

City of Solon

Record of Ordinances

5/20/19 - 1st reading

6/3/19 - 2nd reading

Requested by the
Council

Ordinance No.: 2019-107

Introduced By: Russo

AN ORDINANCE

ADOPTED PURSUANT TO ARTICLE XII OF THE SOLON CHARTER PROPOSING AMENDMENTS TO ARTICLE IV, SECTION 5(c), AND SECTION 6, ARTICLE V SECTION 4, ~~ARTICLE VI SECTION 3,~~ ARTICLE IX TITLE AND, ADDING ARTICLE IX SECTION 1(a)(4), AND AMENDING ARTICLE IX, SECTION 1(d), REPEALING ARTICLE IX, SECTION 1(e) AND AMENDING ARTICLE XIV SECTIONS 1 AND 2, AND ADDING ARTICLE XIV SECTION 3 PERTAINING TO INITIATIVE PETITIONS AND ELECTIONS ON ZONING CODE, LAND USE, AND ZONING MAP CHANGES AND DECLARING AN EMERGENCY.

WHEREAS, City Council has determined that changes should be made to the Charter of the City of Solon regarding initiative petitions and elections on zoning code and zoning map changes and in particular to provide for public hearings and public comment before initiative petitions are placed on the ballot; and

WHEREAS, certain portions of the Charter need to be amended to carry out Council's intent, in order to comprehensively and consistently provide for placement of initiative petitions on the ballot and for zoning use or map changes initiated by zoning amendments that have been reviewed by the City Planning Commission and City Council.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SOLON, STATE OF OHIO, TWO-THIRDS OF THE MEMBERS ELECTED OR APPOINTED HERETO CONCURRING:

SECTION 1. That Article IV, Section 5(c) of the Charter is proposed to be amended as follows:

(c) The form and method of enactment of its ordinances and adoption of its resolutions except that each ordinance or resolution shall, before its passage, be read by title only on three separate days, **and except as hereinafter set forth**, unless the requirement for such reading be dispensed with by the concurrence of at least five Councilmen; provided, however, that any emergency measure may be passed after one reading and the legislative authority may require any reading to be in full by a majority vote of its members **and in the case of an Ordinance being considered for certification to the Board of Elections to place an initiative on the ballot regarding any amendment to the Zoning Code and/or map of the City shall, without exception, be read by title at three consecutive regular meetings of Council;**

SECTION 2. That Article IV, Section 6 of the Charter is proposed to be amended as follows:

Each ordinance providing for (a) the appropriation of money, (b) an annual tax levy, and (c) improvements petitioned for by the owners of a majority of the foot frontage of the property benefited and to be specially assessed therefor, and (d) any emergency ordinance or resolution necessary for the immediate preservation of the public peace, health or safety, shall take effect, unless a later time be specified therein, upon its signature by the Mayor, or upon the expiration of the time within which it may be disapproved by the Mayor, or upon its passage after disapproval by the Mayor, as the case may be. **No ordinance, resolution or initiative petition that must be approved by a majority of the electors voting thereon, in accordance with the provisions of Article XIV of this Charter, regarding any addition or deletion of uses in a zoning district, or changes the zoning map of any property in the City shall go into effect until approved by a majority of electors voting thereon, and at that same election by a majority of the electors voting thereon in each ward where (i) property is located on which a zoning map change would occur, or (ii) there is a change in the uses in a zoning district located in any ward in the City, and the results of**

the election at which said vote is had are officially certified by the appropriate election authorities. Any ordinance adopted by the Council certifying an initiative to the Board of Elections for placement on the ballot shall take immediate effect upon adoption by a majority of Council, shall not be required to be signed by the Mayor, and shall not be subject to referendum, in order to carry out the Ohio constitutional right of initiative provided to the electors of the City. ~~No ordinance, resolution or action subject to the provisions of Article XIV of this Charter shall go into effect until approved by a majority of the electors voting thereon and the results of the election at which said vote is had are officially certified by the appropriate election authorities.~~ No other ordinance or resolution shall go into effect until 40 days after its final passage by the Council. Each emergency measure shall contain a statement of the necessity for such emergency action and shall require the affirmative votes of at least five members of the Council for its enactment. No action of the Council (a) providing for the surrender or joint exercise of any of its powers, (b) granting any franchise, or (c) contracting for the supply to the City or its inhabitants of the product or service of any utility, whether municipally owned or not, shall be taken as an emergency measure.

