

RESOLUTION NO.: 2019-R64 (AMENDED JULY 9, 2019)
(AMENDED AUGUST 27, 2019)
SPONSOR: MAYOR NEUGEBAUER
INTRODUCED: JUNE 25, 2019 **ASSIGNED TO:** _____

A RESOLUTION SUBMITTING TO THE ELECTORS OF THE CITY OF GREEN PROPOSALS TO AMEND SECTIONS 6.4 A (A), 6.4(B) AND 6.4 C (C) OF THE CHARTER OF THE CITY OF GREEN TO ESTABLISH THE ~~CURRENT REQUIREMENTS OF~~ QUALIFICATIONS ~~REQUIRED~~ FOR THE POSITION OF DIRECTOR OF LAW FOR A PERSON FIRST ELECTED OR APPOINTED TO SUCH OFFICE AFTER JANUARY 1, 2020, AND TO CLARIFY THAT A PARTIAL TERM OF OFFICE RESULTING FROM AN APPOINTMENT TO FILL A VACANCY SHALL NOT COUNT AGAINST THE TWO-TERM LIMIT FOR AN ELECTED DIRECTOR OF LAW, AND TO DEFINE THE PHRASE “EMPLOYMENT OR PUBLIC PRACTICE EXPERIENCE IN MUNICIPAL AND/OR OTHER GOVERNMENTAL LAW” AS USED IN SECTION 6.4 OF THE CHARTER OF THE CITY OF GREEN, 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 Sections 6.4 A and 6.4 C of the Charter to be rewritten to continue the current requirement of qualifications for the position of Director of Law through December 31, 2019, which requirements currently include the Director of Law be an attorney who is licensed during the term of the Director of Law’s appointment to practice law in the State of Ohio; and, have minimum five (5) years of employment or public practice experience in municipal and/or other governmental law (A), 6.4(B) and 6.4(C) of the Charter to establish the qualifications required for a Director of Law elected or appointed for the first time after January 1, 2020, and to clarify that a partial term of office resulting from an appointment to fill a vacancy shall not count against the term limit of two four-year terms.

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

SECTION ONE:

~~Section 6.4 A and 6.4 C of the~~ **The Charter Review Commission has recommended that the electors of the City of Green shall consider a proposal that Sections 6.4(A), 6.4(B) and 6.4(C) of the Charter of the City of Green be amended to read as follows:**

6.4 DIRECTOR OF LAW

A. Qualifications

~~The Director of Law shall be an attorney who is licensed, during the term of his appointment, to practice law in the State of Ohio. He shall:~~

- (1) be an attorney who is licensed, during the term of his the Director of Law's appointment, to practice law in the State of Ohio. He shall; and,**
- (2) have a minimum of five (5) years of employment or public practice experience in municipal and/or other governmental law. (Amended November 8, 2005); and,**

~~The Director of Law shall:~~

- ~~(1) be an attorney who is licensed, during the term of the Director of Law's appointment, to practice law in the State of Ohio;~~
- ~~(2) have a minimum of five (5) years of employment or public practice experience in municipal and/or other governmental law (Amended November 8, 2005); and~~
- (3)(3) for a Director of Law first elected or appointed after January 1, 2020 shall:**

(a) for at least two (2) continuous years immediately prior to the Director of Law's election or appointment, and, during the Director of Law's term, be a qualified elector and resident of the City;

(b) be an attorney who is licensed, during the term of the Director of Law's election or appointment, to practice law in the State of Ohio and maintain the qualifications for a Certificate of Good Standing from the Supreme Court of Ohio during the Term-term of the Director of Law's appointment or election to office; and,

(c) have a minimum of five (5) years of employment or public practice experience in municipal and/or other governmental law. (Amended November 8, 2005).

