

ORDINANCE NO. 16-17

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Belinda Kenley ON THE 10<sup>th</sup> DAY OF July, 2017.

AN ORDINANCE AUTHORIZING THE SUBMISSION TO A VOTE OF THE QUALIFIED ELECTORS OF THE CITY OF CENTERVILLE AMENDMENTS TO THE CHARTER OF THE CITY OF CENTERVILLE, OHIO, AND TO PLACE THE SAME ON THE BALLOT AT THE GENERAL ELECTION FOR NOVEMBER 7, 2017.

WHEREAS, Article XII, Section 12.04(a) of the Charter of the City of Centerville, Ohio states:

Any provisions of this Charter may be amended as provided in Article XVIII, Section 9 of the Ohio Constitution, by submission of a proposed amendment to the electors of the Municipality and approved by a majority of those voting on the question of its adoption. Such amendment may be initiated either by a vote of at least five (5) members of Council, or by petition to the Council signed by ten (10) percent of the electors registered to vote at the last regular municipal election held in the Municipality; and

WHEREAS, Article XII, Section 12.04(b) of the Charter of the City of Centerville, Ohio states:

At the first meeting of the Council in January, 1976, and every eight (8) years thereafter, Council shall appoint a Commission of nine (9) electors of the Municipality. It shall be the duty of the Commission to review the existing Charter and make such recommendations as it may see fit for revision. The Commission shall submit its report to Council not later than August 1 of the same year. Thereupon, the Council may take such action as it deems warranted with respect to such recommendations; and

WHEREAS, in accordance with Article XII, Section 12.04 above, the Mayor appointed nine citizens to the 2016 Charter Review Commission; and

WHEREAS, the Charter Review Commission reviewed the Charter for any alterations, revisions, and amendments to the Charter that, in the judgment of the Commission, seemed advisable; and

WHEREAS, the Charter Review Commission through its chairman submitted its report and recommendations to amend the Charter (the "Recommendations") and Council accepted receipt of the Recommendations on or about July 5, 2016; and

WHEREAS, the Recommendations for amendments to various sections of the City Charter concerned Deputy Mayor, notice/publication, use and procedures for ordinances and resolutions, competitive processes for employment, and non-substantive revisions in the future; and

WHEREAS, Council thoroughly reviewed the Recommendations and found them to be well researched and thoughtfully prepared; and

WHEREAS, Council also determined that certain Charter amendments should be submitted to the electors of the City; and

WHEREAS, by this Ordinance Council submits to the qualified electors of this City the question of whether the recommended Charter amendments, which are deemed to be in the best interests of the citizens of Centerville, should be approved;

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE  
HEREBY ORDAINS WITH AT LEAST TWO-THIRDS OF THE  
MEMBERS CONCURRING:

Section 1. The question of adoption of the proposed amendments to the following Charter sections, as recommended by the Charter Review Committee and deemed by Council to be in the best interests of the citizens of Centerville, shall be submitted to a vote of the electors of the City of Centerville:

- Preamble (remove reference to a particular county)
- Section 1.01 (remove reference to a particular county)
- Section 4.03(b) (address simultaneous vacancy in the office of Mayor and Deputy-Mayor)
- Section 4.10(a) (require at least 24 hour notice for special meetings)
- Section 5.01 (clarify use of resolutions)
- Section 5.03 (modify and update requirements for publishing ordinances)
- Section 5.05 (eliminate expiration of emergency ordinances)
- Sections 10.01, 10.02 and 10.03 (replace term "competitive exams" with "competitive processes")

Section 12.04(d) (establish new section that enables City Council to make non-substantive revisions to the Charter in the future)

If adopted, those amended sections of the City Charter will read as set forth in Exhibit "A", attached and made a part of this ordinance.

Section 2. The question of adoption of the proposed amendments to the Charter set out in Section 1 shall be submitted to a vote of the qualified electors of this City at the general election to be held Tuesday, November 7, 2017, at the regular place or places of voting in this City as established by the Montgomery County, Ohio and Greene County, Ohio Boards of Elections and during the election hours established by the same Boards of Elections or by State law. A majority vote shall be necessary for adoption of the proposed amendments. Notice of the time and place of holding such election shall be given as required by law.

Section 3. It is the desire of Council that the question of adoption of the proposed amendments to the Charter set out in Section 1 shall be one ballot question in substantially the following form:

#### PROPOSED CHARTER AMENDMENT

A majority affirmative vote is necessary for passage.

