred days before such election.

In the event that the President of Council shall, for any reason, fail to qualify or decline to serve as Mayor, then a majority of Council shall elect among its members one member to become Mayor.

(Enacted 11-6-1990; Amended 11-7-2000)

ARTICLE II-A - APPOINTED ADMINISTRATIVE OFFICERS AND DEPARTMENTS

Section 1. General Provisions.

A Department of Public Safety, a Department of Public Service, a Department of Finance, and a Department of Law, are hereby established by this Charter, and the Council shall provide by ordinance for the organization thereof. The Council may establish by ordinance new departments or divisions thereof. With the exception of the Department of Finance and the Department of Law, the Council may combine or abolish existing departments and divisions as it may deem necessary and may authorize one person to be the head of two (2) or more departments or divisions. The Mayor may act as the head of the Department of Public Safety and/or the Department of Public Service.

All directors appointed hereunder shall hold office only for the term of the Mayor appointing them.

Section 2. Director of Public Safety.

The Director of Public Safety shall be appointed by the Mayor, subject to the confirmation by a majority vote of the members of Council. He/she may be removed from office by the Mayor, but such removal shall not take place during term without the concurrence of two-thirds (2/3) of the members of Council; provided, however, that if the Mayor acts as Safety Director, the Council may, by a vote of two-thirds (2/3) of its members, remove him/her as such Safety Director. The Council shall set the salary of the Safety Director.

The Director of Public Safety shall be the head of the Division of Police, Division of Fire, Division of Building, Engineering and Inspection, and Division of Health. He/she shall make all necessary rules and regulations for the government of the Department of Public Safety and the

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several divisions thereof, and he/she shall be charged with the duty of enforcing all police, health, safety and sanitary regulations that may be prescribed by ordinances or rules of the Municipality or the general laws of the State of Ohio.

No appointment of a chief of a department or Division of Police or Fire shall be effective unless and until the same receives the concurrence of two-thirds (2/3) of the members of Council. The Director of Public Safety shall perform such other duties; consistent with his/her office, as may be required by this Charter, by ordinance of the Council, or as directed by the Mayor. ~~The Director of Public Safety shall be a resident of Lake County, Ohio.~~

Section 3. Director of Public Service.

The Director of Public Service shall be appointed by the Mayor, subject to confirmation by a majority vote of the members of Council. He/she may be removed from office by the Mayor, but such removal shall not take place during term without the concurrence of two-thirds (2/3) of the members of Council; provided, however, that if the Mayor acts as Service Director, the Council may, with the concurrence of two-thirds (2/3) of its members, remove him/her as such Service Director. The Council shall set the salary of the Director of Public Service.

The Director of Public Service shall be the head of the Division of Public Works and the Division of Recreation and Community Services. He/she shall have charge of all public works and improvements and the construction thereof, and of all engineering and inspection in connection therewith. He/she shall be charged with the construction, improvement, repair and maintenance of streets, sidewalks, alleys, lanes, bridges, wharves, docks and break walls; of water mains, pumps, systems, pipes, purification and filtration plants, and the water distribution system; of sewers, sewage systems, drains, ditches, culverts, streams, water courses and harbors; and of all public buildings, parks, playgrounds, and other public places belonging to the Municipality or dedicated to public use.

He/she shall manage and control market houses, sewage treatment plants, water works, and all public utilities of the Municipality supported in whole or in part by taxation, and shall enforce all the obligations of privately-owned or operated public utilities enforceable by the Municipality. He/she shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for public work; the cleaning, resurfacing, repairing, sprinkling and lighting of streets and public places; the collection and disposal of waste; and the preservation of all property belonging to the Municipality and pertaining to the functions thereof. He/she shall manage and control cemetery maintenance, services, cemetery plantings and decorations. He/she shall have the authority to administer, equip, operate and maintain parks, playgrounds or community center within the City and to organize and administer recreation, senior and leisure service programs for the residents of the City.

He/she shall perform such other duties, consistent with his/her office, as may be required by this Charter, by ordinance of the Council, or as directed by the Mayor. ~~The Director of Public Service shall be a resident of Lake County, Ohio.~~
(Amended 11-4-1980; 11-7-2000; 11-2-2010)

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Section 4. Director of Finance.

