



LEGISLATIVE COVER MEMO

Introduction: June 20, 2022

Public Hearing: July 18, 2022

Effective Date: July 18, 2022

Agenda Item: **Ordinance 2022-20**

INITIATING CERTAIN AMENDMENTS TO SECTIONS 3.02, 3.05, 3.06, 3.08, 3.11, 4.03, 4.08, 4.09, 4.10, 5.01, 5.02, 6.01, 6.07, 7.01, 7.02, 7.05, 8.02, 11.02, 11.03, 11.04, 11.05, 11.06, 11.09 AND 11.10 OF THE CITY OF FRANKLIN, OHIO CHARTER AND DIRECTING THE CLERK OF COUNCIL TO CERTIFY THE SAME TO THE WARREN COUNTY BOARD OF ELECTIONS FOR PLACEMENT OF THE QUESTION OF THE CHARTER AMENDMENTS UPON THE NOVEMBER 8, 2022 GENERAL ELECTION BALLOT TO BE SUBMITTED TO THE CITY'S ELECTORS FOR FINAL REVIEW AND APPROVAL

Submitted by: Ben Yoder, Law Director

Scope/Description: In accordance with Section 7.04 of the City of Franklin Charter, the City appointed six (6) individuals to the City of Franklin Charter Review Commission on May 17, 2021. The Charter Review Commission met multiple times throughout 2021 to review the City Charter and discuss revisions to the same.

City Council selected a number of the Commission's proposed amendments to submit to the City's electors on the May 3, 2022 Primary Election ballot for final review and approval (all of which were passed). The amendments proposed in the present Ordinance consist of the second set of amendments which Council selected to submit to electors as part of the November 8, 2022 General Election ballot. The following summarizes each amendment/category of amendments:

1. Non-substantive, typographical changes throughout Charter to make terms used in City Charter and Ordinances consistent:

- City Clerk → Clerk of Council
 - Manager → City Manager
 - Department of Service → Public Works Department
 - Director of Service → Public Works Director
 - Board of Zoning, Building and Housing Appeals → Board of Zoning Appeals
2. Section 3.02 – If Council votes to increase Councilmember compensation, the increase will only apply to future Councilmembers (for compliance with Ohio ethics laws)
3. Section 3.06 – If Council membership ever drops below 4 members, the remaining members must appoint new members within 30 days to increase Council membership to over 4
4. Section 7.01 – Eliminate certain Planning Commission duties which are duties better left to City planning, zoning and economic development staff
5. Section 11.10 – Eliminate the City's unique Councilmember recall procedures and requirements (Ohio Revised Code recall procedures and requirements would instead apply to recall of City Councilmembers)

Vote Required for Passage:

Per sections 11.09 and 12.05 of the City's Charter, and Article XVIII of the Ohio Constitution, the passage of this Ordinance requires the affirmative vote of at least five (5) members of Council. The Ordinance will be immediately effective upon its passage.

Exhibits:

Exhibit A: Proposed Charter Amendments

Recommendation:

Approval

CITY OF FRANKLIN, OHIO
ORDINANCE 2022-20

INITIATING CERTAIN AMENDMENTS TO SECTIONS 3.02, 3.05, 3.06, 3.08, 3.11, 4.03, 4.08, 4.09, 4.10, 5.01, 5.02, 6.01, 6.07, 7.01, 7.02, 7.05, 8.02, 11.02, 11.03, 11.04, 11.05, 11.06, 11.09 AND 11.10 OF THE CITY OF FRANKLIN, OHIO CHARTER AND DIRECTING THE CLERK OF COUNCIL TO CERTIFY THE SAME TO THE WARREN COUNTY BOARD OF ELECTIONS FOR PLACEMENT OF THE QUESTION OF THE CHARTER AMENDMENTS UPON THE NOVEMBER 8, 2022 GENERAL ELECTION BALLOT TO BE SUBMITTED TO THE CITY’S ELECTORS FOR FINAL REVIEW AND APPROVAL

