

ORDINANCE NO. 23-11

By: _____

**AN ORDINANCE TO PROCEED WITH PLACING ON THE
BALLOT CERTAIN PROPOSED AMENDMENTS TO THE
CHARTER OF THE CITY OF BEXLEY REGARDING
ABSENCE OF MAYOR, QUALIFICATIONS OF MAYOR
AND COUNCIL AND FORFEITURE, REMOVAL,
SUSPENSION OF ELECTED OFFICIALS**

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 changes relate to modifications of the sections pertaining to the temporary absence of the Mayor and qualifications of Mayor and Council and the addition of sections pertaining to the forfeiture, removal and suspension of elected officials; 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 amendments to Section 4, 11, 20, 32 of Articles II and IV and addition of Sections 39, 40, 41 of Article VI and 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 to allow the temporary absence of the Mayor from the City in certain situations; to place restrictions on city employees concurrently holding office as elected officials; to provide for the temporary replacement of Council members with authorized or excused absences; and to provide for when an elected official automatically forfeits office, may be removed from office or may be suspended from office?

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 4. Term and Qualifications of Mayor.

The Mayor shall be the chief executive officer of the City. NO EMPLOYEE OF THE CITY SHALL BE ELIGIBLE TO HOLD OFFICE AS MAYOR. The Mayor shall be elected for a 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 Mayor shall be an elector of the City and shall not hold any other public office, except that of notary public or member of the State Militia or of the Federal Military Reserves, and the Mayor shall have all other qualifications, and be subject to the disqualifications, that are prescribed for the mayors of cities by the laws of the State.

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

Section 11. Acting Mayor; Succession to the Office of Mayor.

If the Mayor dies, resigns or moves from the City, during the term of office, the President of Council shall be the Acting Mayor until the vacancy is filled by the election of a Mayor by a majority vote of Council.

If the Mayor-elect shall die or move from the City before assuming office, the Council shall, at its first meeting in the following January, elect a Mayor

The person so elected in either of the above contingencies shall possess all the qualifications required of a Mayor by this Charter and may serve until the first of January following the next regular Municipal election, at which election, a Mayor shall be elected for the remainder of the unexpired term, or for a four-year term, as the case may be.

If the Mayor ~~is temporarily absent from the City, or~~ shall become unable to perform the duties of office, the duties of Mayor shall be performed by the President of Council under the title of Acting Mayor, until the Mayor ~~returns to the City or~~ becomes able to perform said duties. If the President of Council, while performing the duties of Acting Mayor, ~~is absent from the City, or~~ becomes unable to perform such duties, the duties of Mayor shall be performed by a member of Council elected Acting Mayor for such period by a majority vote of Council.

~~(Amended Nov. 6, 2001.)~~ (Amended Nov. 8, 2011)

Section 20. Qualifications of Members; Vacancies.

All members of Council shall be electors of the City, and any member who ceases to possess this qualification shall forthwith forfeit the office. NO EMPLOYEE OF THE CITY SHALL BE ELIGIBLE TO HOLD OFFICE AS A MEMBER OF COUNCIL. Any vacancy in Council shall be filled by a majority vote of the remaining Council members then in office within sixty days after the vacancy occurs. If the vacancy occurs on or after July 1 of the second year of the term of the vacated office, the person elected by Council shall serve the unexpired term. If the vacancy occurs on or before June 30 of the second year of the term of the vacated office, the person elected by Council shall serve until a successor is certified as elected at the next general municipal election to serve the balance of the vacated term. If Council fails to fill a vacancy in Council within sixty days after the occurrence of the vacancy,

the Mayor shall appoint a person to serve for the period provided in this section. ~~(Amended Nov. 6, 2001).~~ (Amended Nov. 8, 2011)

Section 32. Compensation of Council Members; Vacation of Office; Temporary Member;

Council members may be compensated for their services as such by the payment of salary and/or the receipt of benefits under City sponsored benefit plans. For terms of Council members beginning on the first day of January, 2002, and the remainder of the terms of incumbent Council members in office on the effective date of the amendment of this Section 32, the compensation of Council members, including the cost to the City of any benefits, shall be \$530 per month, being the salary and cost of benefits to which a Council member is entitled in calendar year 2001. For terms of Council members beginning on or after the first day of January, 2004, the annual compensation of Council members, including benefits, if any, shall not be subject to the limitation set forth in the preceding sentence and shall be in an amount established by a non-emergency ordinance of Council passed at least one year prior to the beginning of the term to be thereby affected. In the event that Council fails for any reason to adopt an ordinance establishing the compensation of its members or any ordinance so adopted is rejected by referendum, the annual compensation then in effect shall continue for the succeeding term without further action of Council.