The Director of Finance shall be appointed by the Mayor, subject to confirmation by a majority vote of the members of Council. The Director of Finance may be removed from office by the Mayor, but such removal shall not take place during term without the concurrence of two-thirds (2/3) of the members of Council.

The Director of Finance shall be head of the Department of Finance and fiscal officer of the Municipality. He/she shall keep the financial records of the Municipality, exhibiting accurate statements of all moneys received and expended, of all property owned by the Municipality and of all taxes and assessments. He/she shall be the custodian of all public money of the Municipality, shall keep and preserve such money in the place or places authorized by ordinance, and shall disburse the same as may be required by law or ordinance. The fiscal year of the Municipality for budget, accounting and all other similar purposes shall be the calendar year.

He/she shall not allow the amount set aside for any appropriation to be overdrawn or drawn for any other purpose. He/she shall examine and audit the accounts of all other officers, employees and departments. He/she shall require evidence that the amount of any claim presented to him/her is due. He/she shall be responsible for the preparation and submission of appropriation measures and shall assist the Mayor and Council in the preparation of estimates, budgets, and other financial matters, and at all times keep the Mayor and Council fully advised as to the financial condition and needs of the Municipality upon demand. He/she shall perform such other duties consistent with his/her office as the Mayor or the Council may direct. ~~The Director of Finance shall be a resident of Lake County, Ohio.~~
(Amended 11-4-1980; 11-6-1990; 11-7-2000)

Section 5. Director of Law.

The Director of Law shall be appointed by the Mayor subject to confirmation by a majority vote of the members of Council. He/she may be removed from office by the Mayor, but such removal shall not take place during term without the concurrence of two-thirds (2/3) of the members of Council. Council shall provide for such assistants to the Director of Law as shall from time to time be deemed to be necessary and such assistants shall be appointed by the Director of Law and shall serve at his/her pleasure.

The Council shall determine the compensation of the Director of Law and all assistants, which may be changed from time to time.

~~The Director of Law and his/her assistants, if any, must be residents of Lake County, Ohio.~~

The Director of Law shall have the management and supervision of the Department of Law and shall perform all duties imposed upon him/her by this Charter, by the Constitution of the State of Ohio, and by any applicable statutes. He/she shall be the legal advisor of the Municipality and all of its officials, departments, boards or commissions and except as herein otherwise provided shall prosecute and defend all actions and proceedings in which the

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Municipality is a party or in which it has an interest. Council may from time to time authorize the Mayor to employ special counsel for particular matters.

No person shall act as Director of Law unless duly admitted to practice law in the State of Ohio for a period of not less than five (5) years and shall have and maintain an active license to practice law throughout his/her term as Director of Law. ~~The Director of Law must be a resident of Lake County, Ohio.~~
(Amended 11-2-2010)

ARTICLE III - BOARDS AND COMMISSIONS

Section 1. Procedure of Boards and Commissions.

Each board and commission shall adopt its own rules and regulations, including the manner of selection of a chairman, and its method of procedure, except as may be otherwise provided by Council or the laws of Ohio, or the provisions of this Charter.

All meetings of boards and commissions shall be open to the public. The Mayor shall be ex-officio a member of all boards and commissions but shall have no vote thereon. He/she shall make such recommendations as he/she deems advisable to Council for providing funds for the necessary expenses of boards and commissions.

All members of any board or commission shall serve without compensation, unless otherwise provided by ordinance and their terms shall expire on December 31 of the last year of their appointed term.

Any member of any board or commission may be removed from office by the Mayor after a public hearing, but such removal shall not take place during the term of any such member of any board or commission without the concurrence of two-thirds (2/3) of the members of Council.

(Amended 11-7-2000)

Section 2. Municipal Planning and Zoning Commission.

There shall be a Municipal Planning and Zoning Commission which shall consist of five (5) members, all of whom shall be electors of the Municipality not holding other public office, who shall be appointed by the Mayor, subject to confirmation by a majority vote of members of Council, for a term of five (5) years. At the end of each expired term, appointments to the Planning and Zoning Commission shall be made in a manner to retain the initial pattern of five (5) staggered terms with one term expiring each year.

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A vacancy occurring during the term of any member of the Planning and Zoning Commission shall be filled for the unexpired term in the manner authorized for an original appointment.

