

**Proposed Amendments to City Charter/Chapter 3 made by
Council Members, Clerk (June 2018)**

***Proposal** – in section 14, eliminate language that requires counting ballots at voting site

Reason: language is obsolete; votes no longer counted at voting site

§ 14 Rules for Counting Ballots

~~In counting the ballots cast at every election held under the authority of this Charter, the precinct election officers shall enter the total number of votes on a tally sheet provided therefor. They shall also enter on such tally sheet the number of votes cast for each candidate for the office for which he is a candidate and make return thereof to the election authorities as provided by general law. The candidate having the largest number of votes for each office voted upon at the regular Municipal election shall be declared elected to such the office. In case it cannot be determined which of two or more candidates shall be declared elected, by reason of the fact that they have received the same number of votes, the election authorities shall determine by lot which of said the candidates shall be declared elected.~~

***Proposal** – amend section 17 to increase the number of signatures on recall petitions to 30% of those who voted in the last municipal election (instead of 20%) and to clarify that the recall petitions must be filed by 4 p.m. on the final day of filing

Reason: to justify the expense and disruption of the extraordinary action of a recall election and to clarify when the petitions must be filed with the clerk.

§ 17 Filing Recall Petition

A petition demanding the removal of the Mayor or a member of the Council shall be known as a recall petition. A recall petition to be effective must be returned and filed with the City Clerk ~~within thirty days~~ no later than four p.m. on the thirtieth day after the filing of the delivery of the petition papers to the elector making the affidavit as provided in Charter section 16, the next preceding section, and to be sufficient, must bear the signatures of not less than ~~twenty~~ thirty percent of those who voted in the City or ward respectively at the last preceding regular Municipal election. Within ten (10) days from the date of the filing of ~~such~~ the petition, the Clerk shall determine the sufficiency ~~thereof of the petition~~ and attach ~~thereto to the petition~~ a certificate showing the result of ~~his~~ the Clerk's examination. If the Clerk ~~shall certify~~ certifies that the petition is insufficient ~~he~~ the Clerk shall set forth in the certificate the particulars in which the petition is defective, and shall return a copy of the certificate to the person designated in ~~such~~ the petition to receive it. ~~Such~~ The recall petition may be amended at any time within twenty (20) days after the return of a copy of the certificate of insufficiency by filing a supplementary petition upon additional petition papers, issued, signed and filed as provided ~~herein~~ for the original petition. The Clerk shall, within ten (10) days after ~~such~~ the amendment is filed, ~~make like examination~~ determine the sufficiency of the amended petition, and if ~~his~~ the Clerk ~~certifies the amended petition certificate shall show the same to be still insufficient,~~ certifies the amended petition ~~he~~ the Clerk shall return it to the person designated in ~~such~~ the petition to receive it, without prejudice, however, to the filing of a new petition for the same purpose.

***Proposal** – in section 18, delete the requirement that the Clerk submit a certified recall petition “at once”; instead provide that the Clerk submit the certificate at the next regular council meeting or, if no regular meeting is to be held within ten days, then the Council President will call a special meeting within the 10 day period.

Reason: the current “at once” standard is meaningless because the Clerk can only submit the petition to the Council at one of its meetings. The amendment clarifies that fact and requires that the Council meet within 10 days of Clerk’s certification if a regular meeting is not scheduled.

§ 18 Recall Election Ordered

If a recall petition, or amended petition, ~~shall be~~ is certified by the Clerk to be sufficient ~~he~~ the Clerk shall ~~at once~~ submit it to the Council with ~~his~~ the Clerk’s certificate to that effect at its next regular meeting and shall notify the person whose removal is sought by ~~such action;~~ the petition; provided, however, that if no regular meeting of the Council is to be held within ten days after the Clerk certifies the sufficiency of the petition or amended petition, the President of Council shall call a special meeting of the Council to be held within the ten-day period, and the Clerk shall submit the petition to the Council. If the person whose removal is sought does not resign within five days after ~~such~~ receipt of the Clerk’s notice the Council shall ~~thereupon~~ order and fix a day for holding a recall election. Any ~~such~~ election shall be held not less than forty nor more than sixty days after the petition has been presented to the Council, at the same time as any other general or special election held within ~~such~~ that period but, if no ~~such~~ election is to be held within ~~such~~ the period, the Council shall call a special election to be held within the time period aforesaid.

***Proposal** – amend section 20 to remove the requirement that ballots be printed to provide an opportunity to mark the ballot with an “X” and replace with a provision that voters shall record their choices “in the manner prescribed by the general law of the State.”

Reason: as revised, the section applies to the methods of voting prescribed by state law, not just paper ballots.

§ 20 Ballots in Recall Elections

Ballots used at a recall election shall conform to the following requirements: With respect to the officer whose removal is sought the question shall be submitted, “Shall (name of person) be removed from the Council (or from the office of Mayor) by recall”. Immediately below ~~such~~ the question there shall be printed on the ballots the two following propositions, one above the other, in the order ~~here~~ indicated:

“For the recall of (name of person).”

“Against the recall of (name of person).”

~~Immediately at the left of each proposition there shall be a square in which the elector by making a cross mark (X) may vote~~ The elector shall record his or her choice for either of such ~~the~~ propositions in the manner prescribed by the general law of the State.

***Proposal** – in section 21, to provide that the nomination and election of a person to succeed a person removed by recall shall be held 180 days after the date of the recall election and conducted in the same manner as provided for other Municipal elections under the Charter.

