



City of Cincinnati

801 Plum Street
Cincinnati, OH 45202

Agenda

Education, Innovation & Growth Committee

Chairperson Betsy Sundermann
Vice Chair Jan-Michele Lemon Kearney
Councilmember David Mann
Councilmember Wendell Young

Thursday, September 30, 2021

12:15 PM

Council Chambers, Room 300

SPECIAL MEETING

AGENDA

[202102882](#) **ORDINANCE (EMERGENCY)**, dated 9/30/2021, submitted by Councilmember Sundermann, from Andrew Garth, City Solicitor, **AMENDING** Ordinance No. 347-2021, passed by Council on September 1, 2021, that submitted to the electors of the City of Cincinnati an amendment to the Charter of the City of Cincinnati, to replace the phrase “median family income” with “median household income” as the limit on compensation for members of Council in accordance with the language on the ballot petitions, and to clarify Council’s intent that the petition language take precedence as to the discrepancy in the ballot summary language and ordinance.

Sponsors: Sundermann

Attachments: [Transmittal](#)
[Ordinance](#)

202102882

Date: September 30, 2021

To: Councilmember Betsy Sundermann
From: Andrew Garth, City Solicitor *AWG*
Subject: **Emergency Ordinance – Amending Ord No. 347-2021**

Transmitted herewith is an emergency ordinance captioned as follows:

AMENDING Ordinance No. 347-2021, passed by Council on September 1, 2021, that submitted to the electors of the City of Cincinnati an amendment to the Charter of the City of Cincinnati, to replace the phrase “median family income” with “median household income” as the limit on compensation for members of Council in accordance with the language on the ballot petitions, and to clarify Council’s intent that the petition language take precedence as to the discrepancy in the ballot summary language and ordinance.

AWG/CMZ/(Ink)
Attachment
349763

EMERGENCY

City of Cincinnati

ORD

AWB

An Ordinance No. _____

- 2021

AMENDING Ordinance No. 347-2021, passed by Council on September 1, 2021, that submitted to the electors of the City of Cincinnati an amendment to the Charter of the City of Cincinnati, to replace the phrase “median family income” with “median household income” as the limit on compensation for members of Council in accordance with the language on the ballot petitions, and to clarify Council’s intent that the petition language take precedence as to the discrepancy in the ballot summary language and ordinance.

WHEREAS, Council passed Ordinance 347-2021 on September 1, 2021 to put a Charter amendment on the ballot as the result of a petition drive; and

WHEREAS, Council is aware of a discrepancy between the language contained in the petition that limits compensation for members of Council to the median household income for the City of Cincinnati and the language in Ordinance No. 347-2021 that limits compensation for members of Council to median family income in the City of Cincinnati; and

WHEREAS, the discrepancy appears in the City’s ordinance transmitting the charter amendment to the Hamilton County Board of Elections and the Board of Elections too overlooked the significance of the discrepancy in the exercise of its authority to review and set the ballot summary language; and

WHEREAS, because there is a discrepancy between the petition language and the language in Ordinance No. 347-2021 regarding compensation of councilmembers, Council seeks to clarify its intent in enacting Ordinance No. 347-2021 by amending the provision regarding Council compensation to align with the language of the petition; and

WHEREAS, Council acknowledges that the Board of Elections has sole authority over the ballot summary language, which language has already been approved and finalized, and therefore this ordinance is for clarification purposes only; and

WHEREAS, Council does not intend this ordinance to serve as a request for a special election, and this ordinance should not be interpreted as a request for a special election; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Sections 1 and 2 of Ordinance No. 347-2021 shall be amended as follows:

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 general election to be held on November 2, 2021, an amendment to the Charter of the City of Cincinnati, amending existing Sections 3, 4, 4a, and 4b of Article II, "Legislative Power," and amending Section 2 of Article III, "Mayor," and enacting new Section 11 of Article IV, "Executive and Administrative Service," and new Section 2c of Article IX, "Nominations and Elections" to read as follows:

Article II. Legislative Power

Section 3.

The initiative and referendum powers are reserved to the people of the city on all questions which the council is authorized to control by legislative action; such powers shall be exercised in the manner provided by the laws of the state of Ohio. Emergency ordinances upon a ye and nay vote must receive the vote of a majority of the members elected to the council, and the declaration of an emergency and the reasons for the necessity of declaring said ordinances to be emergency measures shall be set forth in one section of the ordinance, which section shall be passed only upon a ye and nay vote of two-thirds of the members elected to the council upon a separate roll call thereon. If the emergency section fails of passage, the clerk shall strike it from the ordinance and the ordinance shall take effect at the earliest time allowed by law.

