

ORDINANCE NO. 2009-14
AS AMENDED BY ORDINANCE 2009-17

AN ORDINANCE TO AUTHORIZE AND DIRECT THE SUBMISSION TO THE ELECTORS OF PARMA HEIGHTS, OHIO OF PROPOSALS TO AMEND THE PREAMBLE; ARTICLE I; ARTICLE II SECTION 1; ARTICLE III SECTION 1; ARTICLE III SECTION 2; ARTICLE IV SECTION 1; ARTICLE V SECTION 6; ARTICLE VII SECTION 2; AND ARTICLE XI BY ADDING A NEW SECTION 10, AND DECLARING AN EMERGENCY

WHEREAS, this Council, pursuant to the provisions of Article X of the Charter of the City has heretofore appointed a Charter Review Commission which has now submitted its report to this Council, including therein recommended amendments to the Charter of the City, and it is now necessary to submit to the electors of the City the question of the adoption of such recommendations:

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Parma Heights, County of Cuyahoga, State of Ohio:

Section 1. That this Council hereby authorizes and directs the submission to the electors of the City of Parma Heights, Ohio, at the regular municipal election to be held at the regular places of voting in said City on Tuesday, November 3, 2009, between the hours of 6:30 am and 7:30 pm, Eastern Standard Time on said day, of separate proposals to amend the Preamble; Article I; Article II Section 1; Article III Section 1; Article III Section 2; Article IV Section 1; Article V Section 6; Article VII Section 2; and Article XI by adding a new Section 10 to read as follows:

PROPOSAL # 1

That the Preamble be amended to read as follows:

PREAMBLE

We, the people of Parma Heights in the County of Cuyahoga and the State of Ohio, in order to secure for ourselves the benefits of municipal home rule and to exercise all the powers of local self government, under **God and** the Constitution and laws of the State of Ohio, do adopt this Charter for our Municipality.

PROPOSAL #2

That Article I be amended to read as follows:

ARTICLE I
POWERS OF THE MUNICIPALITY

(CORPORATE POWERS)

The Municipality of Parma Heights shall have all the powers now or hereafter granted to municipalities by the Constitution and laws of the State of Ohio, together with all the implied powers necessary to carry into execution all the powers expressly granted; and all such powers shall be exercised in the manner prescribed by this charter or by ordinance of the Council created hereby, or in absence thereof as may now or hereafter be provided by the laws of the State. The Municipality shall be entitled the "City of Parma Heights" or the "Village of Parma Heights" as provided by the laws of the State of Ohio.

No State statute or regulation that purports to impose duties upon or establish procedures for a municipal corporation in the exercise of any of its home rule or local self-government powers shall have application in or be binding upon the City of Parma Heights, unless expressly provided for in this Charter or by ordinance of the City Council.

PROPOSAL #3

That Article II Section 1 be amended to read as follows:

ARTICLE II
THE MAYOR

SECTION 1. TERM, QUALIFICATIONS, VACANCY OR ABSENCE.

The Mayor shall be elected for a term of four (4) years, he shall assume office on the first day of January following his election, and may be a candidate to succeed himself.

The Mayor shall be elected for a term of four (4) years and shall serve until his or her successor is elected and certified.

Beginning with the election to be held in November 2013, no person shall hold the office of Mayor for a period longer than three (3) consecutive terms in office, unless one (1) full term or more has elapsed since that person last held the office of Mayor.

Only full terms beginning on or after the election to be held in November 2013 shall be considered in determining an individual's eligibility to hold the office of Mayor.

The Mayor shall have been at least three (3) years prior to his election, and during his term in office shall continue to be, a resident and qualified voter of the Municipality. He shall not hold any other public office or public employment which would be in conflict with his duties as Mayor, except as otherwise provided in this Charter and except that he may be a Notary Public, or a member of the State Militia or the reserve corps of the United States. He shall not directly or indirectly contract for or receive any profit or emolument of any contract, job, work or service with or for the Municipality. If the Mayor shall cease to possess any of the aforesaid qualifications of office or shall be convicted of a felony or of any crime involving moral turpitude, his office shall immediately become vacant.

