

ORDINANCE NO.: 43-2011 (As Amended 7/26/11)
INTRODUCED BY: Mayor and All of Council

AN ORDINANCE TO SUBMIT TO THE ELECTORS OF THE CITY OF RICHMOND HEIGHTS THE QUESTION OF AMENDING THE CHARTER AT ARTICLE IV, "THE COUNCIL", SECTION 9, REGARDING COUNCIL POWERS, AND AT ARTICLE VI, "ADMINISTRATIVE DEPARTMENTS, BOARDS, AND COMMISSIONS", SECTIONS 4 AND 5, REGARDING THE REQUIREMENTS FOR THE CHIEFS OF POLICE AND FIRE, THE COMMISSIONER OF BUILDING, ZONING AND HOUSING, AND THE DIRECTOR OF PUBLIC SERVICE AND PROPERTIES; AND DECLARING AN EMERGENCY.

WHEREAS, the Mayor and Council Committee-of-the-Whole have recommended to place the issue of amending the Charter in several sections before the electorate in order to facilitate the sharing of or contracting for the provision and cost of municipal services with the State of Ohio, other political subdivisions of the state, and other entities; and

WHEREAS, pursuant to Charter, Article XIII, Section 2, Council has the authority to submit these proposed amendments to the electorate.

NOW, THEREFORE, Be It Ordained by the Council of the City of Richmond Heights, Cuyahoga County, State of Ohio, that:

Section 1: There shall be submitted to a vote of the qualified electors of the City, at the general election to be held on Tuesday, the 8th day of November, 2011, at the regular places of voting in the City during the regular hours of voting on such date as prescribed by general law, the question of the amendment of the Charter of the City of Richmond Heights, at Article IV, "The Council", Section 9, and at Article VI, Sections 4 and 5, so that, as amended, it shall read in pertinent part as follows:

ARTICLE IV THE COUNCIL

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SECTION 9. POWERS.

The Council shall have and possess:

(a) The power by ordinance to create, change and abolish any office, department or agency, other than the offices, departments and agencies established by this Charter. The Council by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office,

department or agency. Council may authorize one person to serve in any capacity in two or more departments, divisions, boards or commissions.

(b) The power to approve and confirm or to disapprove and reject all appointments made by the Mayor to fill such offices and departments created under this Charter are created by action of Council, or under the Laws of Ohio now or hereafter in force.

(c) The power to fix the number of employees in the various departments of the Municipality and to fix the rate of their compensation.

(d) The power to be judge of the election and qualifications of its own members.

(e) The power to establish the form and method of enactment of its ordinances and resolutions, except as otherwise provided in this Charter.

(f) The power to authorize all contracts and make the necessary appropriations therefor; and no contract shall be made on behalf of the Municipality unless first authorized by Council, and no contract for the expenditure of funds shall be binding upon the Municipality until it has been authorized or approved and the necessary money has been appropriated.

(g) The power to approve or disapprove the appointments of all personnel to positions established by this Charter, or created by further ordinances.

(h) The power to enter into agreements with the State of Ohio, with other political subdivisions of the state, and with other entities and to authorize Municipal participation in joint service districts or entities for the purpose of the sharing or providing of municipal services and the funding thereof. The foregoing power shall only be exercised by the affirmative vote of five members of Council.

ARTICLE VI ADMINISTRATIVE DEPARTMENTS, BOARDS AND COMMISSIONS

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SECTION 4. DEPARTMENT OF PUBLIC SAFETY.

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(c) The Division of Police shall consist of a Chief of Police and such other officers, ~~patrolmen and patrolwomen~~, and personnel as the Council shall deem necessary and advisable, all of whom shall be appointed in accordance with the provisions of this Charter and the Rules and Regulations of the Civil Service Commission, as applicable. Notwithstanding the Charter requirement that the Division of Police shall consist of a Chief of Police, in the event the Council first authorizes by the affirmative vote of five members of Council, and the City enters into, an agreement with the State of Ohio, with other political subdivisions thereof, or with other entities or authorizes by the

affirmative vote of five members of Council the Municipality's participation in a joint services district or entity to provide police services for the Municipality, Council may abolish the position of Chief of Police if it determines that a Chief of Police is no longer necessary, but Council may only do so by the affirmative vote of five members of Council.

The Chief of Police shall be appointed by the Mayor from a list of the top five (5) candidates who have successfully passed a civil service examination and may be from within the Division of Police and/or from outside of the Division of Police, provided, that in order to be eligible to take a test for the position of Chief of Police, all applicants shall hold or shall have held the position of a police lieutenant or higher in a municipal corporation and shall have served in that capacity beyond any probationary period applicable to that position.

