

**ORDINANCE 2021-35
INTRODUCED BY: GRUBE**

4325

**AN ORDINANCE
PROVIDING FOR THE SUBMISSION TO THE
ELECTORS OF THE VILLAGE OF CHAGRIN FALLS A
PROPOSED AMENDMENT TO THE VILLAGE
CHARTER TO ADOPT PROCEDURES FOR
DETERMINATION OF SUFFICIENCY OF
REFERENDUM PETITIONS AND SUBMISSION TO
COUNCIL FOR REPEAL OF THE ORDINANCE OR
RESOLUTION SUBJECT TO REFERENDUM, AND
SUBMISSION TO THE VOTERS IF NOT REPEALED, TO
CLARIFY PERTINENT ORDINANCES AND
RESOLUTIONS THAT ARE NOT SUBJECT TO
REFERENDUM, TO PROVIDE FOR ORDINANCES AND
OTHER MEASURES TO BE PROPOSED BY INITIATIVE
PETITION PROVIDING THE CHARTER GOVERNS
WHEN IN CONFLICT WITH THE OHIO REVISED CODE,
AND THE PROCEDURE FOR PETITIONS, INCLUDING
SCHEDULING A PUBLIC HEARING AND NOTICE OF
THE HEARING FOR SUCH INITIATIVE PETITIONS**

WHEREAS, the Mayor, in accordance with Article XI, Section 2 of the Charter of the Village of Chagrin Falls, appointed five (5) electors of the Village to serve as members of the Charter Review Commission; and

WHEREAS, Article XI, Section 2 of the Charter requires the Charter Review Commission to review the Charter and recommend any desirable Charter amendments to Council; and

WHEREAS, the Charter Review Commission, in a report dated May 10, 2021, submitted its recommendations to this Council; and

WHEREAS, Article X, Section 3, provides, in a limited fashion, for the process and requirements of initiative, referendum or recall petitions; and

WHEREAS, the Charter Review Commission recommends amending Article X, Section 3, to provide the requirements for submission of referendum petitions, determination of sufficiency, submission to the electors, certain ordinances and resolutions that are not subject

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to referendum, providing for ordinances and other measures proposed by initiative petition and the procedure for review, submission, and hearing of the initiative petitions and determining that the Charter governs in the event of conflicts between Ohio Revised Code and the Charter; and

WHEREAS, this Council finds that such recommendations are appropriate and will be helpful for electors to be aware of the procedures when referendum petitions may be submitted, and to establish provisions for initiative petitions, and when conflicts occur, for the Charter to prevail over the Ohio Revised Code and to further provide for the procedure in reviewing initiative petitions and submitting them to the electors; and

WHEREAS, pursuant to Article XVIII, Section 9 of the Constitution of the State of Ohio and the Charter of the Village of Chagrin Falls, this Council has the right, by a two-thirds (2/3) majority affirmative vote, to submit to the Voters of the Village of Chagrin Falls proposed amendments to the Charter of the Village of Chagrin Falls; and

WHEREAS, this Council finds and determines that it is in the Village's best interest to submit to the electors of the Village of Chagrin Falls proposed amendments to the Charter which would provide for the procedure for submission of referendums and instances when legislation is not subject to referendum, and to provide for procedures for initiative petitions and for the Charter to prevail over the Ohio Revised Code in the event of conflicts regarding the manner, means, method, consideration and placement on the ballot of initiatives and to provide for public hearings for initiative petitions; and

WHEREAS, this Council chooses the date of November 2, 2021 for the election on the Charter amendment proposals hereinafter set forth, which election is not less than sixty (60) nor more than one hundred twenty (120) days from date of passage of this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO THAT AT LEAST TWO-THIRDS (2/3) MEMBERS OF COUNCIL CONCURRING:

Section 1. This Council hereby authorizes and directs the submission to the electors of the Village of Chagrin Falls, in an election to be held at the usual places of voting in said Village, on Tuesday, November 2, 2021, of the following proposals to amend the Charter of the Village as further provided below.

That existing Article X, Section 3 of the Charter of the Village of Chagrin Falls be amended, to add Subsection (a) to the first paragraph and to add Subsections (b), (c), (d), (e), (f), (g) and (h) to read and provide, in their entirety, as follows:

ARTICLE X
INITIATIVE, REFERENDUM AND RECALL.

SECTION X-3. PETITIONS.

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(a) Any initiative, referendum or recall petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain in the case of the initiative or referendum, a full and correct copy of the title and text of the proposed or referred ordinance or resolution, and in the case of the recall, the name and office of the person whose removal is sought and a statement in not more than 200 words of the grounds for the proposed removal. The manner of signing, the method of circulating, the form and requirements as to the affidavit, and the other requirements of the general laws of the State of Ohio regulating initiative and referendum petitions, shall apply in the case of initiative, referendum and recall in this Municipality, except as otherwise provided in this Charter.

(b) Within thirty (30) days after the final passage by Council and approval by the Mayor of an Ordinance or Resolution, that was not adopted as an emergency ordinance, a referendum petition signed by at least that number of electors which equals ten percent (10%) of the electors voting at the last preceding general municipal election, may be filed with the Clerk of Council, requesting that such ordinance or resolution be either repealed or submitted to a vote of electors. If the referendum petition is filed, the Clerk of Council shall first ascertain the sufficiency of the petition, and if found sufficient, the Council shall thereupon, within thirty (30) days of the filing of such petition, reconsider such ordinance or resolution. If, upon such reconsideration, the ordinance or resolution is not repealed, the Council shall submit it to a vote of the electors at the first primary or general election in any year occurring more than ninety (90) days after the Council determines that it will not repeal the ordinance or resolution. No such ordinance or resolution shall go into effect until approved by a majority of those voting thereon.