WHEREAS, the Charter of the City of Franklin, Ohio was originally adopted on June 7, 1983;

WHEREAS, pursuant to Section 7.04 of the Charter, the City Council of the City of Franklin is required to appoint a Charter Review Commission, consisting of at least five (5) members, a minimum of every five (5) years, to review the Charter and recommend to Council alterations, revisions and amendments to the same, as the Commission deems appropriate;

WHEREAS, in accordance with Section 7.04 of the Charter, City Council passed Resolution 2021-40 on May 17, 2021, appointing six (6) individuals to the Charter Review Commission;

WHEREAS, the Charter Review Commission held multiple public meetings throughout the course of 2021, during which the Commission and the City of Franklin Law Director reviewed the current Charter and discussed revisions to the same;

WHEREAS, during public meetings held on November 15, 2021 and December 6, 2021, the Law Director presented to, and discussed with, City Council the final set of proposed revisions to the Charter which resulted from the Charter Review Commission’s review of the Charter;

WHEREAS, City Council reviewed all recommended revisions to the Charter and selected certain amendments to Sections 3.02, 3.05, 3.06, 3.08, 3.11, 4.03, 4.08, 4.09, 4.10, 5.01, 5.02, 6.01, 6.07, 7.01, 7.02, 7.05, 8.02, 11.02, 11.03, 11.04, 11.05, 11.06, 11.09 and 11.10 of the Charter, as set forth in “Exhibit A” to this Ordinance and made a part hereof, to be placed on the November 8, 2022 election ballot and submitted to the electors of the City of Franklin for final review and approval.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FRANKLIN, WARREN COUNTY, OHIO THAT:

Section 1. The question of amending Sections 3.02, 3.05, 3.06, 3.08, 3.11, 4.03, 4.08, 4.09, 4.10, 5.01, 5.02, 6.01, 6.07, 7.01, 7.02, 7.05, 8.02, 11.02, 11.03, 11.04, 11.05, 11.06, 11.09 and 11.10 of the Charter of the City of Franklin, Ohio, as set forth in “Exhibit A” to this Ordinance, (collectively, the “Charter Amendments”) shall be submitted to the electors of the City of Franklin, Ohio for final review and approval on the November 8, 2022 General Election ballot.

Section 2. The City of Franklin Clerk of Council is hereby directed to certify this Ordinance to the Warren County Board of Elections with instructions that the Board of Elections place the question of the Charter Amendments on the November 8, 2022 election ballot, and submit the same to the City’s electors, in conformance with all applicable State and local election laws.

Section 3. The Clerk of Council is hereby directed to give notice to the public of the proposed Charter Amendments in accordance with Article XVIII, § 9 of the Ohio Constitution and Ohio Revised Code 731.211 by either: (i) publishing the full text of the Charter Amendments once a week for not less than two (2)

consecutive weeks in a newspaper of general circulation within the City, with the first publication being at least fifteen (15) days prior to the November 8, 2022 election; or (ii) mailing a copy of the Charter Amendments to each elector whose name appears upon the poll or registration books of the last regular or general election held within the City, not less than thirty (30) days prior to the November 8, 2022 election.

Section 4. The City of Franklin Law Director is hereby directed to cooperate and make such arrangements with the Warren County Board of Elections as necessary to give proper notice of the election on the Charter Amendments to the City's electors, and ensure the substance of the Charter Amendments is properly set forth on the November 8, 2022 election ballot in accordance with all applicable State and local laws.

Section 5. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action occurred in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 6. This Ordinance shall be in full force and effect from and after the earliest date provided by law.

INTRODUCED: June 20, 2022

ADOPTED: July 18, 2022

ATTEST: _____
Khristi Dunn, Clerk of Council

APPROVED: _____
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of Ordinance 2022-20 passed by that body on July 18, 2022.