No ordinance prescribing rates and charges to be collected by or paid to any publicly-owned public utility shall be passed as an emergency ordinance unless the ordinance is introduced in council at least three weeks before it is finally voted upon and a public hearing has been held by council thereon.

The affirmative vote of a majority of the members of the council shall be required to authorize the commencement of any litigation on behalf of the City of Cincinnati or any of its officials.

Section 4.

Subject to the terms of Article IX, Section 1 of this charter, a council of nine members shall be elected for a term of two years, commencing on the first Tuesday after January 1st next after their election and shall serve until their successors are elected and qualified. Each member of council shall receive annual compensation in an amount equal to the median ~~family~~ household income for the city of Cincinnati as reported in the American Community Survey 1-Year Report as published by the United States Census Bureau for the year prior to the beginning of each calendar year. The annual compensation payable to each member of council shall not increase or decrease during any calendar year once

such compensation is established, but the annual compensation payable to a member of council may increase or decrease from one calendar year to the next. Such compensation shall be payable semi-monthly.

Section 4a.

No person shall serve as mayor or a member of council unless such person shall have been a resident of the city for at least one year prior to assuming office, either through election or otherwise, and such person shall continue to be a resident of the city and a qualified elector thereof. Any person serving as mayor or member of council who should cease to possess any of said qualifications, or moves from the city, shall forthwith forfeit the office.

Section 4b.

If a member of council dies, resigns, or is removed, then the person who received the highest number of votes for election to council at the most recent municipal election but who was not declared elected to council at such election and who is not otherwise already serving or has served as a member of council since the most recent municipal election shall be the successor to hold the office for the remainder of the unexpired term of that member of council, provided such person shall not have previously failed to accept the position as a member of council at any time since the most recent municipal election.

Upon the death, resignation, or removal of a member of council, the clerk of council shall immediately notify in writing the person designated herein as the successor of such person's entitlement to assume the office as a member of council. Within two weeks of being informed by the clerk of council, the person designated herein as the successor shall certify in writing to the clerk of council that he or she satisfies all requirements to hold the office of member of council and that he or she accepts the position as a member of council.

If the person designated herein as the successor shall fail to provide the written certification to the clerk of council as provided herein or shall have previously failed to accept the position as a member of council at any time since the most recent municipal election, then such person shall be deemed to have not accepted the position as a member of council and the person who received the next highest number of votes for election to council at the most recent municipal election but who was not declared elected to council at such election and who is not otherwise already serving or has served as a member of council since the most recent municipal election shall then be considered the successor to hold the office for the remainder of the unexpired term of the member of council who dies, resigns, or is removed, and the clerk of council shall proceed to provide notification to such person as provided for herein and such person shall provide the certification as required herein, until a successor assumes the office of as a member of council.

Article III. Mayor

Section 2.

The mayor shall preside over all meetings of the council but shall not have a vote on the council. The mayor may call a special meeting of the council. The mayor shall exercise the veto power as provided in Article II. The mayor shall appoint and may remove the vice-mayor and the chair of all committees of the council without the advice and consent of the council. The mayor shall assign all legislative proposals to the appropriate committee for consideration no later than 30 days after such proposed legislation is filed with the clerk of council. No later than 30 days after such proposed legislation is reported out of committee, the mayor shall place such legislative proposal on the agenda for consideration at the next meeting of council. The mayor may propose and introduce legislation for council consideration.

The mayor shall be recognized as the official head and representative of the city for all purposes, except as provided otherwise in this charter.

The mayor shall appoint the city manager upon an affirmative vote of five members of the council following the mayor's recommendation for appointment. Prior to the vote, the mayor shall seek the advice of council, to include the opportunity for council to interview the candidates considered by the mayor. Should the council not approve the recommendation of the mayor, the mayor may submit another recommendation or institute a new search. The mayor, with the advice of council, shall have the authority to initiate and recommend to the council the removal of the city manager, provided that such removal shall require an affirmative vote of five members of the council. A temporary appointment to the position of city manager that may be required by reason of a vacancy in the office shall be submitted by the mayor to the council for its approval prior to the appointment.