~~The Mayor shall be elected for a term of four (4) years and shall serve until his or her successor is elected and certified.~~

During any period when the Mayor shall be absent or inaccessible or unable for any reason to perform his duties, the President of Council shall be acting Mayor and shall also continue as Councilman with all the powers and duties of a Councilman. In case the office of Mayor shall become vacant, the President of Council shall thereupon become Mayor and his office as Councilman shall become vacant. He shall serve as Mayor for the unexpired term or until the beginning of a term of a successor duly elected as hereinafter provided; and he may be a candidate to succeed himself. A successor shall be elected for the unexpired term at the next regular municipal election if (a) such election shall occur more than two (2) years prior to the expiration date of the unexpired term and (b) the vacancy shall have occurred more than one hundred twenty (120) days prior to such election.

PROPOSAL #4

That Article II Section 1 be amended to read as follows:

ARTICLE II THE MAYOR

SECTION 1. TERM, QUALIFICATIONS, VACANCY OR ABSENCE

The Mayor shall be elected for a term of four years, he shall assume office on the first day of January following his election, and may be a candidate to succeed himself. The Mayor shall have been at least three years prior to his election, and during his term in office shall continue to be, a resident and qualified voter of the Municipality. He shall not hold any other public office or public employment which would be in conflict with his duties as Mayor, except as otherwise provided in this charter and except that he may be a Notary Public, or a member of the State Militia or the reserve corps of the United States. He shall not directly or indirectly contract for or receive any profit or emolument of any contract, job, work or service with or for the Municipality. If the Mayor shall cease to possess any of the aforesaid qualifications of office or shall be convicted of a felony or of any crime involving moral turpitude, his office shall immediately become vacant.

The Mayor shall devote his time during business hours and such other time as may be necessary to conduct the business of the city. During any period when the Mayor shall be absent or inaccessible or unable for any reason to perform his duties, the President of Council shall be acting Mayor and shall also continue as Councilman with all the powers and duties of a Councilman. In case the office of Mayor shall become vacant the President of Council shall thereupon become Mayor and his office as Councilman shall become vacant. He shall serve as Mayor for the unexpired term at the next regular municipal election if (a) such election shall occur more than two (2) years prior to the expiration date of the unexpired term and (b) the vacancy shall have occurred more than one hundred twenty (120) days prior to such election.

Proposal #5

That Article III Section 1 be amended to read as follows:

ARTICLE III
THE COUNCIL

SECTION 1. NUMBER AND TERM.

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 a Council of seven (7) members, one of whom shall be elected by the people from each of four (4) wards in the City and three (3) shall be elected at large by the people.

In the general election scheduled in November 2011, for council positions beginning January 1, 2012, all seven (7) seats of Parma Heights City Council will stand for election.

The three (3) At Large Councilpersons shall be elected for a term of four (4) years beginning at the general election scheduled in November 2011 and every four (4) years thereafter.

The four (4) ward positions shall be elected for a term of two (2) years beginning January 1, 2012, and said positions will stand for election in November 2013 for four (4) year terms beginning January 1, 2014 and every four (4) years thereafter.

Section 1A Wards

Beginning in March 2011, or within sixty (60) days after the proclamation by the Secretary of State announcing the population of cities of Ohio as determined by the Federal census decennially taken in the closest proximity to March 2011, the then incumbent members of Council shall by ordinance establish four (4) wards for election purposes, each of which shall be as nearly equal in population to each of the others as shall be practicable. Each ward is to be composed of contiguous and compact territory bounded by natural boundaries or street lines. Any changes in ward boundaries must be made and finalized not less than six (6) months prior to the filing deadline with the Board of Elections of Cuyahoga County for candidates for municipal office.

