

Proposed: 5/3/21

ORDINANCE NO. 53-2021 (AS)

By Council Member

An Ordinance providing for the submission to the electors of the City of Cleveland Heights of proposed amendments to the Charter of the City of Cleveland Heights for placement on the November 2, 2021 ballot; and declaring an emergency.

WHEREAS, Article III-4 of the Charter of the City of Cleveland Heights provides, in part, that “[a]ny vacany in the Council . . . shall be filled by appointment by a majority of the remaining members of the Council”; and

WHEREAS, Article III-4 of the Charter of the City of Cleveland Heights does not provide a specific timeframe by which Council must make an appointment filling the vacant seat in the Council; and

WHEREAS, this Council has determined that it would be in the best interests of the City and its residents to provide a timeframe by which Council may fill a vacant Council seat; and

WHEREAS, pursuant to Article XIII of the Charter of the City of Cleveland Heights and the Constitution of the State of Ohio, this Council has determined to authorize and direct the submission to the electors of the City of Cleveland Heights of proposed charter amendments at the general election to be held on Tuesday, November 2, 2021, which election is not less than 60 nor more than 120 days from the effective date of this Ordinance, and that submitting the same to the electors is in the best interest of the City and its residents; and

WHEREAS, Article XIII of the Charter of the City of Cleveland Heights provides that amendments to the Charter may be submitted to the electors of the City of Cleveland Heights by a vote of five (5) members of this Council.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. This Council directs that there shall be submitted to a vote of the electors of the City of Cleveland Heights, at the general election to be held at the usual places of voting in said City on Tuesday, November 2, 2021, the question of whether the selected provision of the Charter of the City of Cleveland Heights should be amended to read as set forth in the document attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. The Cuyahoga County Board of Elections is hereby directed to submit the following question to the electors of the City of Cleveland Heights at the general election on Tuesday, November 2, 2021 in substantially this form:

PROPOSED CHARTER AMENDMENT

A majority affirmative vote is necessary for passage.

“Shall Article III, Section 4 of the Charter of the City of Cleveland Heights be amended to prescribe a timeframe by which Council may fill a vacant Council seat and that if not filled by Council within the prescribed time such vacancy shall be submitted to the electors at the next primary or general election?

 Yes No”

SECTION 3. The Clerk of Council is hereby instructed to file forthwith a certified copy of this Ordinance and the proposed form of the ballot question with the Cuyahoga County Board of Elections not less than sixty (60) nor more than one hundred twenty (120) days prior to November 2, 2021, for the Board’s processing in the manner provided by the general laws of the State of Ohio.

SECTION 4. The Clerk of Council is hereby directed to provide notice of the proposed amendments pursuant to Article VIII-5 of the Charter of the City of Cleveland Heights, by either: (1) printing or mailing to each registered elector an official publicity pamphlet, or (2) publicizing official publicity in a newspaper published and generally circulated in the City, or if no such newspaper is published in the City, then in a newspaper of general circulation within the City, at least once a week for not less than two consecutive weeks with the first publication being at least thirty (30) days prior to November 2, 2021. Such publicity pamphlet or publication shall contain a full text of the proposed Charter amendment, with the respective ballot title, together with any explanation or argument for or against such measure which may have been filed with the Clerk of Council.

SECTION 5. Pursuant to Article XIII of the Charter of the City of Cleveland Heights, if the majority of electors voting thereon vote in favor of adopting the proposed amendments to the Charter of the City of Cleveland Heights, it shall become a part of the Charter at the time fixed in the amendments, and if no time is fixed therein, then such amendments shall become a part of the Charter upon its approval by the electors.

SECTION 6. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to timely submit to the electors of the City of Cleveland Heights the proposed amendments to Charter of the City of Cleveland Heights amendments in time to meet Board of Elections deadlines. Wherefore, provided it receives the affirmative vote of five (5) or more members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

JASON S. STEIN
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED:

EXHIBIT A

CURRENT CHARTER LANGUAGE

SECTION III-4. VACANCIES.

Any vacancy in the Council, except as otherwise provided in this Charter, shall be filled by appointment by a majority of the remaining members of the Council. Such appointee shall hold office through December 31 following the next regular municipal election taking place more than sixty days after such vacancy occurs; provided, however, that the term of a member shall not be lengthened by his resignation and subsequent appointment. The term of the person chosen at such election to succeed such appointee for any unexpired term shall begin the first day of January next following his election and he shall serve the remainder of such unexpired term.

LANGUAGE AS RECOMMENDED BY THE CHARTER REVIEW COMMMISSION

3.4 VACANCIES.

The procedure for filling a Council vacancy is as follows:

- (a) Unless the unexpired term is scheduled to expire earlier, an election regarding a Council vacancy shall be held at the first primary or general election that occurs at least two hundred ten (210) days after the vacancy occurs (Vacancy Election).
- (b) Council may, by an affirmative vote of a majority of its members in office at the time of the appointment, fill the vacancy in the first instance by appointment, provided that it does so not later than ninety (90) days after the vacancy occurs. Council shall develop a process for making the appointment and include the process in the rules by which it operates. The term of a person who fills a vacancy by appointment shall extend until the earlier of (i) the expiration of the unexpired term, or (ii) the first regular meeting of Council following the certification of electoral results from the Vacancy Election.
- (c) If Council does not fill the vacancy in the first instance by appointment as provided above, the vacancy shall be filled in the first instance by election at the Vacancy Election.
- (d) The term of a person elected at the Vacancy Election shall begin at the first regularly scheduled meeting of Council following the certification of electoral results of the Vacancy Election and shall extend for the remainder of the unexpired term.