Reason: to provide sufficient time for nominations, primary and general elections in light of 2008 amendments to Charter sections 4 and 8, the time period for recall elections should be extended by 60 days.

§ 21 Result of Recall Election

If a majority of the votes cast on the question of recalling a member of the Council or Mayor ~~shall be~~ is against ~~his~~ the recall ~~he~~ the Mayor or Council member shall continue in office for the remainder of ~~his~~ the unexpired term, but subject to recall as before. If a majority of ~~such~~ votes be for the recall of the member indicated on the ballots ~~he~~ the member shall, regardless of any defect in the recall petition, be deemed removed from office. When a person is removed from office by recall, Council shall immediately provide for the nomination and election of ~~his~~ a successor for the unexpired term by fixing the time of the elections. The nomination and election of a person to succeed a person so removed shall be held within one hundred and ~~twenty~~ eighty days after the date of the recall election and shall be conducted in the same manner as provided for regular Municipal elections.

***Proposal** – amend section 21 to provide for someone to fill in as Acting Mayor between the time when the Mayor is recalled or resigns as a result of recall petition and the election of a new Mayor.

Reason: presently no one is authorized by Charter to perform the duties of Mayor between the time of recall or resignation as a result of a recall petition and the election to fill the vacancy. The proposed amendment provides for an Acting Mayor consisting of one of the heads of the departments to continue to manage the City government until the new Mayor is elected.

When the office of Mayor becomes vacant by reason of recall election or resignation within five days after the notice required by Section 18 of this Charter, the duties of the office of Mayor shall be discharged by the head of one of the departments provided for in this Charter under the title of Acting Mayor until the successor for the unexpired term of Mayor is elected and qualified; provided, however that the Acting Mayor must otherwise meet the qualifications for Mayor. For purposes of this provision, the order of succession as Acting Mayor shall be as follows: Director of Law, Director of Finance, Director of Public Utilities and Director of Port Control.

***Proposal** – amend section 21 to provide for someone to fill in as Acting Council Member between the time a Council Member is recalled or resigns as a result of a recall petition and the election of a new Council Member.

Reason: presently no one is authorized by Charter to perform the duties of member of Council between the time of recall or resignation as a result of a recall petition and the election to fill the vacancy. The proposed amendment provides for an Acting Council Member chosen by a majority vote of Council excluding the Council member who was recalled until the new member of Council is elected.

When the office of a member of Council becomes vacant by reason of recall election or resignation within five days after the notice required by Section 18 of this Charter, the duties of the office of member of Council shall be discharged by a majority vote of the Council under the title of Acting Council Member until the successor for the unexpired term of member of Council is elected and qualified; provided, however that the Acting Council Member must otherwise meet the qualifications for a member of Council.

***Proposal** – amend section 23 to extend the time period during which recall petitions cannot be filed against the Mayor or a member of Council after taking office from three months to 12 months, and after a recall election from six months to twelve months.

Reason: after being elected, the public official should be given at least twelve months to perform in office; after the disruption of a recall election, at least one year should pass before the subject of a recall election should face the possibility of another recall election.

§ 23 Limitations on Recall Petitions

No recall petition shall be filed against the Mayor or a member of the Council within ~~three~~twelve months after he or she takes office nor, in case of a person subjected to a recall election and not removed ~~thereby~~ by the recall election, until at least ~~six~~ twelve months after that election.

***Proposal** – amend section 8 to provide for candidacy and nominating petitions to be filed with election authorities no later than 4 p.m. on the 90th day prior to the day of the primary election, instead of the 75th day prior to the day of the primary election.

Reason: changing the filing day to the 90th day before the primary election would provide more time between the filing deadline and the primary election, making the City of Cleveland consistent with the filing deadlines of other cities in the county.

§ 8 Filing and Verification of Petitions

All separate papers comprising a statement of candidacy and nominating petition shall be assembled and filed with the election authorities as one instrument no later than four p.m. on the ~~seventy-fifth~~ ninetieth day prior to the day of the primary election. Within ten days after the filing of a nominating petition the election authorities shall notify the person named therein in the petition as a candidate whether the petition is found to be signed by the required number of qualified electors. If insufficient, the person named therein as candidate may, amend the petition by filing within five (5) days after notification of insufficiency by the election authorities, additional petition papers. Within five (5) days after the filing of the additional petition papers, the election authorities shall notify the person named therein as candidate whether the amended petition is found to be signed by the required number of qualified electors.

***Proposal** – amend section 8 to eliminate the five day allowance for additional signatures if the petition is found insufficient.

Reason: five days does not give a candidate a realistic time to protest the petitions; it is also difficult for the Board of Elections to administer. In addition, the additional 5 days is not in state law, or other cities' charters, it is only in the Cleveland's Charter.

§ 8 Filing and Verification of Petitions

All separate papers comprising a statement of candidacy and nominating petition shall be assembled and filed with the election authorities as one instrument no later than four p.m. on the seventy-fifth day prior to the day of the primary election. Within ten days after the filing of a nominating petition the election authorities shall notify the person named ~~therein~~ in the petition as a candidate whether the petition is found to be signed by the required number of qualified electors. ~~If insufficient, the person named therein as candidate may, amend the petition by filing within five (5) days after notification of insufficiency by the election authorities, additional petition papers. Within five (5) days after the filing of the additional petition papers, the election authorities shall notify the person named therein as candidate whether the amended petition is found to be signed by the required number of qualified electors.~~