The Chief of Police shall, upon appointment, serve a probationary period of one year. Upon the termination of his or her service during a probationary period as Chief of Police, he or she shall, if appointed from the Division of Police, revert to the civil service status held by him or her at the time of appointment to the position of Chief of Police. After service of the probationary period, he or she may only be removed from office for cause under Civil Service Rules and Regulations **or pursuant to Council's abolishment of the position as provided by this Charter provision.**

As a condition of employment, from and after the effective date of this section, the Chief of Police shall reside within Cuyahoga County or any county adjacent to Cuyahoga County during the Chief's employment. In cases of new appointments or promotion, the Chief of Police shall have three months to comply with this section. Failure of the Chief of Police to comply with this section shall result in immediate termination without further action by the City.

The Chief of Police shall be the head of the Division of Police and shall have the authority and responsibility for the operation of the Division, for the proper maintenance of the apparatus of the Division, and for the discipline, duties and conduct of the members thereof.

The Chief of Police shall be responsible to and fully accountable to the Mayor for all activities, effectiveness and efficiency of the Division. The Chief shall establish standards and measures of performance to assure maximum service at optimum efficiency to the Municipality and its residents.

(d) The Division of Fire shall consist of a ~~Fire~~ Chief **of Fire** and such other officers, firefighters and personnel as the Council shall deem necessary and advisable, all of whom shall be appointed in accordance with the provisions of this Charter and the Rules and Regulations of the Civil Service Commission, **as applicable. Notwithstanding the Charter requirement that the Division of Fire shall consist of a Chief of Fire, in the event the Council first authorizes by the affirmative vote of five members of Council, and the City enters into, an agreement with the State of Ohio, with other political subdivisions thereof, or with other entities or authorizes by the affirmative vote of five members of Council the Municipality's participation in a joint services district or entity to provide fire and/or emergency medical services for the Municipality, Council may abolish the position of Chief of Fire if it determines that a Chief of Fire is no longer necessary, but Council may only do so by the affirmative vote of five members of Council.**

The ~~Fire~~ Chief **of Fire** shall be appointed by the Mayor from a list of the top five (5) candidates who have successfully passed a civil service examination and may be from the Division of Fire ~~and/or~~ from outside of the Division of Fire provided that in order to be eligible to take a test for the position of ~~Fire~~ Chief **of Fire**, all applicants shall hold or shall have held the position of a fire lieutenant or higher in a municipal corporation and shall have served in that capacity beyond any probationary period applicable to that position.

As a condition of employment, from and after the effective date of this section, the ~~Fire~~ Chief **of Fire** shall reside within Cuyahoga County or any county adjacent to Cuyahoga County during the Chief's employment. In cases of new appointments or promotions, the ~~Fire~~ Chief **of Fire** shall have three months to comply with this section. Failure of the ~~Fire~~ Chief **of Fire** to comply with this section shall result in immediate termination of employment without further action by the City.

The ~~Fire~~ Chief **of Fire** shall, upon appointment, serve a probationary period of one year. Upon the termination of his or her service during a probationary period as ~~Fire~~ Chief **of Fire**, he or she shall, if appointed from the Division of Fire, revert to the civil service status held by him or her at the time of appointment to the position of ~~Fire~~ Chief **of Fire**. After service of the probationary period, he or she may only be removed from office for cause under Civil Service Rules and Regulations **or pursuant to Council's abolishment of the position as provided by this Charter provision.**

The ~~Fire~~ Chief **of Fire** shall be the head of the Division of Fire and shall have the authority and responsibility for the operation of the Division, for the proper maintenance of the apparatus of the Division, and for the discipline, duties and conduct of the members thereof.

The Fire Chief shall be responsible to and fully accountable to the Mayor for all activities, effectiveness and efficiency of the Division. The Chief shall establish standards and measures of performance to assure maximum service at optimum efficiency to the Municipality and its residents.

(e) The Division of Building, Zoning and Housing shall consist of a Commissioner of Building, Zoning and Housing and such other personnel as the Council shall deem necessary and advisable. The Commissioner of Building, Zoning and Housing shall be appointed by the Mayor, subject to the **approval by the affirmative vote of four members of Council. Notwithstanding the Charter requirement that this Division shall consist of a Commissioner, in the event the Council first authorizes by the affirmative vote of five members of Council, and the City enters into, an agreement with the State of Ohio, with other political subdivisions thereof, or with other entities or authorizes by the affirmative vote of five members of Council the Municipality's participation in a joint services district or entity to provide the same or similar services to one or more services provided by this Division for the Municipality, Council may abolish the position of Commissioner if it determines that a Commissioner is no longer necessary, but Council may only do so by the affirmative vote of five members of Council.**

The Commissioner of Building, Zoning and Housing shall perform the duties of said Commissioner as set forth in the City's Zoning Code and Building Codes, now in effect or hereafter adopted, and shall be the administrative head of the Division of Building, Zoning

and Housing and shall have the authority and responsibility for the operation of the Division. The Commissioner of Building, Zoning and Housing shall be responsible to and fully accountable to the Mayor for all activities, effectiveness and efficiency of the Division.