Beginning in 2019 and every ten (10) years thereafter, within sixty (60) days after the proclamation by the Secretary of State announcing the population of cities of Ohio as determined by the Federal census decennially taken, the Council shall redivide the City into wards, which shall be as nearly equal in population as is possible each composed of contiguous and compact territory bounded by natural boundaries or street lines.

In the event Council shall not have fixed the division of wards herein prescribed, the Mayor shall cause such division to be made at least thirty (30) days prior to the filing date herein provided.

Proposal #6

That Article III Section 1 be amended to read as follows:

ARTICLE III
THE COUNCIL

SECTION 1. NUMBER AND TERM.

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 a Council of seven (7) members. All members of Council shall be elected at large and shall assume office on the first day of January following their election.

All members of Council, except as hereinafter provided, shall serve for a term of four years. At the first regular municipal election after the adoption of this Charter the three candidates receiving the highest number of votes shall serve for a term of four years and the four candidates standing next highest in the number of votes received shall serve for a term of two years. At subsequent municipal elections the three candidates receiving the highest number of votes shall serve for a term of four years and the candidate standing next highest in the number of votes received shall serve for a term of two years.

In the general election scheduled in November 2011 and every four (4) years thereafter, the terms of the office of all members of Council shall consist of not more than three (3) consecutive terms in office or position. Terms shall be considered consecutive unless separated by a period of two (2) or more years.

Only full terms beginning on or after January 2012 shall be considered in determining an individual's eligibility to hold the office of Councilperson.

Proposal #7

That Article III Section 2 be amended to read as follows:

SECTION 2. QUALIFICATIONS.

Each member of the Council shall have been for at least two (2) years prior to the date of his election, and during his term of office shall continue to be, a resident of the Municipality and a qualified voter thereof, and shall not hold any other elected public office, any other compensated office or employment with the Municipality, or other public office or employment which might be in conflict with the office of Councilman.

He shall not directly or indirectly contract for or receive any profit or emolument of any contract, job, work or service with or for the Municipality.

No person shall be eligible to be a member of Council, elected from a ward, unless they shall have been continuously a resident and qualified elector of such ward for two (2) years prior to election or appointment.

A member of Council shall be elected to the office of President of Council for a term of two years by a majority vote of the members of Council. This election shall take place at the first regular meeting in January following a regular municipal election or as soon as practicable thereafter

Proposal #8

That Article IV Section 1 be amended to read as follows:

ARTICLE IV ADMINISTRATIVE DEPARTMENTS, BOARDS AND COMMISSIONS

SECTION 1. GENERAL PROVISIONS.

The Municipality shall have a Department of Law, a Department of Finance, a Department of Public Service, a Department of Recreation, and a Department of Public Safety. Except as otherwise specified in this Charter, the Mayor shall appoint as the head of each department, a director, who shall possess suitable qualifications and who shall exercise supervision and control of his department and who shall serve at the pleasure of the Mayor, except as herein provided. Each director shall have such powers and duties as shall be prescribed by this Charter and the Council. There shall be a Department of Police and a Department of Fire under the supervision of the Chiefs responsible to the Mayor and the Director of Public Safety.

The Municipality shall also have a Civil Service Commission, a Planning Commission, a Building Commission, a Recreation Commission, a Board of Zoning Appeals and a Board of Tax Appeals. The Council may by ordinance establish additional departments, boards or commissions, or divisions thereof, and provide for them as it may deem necessary. With the exception of the departments, boards, or commissions established by this Charter, the Council may combine or abolish any department, division, board, commission, non-elective office or job classification. Council may authorize one person to serve in any capacity in two or more departments, divisions, boards or commissions, when such positions are not incompatible and not specifically prohibited by the Charter. Council shall appropriate a sufficient sum each year for the operation of all departments, boards and commissions enumerated herein.

Proposal #9

That Article V Section 6 be amended to read as follow:

ARTICLE V
FINANCES

SECTION 6. CONTRACTS AND PURCHASING.