Khristi Dunn, Clerk of Council

APPROVED AS TO FORM:

Law Director

CHARTER OF THE CITY OF FRANKLIN, OHIO

EFFECTIVE – JANUARY 1, 1984

1 BENJAMIN FRANKLIN WAY
FRANKLIN, OHIO

Amended: Jan. 1998, Jan. 2003, Jan. 2008, Jan. 2009, Jan. 2013, Jan. 2018, May 2022
Updated: May 2009, Nov 2017, April 2019, June 2022

3.02 COMPENSATION AND EXPENSES.

~~Members of Council initially serving under this Charter shall be paid two thousand dollars (\$2,000) annually; and thereafter the Council may determine the salary of members of Council by ordinance, but no ordinance changing such salaries shall become effective until the date of the commencement of the terms of Council members elected at the next regular election, provided that such election is held at least one hundred eighty (180) days after the adoption of such ordinance, and such revised~~ and any increase in compensation shall only be paid to all those members of the Council, ~~regardless of whether such members are in mid-term~~ elected after the effective date of the ordinance. Members of Council shall receive their actual and necessary expenses incurred in the performance of their duties of the office as approved by Council. After five (5) absences from regular Council meetings in any calendar year, two per cent (2%) of the Council member's annual salary shall be deducted from his or her pay for each meeting missed. ~~In addition to compensation received as a Council member, the Chairperson serving under this Charter shall receive an additional five hundred dollars (\$500) annually as compensation.~~

* * * *

3.05 PROHIBITIONS.

- (a) Holding Other Office. Except where authorized by law or by this Charter, no Council member shall hold any other elected office or City employment during the terms for which he or she was elected to the Council.
- (b) Appointments and Removals. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees who the City Manager or any of his or her subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees. This section shall not prevent the removal of the City Manager because of Council's disapproval of the City Manager's personnel management policies or his or her appointment or removal of administrative officers or employees.

(c) Interference with Administration. Except for the purpose of inquiries and investigations under Section 3.09, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately; provided that the Council may request and require City officers and employees to provide information pertaining to the conduct of City affairs and to attend the meetings of the Council or its committees to present testimony or other evidence.

3.06 VACANCIES.

(a) The office of a member of Council shall become vacant upon the death, resignation, judicially determined mental incompetence existing for more than sixty (60) days, or removal from office in the manner authorized by this Charter of the person holding such offices.

- (1) When the office of a Councilmember becomes vacant and thirty (30) months or less of the term remains to be served, the vacancy shall be filled for the unexpired term by a majority of the remaining members of the Council by the appointment of a qualified person as a member of the Council.
- (2) When the office of a Councilmember becomes vacant and more than thirty (30) months of the term remains to be served, the Council shall appoint a qualified person, in the manner provided in

paragraph (a) (1) of this section, to serve until the first day of January following the next regular municipal election; and at the next regular municipal election, a qualified person shall be elected to serve the remainder of the unexpired term, commencing on the first day of January following his or her election.

(b) In the event Council fails to fill a vacancy as provided in paragraphs (a) (1) through (2) of this section within sixty (60) days after said vacancy occurs, then said vacancy shall immediately be filled by the appointment of a qualified person by the presiding judge of the municipal court having territorial jurisdiction within the City.

(c) ~~Notwithstanding the requirements in Section 3.11, if~~ at any time the membership of the Council is reduced to less than four (4) members, the remaining members shall, within thirty (30) days of the reduction in membership to less than four (4) and by a majority vote, appoint additional members to raise the membership to four (4).

(d) The appointment of all Council members shall be subject to all other requirements of this Charter.

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3.08 CITY CLERK OF COUNCIL.

