

## INITIATIVE, REFERENDUM, and AMENDMENT

### ARTICLE III – INITIATIVE AND REFERENDUM

#### SECTION 21. INITIATIVE PETITION.

Any proposed ordinance may be submitted to the clerk of the city commission by petition signed by at least **1250 registered voters of the city**. All petitions circulated with respect to any proposed ordinance shall be uniform in character, shall contain the proposed ordinance in full, and shall have printed or written thereon the names and addresses of at least five (5) electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purpose hereinafter named.

#### SECTION 22. VALID PETITION

**In addition to their signature, the signer of a petition shall print their name, address and date.** The signatures to any such petition need not all be appended to one paper, but to each such paper there shall be attached an affidavit by the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant and on the date indicated.

#### Section 23. LEGAL SUFFICIENCY

Before any ordinance shall be considered by the City Commission, it shall first be approved as to its form by the city law director, whose duty it shall be to draft such proposed ordinance in proper legal language, and to render such other service to persons desiring to propose such ordinance as shall be necessary to make the same proper for consideration by the City Commission.

#### SECTION 24. TIME OF FILING.

All papers comprising a petition shall be assembled and filed with the clerk of the city commission as one instrument, within ninety days from the date of the first signature thereon, and when so filed the clerk shall submit the same to the city commission at its next regular meeting and provision shall be made for public hearings upon the proposed ordinance within fourteen (14) days from the time said petition was presented to the city commission.

#### SECTION 25. PETITION FOR ELECTION.

The city commission shall at once proceed to consider such petition and shall take final action thereon within thirty (30) days from the date of submission. If the city commission rejects the proposed ordinance, or passes it in a different form from that set forth in the petition, or fails to act finally upon it within the time stated, the committee of the petitioners by written demand filed with clerk of the city commission not later than twenty (20) days after final action or inaction by the city commission, may require that the proposed ordinance be submitted to a vote of the electors in its original form, Such demand must include a petition signed after the final action or inaction of the city commission bearing additional signatures of **1250 registered voters of the city**, none of whom were signers of the first petition.

## SECTION 26. TIME OF HOLDING ELECTION.

### (SEE ALTERNATIVE APPROACHES BELOW)

## SECTION 27. BALLOT LANGUAGE AND ADOPTION

The voting devices approved by the general laws of the State of Ohio used when voting upon any such proposed ordinance shall clearly state the title of the ordinance to be voted on, and shall provide for a vote "For the Ordinance" and "Against the Ordinance". If a majority of the electors voting on any such proposed ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the city **upon certification of the election results by the Board of Elections**. Initiated ordinances adopted by the electors shall be published and may be amended or repealed by the Commission as in the case of other ordinances.

## Sec. 28. REPEALING EXISTING ORDINANCE

Proposed ordinance for repealing any existing ordinance, in whole or in part, may be submitted to the Commission as provided in the preceding sections for initiating ordinances except that:

- a. Such power shall not extend to the budget or capital program or any emergency ordinance or any ordinance relating to the appropriation of money or levy of taxes, and
- b. The petition must be **signed by at least 2500 registered voters of the city**.

## Section 29. REPEALING PENDING ORDINANCE

No ordinance passed by the Commission, unless it be an emergency measure, shall go into effect until 30 days after its final passage by the Commission. If, at any time, within said 30 days, a petition signed by **4000 registered voters of the city** is filed with the Clerk of the Commission **as set forth in Section 22 and 24** requesting that any such ordinance be repealed or submitted to a vote of the electors, the ordinance shall not become operative until the steps indicated herein have been taken.

## Section 30. REFERENDUM VOTE

The Clerk of the Commission shall deliver the petition to the Commission, which shall proceed to reconsider the ordinance. If, upon such reconsideration, the ordinance is not entirely repealed, the Commission shall provide for submitting it to a vote of the electors, and in so doing the Commission shall be governed by the provisions of Sections **23, 24, 25, 26, and 27** hereof, except that the vote shall be "For the Repeal" and "Against the Repeal".

## Sec. 31. Ballot Requirements

Referendum petitions need not contain the text of the ordinances, the repeal of which is sought, but shall be subject in all other respects to the requirements for petitions submitting proposed ordinances to the Commission. If a majority of the electors voting on any such proposed ordinance shall vote in favor of repeal, the ordinance is immediately repealed.

## Section 169 Amendments

**Amendments to this charter may be framed and proposed:**

- a) **By a two-thirds vote of the City Commission.**
- b) **By a report of the charter review commission created by ordinance. The City Commission shall establish a charter commission at least every ten years and may accept, reject or modify its recommendation.**
- c) **By the voters of the city thru a petition of the electors of the city in a manner provided by the Constitution of the State of Ohio. The petition must clearly state in its heading that it is a proposed amendment to the Dayton City Charter.**

**The amendment shall be submitted to the voters in a manner and form set forth in the Ohio Constitution or prescribed by state law.**

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### **Alternatives to Determining the time of holding an election for an Initiative or Referendum**

#### **SECTION 26. TIME OF HOLDING ELECTION.**

Upon verification by the Clerk that the additional signatures are valid and sufficient, such proposed ordinance shall be submitted to a vote of the electors at the next general election no less than sixty (60) days and no more than one hundred and eighty (180) days thereof. If no general election is to be held within the time aforesaid, the Commission shall submit the proposed ordinance to the electors at a special election to be held no earlier than sixty (60) days and no later than one hundred and eighty (180) days unless a majority of the committee of petitioners agrees otherwise. At least thirty (30) days before any such election the clerk of the city commission shall cause such proposed ordinance to be published.