Shall the following sections of the Centerville City Charter be amended as indicated:

1. revising the Preamble to remove reference to Montgomery County;
2. revising Section 1.01 to remove the reference to Montgomery County;
3. revising Section 4.03 to provide that in the vacancy in the office of both the Mayor and Deputy-Mayor, the Council shall elect a new Deputy-Mayor;
4. revising Section 4.10 to provide twenty-four (24) hour notice of special meetings except in an emergency;



5. revising Section 5.01 to clarify Council's use of resolutions to express policy or opinion and that such resolutions do not establish permanent or general legislation;
6. revising section 5.03 to modify and update the methods and technology used to publish ordinances;
7. revising section 5.05 to remove the 75 day expiration of emergency ordinances;
8. revising section 6.04 to remove the restriction of the City Manager to appeal a suspension or removal action;
9. revising sections 10.01, 10.02 and 10.03 to replace the term competitive exams with competitive processes; and
10. establishing section 12.04(d) to allow City Council the ability to make non-substantive revisions to the Charter in the future limited to errors of grammar, sentence construction, standardization of similar modification, change, or correction without affecting the meaning?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

Section 4. The full text of the proposed Charter amendments shall be published once a week for not less than two consecutive weeks in a newspaper as provided in Section 731.211 of the Ohio Revised Code, the first publication being at least fifteen days prior to the election date.

Section 5. The Clerk of Council is hereby directed to certify a copy of this Ordinance to the Boards of Elections of Montgomery and Greene County so that the certified copy is received by the Boards no later than August 9, 2017.

Section 6. If one or more of the proposed amendments are approved by a majority of electors voting thereon, then the approved amendments shall become part of the Charter of the City of Centerville effective as of the date of certification of the abstract of said election and certification to the Secretary of State by the Boards of Elections as provided by law.


Section 7. By an affirmative vote of no less than five (5) Council members, this Council authorizes and approves the adoption of this Ordinance.

Section 8. This ordinance shall be effective from and after the earliest date allowed by law.

PASSED THIS 10<sup>th</sup> day of July, 2017.

  
\_\_\_\_\_  
Mayor of the City of  
Centerville, Ohio

ATTEST:

  
\_\_\_\_\_  
Clerk of Council  
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 16-17, passed by the Council of the City of Centerville, Ohio on the 10<sup>th</sup> day of July, 2017.

  
\_\_\_\_\_  
Clerk of the Council

Approved as to form, consistency with the  
Charter and Constitutional Provisions.  
Department of Law  
Scott A. Liberman  
Municipal Attorney

## EXHIBIT "A"

### Key to Proposed City of Centerville Charter Amendments:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underscored. Example: text

### Preamble.

We, the people of the Municipality of Centerville, ~~Montgomery County~~, Ohio, in order to secure the benefits of local self-government under the Constitution of the State of Ohio, do adopt this Charter for the government of the Municipality of Centerville.

### Article I, Section 1.01. Name.

The Municipality now existing in the ~~County of Montgomery~~, State of Ohio and known as the City of Centerville, shall continue to be a body politic and corporate.

### Article IV, Section 4.03. Mayor and Deputy-Mayor

(b) Deputy-Mayor. The Council shall, at the regular meeting in January following its election, and every two (2) years thereafter, choose, by a majority vote of all members of the Council, one (1) of its members a Deputy-Mayor who shall act as Mayor during the absence or disability of the Mayor. If a vacancy occurs, the Deputy-Mayor shall serve as Mayor until the next regular municipal election. At such election a Mayor shall be elected to serve for the unexpired term, if any; if not, for a full term. Upon the election of a Mayor, other than the Deputy-Mayor then serving as Mayor, the Deputy-Mayor may retain a position as councilmember for the remainder of the unexpired term. In the event of a vacancy in the office of Mayor whereby the Deputy Mayor is required to serve as Mayor, the Council shall select a person to fill the vacancy in Council as provided in Section 4.05 (d) and shall also elect a new Deputy Mayor as provided above. However, the person chosen to serve on Council shall serve only until a Mayor is elected as provided herein.

Article IV, Section 4.10. Procedure.

(a) Meetings. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor or of four (4) or more Councilmembers and, whenever practicable, upon no less than ~~twelve (12)~~ twenty-four (24) hours notice, or as prescribed by the Ohio Revised Code, to each member and to the media that have requested notification, except in the event of an emergency requiring immediate action. All meetings where official business is consummated shall be public except as otherwise provided by Ohio Statute or by Ordinance.

Article V, Section 5.01. Ordinances and Resolutions.

Council action shall be by ordinance or resolution. Ordinances shall be the enactments of the Council and shall have the full force and effect of law. Ordinances shall prescribe permanent rules of conduct of government. Resolutions shall be orders of the Council ~~of a special or temporary nature~~ dealing with a specific matter of a temporary nature which expresses the policy of the Council or opinion regarding such matter and which do not establish permanent or general legislation.