The Planning and Zoning Commission shall meet at least once a month. Each year the Planning and Zoning Commission shall meet with Council by January 31 for the purpose of discussing upcoming Planning and Zoning issues.

The Planning and Zoning Commission shall have such powers and duties as shall be conferred upon it by ordinance of the Council or general laws of the State of Ohio, concerning:

- (a) the plan, design, location, removal, relocation and alteration of any buildings or structures or land owned by the public, Municipality or private institution, or located on public streets or public property;
- (b) the location, relocation, widening, extension and vacation of streets, parkways, playgrounds, parks, or any other public places;
- (c) alterations to the drainage of any land;
- (d) approval of plats for the subdivision of land;
- (e) the planning for and the zoning of the Municipality for any lawful purpose or purposes.
- (f) the upgrading of the zoning map of the Municipality.

Council shall not pass any ordinance or resolution pertaining to land use and zoning without first receiving the recommendation of the Planning and Zoning Commission, and the Planning and Zoning Commission shall act upon request of Council within sixty (60) days after receipt of any such request for a recommendation unless additional time is granted by Council. The Planning and Zoning Commission shall be required to conduct a public hearing prior to recommending to Council any change in the zoning ordinance or zoning map of the Municipality.

Any recommendation made by the Planning and Zoning Commission to Council shall be introduced at the next regular Council meeting following the receipt of any such recommendation by the Clerk, and any such recommendation shall be introduced in the form of an ordinance by the President of Council.

The Planning and Zoning Commission shall adopt and recommend to Council a comprehensive general plan for the physical development of the Municipality. In addition, the Commission shall make and maintain plans and maps of the whole or any portion of the Municipality which relate to the planning of the Municipality.

The Planning and Zoning Commission shall be required to make a comprehensive review of the zoning ordinances of the Municipality and shall recommend to City Council such revisions or amendments to the zoning ordinances as it deems necessary to preserve the development of the physical character of the Municipality and to plan for future growth and development of the Municipality. Such initial comprehensive review shall be completed not later than December 1, 1993, and thereafter, the Commission shall conduct comprehensive reviews of the zoning ordinances as it deems necessary, provided that a complete review of the zoning ordinances shall take place not less than once every five (5) years.

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At the first regularly scheduled meeting of City Council in each calendar month, the Planning and Zoning Commission shall submit to Council a written report of its activities during the previous month.

(Amended 11-3-1981; 11-6-1990; 11-7-2000)

Section 3. Board of Zoning Appeals.

There shall be established a Board of Zoning Appeals which shall consist of five (5) members, all of whom shall be electors of the Municipality not holding other public office, who shall be appointed by the Mayor, subject to confirmation by a majority vote of the members of Council, for a term of five (5) years. At the end of each expired term, appointments to the Board of Zoning Appeals shall be made in a manner to retain the initial pattern of five (5) staggered terms with one term expiring each year.

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

The Board of Zoning Appeals by action at any regularly convened meeting may determine the application and vary the provisions of the zoning ordinances of the Municipality in harmony with the general purpose and intent thereof in cases where there are practical difficulties or particular hardships in the way of carrying out the strict letter of any provisions of the zoning ordinances relating to the use, construction and alterations of buildings, structures, or land. However, such variations shall be limited to specific cases where the hardship or difficulty is caused by the peculiar size, shape, topography, or geology of the premises, or by conditions created prior to applicable and specific zoning ordinances, which differentiate them from other premises in the same district causing the owner to lose any reasonable use thereof.

In no event shall a variance be permitted or granted so as to:

- (a) Alter or change the character of the immediate area surrounding said premises;
- (b) Constitute a change of zoning or district or so as to permit a nonconforming building or use where none previously existed;
- (c) Constitute a violation of the terms and provisions of the zoning ordinances of the Municipality.

Except as otherwise provided by this Charter, the Board of Zoning Appeals shall have the powers conferred upon such boards by the general laws of Ohio and by ordinance of the Municipality; and shall hear and determine appeals made to it for exceptions to and variances from the application of the provisions of the zoning ordinances of the Municipality, in harmony with the intent and purposes thereof, and from any ordinances, regulations, rules, restrictions, or limitations, or orders from any administrative official or agency in connection therewith.

