

**ORDINANCE NO. 21-11**

By: \_\_\_\_\_

**AN ORDINANCE TO PROCEED WITH PLACING ON THE  
BALLOT CERTAIN PROPOSED AMENDMENTS TO THE  
CHARTER OF THE CITY OF BEXLEY REGARDING  
REMOVING SECTIONS RELATING TO THE AUDITOR  
AND ADDING SECTIONS RELATING TO THE  
FINANCE DIRECTOR**

WHEREAS, the City Charter Review Commission has met and reviewed the current City Charter; and

WHEREAS, said Charter Commission has formally recommended to the Council of the City of Bexley to place the question of whether or not the electors of Bexley wish to have certain amendments made to the Charter of the City of Bexley, which deletions, amendments and additions relate to the positions of Auditor and Finance Director; and

WHEREAS, pursuant to Article XVIII, section 9 of the Ohio Constitution, amendments to the Charter may be submitted to the electors by a two-thirds vote of City Council,

**THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO, TWO-THIRDS OF THE MEMBERS OF COUNCIL CONCURRING:**

SECTION 1 That the proposed deletion of Sections 33, 34, 35 and 36 of Article V and amendments to Sections 7, 12, 23, 26, 28, 29, 48, 51, 58, 59, 65, 73 of Articles II, IV, X, XII, XIV, XV, XVIII and XIX and the addition of Section 81 of Article XIX of the Charter of the City of Bexley, Ohio, which are set forth in detail in the document attached hereto as Exhibit A and incorporated herein by reference, be placed on the ballot for consideration by the electors of the City of Bexley at the November 8, 2011 general election.

SECTION 2. That the question to be submitted on the ballot shall be as follows:

Shall the Charter of the City of Bexley be amended, effective January 1, 2014, to eliminate the elected, independent City Auditor position and replace it with a Finance Director who is appointed by the Mayor, confirmed by City Council, reports to and is under the direction of the Mayor and may not be terminated without the consent of Council?

SECTION 3 This Ordinance shall go into full force and effect at the earliest time allowed by law

Passed \_\_\_\_\_, 2011

\_\_\_\_\_  
President of Council

Attest \_\_\_\_\_  
Clerk of Council

Approved. \_\_\_\_\_, 2011

\_\_\_\_\_  
John M. Brennan, Mayor

APPROVED AS TO FORM.

\_\_\_\_\_  
Legal Counsel

First Reading: \_\_\_\_\_, 2011  
Second Reading: \_\_\_\_\_, 2011  
Third Reading: \_\_\_\_\_, 2011

## EXHIBIT A

### Section 7. Appointment of Safety, and Service, and Finance Directors.

#### (a) Safety Director and Service Director

The Mayor shall have the power to appoint, subject to confirmation by Council, a Director of Public Safety and a Director of Public Service, who shall exercise all powers and perform all duties that are delegated to and conferred upon such officers by the laws of Ohio not inconsistent with the provisions of this Charter and such other duties as may be assigned to either of them by the Mayor, or by ordinance. If the Mayor desires to do so, the Mayor may combine these two offices into one, and appoint, subject to confirmation by Council, a Safety-Service Director who shall have the above powers and duties. Any officer or officers appointed under this Section shall serve at the pleasure of the Mayor, and the compensation shall be fixed by Council; provided, however, that any appointment under this sub-section shall be on the basis of the Mayor's and Council's judgment of such candidate's qualifications and abilities as demonstrated by such candidate's training and experience in public administration, in a relevant professional field, or otherwise.

(Amended Nov. 3, 2011)

In the event the Mayor does not make any such appointments, or in the event of a vacancy, the Mayor shall have and exercise the above powers and duties.