The Council shall appoint, by a majority vote of its members, an officer of the City who shall have the title of City Clerk of Council. The City Clerk of Council shall serve at the pleasure of the Council, and may be removed from office, without cause, notice or hearing, by a majority vote of the members of the Council. The Council may appoint an Acting City Clerk of Council to serve during the temporary absence or disability or a vacancy in the office of City Clerk of Council. The Acting City Clerk of Council shall have all the powers, duties and functions of the City Clerk of Council. The City Clerk of Council shall give notice of Council meetings to its members and the public, keep the journal of its proceedings and a record of ordinances and resolutions adopted by the Council, and perform such other duties as are assigned to the Clerk by this Charter, ordinances and resolutions of the City, the rules of Council, and as directed by the Council. The City Clerk of Council and Acting City Clerk of Council may hold other office or position of employment with the City.

* * * *

3.11 MEETINGS.

(a) Regular meetings of the Council shall be held at least once a month at such times and places as the Council may determine. Special meetings of the Council may be called by a vote of Council taken at any regular or special meeting thereof or may be called by the Chairperson of Council, or any three (3) or more members of the Council. Emergency meetings may be called by the Chairperson or any three (3) members of Council. The City Clerk of Council, or in his or her absence, incapacity or refusal to act, the City Manager shall cause notice, in writing, of each special meeting to be ~~served personally or to be left at the usual place of residence of~~ given to each member of the Council not less than twenty-four (24) hours preceding the time for such special meeting, except in the event of an emergency meeting in which case notice shall be given by attempted personal contact of each Council member. In the event that a special meeting is called by a vote of Council taken at a regular or special meeting from which any member of Council is absent, written notice of such special meeting shall be given only to each

absentee in the manner hereinbefore described. Service of notice of any special or emergency meeting shall be deemed conclusively to have been waived by any member of Council who is present at such special meeting. The notice of a special or emergency meeting shall state the purpose of the meeting, and no other business or action shall be conducted at such meeting.

- (b) A majority of the members of Council shall constitute a quorum for the transaction of business at any meeting of the Council but a lesser number may adjourn the meeting from time to time and compel, by a majority vote of the members present, the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance or resolution.

(c) All meetings of the Council and of other Boards, Commissions & Committees of the City shall be held in accordance with the general laws of Ohio pertaining to requirements for open meetings of public bodies, including public notice requirements.

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4.03 PASSAGE OF ORDINANCES.

A proposed ordinance may be introduced by any Councilmember at any meeting of Council. Upon introduction of any proposed ordinance, the Clerk of Council shall distribute a copy to each Councilmember and the City Manager, shall file one copy in the office of the Clerk of Council, shall make copies available to interested parties, and shall publish the proposed ordinance, together with notice setting out the time and place for a public hearing thereon and for its consideration by Council, in accordance procedures prescribed by Council.

A public hearing shall be held not earlier than seven (7) days following the publication, and may be held separately or in connection with a regular or special Council meeting and may adjourn from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendment or reject it. The vote on the question of passage of each ordinance shall be taken by roll call and entered on the Clerk's Journal, and no ordinance shall be passed without concurrence of a majority of the members of Council who are present. If the amendment to an ordinance is a matter of substance, as determined by Council, in its sole discretion, and upon a majority vote of the members of Council who are present, the ordinance may not be voted upon until the ordinance has been subjected to all the procedures herein before required in the case of a newly introduced ordinance. Within ten (10) days after adoption of any ordinance, the Clerk of Council shall have it published again, together with a notice of its adoption.

* * * *

4.08 AUTHENTICATION OF ORDINANCES AND RESOLUTIONS.

Each ordinance or resolution shall be authenticated by the signature of the Chairperson of Council and the City Clerk of Council; however, the failure or refusal of such officers to sign such ordinances or resolutions shall not invalidate an otherwise properly enacted ordinance or resolution.

4.09 RECORDING OF ORDINANCES AND RESOLUTIONS.

Each ordinance or resolution shall be recorded as a part of the Clerk's Journal, or other record prescribed by the Council, established and maintained for that purpose. The City Clerk of Council or a duly authorized deputy to said Clerk, shall, upon the request of any person and upon the payment of a fee, as

established by the Council, certify true copies of any ordinance or resolution, which certified copies shall be admissible as evidence in any court.