Decisions of the Board of Zoning Appeals shall be final within the Municipality, except that an appeal therefrom may be taken to any court of record in accordance with the laws of the State of Ohio, by any proper and interested party, including the Municipality.

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After each meeting of the Board of Zoning Appeals, the Board shall within fifteen (15) days advise in writing the Council and Planning and Zoning Commission of the actions taken at that meeting.

(Amended 11-4-1980; 11-6-1990; 11-7-2000)

Section 4. Civil Service Commission.

The Civil Service Commission shall consist of three (3) electors of the Municipality, not holding other Municipal office or employment, to be appointed by the Mayor, subject to confirmation by a majority vote of the members of Council; for terms of six (6) years each, except that the three (3) original members of the Commission shall be appointed for terms expiring on the last day of December of the second, fourth, and sixth years after their appointment. A vacancy occurring during the term of any member of the Civil Service Commission shall be filled for the unexpired term in the manner authorized for an original appointment. The Commission shall designate one of its members as chairman and may appoint a secretary who need not be a member of the Commission and may hold other Municipal office or appointment.

The Commission shall, consistent with all the provisions of this Charter, determine which employees of the Municipality shall be within the classified service and which shall be within the unclassified service. Persons, other than those serving a probationary period of employment, who have been continuously employed on a full-time basis in the service of the Municipality in the same or a similar position in the classified service for at least ninety (90) days prior to the date such position is placed in the classified service, shall be retained in the same or similar position without examination until discharged, reduced, disciplined, promoted or transferred in accordance with the rules and regulations of the Commission.

Upon the creation of any full-time positions in the Police or Fire Departments, any part-time member of the Police or Fire Department, shall be eligible to take the competitive examination for his/her respective department, for an original appointment as a police officer or firefighter, regardless of his/her age, provided such part-time member has been in the service of the Municipality for at least ninety (90) days prior to the date of the creation of the full-time position of police officer or firefighter.

The civil service of the Municipality shall be divided into the classified service and the unclassified service.

(a) The classified service shall consist of all positions which may, consistent with the provisions of this Charter, be classified by the Civil Service Commission. The classified service shall be divided into the “competitive class,” “professional class” and “labor/clerical class.”

(1) The competitive class shall consist of:

A. All regular full-time members of the Police Department except the Chief;

B. All regular full-time members of the Fire Department except the Chief and paramedics.

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(2) The professional class shall consist of:

A. Paramedics;

B. Those persons of a professional or managerial character and

wherein, in the opinion of the Commission, it would be in the best interests of the service to permit applicants to present their qualifications for appointment without requiring participation in the formal type of examination.

(3) The labor/clerical class shall consist of:

A. All regular full-time employees of the Public Works Department;

B. All regular full-time Dispatchers for the Police Department;

C. All other regular full-time employees of the City performing

unskilled and/or ordinary labor or clerical services.

(b) The unclassified service shall be comprised of all positions not specifically included in the classified service. The unclassified service shall be exempt from examination and fitness testing and shall include, but not be limited to, the following:

(1) All officers elected by popular vote or persons appointed to fill vacancies in such offices.

(2) All members of the Boards and Commissions of the City.

(3) Chief of Police, Fire Chief, Public Service Administrator, Safety Director, Law Director, Finance Director, City Engineer, and all other Heads of Departments.

(4) The Clerk of City Council and the secretary and/or clerk of all Boards and Commissions of the City.

(5) Tax Administrator, Zoning Inspector, and administrative personnel.

(6) Legal assistants to the City Law Director.

(7) Part-time firefighters.

(8) All employees who are hired as part-time employees including, but not limited to, part-time police officers in the Police Department, part-time dispatchers in the Police Department, part-time firefighters, and part-time employees of the Public Works Department.

(9) All emergency and seasonal employees.

(c) Vacancies in the competitive class shall be filled by competitive examinations as provided in the rules adopted by the Commission.

Vacancies in the labor/clerical class shall be filled by appointment from lists of applicants who are required to furnish such evidence or take such tests as the Commission requires and considers proper with respect to age, residency, physical condition, ability to labor, honesty, sobriety, industry, capacity, and experience in the work or employment in which the applicant applies. Unless otherwise specifically indicated by the Civil Service Commission, no applicant for a position on the classified service labor/clerical class shall be required to take a competitive examination.