(c) Ordinances and resolutions providing for a tax levy or for improvements petitioned for by the owners of a majority of the front footage of the property benefited and to be specially assessed therefor, and appropriation ordinances and resolutions, limited to the subject of appropriations, shall not be subject to referendum. Further, whenever the Council is required to pass more than one ordinance, resolution or other action to complete the financing and assessment of the cost of any public improvement previously finally approved, only the first resolution, ordinance or other action relating to said financing and assessment shall be subject to referendum, and any subsequent resolution, ordinance or other action relating to the financing and assessment of the cost of said public improvement, as previously finally approved, shall not be subject to referendum.

(d) Any Ordinance adopted to certify an initiative to the Board of Elections to be considered by the electors shall not be subject to referendum.

(e) Ordinances and other measures may be proposed by initiative petition and adopted by election, in the manner now or hereinafter provided by the Constitution or the laws of Ohio, except that ordinances proposed by initiative petition to amend the Planning and Zoning Code and/or the Zoning Map of the Municipality shall be subject to the procedures, process, review certification of the Board of Elections and other requirements contained in Section X of this Charter, and only in the event that this Charter is silent on a matter, or there is no conflict with this Charter, in accordance with the laws of Ohio. It is hereby declared that in the event of a conflict

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between the Charter and the Ohio Revised Code, and as permitted by the home rule powers granted to municipalities, and the Ohio Revised Code and in particular Ohio Revised Code Section 731.41, the manner, means, method, consideration and placement on the ballot of initiatives shall be governed by this Charter.

(f) This section shall be severable and if any subsection, paragraph, part, word or application thereof is held invalid for any reason, such holding shall not invalidate or affect the force and effect of any other subsection, paragraph, part, word or application thereof.

(g) After the petitioners have submitted their initiative petitions to the Clerk of Council, and upon completion of circulation within the Municipality, the Clerk of Council shall submit such petitions to the Board of Elections to determine if there are sufficient valid signatures of electors of the Municipality. The Board of Elections shall certify whether such petitions contain the signatures of not less than ten (10%) of the number of electors who voted at the last preceding general municipal election in the Municipality. In the event such initiative petitions do not contain sufficient signatures to meet or exceed ten percent (10%) of the number of electors that voted in the last preceding general municipal election, the petitioners may seek additional signatures of electors of the Municipality.

(h) Once the initiative petitions are certified by the Board of Elections to have not less than ten percent (10%) of the number of electors voting at the last preceding general municipal election, the initiative shall be placed on the agenda for the next regular Council meeting. At the first regular Council meeting at which the initiative is considered, a public hearing before Council shall be set with at least ten (10) days advance notice. The notice shall conform to the requirements for notification of public hearings whenever any amendment to the Planning and Zoning Code and/or Zoning Map of the Municipality is being proposed as provided in the Planning and Zoning Code of the Municipality. Public hearings shall be held at a regular Council meeting.

Further, if this amendment is adopted, the existing Section 3 of Article X shall be referred to as Subsection (a).

The majority affirmative vote of the those voting on the issue shall be necessary to adopt this amendment.

Section 2. That the form of the ballot to be cast at the election for the proposed Charter amendments contained in Section 1 shall read and provide as follows:

“PROPOSED CHARTER AMENDMENT

A majority affirmative vote is necessary for passage

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Shall Article X, Section 3, Petitions, of the Charter of the Village of Chagrin Falls be amended to provide for submission of referendum petitions, legislation not subject to referendum, provide for initiative petitions, for the Charter to prevail in the event of conflicts with the Ohio Revised Code, and provide for public hearings of initiative petitions?"

Section 3. That if such amendments are approved by a majority of the electors voting thereon at such election, such amendment so approved shall become effective from and after January 1, 2022.

Section 4. That the Clerk of Council is hereby authorized and directed to cause copies of the proposed Charter Amendment to be published in such manner as may be authorized by law, and as required by Article XVIII, Section 9 of the Ohio Constitution.

Section 5. That the Clerk of Council be and hereby is, authorized and directed to forward certified copy of this Ordinance to the Board of Election of Cuyahoga County.

Section 6. That the Board of Elections of Cuyahoga County is hereby requested to cause appropriate notice of such election to be duly given in accordance with law.

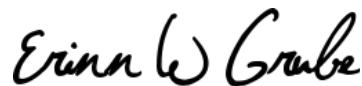
Section 7. That there is hereby appropriated from the general fund of the Village, an amount sufficient to pay the cost of carrying out the directions of this Ordinance, including the cost of publishing notice of such election.

Section 8. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

Section 9. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

Section 10. That this Ordinance shall take effect and be in force after the earliest period allowed by law.

PASSED: July 26, 2021



Erinn Grube, Council President

Submitted to the Mayor for
his approval on this

28th day of July, 2021

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Approved by the Mayor

07/28/2021, 2021

William A. Tomko

Mayor William Tomko

I hereby certify that Ordinance No. 2021-35 was duly enacted on the 26th day of July, 2021, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.

David B. Bloom

David Bloom, Clerk of Council