4.10 ADOPTION OF TECHNICAL CODES BY REFERENCE.

Council may, by ordinance or resolution, adopt standard ordinances and codes prepared by the State or any department, board or other agency or political subdivision of the State, or any standard or model ordinance or code prepared and promulgated by a public or private organization, including but not limited to codes and regulations pertaining to fire, fire hazards, fire prevention, plumbing code, electrical code, building code, refrigeration machinery code, piping code, boiler code, heating code, air conditioning code, housing code, and such other matters as the Council may determine to be appropriate for adoption by reference, by incorporation by reference. The ordinance or resolution adopting any such standard ordinance or code shall make reference to the date and source of such standard ordinance or code without reproducing the same at length in the ordinance or resolution. In such cases, publication of the standard ordinance or code shall not be required, but at least a copy of such code or ordinance shall be kept at all times in the office of the ~~City~~ Clerk of Council and available for reference by interested persons. If the standard ordinance or code, after its adoption by reference by the Council, is amended, the Council may adopt the amendment or change by incorporation by reference in an ordinance or resolution under the same procedure as is established herein for the adoption of the original standard ordinance or code without the necessity of setting forth in full in the ordinance or resolution the provisions of the amendment or change to the standard ordinance or code.

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5.01 APPOINTMENT, QUALIFICATION; COMPENSATION.

The Council shall appoint a City Manager for an indefinite term and fix his or her compensation. The City Manager shall be appointed solely on the basis of his or her executive and administrative qualifications. He or she need not be a resident of the City or State at the time of his or her appointment but may reside outside the City while in office only with the approval of the Council.

5.02 REMOVAL.

The City Manager may be removed by Council by the affirmative vote of four (4) members placing on the agenda of the next regularly scheduled meeting, a motion for removal of the City Manager. At the next regularly scheduled meeting, upon the affirmative vote of four (4) members of Council, the City Manager may be removed. The City Manager shall be given at least ten (10) days notice prior to such meeting, that the question of his or her removal will be on the agenda. In the intervening period, the City Manager may be suspended with or without pay. The action of the Council in suspending or removing the City Manager shall not be subject to review by any Court or agency.

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6.01 GENERAL PROVISIONS.

- (a) There shall be a Department of Safety, a Public Works ~~Department of Service~~, a Department of Finance and a Department of Law.
- (b) The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except

that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.

* * * *

6.07 PUBLIC WORKS ~~DIRECTOR OF SERVICE.~~

The Public Works ~~Director of Service~~ shall be the head of the Public Works ~~Department of Service~~. He or she shall have custody, care and maintenance of the public buildings, grounds, streets, sewers, municipal utilities, cemeteries owned by the City, and parks and recreation facilities of the City. He or she shall perform such other duties consistent with his or her office as may be required by this Charter by ordinance or resolution of the Council, or as directed by the City Manager.

* * * *

7.01 PLANNING COMMISSION.

- (a) Membership. There is hereby created and established a Planning Commission which shall consist of the Chairperson of the Council, another Council member as appointed by a majority vote of Council, and five (5) ~~members at large~~ additional members to be appointed by a majority vote of Council, ~~as hereinafter provided. The~~ Each members shall serve for terms of four (4) years; however, the first appointment of members of the Commission by the Council under this Charter shall be as follows: two (2) of such members shall be appointed for two (2) year terms; and three (3) of such members shall be appointed for four (4) year terms; and thereafter each member shall be appointed for a four (4) year term and shall continue in office until his or her successor is appointed.
- (b) Powers and Duties. The Planning Commission shall ~~conduct studies and surveys and prepare plans, reports and maps relative to the overall planning of the growth, development, redevelopment, rehabilitation and renewal of the City, and may make such recommendations relative thereto to the Council as it feels are in the best interest of the City. The Planning Commission shall continuously review and report to the Council its recommendations concerning the City's capital improvement programs, subdivision, platting and zoning ordinances and regulations. The Planning Commission shall cooperate with other governmental or private planning agencies to secure the maximum benefit to the City of the work, studies, surveys and reports of such other planning agencies. Other powers and duties of the Planning Commission shall include those established by this Charter and by the Council by ordinance or resolution, but until such ordinances or resolutions shall be passed, it shall possess such other powers and duties as are provided by the general laws of Ohio, to the extent that such general laws do not conflict with the provisions of this Charter.~~