Vacancies in the professional class shall be filled by appointment from lists of applicants who are required to furnish such evidence relating to the applicant's academic training, experience, residency, physical condition, honesty, level of formal education, state certified training programs, any necessary state and/or federal licensing, approval by all necessary local or state licensing boards, or review skill assessment boards or personnel. In

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addition, the applicant must submit to an interview procedure before the Appointing Authority and must establish or demonstrate his/her knowledge of the duties and functions of the classification for which the applicant is being considered. Unless otherwise specifically indicated by the Civil Service Commission, no applicant for a position on the professional class shall be required to take a competitive examination.

(d) All applicants to the classified service must be citizens of the United States. The Commission may require applicants for examinations for original appointment to the Police Division as police officers to be certified by the State of Ohio Peace Officers Training Council as having completed the Ohio Peace Officer Basic Training Program before being eligible to take the examination; and, likewise, may require applicants for examinations for original appointment to the Fire Division as firefighters to be certified or otherwise having completed approved training certifying them as firefighters before being eligible to take the examination.

(e) When proper proof of acceptable service in the armed forces of the United States is presented to the Commission and such ex-service person being otherwise eligible has received a passing grade in any regular entrance examination, he/she shall be granted additional credit as provided by the Commission rules thereby receiving a higher final grade in view of the above mentioned service.

When proper proof of completion of a course of study from an accredited college, junior college, community college, trade or vocational school, or university is presented to the Commission, for a course of study determined by the Commission to be in the field of endeavor for which the examination is being given, and such applicant being otherwise eligible has, except for promotional examinations, received a passing grade, he/she may be granted additional credit as provided by the Commission rules, thereby receiving a higher final grade for completion of said course or courses.

When proper proof of actual work experience in the field of endeavor for which the examination is being given is presented to the Commission, and such applicant being otherwise eligible has, except for promotional examinations, received a passing grade, he/she may be granted an additional credit as provided by the Commission rules, depending on the amount of actual work experience, of such qualifying grade, thereby receiving a higher final grade for work experience.

When proper proof of an applicant being certified or otherwise licensed by the State of Ohio as either a police officer or firefighter for which the examination is given for entry level position in the Police Division (unless such certification is required in order to take the examinations provided in paragraph (d) above) or Fire Division, whichever is applicable, and such applicant being otherwise eligible and has received a passing grade, he/she may be granted additional credit as provided by the Commission rules, thereby receiving a higher final grade for possessing such certification and/or licensing by the State of Ohio.

(f) The term or eligibility of each list and of the names appearing thereon shall be fixed by the Commission at not less than one nor more than two years. Any list that has been in effect for more than one year may, at the discretion of the Commission, be terminated at any time in the public interest.

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The Civil Service Commission shall make, promulgate, and amend rules consistent with the provisions of this Charter, which are necessary for implementing the administration of the classified service including the classification of positions, eligibility of applicants, testing requirements and procedure, appointment, promotion, transfer, layoff, reinstatement, suspension and removal of employees in the classified service. After each meeting of the Civil Service Commission, the Commission shall submit a written report to Council of the actions taken at that meeting.

(Amended 11-4-1980; 11-6-1990; 11-2-2010)

ARTICLE IV - ELECTIONS

Section 1. No Primary Election.

No primary election shall be held for the selection of any candidate for any elective office of this Municipality; and no nomination for any such office shall be of any effect unless made as required by Article IV Section 2 of this Charter.

Section 2. Nominating Procedure.

Nominations for elective offices of this Municipality shall be made by petition only. The nomination of each candidate shall be made by separate petition and shall be accompanied by the written acceptance of the nominee. Petitions for the office of Mayor and Councilperson-at-Large shall be signed by qualified electors of the Municipality equal to three percent (3%) of the number voting at the last preceding general election for the office sought or fifty (50), whichever is larger. Petitions for Ward Councilperson shall be signed by qualified electors of the ward equal to three percent (3%) of the number voting at the last preceding general election for the office sought or twenty-five (25), whichever is larger.

(Amended 11-7-2000)

Section 3. The Ballot.