~~For the purposes of this Section 6.4A(3)(c), "employment or public practice experience in municipal and/or other governmental law" shall mean either (i) experience as a director of law or assistant director of law for an Ohio municipality, or substantially equivalent position for the State of Ohio or one of its political subdivisions or agencies, or (ii) substantially equivalent experience as an attorney representing the State of Ohio or one or more of its instrumentalities, municipalities,~~

~~political subdivisions or agencies in civil matters, including but not limited to representation of such entities in state or federal court or agency proceedings.~~

The Director of Law shall not otherwise be employed by the City and shall hold no other public office other than that of a notary public, member of the Ohio National Guard or Reserve Corps of the United States.

The Director of Law shall be a part-time or full-time position with such compensation (and benefits, if any) as fixed by ordinance or resolution of Council as provided herein.

If required by ordinance or resolution of ~~City~~ Council, the Director of Law shall certify to the Director of Finance on a biweekly or other periodic basis determined by Council that the Director of Law has complied with the workweek requirements as set forth by ordinance or resolution of Council.

B. Powers and Duties

The Director of Law shall:

- (1) ~~The Director of Law shall be the legal advisor on all legal matters coming before the City and shall represent or direct the representation of the City in all litigation, cases, or suits coming before the City. He shall;~~
- (2) prepare or review all contracts, ordinances, resolutions, and other documents or instruments as required by the Mayor and Council. ~~He shall;~~
- (3) have other powers and duties performed by directors of law of general statutory plan cities under the general laws of the State of Ohio;; and
- (4) ~~In addition, the Director of Law shall perform other duties specified by city solicitors by the laws of the State of Ohio.~~

Nothing in this Charter shall preclude ~~Council~~ the City from contracting for additional legal services as may be periodically ~~be~~ required.

~~C. Elected Resident.~~

C. ~~C.~~ Election; Term of Office

The ~~Law~~ The Director of Law shall represent the ~~people of Green, the City of Green and Green City Council~~ in accordance with the ethical standards for Ohio attorneys as set forth in the Ohio Rules for Professional Conduct adopted by the Supreme Court of Ohio. In the event there is a conflict ~~in his duty of loyalty, a separate attorney shall be retained to resolve the conflict.~~ The ~~Law~~ Director of interest, the conflict shall be resolved in accordance with the Ohio Rules for Professional Conduct adopted by the Supreme Court of Ohio. The Director of Law shall be an elector of the City of Green and the position shall be an elected position to coincide with the election of the Mayor. ~~The Law~~ unless an election is required to fill a vacancy in the office of

the Director of Law as provided in Section 6.4.D. of this Charter. The Director of Law shall serve a four-year term not to exceed two consecutive elected terms but may be appointed in the event of a vacancy pursuant to Section 6.4.D.4.6 of this Charter with a 3/4's approval of Council. All other inconsistent provisions of this Charter are negated and subordinate to this provision 6.4(D) of this Charter. Any partial term to fill a vacancy shall not count as a four (4) year term with respect to the foregoing term limits.

The ~~Law~~ Director **of Law** shall be nominated pursuant to ~~Section~~ **Sections 5.3 and 5.4** of the Charter in the same manner as the Mayor requiring the same number of signatures as Council members at Large. (Issue 14, 2018 General Election) **For the office of the Director of Law, there shall be no primary election unless four (4) or more persons file nominating petitions.**

SECTION TWO:

The proposed amendments to ~~Section~~ **Sections 6.4(A), 6.4(B) and 6.4(C)** 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:

The Charter Review Commission has recommended that the electors of the City of Green consider a proposal that Section 6.4 (A) of the Charter of the City of Green be amended to include a definition of “employment or public practice experience in municipal and/or other governmental law,” with respect to the qualifications for a Director of Law who is elected or appointed for the first time after January 1, 2020, to read as follows:

For the purposes of this Section 6.4.A.(3)(c), “employment or public practice experience in municipal and/or other governmental law” shall mean either (i) experience as a director of law or assistant director of law for an Ohio municipality, or substantially equivalent position for the State of Ohio or one of its political subdivisions or agencies, or (ii) substantially equivalent experience as an attorney representing the State of Ohio or one or more of its instrumentalities, municipalities, political subdivisions or agencies in civil matters, including but not limited to representation of such entities in state or federal court or agency proceedings.