The mayor shall deliver an annual address to the council and citizens of the city reporting on the state of the city and making recommendations for the establishment and achievement of future city goals.

The mayor shall transmit to the council the annual budget estimate prepared by the city manager. The transmittal shall occur within 15 days after receipt from the city manager and may include a letter commenting on the proposed budget.

The mayor shall perform such other duties as may be prescribed by this charter or as may be imposed by council, consistent with the office. The mayor shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the governor for military purposes.

In time of public danger or emergency, the mayor may, with the consent of the council, take command of the police, maintain order and enforce the law.

The mayor shall appoint his or her assistants in the unclassified service and shall fix their salaries. Such assistants shall serve at the pleasure of the mayor and shall constitute the mayoral service. All other appointments to be made by the mayor shall be made with the advice and consent of the council except as otherwise provided in this charter.

Article IV. EXECUTIVE AND ADMINISTRATIVE SERVICE

Section 11.

The mayor or any member of council shall be liable to the city for any judgment in, or amount negotiated in settlement of, any civil action or appeal, together with any attorney fees and expenses incurred or expended by the city in defending such civil action or appeal, arising from the violation or alleged violation by the mayor or member of council of state law relating to open meetings or public records, provided that the act or omission giving rise to the civil action or appeal was undertaken by the mayor or member of council in an effort to avoid or circumvent the requirements of such state law or done purposely, knowingly, in bad faith, or in a wanton or reckless manner. The act or omission of the mayor or member of council giving rise to such liability may be established in the civil action itself or in a separate civil action commenced by the city solicitor or by a taxpayer who may bring such civil action and recover his or her costs, including attorney fees, only after the city solicitor fails, upon the written request of the taxpayer, to bring such civil action.

Article IX. Nominations and Elections

Section 2c.

The mayor may be removed from office before expiration of his or her term. The process and procedure for such removal shall include, but are not limited to, all provisions of state law providing for removal of any elective officer of a municipal corporation.

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

CHARTER AMENDMENT
A majority vote is necessary for passage.

<p style="text-align: center;">YES</p>	<p>Shall the Charter of the City of Cincinnati be amended to require approval by Council before litigation on behalf of the City of Cincinnati or any of its officials can be filed; to establish the compensation for members of Council to the amount equal to the median family <u>household</u> income for the City of Cincinnati and adjust that compensation annually; to require candidates for Mayor and Council to be residents of the City of Cincinnati for at least one year prior to assuming office; to eliminate the use of successor designation by members of Council and to provide that the successor to a member of Council who dies, resigns, or is removed shall be the candidate who is not serving or has not served on Council who received the highest number of votes at the most recent municipal election but was not declared elected to Council; to require the Mayor to assign legislative proposals to the appropriate committee no later than thirty days after being filed with the Clerk and to require the Mayor to put legislative proposals on the Council agenda no later than thirty days after they are reported out of Committee; to provide that the Mayor and members of Council are personally liable for violations of state law regarding open meetings or public records where the violation was to avoid or circumvent those laws or was purposeful, knowing, in bad faith, or in a wanton or reckless</p>
---	---

NO	<p>manner; and to provide for the removal of the Mayor as provided by state law and other processes, by amending existing Sections 3, 4, 4a, and 4b of Article II, “Legislative Power,” and amending Section 2 of Article III, “Mayor,” and enacting new Section 11 of Article IV, “Executive and Administrative Service,” and new Section 2c of Article IX, “Nominations and Elections.”</p>
-----------	---

Section 2. That Sections 1 and 2 of Ordinance No. 347-2021 are hereby repealed and that all terms of Ordinance No. 347-2021 not amended by this ordinance remain in full force and effect.

Section 3. That Council does not intend this ordinance to serve as a request to the Hamilton County Board of Elections for a special election, and this ordinance should not be interpreted by the Hamilton County Board of Elections as a request for a special election.

Section 4. That Council intends that the newspaper publication of the proposed Charter amendment required by R.C. 731.211 will use the language contained in the Charter amendment petition and will not include the discrepancy.

Section 5. 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, 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 Board of Elections so the Board of Elections can take timely and appropriate action to clarify the language to appear on the ballot at the November 2, 2021.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

New language underscored. Deleted language indicated by strikethrough.