The ballot used in the election of officers of this Municipality shall be without party mark or designation. The names of all candidates for any Municipal office shall be placed upon the same ballot and shall be rotated in the manner provided by the laws of Ohio. Except as otherwise provided in this Charter, the laws of Ohio shall govern the nomination and election of the elected officers of this Municipality.

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ARTICLE V - INITIATIVE, REFERENDUM AND RECALL

Section 1. Initiative.

The electors of the Municipality shall have the power to propose any ordinance or resolution, except an ordinance for the appropriation of money, and to adopt or reject the same at the polls, such power being known as the initiative. An initiated ordinance or resolution shall be submitted to the Clerk of the Council by petition signed by at least that number of electors which equals ten percent (10%) of the electors voting at the last preceding general election. When so submitted, the Clerk shall forthwith determine the sufficiency of the petition, and if found sufficient the Council shall at once have the proposed ordinance or resolution read and referred to an appropriate committee which may be a committee of the whole.

Provisions shall be made for public hearings on the proposed ordinance or resolution not later than thirty (30) days after the date on which such ordinance or resolution was submitted to the Clerk. The Council shall within forty (40) days after such ordinance or resolution is submitted take final action thereon, either enacting, amending, or rejecting the proposed ordinance or resolution. If the Council fails or refuses to pass such proposed ordinance or resolution, or passes it in a form different from that set forth in the original petition, the petitioners may file a supplemental petition with the Clerk of Council within ten (10) days after final action on such proposed ordinance or resolution by the Council.

The supplemental petition shall be signed by that number of additional qualified electors which, when taken together with those who signed the original petition, will total at least that number which equals fifteen percent (15%) of the electors voting at the last preceding general election. The supplemental petition may require that the proposed ordinance or resolution be submitted to the electors in its original form, or in the form adopted by Council, and may fix the date of the election, provided such date shall be not less than ninety (90) days from the filing of such supplemental petitions. Upon receipt of a supplemental petition, found to be sufficient by the Clerk, the Council shall provide for submitting such ordinance or resolution to a vote of the electors on the date in the supplemental petition; or, if no date is fixed therein, at the next general election occurring more than ninety (90) days from the filing of such supplemental petition.

Such ordinance or resolution submitted to a vote of the electors shall become effective from the time of its approval by a majority of the electors unless such resolution or ordinance changes the zoning classification or zoning district from one land use to another land use, then such ordinance or resolution must be approved by fifty-five percent (55%) of those voting in the election.

(Amended 11-6-1990)

Section 2. Referendum.

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The electors of the Municipality shall have the power to approve or reject at the polls any ordinance or resolution passed by the Council except as hereinafter provided. Within thirty (30) days after the final passage by Council of an ordinance or resolution, a petition signed by at least that number of electors which equals ten percent (10%) of the electors voting at the last preceding general election may be filed with the Clerk of Council requesting that such ordinance or resolution be either repealed or submitted to a vote of the electors. If said petition is signed by that number of electors which equals fifteen percent (15%) or more of such electors, the date of election may be fixed therein, provided such date shall be not less than ninety (90) days from the time of filing thereof. When said petition is filed, the Clerk shall forthwith determine the sufficiency of the petition, and if found sufficient, the Council shall thereupon, within thirty (30) days of the filing of such petition, reconsider such ordinance or resolution. If, upon such reconsideration, the ordinance or resolution is not repealed, the Council shall submit it to a vote of the electors on the date fixed in the petition, or if no date is fixed therein, at the next general election occurring more than ninety (90) days after the filing of such petition. No such ordinance or resolution shall go into effect until approved by a majority of those voting thereon. Ordinances or resolutions providing for improvements petitioned for by the owners of a majority of the front feet of the property benefitted and to be specifically assessed therefor, ordinances limited to the subject of fiscal appropriations, and emergency ordinances or resolutions shall not be subject to the referendum.

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

Section 3. Recall.