The Municipality may, within the amounts and items appropriated by the Council, make purchases and enter into contracts on behalf of the Municipality involving expenditures for the whole of any authorized project, asset or service not in excess of ~~twenty thousand dollars (\$20,000)~~ **twenty five thousand dollars (\$25,000.00)** without competitive bidding, except as may otherwise be provided by ordinance of the Council. No purchase or contract involving an expenditure of more than ~~twenty thousand dollars (\$20,000)~~ **twenty five thousand dollars (\$25,000.00)** shall be made except with the lowest responsive and responsible bidder, or with the lowest and best bidder, as determined by Council after public advertising and receipt of bids in the manner set forth by ordinance; provided, however, that the Council may authorize contracts without advertising for bids for personal services, for the acquisition of real estate, for the joint use of facilities or exercise of powers with other political subdivisions, or for the product or services of public utilities (including those Municipally operated), and the Council may authorize a purchase or a contract involving an expenditure of more than ~~twenty thousand dollars (\$20,000)~~ **twenty five thousand dollars (\$25,000.00)** without advertising for bids if it determines and declares by an affirmative vote of not less than five (5) members that an emergency exists and sets forth the nature of the emergency in its resolution or ordinance.

Proposal #10

That Article VII Section 2 be amended to read as follows:

ARTICLE VII
INITIATIVE, REFERENDUM AND RECALL

SECTION 2. RECALL

The electors shall have the power to remove from office by recall election any elective officer of the Municipality. After an elective officer has served for six (6) months of his term a petition demanding his removal may be filed with Council. Such petition shall be signed by at least that number of electors which equals twenty percent (20%) of the electors voting at the last preceding municipal election, **provided however, the petition for recall of a Councilman from a ward shall be signed by at least that number of electors of the Councilman's ward equal to twenty percent (20%) in number of the electors of such ward who voted at the last preceding municipal election.**

Within ten (10) days after filing such petition, the Council shall determine the sufficiency thereof. If the Council shall find the petition insufficient, it shall promptly certify the particulars in which the petition is defective, and deliver a copy of its certificate to the person who filed the petition with it, and 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 Council shall find the petition sufficient it shall promptly so certify to the officer whose removal is sought, and if the officer does not resign within five (5) days thereafter, the Council shall thereupon fix a day for holding a recall election, not less than thirty (30) days nor more than forty (40) days from the date of the certificate of sufficiency. At such recall election the 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 and 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 and such office shall be declared vacant. 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 by such recall election.

Proposal #11

That a new Section 10 be added and it will read as follows:

ARTICLE XI
MISCELLANEOUS

SECTION 10. DELETION OF OBSOLETE LANGUAGE, REARRANGEMENT OF NUMBERS AND TITLES, AND CORRECTION OF TYPOGRAPHICAL ERRORS.

City Council in consultation with the Director of Law may by Ordinance do any of the following:

- (1) Delete any Charter Language that has become obsolete as a result of either the passage of time, an amendment to the Charter, or the preemption of State or Federal law; and
- (2) Prior to reprinting the Charter upon any adoption by the electorate of any amendment hereto, make such changes to the numbers, titles and arrangement of articles and sections as may be necessary to maintain the logical and consistent ordering of the Charter; and
- (3) Correct typographical errors appearing in the Charter.

No such deletion of obsolete language, or rearrangement and correction of typographical errors may be made which affects the substance or meaning of this Charter or any part thereof or amendment thereto.

Section 2. That if the proposals submitted pursuant to Section 1 of this Ordinance receives the affirmative vote of a majority of the electors voting therein, then those proposals receiving the affirmative vote of the majority of the electors, then the existing sections to which those proposals relate shall be, and the same are, repealed effective as of the date on which such amendments become effective.

Section 3. That the ballots submitting the adoption of the aforesaid amendments and new sections shall be separately stated and shall read as follows:

PROPOSED CHARTER AMENDMENTS
CITY OF PARMA HEIGHTS, OHIO

A Majority of the Affirmative votes of each Proposal
Is necessary for the Passage of that Particular Issue.