SECTION 3. That Article V, Section 4 of the Charter is proposed to be amended as follows:

Every ordinance or resolution of the Council shall be attested by the Clerk of the Council and promptly presented to the Mayor for consideration before it goes into effect. If the Mayor approves such legislation he shall sign it and file it with the Clerk. The Mayor may approve or disapprove the whole or any part of any item of an ordinance appropriating money, but otherwise his approval or disapproval shall be addressed to the entire ordinance or resolution. If he disapproves it or any item of it he shall file it with written notice of the disapproval with the Clerk. Unless an ordinance or resolution is filed with the Clerk with written notice of disapproval within ten days after its passage by the Council, it shall take effect as though the Mayor had signed it. When the Mayor has disapproved an ordinance or resolution or item of it as herein provided, the Council may, at its next regular meeting thereafter, reconsider it, and if upon such reconsideration the ordinance, resolution or item is approved by five or more members of the Council, it

shall take effect notwithstanding the disapproval of the Mayor. **Notwithstanding the foregoing set forth in this Section 4, any Ordinance adopted by Council to certify an initiative to the Board of Elections shall not require the signature of the Mayor and the Mayor shall have no veto power regarding such Ordinance. The signature of the Mayor shall not be required on any Ordinance adopted by Council certifying an initiative to the Board of Elections to be placed on the ballot for consideration by the electors of the City.**

SECTION 4. That the title of Article IX of the Charter is proposed to be amended as follows:

REFERENDUM, INITIATIVE AND RECALL

~~INITIATIVE, REFERENDUM AND RECALL~~

SECTION 5. That Article IX, Section 1(a) of the Charter be amended to add a new subsection 4 which is proposed to read as follows:

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

SECTION 6. That Article IX, Section 1(d) of the Charter is proposed to be amended to read as follows:

(d) Ordinances and other measures may be proposed by initiative petition and adopted by election, in the manner now or hereafter provided by the Constitution or the laws of Ohio except that ordinances proposed by initiative petition to amend the zoning code and/or the zoning map of the City shall be subject to the procedures, process, review certification to the Board of Elections and other requirements contained in Article XIV 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 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. the Constitution or the laws of Ohio, except that ordinances or resolutions proposed by initiative petition to affect a zoning district change or zoning use change shall be governed by Article XIV of this Charter.

SECTION 7. That Article IX, Section 1(e) of the Charter, the full text of which follows is hereby proposed to be repealed:

(e) All ordinances, resolutions, proclamations, motions, and Charter provisions inconsistent with this section are hereby repealed.

That Article IX, Section 1(f) of the Charter, be re-lettered as subsection (e).

SECTION 8. That Article XIV be amended and Section 3 of Article XIV of the Charter be added as follows:

SECTION 1. ZONING DISTRICT CHANGE.

Any ordinance effecting a change in the zoning classification or district of any property resulting in a zoning map change within the City shall not become effective after the passage thereof until Council submits such Ordinance to the electors at a regularly scheduled primary or general election, occurring more than 90 days after the passage of the ordinance and such ordinance is approved at such election by a majority of the electors voting thereon, in this City, and by a majority of the electors in each ward in which a change in zoning classification or district of any property is located, resulting in a zoning map change, at the same election. resolution or other action, whether legislative or proposed by initiative petition, effecting a change in the zoning classification or district of any property within the City of Solon, Ohio, shall not become effective after the passage thereof, until Council submits such ordinance, resolution or other action to the electorate at a regularly scheduled election, occurring more than 90 days after the passage of the ordinance, resolution or other action and such ordinance, resolution or other action is approved by a majority of the electors voting thereon, in this Municipality and in each ward in which the change is applicable to property in the ward.

SECTION 2. ZONING USE CHANGE.

Any ordinance effecting a change in the uses permitted in a zoning use classification or district of the City, shall not become effective after the passage thereof, until Council submits such ordinance, to the electors at a regularly scheduled primary or general election, occurring more than 90 days after the passage of the ordinance and such ordinance is approved by the majority of the electors voting thereon in the City and by a majority of the electors in each ward in which the zoning use change is applicable to any property with such designated zoning district classification at the same election. ~~resolution or other action, whether legislative or proposed by initiative petition, effecting a change in the uses permitted in a zoning use classification or district of the City of Solon, Ohio, shall not become effective after the passage thereof, until Council submits such ordinance, resolution or other action to the electorate at a regularly scheduled election, occurring more than 90 days after the passage of the ordinance, resolution or other action and such ordinance, resolution or other action is approved by the majority of the electors voting thereon, in this Municipality and in each ward in which the change is applicable to property in the ward.~~

SECTION 3. ZONING CODE CHANGES BY INITIATIVE PETITION.

- (a) Any initiative petition that proposes a change in the zoning code of the City or any change in the zoning map of the City shall first be filed by the petitioner with the Clerk of Council to be held for a period of 10 days. After the initiative petition has been filed with the Clerk of Council for a period of 10 days, the petitioners may circulate the petition filed with the Clerk of Council.
- (b) After the petitioners have submitted their petitions to the Clerk of Council, and upon completion of circulation within the City, 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 City. The Board of Elections shall certify whether such petitions contain the signatures of not less than 10 percent of the number of electors who voted for Governor at the most recent general election for the Office of Governor in the City. In the event such initiative petitions do not contain sufficient signatures to

meet or exceed 10 percent of the number of electors that voted for Governor at the most recent general election for the office of Governor in the City, the petitioners may seek additional signatures of electors of the City.