The electors shall have the power to remove from office any elected officer of the Municipality by a recall election. If an elected officer shall have served for six (6) months of his/her term, a petition demanding his/her removal may be filed with the Clerk of the Council who shall note thereon the name and address of the person filing the petition and the date of such filing. A petition for the recall of the Mayor or Councilperson-at-Large shall be signed by at least that number of electors which equals twenty-five percent (25%) of the electors voting in the City at the last preceding general election. A petition for the recall of a Ward Councilperson shall be signed by at least that number of electors residing in the ward of the Councilperson who is being recalled which equals twenty-five percent (25%) of the electors voting in that ward at the last preceding general election. Within ten (10) days after the day on which such petition shall have been filed the Clerk shall determine whether or not it meets the requirements hereof. If the Clerk shall find the petition insufficient he/she shall promptly certify the particulars in which the petition is defective, deliver a copy of his/her certificate to the person who filed the petition with him/her, and make a record of such delivery. Such person shall be allowed a period of twenty (20) days after the day on which such delivery was made in which to make the petition sufficient. If the Clerk shall find the petition sufficient he/she shall promptly so certify to the Council, shall

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deliver a copy of such certificate to the officer whose removal is sought, and shall make a record of such delivery. If such officer shall not resign within five (5) days after the day on which such delivery shall have been made the Council shall thereupon fix a day for holding a recall election not less than sixty (60) nor more than seventy-five (75) days after the date of such delivery. At such recall election this question shall be placed on the ballot: "Shall (naming the officer) be allowed to continue as (naming the office)?" with the provision on the ballot for voting affirmatively or negatively on such question. If a majority of the votes cast at such election shall be voted affirmatively, such officer shall remain in office. If a majority of the votes cast shall be voted negatively, such officer shall be considered as removed, his/her office shall be deemed vacant, and such vacancy shall be filled as provided in this Charter. The officer removed by such recall election shall not be eligible for appointment to the vacancy created thereby.
(Amended 11-6-1990)

Section 4. Petitions.

An initiative, referendum or recall petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one (1) instrument. Each part shall contain in the case of the initiative or referendum, a full and correct copy of the title and text of the proposed or referred ordinance or resolution, or in the case of the recall the name and office of the person whose removal is sought, and a statement in not more than 200 words, of the grounds for removal. The manner of signing, the method of circulating, the form and requirements as to the affidavit, and the other requirements of the general law regulating initiative and referendum petitions shall apply in the case of initiative, referendum, and recall in this Municipality, except as otherwise provided in this Charter.

~~Section 5. Mandatory Zoning Referendum.~~

~~Any ordinance or resolution enacted by the Council of the City of Kirtland which changes the zoning classification or zoning district from one land use to another land use shall be, after passage by Council, submitted to the electors for approval or disapproval at the next general or primary election which occurs at least ninety (90) days after the passage of said ordinance or resolution.~~

~~If the ordinance is approved by fifty five percent (55%) of those voting in the election, the ordinance shall become law on the first Monday after the results of the election are certified to the City by the Board of Elections of Lake County.~~

~~In the event the ordinance is disapproved by the electors, the ordinance or issue set forth therein shall not be submitted to the Planning and Zoning Commission for consideration or acted upon by Council until three hundred sixty five (365) days have elapsed since the date of the election in which the ordinance or regulation was disapproved.~~

~~(Amended 11-4-1980; 11-6-1990)~~

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ARTICLE VI - TAXATION

Section 1. Prohibition of Excessive Income Tax.

No income tax shall be imposed by Council which shall be in excess of two percent (2%).

The Council shall, by ordinance, levy a tax at the rate of two percent (2%) on all incomes which are now, or may hereafter be, subject to taxation by the Municipality of Kirtland under the Constitution and laws of the State of Ohio, subject to such exceptions and deductions as Council may determine. Such ordinance may be amended from time to time, but the tax required to be levied by this section shall remain in effect until repealed by amendment to this Charter by vote of the electors of the Municipality of Kirtland.

(Amended 11-4-1980; 11-7-2000; 11-6-2001)

ARTICLE VII - CHARTER AMENDMENTS

Section 1. Charter Amendment.