7.02 BOARD OF ZONING, BUILDING AND HOUSING APPEALS.

- (a) Membership. There is hereby created and established the Board of Zoning, ~~Building and Housing Appeals~~, which Board shall consist of five (5) members to be appointed by a majority vote of the Council for terms of four (4) years, provided that the members of the Board first appointed under this Charter shall be as follows: two (2) of such members shall be appointed for a two (2) year term, and three (3) of such members shall be appointed for four (4) year terms. Thereafter each member shall be appointed for a four (4) year term and shall continue in office until his or her successor is appointed.

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

* * * *

7.05 BOARD AND COMMISSIONS.

(a) Organization. At the first meeting in each year of each of the Planning Commission, Board of Zoning, ~~Building and Housing~~ Appeals, Parks and Recreation Commission and Charter Review Commission, the members of such Boards and Commissions shall elect a Chairman and a Secretary by a majority vote of the members appointed to such Board or Commission. The Chairman and Secretary of each Board or Commission hereinabove referred to shall serve at the pleasure of such Board or Commission. The Chairman of each such Board or Commission shall be a member of such Board or Commission, but in no event shall the Chairman or any such Board or Commission, in his or her dual capacity as a member and presiding officer, cast more than one (1) vote on any action. The Secretary of each such Board or Commission may be elected from within or without the membership of such Board or Commission, and may hold other office or employment with the City. The Secretary of each such Board or Commission shall keep an accurate record of the proceedings of such Board or Commission.

Members of the Boards and Commissions hereinabove referred to shall be electors of the City at the time of their appointment and during respective terms of office, and shall not hold other elected office or employment with the City, except as authorized by this Charter. Council may authorize the City Manager to provide funds as appropriate for the use of Boards and Commissions.

A majority of the members of each of the Boards and Commissions hereinabove referred to shall constitute a quorum for meetings of such Board or Commission; and a majority vote of the members present shall be necessary to take any action and for the passage of motions by such Board or Commission. Rules providing for the number and manner of calling regular and special meetings, and to provide for the conduct and government of meetings of each such Board or Commission may be adopted by a majority vote of the members of each such Board or Commission; however, such rules shall not conflict with the provisions of this Charter or any ordinance or resolution passed by the Council.

(b) Vacancy in Board or Commission. Unless otherwise provided by this Charter, a vacancy during the term of any member of a Board or Commission created by this Charter or by ordinance or resolution of the Council shall be filled for the unexpired term in the manner authorized for an original appointment.

* * * *

8.02 UNCLASSIFIED SERVICE.

All positions in the service of the City shall be filled pursuant to open competitive examinations except the following, who shall constitute the unclassified service:

(a) Members of the Council.

- (b) The ~~City~~ Clerk of Council, deputies, assistant ~~City~~ Clerks of Council and other officers and employees of the Council.
- (c) The City Manager, Assistant City Managers, and assistants to the City Manager.
- (d) The Directors of departments.
- (e) One assistant to each Department Head.
- (f) Members of boards and commissions appointed by the Council, and advisory committees appointed by the City Manager and the Council.
- (g) Temporary employees of exceptional, professional or scientific qualifications engaged as consultants.
- (h) Seasonal and part-time employees.
- (i) Professional engineers employed by the City.
- (j) Assistant Law Directors, the City Prosecutor and special legal counsel.
- (k) The secretary of each board or commission established by this Charter or by ordinance or resolution, provided that if such secretary holds other employment with the City, which is not an exempted position, this section shall not exempt such person from the requirement of competitive examination to hold such other employment.
- (l) Personnel Director.
- (m) Division heads within the Public Works ~~Department of Service~~, the Department of Finance and the Department of Safety, except for the positions of Police Chief and Fire & EMS Chief.
- (n) Clerk of Courts, Deputy Clerks of Court and other Court personnel.