Article V, Section 5.03. Passage of Ordinances.

A proposed ordinance may be introduced by any Councilmember at any regular or special meeting of the Council. Upon introduction of any proposed ordinance, the Clerk of Council shall distribute a copy to each Councilmember and to the Manager, shall file one (1) copy in the office of the Clerk of Council, shall make copies available to interested parties, and shall publish the proposed ordinance, together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. (As used in this section, the term "publish" means to ~~print in summary form in one (1) or more newspapers of general circulation in the Municipality~~ post in full on the City of Centerville website or generally accepted electronic methods and to post in full in not less than ~~five (5)~~ three (3) of the most public places in the Municipality as determined by Council. Such posting places shall be reviewed every two years.)

Article V, Section 5.05. Emergency Ordinances.

To meet a public emergency affecting health, safety, morals, or the public welfare, or a special emergency in the operation of a Municipal department or agency, the Council may adopt one (1) or more emergency ordinances, but such ordinances may not: levy taxes, except when incidental to incurring debt; grant, renew, or extend a franchise, except one affecting health. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. A proposed emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five (5) members of Council shall be required for adoption. After its adoption, the ordinance shall be published as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify.

~~Every emergency ordinance, except one enacted pursuant to Section 8.11 or in the exercise of Council's power under Chapter 727 of the Ohio Revised Code or one authorizing the borrowing of money, shall automatically stand repealed as of the seventy-fifth (75th) day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this Section, if the emergency still exists in the judgment of Council. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this Section for adoption of emergency ordinances. No emergency ordinance shall be subject to the Initiative and Referendum.~~

Article VI, Section 6.04. Removal.

The Council may remove the Manager from office in accordance with the following procedures:

- (1) The Council shall adopt by affirmative vote of a majority of all members a preliminary resolution which must state the reason for removal and may suspend the Manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the Manager. During his suspension, Council shall appoint an Administrator from the departments or from another source to act as Manager.
- (2) Within five (5) days after a copy of the resolution is delivered to the Manager, the Manager may file with the Council a written request for a public hearing. This hearing shall be held at a Council Meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.



- (3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of five (5) OF THE Councilmembers at any time after five (5) days from the date when the copy of preliminary resolution was delivered to the Manager, if the Manager has not requested a public hearing, or at any time after the public hearing if one has been requested.

In any case of removal, the former manager shall be paid such consideration as may be determined by the Council acting by resolution. ~~The action of the council in suspending or removing the Manager shall not be subject to review by any court or agency.~~

#### Article X, Section 10.01. Merit System Established.

Appointments and promotions in the administrative service of the Municipality shall be made according to merit, to be ascertained, so far as practicable, by open competitive examination processes.

#### Article X, Section 10.02. Exempt Positions.

All positions in the administrative service of the Municipality shall, so far as practicable, be filled pursuant to open competitive examinations processes except:

- (1) The Manager;
- (2) Clerk of Council;
- (3) The Directors of Departments, their assistants, and Division Heads;
- (4) Assistants to the Manager;
- (5) Secretary to the Manager, and personal secretaries of all department heads, agencies, boards and commissions;
- (6) Any office or position requiring exceptional or professional qualifications;
- (7) Unskilled laborers,;
- (8) Seasonal and part-time employees;
- (9) All officials and employees appointed by Council under its Charter authority;
- (10) Members of Boards, Commissions and Agencies;
- (11) Mayor's Court personnel.

#### Article X, Section 10.03. Personnel Officer.

There shall be a personnel officer appointed by the Manager, to service part-time or full-time, who shall administer the personnel system of the Municipality. The Personnel Officer shall:

- (1) Prepare and recommend to the Manager for approval the necessary rules to establish and maintain the merit system in the Municipality according to the provisions of the Ohio Constitution, Article XV, Section 10. When approved by the Manager, the rules shall be proposed to the Council for adoption by ordinance, with or without amendment.
- (2) classify positions, establish job standards with adequate provisions for reclassification, and establish the probationary period. Conduct; recruitment, ~~examinations~~ processes, in-service training programs, and other such duties in relation to personnel as the Manager may direct.

Article XII, Section 12.04. Amendments to the Charter.

(d) Council is granted the authority to, by affirmative vote of at least five (5) members, by ordinance, and with approval of the Director of Law, incorporate administrative changes to this Charter. Such administrative changes shall be limited to errors of grammar, sentence construction, standardization of similar modification, change, or correction affect the meaning or substance of the Charter or any part thereof or amendment thereto.