The Council may by a vote of at least two-thirds (2/3) of its members submit proposed amendments to this Charter to a vote of the electors of the Municipality. Upon receipt of petitions, setting forth a proposed amendment to this Charter and signed by at least that number of electors which equals ten percent (10%) of the electors voting at the last preceding general election, the Council shall submit such proposed amendment to a vote of the electors of the Municipality. The submission of any proposed amendment to the electors shall be governed by the requirements of the Constitution of Ohio, and, to such extent as such Constitution shall fail to provide therefor the Council shall determine the manner of such submission. If any such amendment is approved by a majority of the electors voting thereon it shall become a part of this Charter; except that if two (2) or more inconsistent amendments on the same subject are submitted at the same election, only the one of such amendments receiving the largest affirmative vote, not less than a majority of the votes cast upon such amendment, shall become a part of this Charter.

Section 2. Charter Review Committee.

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During the month of January, 1980, and every ten (10) years thereafter, the Mayor shall appoint a Charter Review Committee. **The Mayor may also appoint a Charter Review Committee at any time during the period between ten (10) year committees. A Charter Review Committee, whenever appointed, is** subject to confirmation by a majority vote of the members of Council. The Committee shall be composed of two (2) electors from each ward and one (1) elector at large from the Municipality. None of the members of such Committee shall be an elected officer of the Municipality. The Committee shall review the Charter and propose for adoption any alterations, revisions or amendments which the Committee deems advisable. At the conclusion of the review process and prior to submitting any proposed changes to Council, the Committee shall hold a public hearing and give public notice of same. Council shall submit all such proposals unaltered to the electorate for adoption at the next general election. Each such Charter Review Committee shall cease to function on the day of the next general election following its appointment. The members of the Committee shall serve without compensation, but Council shall provide for the payment of its reasonable expenses.
(Amended 11-2-2010)

Section 3. Corrections to Charter.

In the event that a typographical, grammatical, numerical or organizational sequencing, or other non-substantive error, including absence of gender neutral references, is found to exist in the Charter, and the correction of which will not change the legal intent or purpose of any part of the Charter, then City Council may correct such error by unanimous vote of the entire Council and no ballot measure would be required.
(Amended 11-2-2010)

ARTICLE VIII - GENERAL PROVISIONS

Section 1. 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 2. Interpretation.

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The article and section headings herein have been inserted for convenience in reference and are not intended to define or limit the scope of, or otherwise affect, any provision of this Charter.

Whenever the Charter requires the affirmative vote of a stated fraction of the Council, the multiplicand shall be seven (7) reduced by the number of vacancies then existing in the Council.

The period of residence in the Municipality required by this Charter as a qualification for elective office shall include the period of residence in any territory which has been annexed to the Municipality.

Section 3. Effective Date.

This Charter shall become effective from the time of its approval by the electors on November 3, 1970.

Amendments to the Charter, which are approved by a majority of those voting in the election, shall become a part of the Charter of the City of Kirtland and shall take effect on the day the election results are certified to the City by the Board of Elections of Lake County, and any existing sections affected by such amendments shall be repealed from such effective date. (Amended 11-4-1980; 11-6-1990)

ARTICLE IX - CITY POWERS

Section 1. Granting of Powers.

It is hereby established that the City of Kirtland shall have all powers that now are, or hereafter may be granted to municipalities by the Constitution or laws of Ohio; and all such powers whether expressed or implied, shall be exercised and enforced in the manner prescribed by this Charter, or when not prescribed herein, in such manner that shall be provided by ordinance or resolution of the City Council. In the absence of such provision as to any power, such power shall be exercised in the manner now or hereafter prescribed by the general laws of the State applicable to municipalities.

(Amended 11-4-1980)

Section 2. Powers Not Limited by Charter.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the

NOTE FROM THE 2020 CHARTER REVIEW COMMITTEE:

Throughout this Charter, the provisions proposed to be stricken are in red with a strikethrough such as this ~~example~~ while the provisions proposed to be added to the charter are highlighted such as this **example**.

exercise thereof the City shall have, and may exercise all other powers which under Constitution and laws of Ohio, it would be competent for this Charter specifically to enumerate.
(Amended 11-4-1980)

Section 3. Applicability of State Law.

All general laws of the State applicable to municipal corporations, now or hereafter enacted, which are not in conflict with the provisions of this Charter, or with ordinances or resolutions hereafter enacted by the City Council, shall be applicable to this City; provided, however, that nothing contained in this Charter shall be construed as limiting the powers of the City Council to enact any ordinance or resolution not in conflict with the Constitution of the State or this Charter.

(Amended 11-4-1980; 11-6-1990)