(This is the wording approved by the Charter Committee. This may result in a protracted community debate or prevent the City from undertaking a major public benefit even if a vast majority of citizens defeat the measure. The delay itself could kill the development opportunity.)

#### **SECTION 26. TIME OF HOLDING ELECTION.**

Upon verification by the Clerk that the additional signatures are valid and sufficient, the proposed ordinance shall be submitted to the electors of the city at the next general election if one shall occur not less than sixty (60) nor more than one hundred twenty (120) days after its passage; otherwise, it shall provide for the submission of the amendment at a special election to be called and held within the time aforesaid. At least thirty (30) days before any such election the clerk of the city commission shall cause such proposed ordinance to be published.

(The time constraints are the same as for charter amendments under the Ohio Constitution. It would prevent either side from jockeying for the most advantageous timing of the election by choosing a referendum or

amendment)

#### SECTION 26. TIME OF HOLDING ELECTION.

Upon verification by the Clerk that the additional signatures are valid and sufficient, the proposed ordinance shall be submitted to the electors of the city at the next general election if one shall occur not less than sixty (60) nor more than one hundred twenty (120) days after its passage; otherwise, it shall provide for the submission of the ordinance at a special election to be called and held within the time aforesaid. With the concurrence of the City Commission and a majority of the committee of petitioners, the proposed ordinance may be submitted to the electors of the city at the next general election whenever it occurs. At least thirty (30) days before any such election the clerk of the city commission shall cause such proposed ordinance to be published.

(This wording is a compromise that permits the issue to be voted upon at the next general election no matter when it may occur with the concurrence of the Commission and committee. It also prevents the committee of petitioners from holding up the vote to kill a measure that requires timely enactment.)

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### **Ohio Constitution Provisions Governing Municipal Charters**

#### **§ 18.08 Submission of question of election of charter commission; approval** [ [View Article Table of Contents](#) ]

The legislative authority of any city or village may by a two-thirds vote of its members, and upon petition of ten per centum of the electors shall forthwith, provide by ordinance for the submission to the electors, of the question, "Shall a commission be chosen to frame a charter." The ordinance providing for the submission of such question shall require that it be submitted to the electors at the next regular municipal election if one shall occur not less than sixty nor more than one hundred and twenty days after its passage; otherwise it shall provide for the submission of the question at a special election to be called and held within the time aforesaid. The ballot containing such question shall bear no party designation, and provision shall be made thereon for the election from the municipality at large of fifteen electors who shall constitute a commission to frame a charter; provided that a majority of the electors voting on such question shall have voted in the affirmative. Any charter so framed shall be submitted to the electors of the municipality at an election to be held at a time fixed by the charter commission and within one year from the date of its election, provision for which shall be made by the legislative authority of the municipality in so far as not prescribed by general law. Not less than thirty days prior to such election the clerk of the municipality shall mail a copy of the proposed charter to each elector whose name appears upon the poll or registration books of the last regular or general election held therein. If such proposed charter is approved by a majority of the electors voting thereon it shall become the charter of such municipality at the time fixed therein.

#### **§ 18.09 Amendments to charter; submission; approval** [ [View Article Table of Contents](#) ]

Amendments to any charter framed and adopted as herein provided may be submitted to the electors of a municipality by a two-thirds vote of the legislative authority thereof, and, upon petitions signed by ten per centum of the electors of the municipality setting forth any such proposed amendment, shall be submitted by

such legislative authority. The submission of proposed amendments to the electors shall be governed by the requirements of section 8 as to the submission of the question of choosing a charter commission; and copies of proposed amendments may be mailed to the electors as hereinbefore provided for copies of a proposed charter, or pursuant to laws passed by the general assembly, notice of proposed amendments may be given by newspaper advertising. If any such amendment is approved by a majority of the electors voting thereon, it shall become a part of the charter of the municipality. A copy of said charter or any amendment thereto shall be certified to the secretary of state, within thirty days after adoption by a referendum vote.

(Amended January 1, 1971.)

#### **§ 18.14 Elections**

[ [View Article Table of Contents](#) ]

All elections and submissions of questions provided for in this article shall be conducted by the election authorities prescribed by general law. The percentage of electors required to sign any petition provided for herein shall be based upon the total vote cast at the last preceding general municipal election.

(Adopted September 3, 1912.)

#### **731.211 Method of giving notice of proposed charter amendments.**

In accordance with Section 9 of Article XVIII, Ohio Constitution, notice of proposed amendments to municipal charters shall be given in one of the following ways:

(A) Not less than thirty days prior to the election at which the amendment is to be submitted to the electors, the clerk of the municipality shall mail a copy of the proposed charter amendment to each elector whose name appears upon the poll or registration books of the last regular or general election held therein.

(B) The full text of the proposed charter amendment shall be published once a week for not less than two consecutive weeks in a newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, with the first publication being at least fifteen days prior to the election at which the amendment is to be submitted to the electors.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 06-11-1971

prw July 22,