Absence of four successive regular meetings shall operate to vacate the seat of a member of Council, unless such absence is authorized or excused by Council except that Council may provide by Ordinance for a temporary replacement of the absent Council member in those instances where such absence is authorized or excused. ~~(Amended Nov. 6, 2001)~~ (Amended Nov. 8, 2011)

ARTICLE VI - SINKING FUND TRUSTEES ELECTED OFFICIALS: FORFEITURE, REMOVAL, SUSPENSION FROM OFFICE

~~Editor's Note: The powers of the Board of Trustees of the Sinking Fund were limited by Ordinance 6-43, passed March 23, 1943, and the Board was abolished by Section 41 of this Charter, as amended by the voters on November 8, 1955. Sections 37 through 41, inclusive, were repealed on November 6, 1990.~~

Section 39. Forfeiture of Office

1. Any elected official of the City shall automatically and without further act of the City or any of its officials, forfeit his or her office upon the occurrence of any of the following:
 - a. If the official is convicted of any felony in this or any other state or jurisdiction while serving as an elected official of the City;

- b. If the official ceases to be a qualified elector and resident of the City while serving as an elected official of the City; or
2. Absence of four successive regular meetings shall operate to vacate the seat of a member of Council, unless such absence is authorized or excused by Council.

(Amended Nov. 8, 2011)

Section 40. Removal from Office

1. Any elected official of the City may, by a majority vote of the members of City Council not including the elected official who is the subject of the removal, be removed from office upon the occurrence of any of the following:
 - a. In the case of a member of City Council, the persistent and willful failure to abide by the rules of City Council;
 - b. A conviction of dereliction of duty under the Ohio Revised Code while serving as an elected official of the City;
 - c. Gross misconduct, malfeasance, misfeasance, or nonfeasance in office while serving as an elected official of the City;
 - d. A judicial declaration that the elected official is incompetent while serving as an elected official of the City;
2. The elected official against whom removal is sought shall be entitled to reasonable notice that the issue of his or her removal shall be heard by City Council and shall be permitted to testify in his or her own behalf and present such other relevant evidence as determined by the majority of the other members of Council at such Council meeting.
3. Council shall be the sole judge of the grounds constituting forfeiture of office and removal from office. Council shall initiate the process to establish grounds for forfeiture of office or removal from office by motion.
4. Upon a vote by a majority of the members of Council, other than the elected official who is the subject of the forfeiture or removal, that grounds exist which subject such elected official to forfeiture of office or removal from office, Council shall instruct the Clerk of Council to notify the elected official in writing of such forfeiture or removal. Thereafter, the position of the elected official shall be filled in the manner set forth in the Charter for the filling of vacancies in office.

(Amended Nov. 8, 2011)

Section 41. Suspension from Office

1. An elected official of the City who is indicted for a felony while serving as an elected official of the City shall be suspended from office with pay during such suspension. Such suspension shall automatically, and without further act of the City or any of its officials, commence upon the filing of the indictment and shall terminate upon (a) the dismissal of the indictment; (b) a conviction for a crime other than a felony; or (c) upon a conviction for a felony.

2. The office of such suspended official may be filled on an interim basis by an interim appointee in the manner provided in this Charter for the filling of vacant offices except that such interim appointment shall terminate immediately upon the occurrence of any of the following: (a) the dismissal of the indictment against the suspended official; (b) the suspended official's conviction for a crime other than a felony; (c) upon the suspended official's conviction for a felony; or (d) upon the end of the term of office from which such official was suspended
 - a. Upon the suspended official's conviction for a felony, the convicted official's office shall be filled in the manner set forth in the manner provided in this Charter for the filling of vacant offices.

(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)