* * * *

11.02 COMMENCEMENT OF PROCEEDINGS; PETITIONERS' COMMITTEE; AFFIDAVIT.

Any five (5) electors may commence initiative or referendum proceedings by filing with the ~~City~~ Clerk of Council an affidavit stating they will constitute the petitioners' 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 initiative ordinance, resolution or issue, or citing the ordinance or resolution sought to be reconsidered by referendum.

Promptly after the affidavit of the petitioners' committee is filed, the ~~City~~ Clerk of Council shall specify the appropriate petition forms that are to be used to the petitioners committee.

The petitioners' committee affidavit hereinabove described shall be filed within ten (10) days of publication of the ordinance or resolution upon which reconsideration by referendum is sought. Failure to file said affidavit within said ten (10) day period shall render invalid any further steps taken with respect to a referendum.

11.03 PETITIONS - INITIATIVE AND REFERENDUM.

(a) Number of Signatures. Initiative and referendum petitions must be signed by qualified electors in the City equal in number to at least fifteen (15%) percent of the total number of qualified electors voting for the office of Governor within the City at the last general election at which a Governor was elected.

(b) Form and Content. All papers of a petition shall be uniform in size and style and each petition shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing and the date of the signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance, resolution or issue proposed by initiative or sought to be reconsidered by referendum.

(c) Affidavit of Circulator. Each petition shall be filed with the ~~City~~ Clerk of Council and shall have attached to it when filed, an affidavit executed by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her present, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance, resolution or issue proposed by initiative or sought to be reconsidered by referendum.

(d) Time for Filing Referendum Petitions. Referendum petitions must be filed with the ~~City~~ Clerk of Council within thirty (30) days after adoption by the Council of the ordinance or resolution sought to be reconsidered.

11.04 PROCEDURE AFTER FILING; INITIATIVE AND REFERENDUM.

Within ten (10) days after the petition is filed, the ~~City~~ Clerk of Council shall determine its sufficiency as required in this Charter and shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by certified or registered mail and shall so notify the Council. The petitioners' committee shall have ten (10) days after mailing of a certificate of insufficiency in which to file additional petitions to remove any insufficiency. The ~~City~~ Clerk of Council shall certify said petition to the Board of Elections immediately upon his or her determination of its sufficiency.

11.05 REFERENDUM PETITIONS; SUSPENSION OF EFFECT OF ORDINANCE OR RESOLUTION.

When an affidavit by persons constituting the petitioners' committee is filed pursuant to §11.02 of this Charter and a proper referendum petition is filed with the ~~City~~ Clerk of Council, the ordinance or resolution sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (a) There is a final determination of insufficiency of the affidavit or petition, or
- (b) The Council repeals the ordinance or resolution, or
- (c) The petitioners' committee withdraws the petition, or
- (d) Five (5) days have elapsed after the Board of Elections certifies the official vote on the question.

11.06 ACTION ON PETITIONS; INITIATIVE AND REFERENDUM.

- (a) At any time after an initiative petition has been filed with the ~~City~~ Clerk of Council, the Council may adopt the ordinance or resolution proposed in said petition, or a substitute for said ordinance or resolution approved by a majority of the members of the petitioners' committee. In such event, the ~~City~~ Clerk of Council shall so notify the Board of Elections and the proposed ordinance or resolution shall not be submitted to a vote of the electors.
- (b) At any time after referendum petition has been filed with the ~~City~~ Clerk of Council, the Council may repeal the ordinance or resolution for which the reconsideration is sought. In such event or in the event the affidavit of the petitioners' committee or the referendum petition is found to be insufficient by the ~~City~~ Clerk, the ~~City~~ Clerk of Council

shall so notify the Board of Elections and the proposed ordinance or resolution shall not be submitted to a vote of the electors.