(Amended Nov. 6, 1990) (Amended Nov. 8, 2011)

#### (b) Finance Director

The Mayor shall appoint, subject to confirmation by Council, a Director of Finance, who shall be the chief financial officer and fiscal officer of the City and who shall exercise all powers and perform all duties that are delegated to and conferred upon the chief financial officer of a municipality by the laws of Ohio, not inconsistent with the provisions of this Charter and such other duties as may be assigned by the Mayor, or by ordinance; provided, however, that any appointment and confirmation of the Finance Director shall be on the basis of the Mayor's and Council's judgment of such candidate's qualifications and abilities as demonstrated by such candidate's training and experience in public administration, in a relevant professional field, or otherwise; and provided further, that the Finance Director may not be dismissed by the Mayor without confirmation thereof by Council. Such officer's compensation shall be fixed by Council.

(Amended Nov. 8, 2011)

(i) Finance Director's Term: The Finance Director's term shall not exceed the Mayor's term, provided, however, that to avoid any vacancy in the Finance Director position in the event of a newly-elected or newly-appointed Mayor, the incumbent Finance Director shall remain in such position until a successor is duly nominated, confirmed, and seated.

(Amended Nov. 8, 2011)

(ii) Clerk of Council: The Finance Director shall be the ex-officio Clerk of Council and shall perform the duties prescribed for such Clerk by this Charter, by ordinances of the City, and the general laws of Ohio defining the duties of such clerks in cities not in conflict with this Charter and ordinance.

(Amended Nov. 8, 2011)

(iii) Other Duties; Bond: The Finance Director shall ex-officio perform all services, and discharge all duties and be subject to all obligations required of city treasurers by the general laws of the State and shall give a corporate surety bond for the performance of the duties as such Finance Director and as ex-officio Treasurer in such sum may be required by Council or by general law.

(Amended Nov. 8, 2011)

(iv) Deposits: Council shall provide by ordinance for the procedure for the deposit of all public moneys coming into the hands of the Finance Director, both as Finance Director and Treasurer. Such funds shall be deposited only in such financial institutions and invested only in such securities and obligations as set forth in the Uniform Depository Act, as contained in Chapter 135 of the Ohio Revised Code, as amended from time to time, or in any successor provisions of the general laws of the State.

(Amended Nov. 8, 2011)

#### **Section 12. Right of Mayor and Officials in Council.**

The Mayor, the City Attorney and the ~~Auditor~~ Finance Director shall be entitled to seats in Council. The Mayor shall have the right to take part in the discussion of all matters coming before Council, and the City Attorney and the ~~Auditor~~ Finance Director shall be entitled to take part in all discussion in Council relating to their respective departments, but neither the Mayor, City Attorney nor ~~Auditor~~ Finance Director shall have any vote in Council.

(Amended Nov. 6, 1990) (Amended Nov. 8, 2011)

#### **Section 23. Officers and Employees; Clerk.**

Council shall choose such officers and employees of its own body as are necessary, providing that the ~~Auditor~~ Finance Director shall be its Clerk. The Clerk shall keep the records of Council, and perform such other duties as may be required by ordinance or resolution. Except the Clerk, all officers and employees chosen by Council shall serve during its pleasure. (Amended

Nov. 8, 2011)

#### **Section 26. Fiscal Matter; Operating Budget.**

The laws of the State of Ohio relating generally to budgets, appropriations, taxation, debts, bonds, assessments, deposit and investment of funds and other fiscal matters of the City shall be applicable, except as otherwise provided by this Charter or by ordinance of Council.

The fiscal year of the City shall begin on the first day of January. The Mayor and ~~Auditor~~ Finance Director shall prepare and submit to Council an operating budget in accordance with an annual

budget calendar authorized by Council. The operating budget shall provide a complete financial plan of City funds and activities for the ensuing fiscal year which, except to the extent required by law or this Charter, shall be in a form acceptable to Council. Council shall adopt an operating budget for the ensuing fiscal year on or before December 31 of each year. To implement the operating budget as adopted, the Council shall, on or before December 31, also adopt an appropriation ordinance authorizing an appropriation for each program or activity by department or major organizational unit. ~~(Amended Nov. 6, 2004)~~ ~~(Amended Nov. 8, 2011)~~

