

ORDINANCE NO. 86-2020 (AS)

By Council Member Seren

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 3, 2020 ballot; and declaring an emergency.

WHEREAS, on November 5, 2019, amendments to the Charter of the City of Cleveland Heights to change the form of government to a Mayor-Council system of government, collectively known as “Issue 26,” were approved by the electors of the City of Cleveland Heights; and

WHEREAS, the Issue 26 amendments included provision in Section VII-1 of the City’s Charter for the holding of a primary election for candidates for the office of Mayor to be held on the second Tuesday after the first Monday in September whenever there are three (3) or more candidates certified for that office; and

WHEREAS, this Council has determined that as a result of the provision for such primary election ambiguities exist within the City’s Charter with respect to the timeframe allotted for candidates for elective office to collective signatures and file petitions for elective office under Article VII, Section 3(e), accept candidacy for such office under Article VII, Section 4, or file a declaration as a write-in candidate under Article VII, Section 5 with reference to the date of said primary election; 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 to resolve these election-related ambiguities, as described herein, at the general election to be held on Tuesday, November 3, 2020, 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 3, 2020, the question of whether 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.

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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 3, 2020 in substantially this form:

PROPOSED CHARTER AMENDMENT

A majority affirmative vote is necessary for passage.

“Shall Article VII, Sections 3, 4 and 5 of the Charter of the City of Cleveland Heights be amended to provide that the timeframes for candidates for elective office to collect signatures, file petitions for elective office, accept candidacy for such office, or file a declaration as a write-in candidate shall be based on the date of the primary election that is required to be held when there are three or more candidates certified for the office of Mayor regardless of whether or not a primary election is actually required to be held?

___ 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 3, 2020, 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 3, 2020. Such publicity pamphlet or publication shall contain a full text of the proposed Charter amendments, with the respective ballot title(s), 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.

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 timely need to 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

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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, Mayor
President of the Council

AMY HIMMELEIN
Clerk of Council

PASSED: July 20, 2020

EXHIBIT A

SECTION VII-3. PETITION FOR PLACES ON BALLOTS.

The name of any elector of the City shall be printed upon the ballot if there is filed with the election authorities prescribed by general law a petition in accordance with the following requirements:

(a) Such petition shall state the name and place of residence of the person whose name is presented for a place upon the ballot and the name of the office for which he is a candidate. The nomination of each candidate shall be made by separate petition.

(b) Such petition shall be signed by electors of the Municipality equal in number to not less than two percent of the total number of voters voting at the last regular election of municipal officers.

(c) Each elector signing a petition shall add to his signature his place of residence, with street and number and date of signing. No elector shall sign more nominating petitions for different candidates for a particular office than there are positions to be filled for that office at the election for which the petition is signed. If he does so, his signatures on all petitions which postdate his signing the permissible number of petitions shall be invalid. All signatures shall be made with ink.

(d) The signature of all petitioners need not be appended to one paper, but to each separate paper there shall be attached a signed statement of the circulator thereof, made under penalty of election falsification, stating the number of signers thereto, that each person signed in the circulator's presence on the date mentioned, and that the signature is that of the person whose name it appears to be.

(e) Such petition shall not be signed by any electors more than one hundred eighty (180) days prior to the ~~day of such election date established in Section VII-1 for the primary election that is required to be held when there are three or more candidates certified for the office of Mayor,~~ and such petitions shall be filed with the election authorities prescribed by general law not ~~less later~~ than 4:00 p.m. on the ~~ninetieth ninety~~ (90th) days ~~previous to the day of such election prior to the date set for that primary election, regardless of whether or not a primary is actually required to be held for a Mayoral election.~~ ~~This section shall become effective January 1, 2017. This section shall become effective January 1, 2021.~~

SECTION VII-4. ACCEPTANCE.

Any person whose name has been submitted for candidacy by any such petition shall file an acceptance of such candidacy with the election authorities not later than eighty-five (85) days previous to ~~said election the date established in Section VII-1 for the primary election that is required to be held when there are three or more candidates certified for the office of Mayor, regardless of whether or not a primary is actually required to be held for a Mayoral election;~~ otherwise, the name of that person shall not appear on the ballot. The signature of a candidate upon a declaration of candidacy contained as part of petitions filed with the election authorities, in accordance with law, shall constitute compliance with the requirements of this section. ~~This section shall become effective January 1, 2017. This section shall become effective January 1, 2021.~~

(Amended 11-8-16.)

SECTION VII-5. WHO ELECTED.

The voter may write the name of any candidate who has properly filed a declaration as a write in candidate with the election authorities on or before the seventy-second (72nd) day before ~~the election shall be counted, the date established in Section VII-1 for the primary election that is required to be held when there are three or more candidates certified for the office of Mayor, regardless of whether or not a primary is actually required to be held for a Mayoral election.~~ Such declaration shall state the name of the candidate, his or her place of residence, and the office for which he or she desires to run. A write in candidate shall be an elector of the City at the time his or her declaration as such a candidate is filed with the election authorities. ~~This section shall become effective January 1, 2017.~~ This section shall become effective January 1, 2021.
(Amended 11-8-16.)