- (c) Once the initiative petitions are certified by the Board of Elections to have not less than 10 percent of the number of electors who voted for Governor at the most recent general election for the office of Governor in the City, 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 10 days advance notice. The notice shall conform to the requirements for notification of public hearings whenever any amendment to the zoning code and/or map of the City is being proposed as provided in the zoning code of the City. The public hearing shall be held at a regular Council meeting.
- (d) The Ordinance before Council shall be read at three consecutive regular meetings and shall not be read at any special meeting. At the third regular meeting, and after the public hearing on the initiative proposal, Council shall determine if the initiative petitions, and the process of placing such initiative before Council, comply with the Charter and, to the extent applicable, the Ohio Revised Code. The form of the petition and circulation and signing of the petitions by the circulators shall conform to the requirements of the Ohio Revised Code.
- (e) Council shall act upon the initiative petitions to determine whether the petitions are to be certified to the Board of Elections for consideration at the next regularly held general or primary election no later than the third reading and the Council may only deny certification if they find the petitions are not sufficient and valid by specifying how the petitions do not comply with the Charter and/or the Ohio Revised Code.
- (f) Upon adoption of any Ordinance to certify the initiative to the Board of Elections, the Clerk of Council, no later than five days after passage of such Ordinance, shall certify the Ordinance to the Board of Elections and deliver the initiative petitions to the Board of Elections requesting that the initiative be placed on the ballot of the next regularly held primary or general election

occurring more than 90 days after adoption of the Ordinance certifying the initiative to the Board of Elections. Any Ordinance approving certification of the initiative to the Board of Elections to be placed on the ballot to be considered by the electors shall take effect immediately upon final action by Council, and the Clerk of Council shall forthwith certify the Ordinance for delivery to the Board of Elections. Council shall not dispense with three readings of the Ordinance at three consecutive regular Council meetings to submit an initiative to the Board of Elections, and adoption of any such ordinance cannot be accomplished by resolution or motion.

SECTION 9. That the foregoing proposed amendments upon receiving at least a majority of the votes cast thereon at the November 5, 2019 General Election shall become effective immediately upon its adoption.

SECTION 10. That the ballot submitting the question of the adoption of the aforesaid amendments shall read substantially as follows:

“Proposed Charter Amendments”

City of Solon

A majority of affirmative vote is necessary for passage.

Shall Charter Article IV, Section 5(c) and 6, Article V, Section 4, Article VI, Section 3, and Article IX's title be amended, and add Charter Article IX Section 1(a)(4), and amend Charter Article IX, Section 1(d), repeal Charter Article IX Section 1(e) and amend Charter Article XIV, Sections 1 and 2 and add Charter Article XIV Section 3 to regulate the process, procedures, review and certification of initiatives to amend the zoning code and/or the zoning map of the City of Solon and providing for compliance with the Charter of the City regarding such initiatives that intend to effect changes in the zoning code and/or zoning map of the City and revising the requirements when zoning district changes or zoning use changes are adopted by ordinance of the City Council.

SECTION 11. That the Clerk of Council be, and she hereby is, authorized and directed to certify a copy of this Ordinance to the Cuyahoga County Board of Elections for an election to be held at the next regular municipal election which shall occur not less than 90 days after passage of the Ordinance which this Council finds to be the election on November 5, 2019.

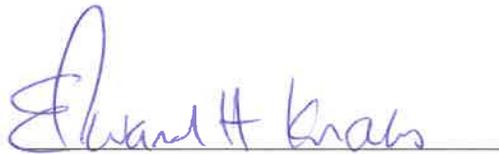
SECTION 12. That the Board of Elections of Cuyahoga County shall cause an appropriate notice to be given of the election to be held on November 5, 2019, on the foregoing amendments to the Charter of this City and otherwise to provide for such election in the manner provided by the general laws of the State of Ohio.

SECTION 13. That the Clerk of this Council is hereby authorized and directed to cause the full text of such proposed Charter amendments to be published once a week for two consecutive weeks in a newspaper of general circulation in the City of Solon, with the first publication being made at least 15 days prior to the General Election to be held on November 5, 2019, as provided in Article XVII, Section 9 of the Constitution of the State of Ohio and Ohio Revised Code Section 731.211.

SECTION 14. That there is hereby appropriated from the general fund a sufficient sum of money to pay the cost of carrying out the authorization and directions of this Ordinance.

SECTION 15. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the City, and for the further reason that this Ordinance is required to be immediately effective in order to file a certified copy of this Ordinance and the proposed form of the ballot question with the Board of Elections of Cuyahoga County not later than 90 days prior to the November 5, 2019 election, as provided herein; wherefore, provided this Ordinance receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect immediately upon its passage and execution by the Mayor; otherwise it shall take effect and be in force from and after the earliest period by law as long as this Ordinance receives the affirmative vote of at least five members of Council elected or appointed.

PASSED: June 17, 2019


Edward H. Kraus, Mayor

ATTEST:


Carol J. McConoughey, Clerk of Council