

McGINTY, HITCH, PERSON & ANDERSON, P.C.**MEMORANDUM****TO:** Charlotte City Council**FROM:** Thomas M. Hitch, City Attorney **RE: RESCINDING PROPOSED CHARTER AMENDMENTS RELATING TO
WARD ELECTIONS, EVEN YEAR ELECTIONS AND THE 4-YEAR TERM
FOR MAYOR****DATE:** June 30, 2022

As I indicated to the City Council in my June 16, 2022 City Attorney Report, I have been having a number of conversations with the Assistant Attorney General as it relates to the proposed amendments submitted to the Attorney General for review on behalf of the Governor as provided by law. In those discussions, it was his considered judgment that these amendments be rescinded at this time due to the difficulties relating to the issues with the proposed amendments.

In considering the Charter amendment relating to the even year elections, the Assistant Attorney General noted that under MCL 168.642a, the City Council may, by resolution, change from odd year elections to even year elections. The City Manager and I discussed that briefly and I concluded that the City could, in any event, independent of that statute, provide for elections on even years. My concern was that this statute did not specifically address the issues relating to the staggered terms of Councilmembers.

It is the opinion of the Assistant Attorney General that as this provision for adopting even year elections is provided for by resolution, the City has no authority to establish even year elections in any other manner. The only manner in which the City Charter may be amended as it relates to even year elections is to vote on an amendment which compels the City Council to move to even years utilizing the provisions of MCL 168.642a.

In my opinion, amending the Charter to compel the City Council to use the statutory process appears to me a useless step. It also creates issues relating to when it goes into effect that may be addressed in the resolution. The Attorney General has provided me with a sample resolution which addresses the issue, including addressing the staggered terms, without amending the Charter.

As it relates to ward elections, it is a bit more difficult because the terms of the Councilmembers may not be shortened. The ward election language needs to be changed so that it provides that the term of the City Councilmember ends upon the election of another after a certain date. Again, the timing is complicated by the fact that there are staggered terms in both of the existing wards.

Page Two.
June 30, 2022

Finally, as it relates to the Mayoral term being extended to four years, I believe the Assistant Attorney General and I have agreed to the language. We are planning on discussing this on Thursday, June 30.

It is my recommendation that the City Council move to rescind the previously adopted Charter Resolutions. It should be noted that under a ballot proposal submitted by initiative petition, whatever the Attorney General's opinion is, it does not prevent the question from going on the ballot. On the other hand, for Council-proposed amendments, should the Attorney General disapprove of the amendment, it is not permitted to go on the ballot.

As I indicated before, I will be at the City Council meeting on July 5, 2022 to discuss these issues.

TMH:cf

CITY OF CHARLOTTE

CITY COUNCIL RESOLUTION

FOUR YEAR TERM FOR
MAYOR

A RESOLUTION TO AMEND THE CHARTER OF THE CITY OF
CHARLOTTE BY PROVIDING FOR THE ELECTION OF THE
MAYOR FOR A 4-YEAR TERM.

Introduced by Councilmember:

Supported by Councilmember:

WHEREAS, the City of Charlotte is organized and operates as a Home Rule City pursuant to its Charter of the City of Charlotte adopted April 2, 1962, as amended, under the provisions of the Home Rule Cities Act, 1909 PA 279, as amended, MCL 117.1, *et seq.*; and

WHEREAS, Section 13.1 of Chapter 13 presently reads as follows:

Section 13.1. Regular City Elections.

- (A) A regular city election shall be held in each odd numbered year on the date set by law for the election of State and County officers in that year.
- (B) The term of the Mayor shall be 2 years and the term of the Council members shall be 4 years.
- (C) At each regular city election there shall be elected a Mayor, one member of the Council from each of the two wards of the city and one member of the Council from the city at-large.
- (D) In the 2005 election, the Mayor will be elected, as well as one Council member from each ward and a Council member at-large, replacing those Council members whose terms expire in 2005. In the 2007 election, the Mayor shall be elected as well as one Council member from each ward and one Council member at-large, replacing the remaining Council members whose terms expire in 2007.

and

WHEREAS, the Charlotte City Council believes that it would promote fair, equitable, efficient, and good government to place an amendment of the Charter before the qualified electors of the city of Charlotte to amend Section 13.1(B) of Chapter 13, so as to provide for a 4-year term for the Mayor;

NOW, THEREFORE, BE IT RESOLVED, that in accordance with 1909 PA 279, as amended, MCL 117.21, the Charlotte City Council hereby proposes that Section 13.1(B) of Chapter 13 be amended to read as follows:

Section 13.1 Regular City Elections.

(B) The term of the Mayor shall be 2 years and the term of the Council members shall be 4 years; provided, however, commencing with the election of November, 2023, the term of the Mayor shall also be 4 years.

BE IT FURTHER RESOLVED, that the aforesaid proposition to amend the Charter shall be submitted to the electors of the City of Charlotte at the general election to be held in the city on November 8, 2022.

PROPOSED AMENDMENT TO CHARLOTTE CITY CHARTER

Subsection (B) of Section 13.1 of the City Charter provides for the election of the mayor in November of each odd-numbered year for a two-year term. It is proposed that subsection (B) be amended to provide that commencing with the election in November, 2023, the mayor shall be elected for a 4-year term.

Shall the proposed amendment be adopted?

YES _____

NO _____

BE IT FURTHER RESOLVED, that the City Clerk shall do and perform all acts required of said Clerk by the City Charter and the statutes of the State of Michigan in such case made and provided in regard to the registration of electors for said election, the giving of notice thereof, the giving of notice of such election, the preparation and furnishing of necessary ballots, the obtaining of necessary approval of this amendment by the Michigan Attorney General and Governor of the State of Michigan, and for the conduct of such election.

VOTE ON ADOPTION:

YES:

NO:

CLERK'S CERTIFICATION: I hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Charlotte City Council by a vote of not less than 3/5 of the City Council at its regular meeting on _____, 2022, the original of which is part of the Council's minutes.

MARY LAROCQUE, City Clerk
City of Charlotte, Eaton County, MI

Drafted by and approved as to form:

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