Shall the Preamble of the Charter of the City of Parma Heights be amended to provide for the addition of the word God?

- YES
- NO

Shall Article I of the Charter of the City of Parma Heights be amended to provide that the charter, ordinances, rules and regulations of the City shall be construed broadly in favor of the home rule powers of the city?

- YES
- NO

Shall Article II Section 1 of the Charter of the City of Parma Heights be amended to provide that effective with the election of November 2013 no person shall serve as Mayor of the City for more than three consecutive terms?

- YES
- NO

Shall Article II Section 1 of the Charter of the City of Parma Heights be amended to provide that the Mayor shall devote his time during business hours and such other time as may be necessary to conduct the business of the city?

- YES
- NO

Shall Article III Section 1 of the Charter of the City of Parma Heights be amended to provide for a ward system based on the 2011 Federal Census and that effective with the general election of November 2013, the legislative powers of the municipality shall be vested in a Council of seven members one of whom shall be elected from each of the four wards and three shall be elected at large?

- YES
- NO

Shall Article III Section 1 of the Charter of the City of Parma Heights be amended to provide that no person shall serve as a council person for more than three consecutive terms effective with the election of November 2013?

- YES
- NO

Shall Article III Section 2 of the Charter of the City of Parma Heights be amended to provide that a qualified elector must be a resident of his ward for two years in order to be elected from that ward?

- YES
- NO

Shall Article IV Section 1 of the Charter of the City of Parma Heights be amended to require that all directors possess suitable qualifications?

- YES
- NO

Shall Article V Section 6 of the Charter of the City of Parma Heights be amended to adjust the maximum amount that can be approved by Council for any purchase, without competitive bidding, from \$20,000 to \$25,000 except as may otherwise be provided by ordinance of the Council?

- YES
- NO

Shall Article VII Section 2 of the Charter of the City of Parma Heights be amended to provide that the recall of a councilman from a ward must be initiated by the filing of a petition, containing signatures from said councilman's ward equal to 20% of qualified electors from that ward who voted at the last preceding municipal election?

- YES
- NO

Shall Article XI Section 10 of the Charter of the City of Parma Heights be adopted to delete obsolete language, rearrange the numbering and titles, and correct typographical errors in the charter?

- YES
- NO

Section 4. That the Clerk of this Council be authorized and directed to promptly forward a certified copy of this Ordinance to the Board of Elections in Cuyahoga County.

Section 5. That the Board of Elections of Cuyahoga County shall cause an appropriate notice to be duly given of the election to be held on November 3, 2009, on the foregoing amendments to the Charter of this City.

Section 6. That the Director of Law is hereby authorized and directed to prepare and submit to the Board of Elections of Cuyahoga County the foregoing ballot language and any request from the Board of Election that the City furnish additional or alternative wording to that set forth in Section 3 of this Ordinance.

Section 7. That the Clerk of Council be authorized and directed to publish the full text of the proposed charter amendments once a week for not less than two consecutive weeks in a newspaper published in the municipal corporation, with the first publication being at least fifteen days prior to November 3, 2009.

Section 8. That there be and is hereby appropriated from the General Fund of this City an amount sufficient to apply the costs of carrying out the authorizations and directions of this Ordinance.

Sections 9. This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meetings open to the public, in compliance with the law.

Section 10. This Council hereby declares this Ordinance to be an emergency measure for the immediate preservation of the public health, peace and safety of this municipality and for the further reason that said ordinance must be effective in order to permit the necessary arrangements to be made so as to submit to the electors the question of said amendment at the November 3, 2009 election and thereby carry out the requirement of Article X of said Charter; wherefore, it shall be in full force and effect immediately after its passage by Council and approval by the Mayor.

PASSED: July 29, 2009

Mike Byrne
PRESIDENT OF COUNCIL

ATTEST: Marie Gallo
CLERK OF COUNCIL

July 29, 2009
APPROVED

FILED WITH
THE MAYOR: July 29, 2009

MAYOR: Martin K. Zanotti