- (c) Submission to Electors. The vote of the electors on a proposed or referred ordinance, resolution or issue shall be held not less than ninety (90) days and not later than one (1) year from the date of the certification of the initiative or referendum petition to the Board of Elections. If no regular election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election.

(d) Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time by filing with the ~~City~~ Clerk of Council a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect, all proceedings thereon shall be terminated, and the ~~City~~ Clerk of Council shall certify such withdrawal of petitions and the termination of the proceedings under such petitions to the appropriate Board of Elections.

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11.09 REFERRAL OF ORDINANCE OR RESOLUTION TO THE ELECTORS BY COUNCIL.

By a vote of five (5) members of Council, any pending ordinance or resolution may be referred to the electors of the City at a general, primary or special election. The action of referral provided for in this section shall be taken by ordinance or resolution and shall go into immediate effect. Such ordinance or resolution shall be passed not less than ninety (90) days prior to the date of the primary or general election at which such referred ordinance or resolution is to be submitted. In the event that such ordinance or resolution is to be referred for approval or rejection at a special election, the Council shall, by ordinance or resolution, fix a date for such special election at a date not less than ninety (90) days after the date of passage of the ordinance or resolution to refer, and the ~~City~~ Clerk of Council shall cause notice of the special election to be published once a week for two (2) consecutive weeks in the manner prescribed by Council.

The ~~City~~ Clerk of Council shall certify to the appropriate Board of Elections that an election is to be held referring such ordinance or resolution to a vote of the electors at the date fixed by Council as hereinbefore provided. The ~~City~~ Clerk of Council shall also certify a copy of the ordinance or resolution to be voted upon to the appropriate Board of Elections.

At such primary, general or special election, this question shall be placed upon the ballot: "Shall an (ordinance or resolution) providing: (a brief summary of the proposed ordinance or resolution shall be inserted here) be adopted?" , with the provision on the ballot for voting affirmatively or negatively. In the event a majority of those voting on the issue shall be in the affirmative, the ordinance or resolution shall go into immediate effect, without the need for further publication.

~~11.10 — RECALL.~~

~~The electors shall have the power to remove from office, by a recall election, any elected or appointed member of Council of the City in the manner herein provided. If such officer shall have served six (6) months of his or her term, a petition demanding his or her removal may be filed with the Clerk of Council, who shall note thereon the name and address of the person filing the petition and the date of such filing, and deliver to such person a receipt therefore and attach a copy thereof to said petition. Such petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain the name and office of the person whose removal is sought and a statement not to exceed five~~

~~hundred (500) words of the grounds for the removal. Such petition shall be signed by at least that number of electors from the City which equals twenty five (25%) percent in number of the electors voting at the last preceding regular municipal election for Council members within the City. Within twenty (20) 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 or she shall promptly certify the particulars in which the petition is defective, deliver a copy of his or her certificate to the person who filed the petition, and make a record of such delivery. Such person shall be allowed a period of ten (10) days after the day on which each delivery was made in which to make the petition sufficient. If the petition is sufficient or is subsequently made sufficient within such ten (10) day period, the City Clerk shall promptly so certify it to Council, shall deliver a copy of such certificate to the officer whose removal is sought, and shall make a record of such delivery. If such officer shall not resign within five (5) days after the day on which such delivery shall have been made, Council shall thereupon fix a day for holding a recall election, not less than ninety (90) days nor more than one hundred twenty (120) days after the date of such delivery, and shall cause notice of such recall election to be published on the same day of each week for two (2) consecutive weeks in the manner prescribed by Council. 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. In the event a majority of the vote is negative, such officer shall be considered as removed, his or her office shall be deemed vacant, and such vacancy shall be filled as provided in this Charter. The officer removed at such recall election shall not be eligible for appointment to the vacancy created thereby. If the officer is not removed at such recall election, no further recall petitions shall be filed against him or her for a period of one (1) year.~~