SECTION FOUR:

The proposed amendment to Section 6.4(A)(3)(c) 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 FIVE:

Green City Council requests the following ballot language:

~~“Shall Sections 6.4(A) and 6.4(C) of the Charter of the City of Green as recommended by the Charter Review Commission recommended that City Council amend Section 6.4 of the Charter to be rewritten to continue the~~

~~current requirement of qualifications for the position of Director of Law through December 31, 2019, which requirements currently include the Director of Law be an attorney who is licensed during the term of the Director of Law's appointment to practice law in the State of Ohio; and, have minimum five (5) years of employment or public practice experience in municipal and/or other governmental law; and, to require the first elected or appointed Director of Law after January 1, 2020, include the qualifications of being a qualified elector and resident of the City of Green at least two (2) continuous years immediately prior to election or appointment; and, to meet the above qualifications of five (5) years of employment or public practice experience in municipal and/or other governmental laws as more fully defined; and, maintain the qualifications for a Certificate of Good Standing from the Supreme Court of Ohio during the term of office; and, whose term of office requires the same number of signatures as the Mayor; and, who will represent the City of Green according to the ethical standards set forth in the Ohio Rules for Professional Conduct adopted by the Ohio Supreme Court?; and, who shall not otherwise be employed by the City and shall not hold other public office other than that of a notary public, member of the Ohio National Guard or Reserve Corps of the United States; and, to allow City Council to fix by ordinance or resolution whether the position will be part-time or full-time and identify by the same ordinance or resolution the compensation and benefits (if any); and, if required by ordinance or resolution require the Director of Law certify to the Director of Finance on a biweekly or periodic basis, determined by Council, compliance with workweek requirements set forth in such resolution or ordinance; and, shall be nominated pursuant to Section 5.3 and 5.4 of the Charter in the same manner as the Mayor requiring the same number of signatures as Council members at-Large; and to provide there shall be no primary election unless four (4) or more persons file nominating petitions for the office?"~~

“Shall Sections 6.4(A), 6.4(B) and 6.4(C) of the Charter of the City of Green be amended to establish the qualifications required for a Director of Law elected or appointed for the first time after January 1, 2020, and to clarify that a partial term of office resulting from an appointment to fill a vacancy shall not count against the two-term limit for the elected Director of Law?”

_____ FOR THE AMENDMENT

_____ AGAINST THE AMENDMENT

SECTION FOUR SIX:

Green City Council also requests the following separate ballot language:

“Shall Section 6.4 A(3)(C) of the Charter of the City of Green be amended to specifically define “employment or public practice experience in municipal and/or governmental law,” with regard to the qualifications for a Director of Law first elected after January 1, 2020, to read as follows:?”

For the purposes of this Section 6.4.A.(3)(c), “employment or public practice experience in municipal and/or other governmental law” shall mean either (i) experience as a director of law or assistant director of law for an Ohio municipality, or substantially equivalent position for the State of Ohio or one of its political subdivisions or agencies, or (ii) substantially equivalent experience as an attorney representing the State of Ohio or one or more of its instrumentalities, municipalities, political subdivisions or agencies in civil matters, including but not limited to representation of such entities in state or federal court or agency proceedings.

_____ FOR THE AMENDMENT

_____ AGAINST THE AMENDMENT

SECTION SEVEN:

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~~ EIGHT:

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~~ NINE:

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: _____

Molly Kapeluck, Clerk

Bob Young, Council President

APPROVED: _____, 2019

Gerard M. Neugebauer, Mayor

ENACTED EFFECTIVE: _____, 2019

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2019-R64 (AMENDED JULY 9, 2019) (AMENDED AUGUST 27, 2019)

ON ROLL CALL: Babbitt Dyer Humphrey Shaughnessy
 Speight Yeargin Young

Suburbanite publication on _____ and _____

Molly Kapeluck, Clerk

~~08/22/2019~~ ~~07/09/2019~~ ~~06/20/2019~~ Approved as to form and content by William G. Chris, Director of Law, Interim _____