

RESOLUTION NO.: 2019-R69 (AMENDED AUGUST 27, 2019)

SPONSOR: MAYOR NEUGEBAUER

INTRODUCED: JUNE 25, 2019

ASSIGNED TO: CHARTER

A RESOLUTION SUBMITTING TO THE ELECTORS OF THE CITY OF GREEN A PROPOSAL TO AMEND SECTION 12.8 OF THE CHARTER OF THE CITY OF GREEN TO PROVIDE FOR THE REMOVAL OF THE ELECTED DIRECTOR OF LAW IN THE SAME FASHION AS OTHER ELECTED CITY OFFICIALS, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Green's Charter requires a review of the Charter's provisions every seven (7) years; and

WHEREAS, Mayor Neugebauer, pursuant to the terms of the Charter, appointed a Charter Review Commission to review the Charter and recommend amendments; and

WHEREAS, the Charter requires Green City Council to submit the proposed amendments to the electors of the City of Green at the next regular municipal or Ohio General Election unless the proposed amendment is rejected by three-fourths ($\frac{3}{4}$) vote of the members of Council; and

WHEREAS, Green City Council determines that the amendments should be submitted to the electors of the City of Green on November 5, 2019; and

WHEREAS, the Charter Review Commission unanimously recommended that Green City Council amend Section 12.8 of the Charter to provide that in the event the person sought to be removed from office is the Director of Law, **who shall be subject to removal under Section 12.8 in the same manner as any other elected City official**, the Mayor shall engage ~~in~~ a special counsel, with the approval of a majority of Council, ~~who shall to~~ prosecute ~~the~~ **such** removal proceedings before Council and any review thereof by the Courts.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GREEN, COUNTY OF SUMMIT AND STATE OF OHIO, THAT:

SECTION ONE:

~~Section 12.8 of the~~ **The Charter Review Commission has recommended that the electors of the City of Green shall consider a proposal that Section 12.8 of the Charter of the City of Green be amended to read as follows:**

12.8 REMOVAL OF OFFICIALS

Elected officials and members of City Boards and Commissions shall be removed for cause as provided in this Section of the Charter.

As used in this section of the Charter, the "charging official" shall mean: the Mayor, except where the person accused of a grounds for removal is the person holding the office of Mayor; or the President of Council where the person sought to be removed for cause holds the office of Mayor.

The charging official, if he has reason to believe there is probable cause (as such causes are defined in this section) for removal of an elected official or member of a City board or commission, shall give notice of the alleged cause for removal and the time, date, and place of the commencement of a hearing for removal, which shall not be earlier than ten (10) days after the service of the notice, to the accused person by personal service, certified mail or by leaving a copy of such notice at the person's last known place of residence in the City. At such time, date, and place and at any adjourned meetings of such hearing, the Council shall hear the cause for removal; , shall provided an opportunity for the accused person to be heard and present defenses, and shall determine whether the accused person shall be removed from office. The Council may remove an official for any of the following causes by a three-fourths (3/4) vote of the members of Council. Such person shall not vote on any matter during the removal procedure, and shall not be counted in determining required majorities. The following are grounds for removal of elected officials and members of City Boards and Commissions:

- A. Failure to possess the qualifications of office required pursuant to the provisions of this Charter.
- B. Conviction of a felony or other crime involving moral turpitude.
- C. Failure to take the required oath, or to give any bond required of him within twenty (20) days after effective date of his election or appointment, or obligation to give a new or additional bond.
- D. Being adjudicated legally incompetent.
- E. Conduct which is determined by Council to be gross misconduct or gross neglect of duty with respect to his official powers or duties.
- F. Violation of his oath of office.
- G. Gross failure of a ~~member of~~ Council member or of a City board or commission member to abide by the rules of Council or the City board or commission, as appropriate; or absence from three (3) consecutive regular meetings of the Council or City board or commission without being excused by Council or the City board or commission, as appropriate.

Upon the removal of an official from office pursuant to this Section, the office of the offending person shall be declared vacant, subject to any appeal to and review by an appropriate court, and the vacancy shall be filled as provided in this Charter.

The removal of an official or the occurrence of any of the causes permitting the removal shall not invalidate any action of the official or any body, including Council, in which the member

participated. The subsequent removal of a person who fills a vacancy created pursuant to this section by reinstatement by a court of a person previously removed by Council, shall not invalidate any action of the person who filled the vacancy or any body, including Council, in which such person who filled the vacancy participated.

Council shall be the judge of the qualifications of and of the grounds for removal from office and shall conduct the proceedings relative to removal. Council shall have the power to subpoena witnesses, administer oaths, and require the production of evidence, either on its own motion or through the process of any appropriate court or officer thereof. A person charged with conduct constituting grounds for removal from office shall receive a public hearing, and a record of the proceedings shall be made and preserved. A notice of such hearing shall be published in at least any one (1) newspaper of general circulation in the City at least one (1) week in advance of the hearing, and in such event, the President of Council, or other presiding officer of Council, may reschedule the time, date, and place of the hearing to accommodate the publication of the notice. If the hearing is rescheduled, the President of Council, or other presiding officer, shall notify the accused person of such fact. Decisions made by Council under this Section shall be subject to review by the Courts on matters of law and whether Council acted arbitrarily and without probative evidence to support the grounds for removal.

The Director of Law or ~~Special Counsel~~ **special counsel** engaged by the Director of Law, shall prosecute the removal proceedings before Council and any review thereof by the courts. In the event the person sought to be removed from office is the Director of Law, a special counsel engaged by the Mayor, with the approval of a majority of Council, shall prosecute the removal proceedings before Council and any review thereof by the courts. If a person accused is not finally removed, the City shall pay the reasonable costs of the defense of such person and any compensation withheld pending the appeal of the action of Council.

SECTION TWO:

The proposed amendments to Section 12.8 of the Charter of the City of Green shall be placed before the qualified electors of the City of Green for their approval on the ballot of the November 5, 2019 election.

SECTION THREE:

Green City Council requests the following ballot language:

“Shall Section 12.8 of the Charter of the City of Green be amended to provide that in any the event the person elected official sought to be removed from office thereunder is the Director of Law, the Mayor shall engage in special counsel, with the approval of a majority of Council, who shall engage an outside attorney to prosecute the removal proceedings before Council and any review thereof by the Courts?”

_____ FOR THE AMENDMENT

_____ AGAINST THE AMENDMENT

SECTION FOUR:

The Clerk of Council of the City of Green shall certify a copy of this Resolution to the Board of Elections of Summit County, along with a copy of the proposed ballot language no later than September 6, 2019, as required by law.

SECTION FIVE:

The City of Green finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in open meeting of this Council and any deliberations of this City and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION SIX:

Council declares this to be an emergency immediately necessary for the preservation of the public peace, health, safety and welfare of the citizens of Green. Provided that this legislation receives the affirmative vote of three-fourths of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

ADOPTED: 8-27-19
Molly Kapeluck
 Molly Kapeluck, Clerk

Bob Young
 Bob Young, Council President

APPROVED: Aug. 27, 2019
Gerard M. Neugebauer
 Gerard M. Neugebauer, Mayor

B.D.E.
 COPIED MAY FIN LAW PLAN ENG
 SVCE FIRE PARK ZONE HR

ENACTED EFFECTIVE: Aug 27, 2019

ON ROLL CALL: Babbitt -aye Dyer -aye Humphrey -aye Shaughnessy -aye
 Speight -aye Yeargin -aye Young -aye Adopted 7-0

Suburbanite publication on Sept. 6 and Sept. 13, 2019
Molly Kapeluck
 Molly Kapeluck, Clerk