### **Section 28. Limitations on Expenditures.**

The Mayor and ~~Assistant Finance Director~~ Finance Director shall supervise all departmental expenditures and shall keep such expenditures within the appropriation. Moneys appropriated as above provided shall not be used for other purposes than those designated in the appropriation ordinance, and all expenditures within the fiscal year shall be made within the appropriations hereinbefore provided for. Council may, however, at any time by resolution with the approval of the Mayor and ~~Assistant Finance Director~~ Finance Director, transfer money so appropriated for the use of one department, division or purpose, to any other department, division or purpose; but no such transfer shall be made of money derived from the sale of bonds, or of revenue or earnings of any non-tax supported utility. Any accruing revenue of the City not appropriated as hereinbefore provided may from time to time be appropriated by the Council to such authorized uses as it may by ordinance determine. ~~(Amended Nov. 8, 2011)~~

### **Section 29. Transfers from a Designated Fund to General Fund.**

Notwithstanding the provisions of Section 28, Council may to the extent not prohibited by the general laws of the State applicable to cities, at any time by resolution and with the approval of the Mayor and ~~Assistant Finance Director~~ Finance Director, transfer excess money not necessary for the operation of a fund created by Council from an issue of bonds, revenue or other sources from such fund to the General Fund. ~~(Amended Nov. 6, 1990)~~ ~~(Amended Nov. 8, 2011)~~

## **~~ARTICLE V - AUDITOR~~**

### **~~Section 33. Election, Qualifications and General Duties.~~**

~~An Auditor, who shall be the fiscal officer of the City, shall be an elector of the City and be elected for the term of four years, and shall assume office on the first day of January next following the election, and shall serve until a successor is elected and qualified. The Auditor shall perform all the duties and exercise all powers conferred upon the Auditor by this Charter, the ordinances of the City and the general laws of the State defining the duties and powers of auditors of cities; the Auditor shall be ex officio Clerk of Council and shall perform the duties prescribed for such Clerk by this Charter, by ordinances of the City, and the general laws of Ohio defining the duties of such clerks in cities not in conflict with this Charter and ordinances. The Auditor's salary shall be established by ordinance of Council passed at least one year prior to the beginning of the term thereby to be affected.~~

~~(Amended Nov. 6, 1990)~~

### **~~Section 34. Other Duties; Bond.~~**

The Auditor shall ex-officio perform all services and discharge all duties and be subject to all obligations required of city treasurers by the general laws of the State and shall give a corporate surety bond for the performance of the duties as such Auditor and as ex-officio Treasurer in such sum as may be required by Council or by general law.  
(Amended Nov. 5, 1900)

**Section 35. Deposits:**

Council shall provide by ordinance for the procedure for the deposit of all public moneys coming into the hands of the Auditor, both as Auditor and as Treasurer. Such funds shall be deposited only in such financial institutions and invested only in such securities and obligations as set forth in the Uniform Depository Act, as contained in Chapter 135 of the Ohio Revised

Code, as amended from time to time, or in any successor provisions of the general laws of the State.  
(Amended Nov. 6, 1990)

**Section 36. Successor to Auditor.**

If the Auditor dies, before beginning or during the term of office, resigns or moves from the City, or is removed or becomes incapacitated from serving as Auditor for any reason whatsoever, a successor shall be elected by Council to serve as such Auditor until the next regular Municipal election, at which time an Auditor shall be elected to serve the unexpired term. (Amended Nov. 6, 1990)

**Section 48. Composition; Powers and Duties.**

The Mayor, the Auditor, Finance Director and President of the Council shall constitute the Board of Control which shall have the powers and perform the duties imposed upon boards of control of cities by general law of the State and by ordinances of Council. The chair of the Finance Committee of Council shall be an alternate member authorized to sit and act as a member of the Board of Control in the absence of a regular member  
(Amended Nov. 6, 2004) (Amended Nov. 8, 2011)

**Section 51. Nonclassified Personnel.**

The following officers and employees of the City shall be exempt from the classified service:

