

EMERGENCY

City of Cincinnati

CMZ

AWB

An Ordinance No. _____

- 2020

TO SUBMIT to the electors of the City of Cincinnati an amendment to the Charter of the City to prohibit council members from revising their successor designation certificates subsequent to being indicted for a felony or the filing of criminal charges relating to official conduct against them by amending Article II, Section 4b and repealing existing Section 4b of Article II; and to require the appointment of a special prosecutor by the City Solicitor in the event of an action under Ohio law to remove a member of Council where a member of council has been indicted for a felony or a criminal complaint has been filed against a member for charges relating to official conduct by amending Article IV by enacting new Section 5b.

WHEREAS, the City Charter currently provides that members of Council must file successor designation certificates to identify those members of Council who will choose the member's replacement in the event the member leaves Council; and

WHEREAS, it would benefit the stability of Council and the public's confidence in City Council to prohibit council members from revising their successor designation certificates subsequent to their indictment or the filing of a criminal complaint for a felony against them relating to official conduct; and

WHEREAS, Section 733.72 of the Ohio Revised Code provides for a process for removing members of the legislative authorities of municipalities who have been charged with receiving inappropriate compensation, having an inappropriate interest in a public contract, or committing misfeasance or malfeasance while in office; and

WHEREAS, Section 733.73 of the Ohio Revised Code requires the City Solicitor to prosecute the charges brought pursuant to Section 733.72, and use of a special prosecutor where a member of council has been indicted for a felony or a criminal complaint has been filed against a member for charges relating to official conduct would help prevent potential for appearance of a conflict; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio, two-thirds of the members elected thereto concurring:

Section 1. That there shall be submitted to the vote of the qualified electors of the City of Cincinnati for their approval or disapproval at the primary election to be held May 4, 2021, an amendment to the Charter of the City of Cincinnati, to prohibit council members from revising their successor designation certificates subsequent to being indicted for a felony or subsequent to

the filing of a criminal complaint against them for charges relating to official conduct by amending Article II, Section 4b and repealing existing Section 4b of Article II; and to require the appointment of a special prosecutor in the event of an action under Ohio law to remove a member of Council by amending Article IV, Section 5 as follows:

ARTICLE II. - LEGISLATIVE POWER

Section 4b.

Before taking the oath of office each member-elect of council shall file with the council a successor designation certificate certifying the name of one or more fellow members of council to select a successor if his or her office as member of council becomes vacant for any reason.

Should a vacancy occur, the members of council certified by the former member are empowered to designate a successor within 60 days of the vacancy by a majority vote of their members or of those remaining thereof. The signed designation shall be filed with council within the 60-day period and shall be presented by council at its next regular meeting.

Should there be no valid and effective successor designation certificate for a vacant office, the council may fill the vacant office by a majority vote of the remaining members within 30 days of the vacancy. Should the certified members of council fail to designate a successor within 60 days of the vacancy, council may fill the vacant office by a majority vote of the remaining members within 30 days after the time allowed for the certified members' designation has expired. Should council fail to fill the vacancy within the time prescribed, the mayor shall appoint the successor without requiring the consent of council.

A person designated as a successor or named to fill the vacancy by action of council or the mayor shall, upon taking the oath of office, have the status of a member of council duly elected for the unexpired term.

Any member of council may amend his or her successor designation certificate at any regular meeting of the council, except no member of council may amend that member's successor designation certificate subsequent to an indictment of the member alleging a felony or subsequent to the filing of criminal charges against the member for a crime that relates to the member of council's conduct in the performance of council duties. A member of council duly designated or named by council or the mayor to fill a vacancy shall file a successor designation certificate as in the case of originally elected members and his or her name may be certified by other members.

ARTICLE IV. – EXECUTIVE AND ADMINISTRATIVE SERVICE

Section 5a.

The city manager shall appoint a city solicitor. No person shall be eligible to the office who is not an attorney at law, duly admitted to practice in this state. The solicitor shall serve the

mayor, council, officers and boards of the city as legal counsel and attorney, and shall represent the city in all proceedings in court. The solicitor shall act as prosecuting attorney in the municipal court. The solicitor shall perform all other duties now or hereafter imposed upon city solicitors by the laws of the state, unless otherwise provided by ordinance of the council, and such other duties as the council may impose upon the solicitor consistent with the office of city solicitor. The solicitor shall appoint his or her assistants and fix their salaries, but the maximum number of assistants and the total amounts of the assistants' salaries shall be fixed by council. The assistants shall hold their offices at the pleasure of the solicitor.

Section 5b.

If a complaint is filed pursuant to Ohio Revised Code Section 733.72 or its successor alleging that a member of council has been indicted for a felony or that a criminal complaint has been filed against a member for charges relating to official conduct, the city solicitor shall appoint a special prosecutor within ten business days of the Hamilton County probate judge's issuing a citation pursuant to the complaint. Council shall appropriate funds necessary to hire and pay the special prosecutor.

Section 2. That the form of submission of the proposed amendment to the electors shall be substantially as follows:

CHARTER AMENDMENT	
A majority vote is necessary for passage.	
YES	Shall the Charter of the City of Cincinnati be amended to prohibit council members from revising their successor designation certificates subsequent to being indicted for a felony or subsequent to the filing of criminal charges against them for conduct in the performance of council duties; and to require the City Solicitor appoint a special prosecutor to prosecute an action under Ohio Revised Code Section 733.72 or its successor to remove a member of Council where a member of council has been indicted for a felony or a criminal complaint has been filed against a member for charges relating to official conduct, by amending Article II, Section 4b and amending Article IV by enacting new Section 5b?
NO	

Section 3. That the Clerk of Council shall give notice of the proposed Charter Amendment in the manner provided by Sections 8 and 9 of Article XVIII of the Ohio Constitution and Section 731.211 (B) of the Ohio Revised Code.

Section 4. That the Clerk of Council is directed to certify and transmit to the Board of Elections of Hamilton County, Ohio, a copy of this ordinance and direct the said Board to submit the proposed Charter amendment to the electors of the City of Cincinnati as provided by law.

Section 5. That the Board of Elections of Hamilton County, Ohio, shall certify to the Council the result of the vote upon said amendment, and if said amendment is approved by a majority of the electors voting thereon, amended Section 4b of Article II and new Section 5b of Article IV shall be enacted and become a part of the Charter of the City of Cincinnati, and existing Section 4b shall be repealed.

Section 6. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate necessity to authorize the Clerk of Council to certify and transmit this ordinance to the Hamilton County Board of Elections at least sixty days prior to the May 4, 2021 primary election.

Passed _____, 2020

John Cranley, Mayor

Attest: _____
Clerk