Wherever the terms Building Inspector or Building Official are used in adopted Codes, such terms shall be construed and deemed to read as Commissioner of Building, Zoning and Housing **or if the position of Commissioner is abolished pursuant to this Charter provision, another official specifically designated by the Council.**

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SECTION 5. DEPARTMENT OF PUBLIC SERVICE AND PROPERTIES AND DEPARTMENT OF ENGINEERING AND CONSTRUCTION.

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(a) The Director of Public Service and Properties shall be appointed by the Mayor, who shall be eligible to become such Director, but in all instances the appointment shall require confirmation by a majority vote of Council. The Director of Public Service and Properties may be removed from office by the Mayor with the concurrence of five (5) members of Council; provided, however, that if the Mayor is the Director, he may be removed as such Director by the **affirmative** vote of five (5) members of Council. **Notwithstanding the Charter requirement that the Department of Public Services and Properties shall consist of a Director, in the event the Council first authorizes by the affirmative vote of five members of Council, and the City enters into, an agreement with the State of Ohio, with other political subdivisions thereof, or with other entities or authorizes by the affirmative vote of five members of Council the Municipality's participation in a joint services district or entity to provide the same or similar services to one or more services provided by the Department for the Municipality, Council may abolish the position of Director if it determines that a Director is no longer necessary, but Council may only do so by the affirmative vote of five members of Council.**

Except as otherwise provided in this Charter, the Director of Public Service and Properties shall have charge of:

(1) All public buildings, parks, playgrounds, public squares and places, cemeteries, and all other public places belonging to the Municipality of Richmond Heights or dedicated to public use;

~~The Director of Public Services and Properties shall have charge of~~ **(2) T**he repair and maintenance, resurfacing, sprinkling, cleaning and lighting of streets, alleys, lanes, bridges, sidewalks, and other public highways and public places; of the removal from streets, alleys, lanes, bridges and other public highways of snow, ice, mud, debris and other obstructions or impairments to the safe public use thereof, resulting from wind, water, storm, flood, lightning or other disasters of natural or mad-made origin; of the inspection of openings and cuts into pavements and repairing

the same, whether made by the Municipality of Richmond Heights or by others; of the maintenance, repair and cleaning of sewers, drains, ditches and culverts; of the collection and disposal of garbage and waste, and supervision of sewage disposal plants, if any;:-

~~The Director of Public Service and Properties shall be charged with~~ **(3) T**the repair and maintenance of water mains, pump systems, pipes, purification and filtration plants, if any, and the water distribution system; of all public buildings, parks, playgrounds, cemeteries, and other public places belonging to the Municipality of Richmond Heights or dedicated to public use. He shall manage and control or have charge of sewage treatment plants, water works and all public utilities of the Municipality of Richmond Heights, if any, and shall enforce all obligations of privately owned or other publicly operated public utilities enforceable by the Municipality of Richmond Heights;:- **and**

~~He shall have charge of,~~ **(4) Mmanagement** and control **of** public markets and other public buildings, supervise**ion of** private markets, and preserve**ation of** all property belonging to the Municipality of Richmond Heights and pertaining to the functions thereof.

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Section 2: The Board of Elections of Cuyahoga County be, and is hereby, directed to provide for the voting upon said Amendments set forth in Section 1 above and the ballots for said election shall, at the top thereof, be entitled “Proposed Charter Amendments – City of Richmond Heights”, and the question to be submitted on said ballot shall be substantially in the following words:

“Shall Article IV, Section 9, and Article VI, Sections 4 and 5, of the City of Richmond Heights Charter be amended to authorize the City Council to enter into agreements with the State of Ohio, other political subdivisions of the state, and other entities, to authorize Municipal participation in joint service districts or entities for the sharing or contracting for the provision of municipal services and the funding thereof, and to grant discretion to the Council whether to abolish the positions of Chiefs of Police and Fire, the Commissioner of Building, Zoning and Housing, and the Director of Public Service and Properties in those circumstances in order to facilitate such agreements and/or participation?”

Section 3: The Clerk of Council is directed to give notice of the above proposed Charter Amendments to the electors of the City in accordance with general law, and to certify a copy of this Ordinance to the Board of Elections of Cuyahoga County, Ohio, as provided by law.

Section 4: The Director of Finance is authorized and directed to appropriate from the general fund a sum sufficient to pay the cost of publishing said notice referred to in Section 3.

Section 5: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 6: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the City of Richmond Heights for the reason that it is necessary to timely submit the proposed Charter Amendment to the Board of Elections for placement upon the ballot for the general election to be held on November 8, 2011, in compliance with the Ohio Constitution, and, therefore, shall take effect and be in force immediately upon its passage and approval by the Mayor.

PASSED: _____

Daniel J. Ursu, Mayor

APPROVED: _____

ATTEST: _____

Betsy Traben
Clerk of Council

David H. Roche
President of Council