- 1 All officers elected under this Charter,
- 2 All officers and members of boards or commissions whose appointment is subject to concurrence by Council or who are appointed by Council;
- 3 One secretary or Clerk for the Mayor, assistant or clerk for the Auditor, Finance Director and for each board or commission appointed hereunder;
- 4 The Chief of Police,
- 5 The heads of any departments or sub-departments, the supervisors or assistant supervisors of any functions, or such other supervisory or management personnel that may be created by Council under this Charter;
- 6 All employees whose service is temporary or part time,
- 7 All unskilled labor positions, designated as such by ordinance of City Council.  
(Amended Nov. 6, 2004) (Amended Nov. 8, 2011)

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**Section 58. Signatures and Seal; Issuance and Sale.**

All bonds, notes and certificates of indebtedness issued by the City shall be signed by the Mayor and by the Finance Director, Auditor and shall be sealed with the corporate seal. They shall be issued and sold for the purposes and in the manner prescribed by general laws of the State governing the issuance and sale of bonds and notes of cities.  
(Amended Nov. 6, 1990) (Amended Nov. 8, 2011)



**Section 59. Contracting Procedures.**

Council, by ordinance, shall establish a threshold amount, notice provisions, and other procedures for competitive bidding. When any contract for the construction of a public improvement or the purchase of equipment, supplies, or materials is estimated to exceed the threshold established by Council, the contract shall be competitively bid. No contract shall be divided to avoid the requirements of competitive bidding. By a vote of no less than five members, Council may waive the competitive bidding requirement if the statutory or common law of the State of Ohio does not require competitive bidding, if Council determines that an item is available and can be acquired only from a single source, or if Council determines that a waiver of the competitive bidding requirement is in the best interest of the City. Contracts for professional services shall not be subject to the competitive bidding requirements of this Section and shall not require authorization by Council if the current operating budget provides sufficient funding for the scope of services in any such contract. Council shall establish procedures for alterations or modifications of contracts. Modifications or alterations of contracts shall not require competitive bidding. No contract involving the expenditure of money shall be entered into or authorized by the Mayor unless the ~~Auditor~~ Finance Director or the ~~Auditor~~ Finance Director's designee shall first certify that funds required for the contract are in the City's treasury or in the process of collection; and funds have been appropriated by Council for the specified purpose and remain unencumbered. The ~~Auditor~~ Finance Director shall file and record the certification of availability and appropriation of funds in the accounting records of the City and shall furnish a copy to the vendor or contractor. Without the certification, a contractual obligation shall be void and unenforceable against the City unless recognized by Council as a moral obligation. All contracts of the City shall be signed by the Mayor and ~~Auditor~~ Finance Director. ~~(Amended Nov. 6, 2004)~~ (Amended Nov. 8, 2011)

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**Section 65. Nominations.**

There shall be no primary election for City officers. Nominations for the Mayor ~~Auditor~~ and Council shall be made by petitions signed by not less than 150 nor more than 300 qualified electors of the Municipality. All petitions shall be on the standard forms for the use of nonpartisan candidates for such offices. Group petitions shall not be used. Petitions shall be filed with the Board of Elections at least ninety days before the day of election. ~~(Amended May 5, 1970)~~ (Amended Nov. 8, 2011)

**Section 73. Oath of Office.**

Every officer of the City shall, before entering upon the duties of office, take and subscribe to an oath or affirmation, as required by the statutes of Ohio, which oath or affirmation shall be filed and kept in the office of the ~~Auditor~~ Finance Director. ~~(Amended Nov. 8, 2011)~~

Section 81. Effective Date of 2011 Amendments to Charter.

The amendments to this Charter proposed by Ordinance Nos. 22-11, 23-11, and 24-11, adopted on \_\_\_\_\_, 2011, if such amendments are approved by a majority of the persons voting at the election held on November 8, 2011, shall take effect on January 1, 2012.

The amendment to this Charter proposed by Ordinance No. 21-11, adopted on \_\_\_\_\_, 2011, if such amendments are approved by a majority of the persons voting at the election held on November 8, 2011, shall take effect on January 1, 2014. (Amended Nov. 8, 2011)