

# COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2016-59

By Jim Maxwell Sponsored By Mayor Cyril M. Kleem

## AN ORDINANCE

**PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF BEREA OF AN AMENDMENT TO THE CHARTER OF THE CITY OF BEREA TO MODIFY THE PETITION DEADLINE AND NUMBER OF SIGNATURES NEEDED FOR PETITIONS, BY ESTABLISHING ONLY NON-PARTISAN ELECTIONS, AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED** by the Council of the City of Berea, Cuyahoga County, Ohio, two-thirds of all members concurring:

**SECTION 1.** That pursuant to Article XVIII, Section 9 of the Ohio Constitution and Section XVI, Item 4 of the Charter of the City of Berea, this Council hereby authorizes and directs the submission to the electors of the City of Berea at an election to be held at the usual places of voting in said City on the First Tuesday after the First Monday in November, 2016, the following proposal to amend the Charter of the City of Berea:

That existing Charter Section XIII be amended by removing the formula to determine the number of signatures needed for a valid petition, by establishing a fixed number of signatures for petitions, by removing the designation of candidates as partisan, and by establishing only non-partisan elections so that, as amended, Charter Section XIII will read as follows:

### **SECTION XIII Nominations and Elections**

#### **ITEM XIII-1. MUNICIPAL ELECTIONS.**

Regular municipal elections shall be held on the first Tuesday after the first Monday in November in odd-numbered years in years requiring an election. Such other elections shall be held as may be required by law or provided for in this Charter.

#### **ITEM XIII-2. NOMINATING PROCEDURES.**

Nominations for municipal elective offices shall be initiated by filing nonpartisan petitions. Each candidate for a municipal elective office shall be a qualified elector of the City of Berea, and each candidate for the office of Ward-Council member shall be a qualified elector of the ward for which he seeks office prior to the due date for filing of nominating petitions with the Board of Elections. Each petition for nomination of a candidate for the office of Mayor shall be signed by not less than seventy-five (75) registered electors of the Municipality. Each petition for nomination of a candidate for the office of Council-At-Large or Council President shall be signed by not less than seventy-five (75) registered electors of the Municipality. Each petition for nomination of a candidate for the office of Ward-Council member shall be signed by not less than fifty (50) registered electors of the Municipality residing in the ward from which election is sought. Such petition or petitions when filed must be accompanied by the written acceptance of the nominee. Each signator of a petition shall sign his name and after his name shall designate his address and date of signing. Nominating petitions for candidacy for an office shall be filed with the Board of Elections of Cuyahoga County not less than sixty (60) days prior to the date of the primary election for such office.

#### **ITEM XIII-3. PRIMARY ELECTIONS.**

Candidates for all offices to be voted for at any municipal election under the provisions of this Charter shall be nominated at a non-partisan primary election to be held on the first Tuesday after the first Monday in May in odd-numbered years as required.

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The number of candidates for the Mayor, Council President, and Ward-Council member at any regular municipal election in the Municipality shall be the two candidates on the primary election ballot receiving the highest number of votes at the primary election. The number of candidates for the office of Council-At-Large at any regular municipal election in the Municipality shall be the four (4) candidates on the primary election ballot receiving the highest number of votes at the primary election.

In case there shall not be more than two persons who shall have filed petitions for the office of Mayor, Council President, and Ward-Council member as provided for in this Charter, then said persons shall be the candidates at the regular municipal election and the primary for the particular office shall not be held. In case there shall not be more than four (4) persons who shall have filed petitions for the office of Council-At-Large as provided for in this Charter, then said persons shall be the candidates at the regular municipal election, and the primary for such office shall not be held.

#### ITEM XIII-4. CERTIFICATE OF NOMINATION WHEN NO PRIMARY IS HELD.

If in any odd numbered year no valid declaration of candidacy is filed for nomination as a candidate for an election to any office to be voted for at the regular municipal election to be held in such year, or if the number of persons filing such declaration of candidacy for nominations as candidates of election to such office does not exceed, as to any such office, the number of persons to be elected to such office, then no primary election shall be held for the purpose of nominating candidates for election to offices to be voted for at such regular municipal election, and no primary ballots shall be provided for such election. The election officials whose duty it would have been to provide for and conduct the holding of such primary election, shall declare the results thereof and issue certificates of nomination to the person entitled thereto as if such primary election had been held, and shall declare each of such persons to be nominated, issue appropriate certificates of nomination to each of them, and certify their names to the proper election officials in order that their names may be printed on the official ballots provided for use in the next succeeding regular municipal election in the same manner as through such primary election had been held and such person had been nominated at such election.

#### ITEM XIII-5. ELECTION PROCEDURES.

Write-in votes for municipal candidates shall be permitted only if a duly nominated candidate cannot participate due to death or other disqualification; or if each candidate does not have an opponent. The ballots used in municipal elections shall be without party mark or designation of any sort. The names of all candidates shall be placed upon the same ballot and shall be rotated in the manner provided by the general laws of Ohio.

The one (1) candidate having the highest number of votes cast for the office of Mayor shall be declared duly elected.

The one (1) candidate having the highest number of votes cast for the office of Council President shall be declared duly elected.

The two (2) candidates having the highest number of votes cast for the office of Council-At-Large shall be declared duly elected.

The one (1) candidate having the highest number of votes cast for each of the offices of the respective Ward-Council offices shall be declared duly elected.

Except as otherwise provided in this Charter, the laws of the State of Ohio shall govern the nomination and election to elective offices of the Municipality.

#### ITEM XIII-6. RESERVED.

#### ITEM XIII-7. GENERAL PROVISION.

Where no special provision is made in this Charter governing general, primary or special elections, registration and the conduct of such elections, the provisions of the General Laws of Ohio shall control.

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## ITEM XIII-8. QUALIFIED ELECTORS.

Every citizen of the United States who is of the age of 18 years or over, who possesses the qualifications herein required, shall be entitled to vote at a special or regular municipal election. No person shall be permitted to vote at any election unless he has been a resident of the State, County and voting precinct thirty (30) days next preceding the election at which he desires to vote, except as otherwise herein provided. A qualified voter who has resided in the State and in the County the length of time required herein and who moves from one precinct to another within the City of Berea, shall have the right to vote in such precinct provided the precinct shall have corrected his registration as required by law. No person residing in any registration precinct shall be entitled to vote at any election or shall sign any nominating, initiative, referendum or recall petition unless he is duly registered as an elector in the manner duly provided by law. The term "qualified elector" as used throughout this Charter shall be construed to mean an elector who has complied with the foregoing requirements.

**SECTION 2.** That if the foregoing proposal receives the affirmative vote of a majority of electors voting thereon, then existing Section XIII shall be, and the same hereby is, amended, effective as of the date on which such amendment becomes effective.

**SECTION 3.** That it is the desire of the Council that the ballot for said question shall be in the following form:

### PROPOSED CHARTER AMENDMENT

A majority affirmative vote is necessary for passage.

Shall Section XIII of the Charter of the City of Berea be amended by establishing non-partisan elections, removing the designation of candidates as partisan, removing the formula used to calculate the number of signatures required on a nominating petition and by requiring that nominating petitions contain not less than 75 signatures of registered electors of the City of Berea for the offices of Mayor, Council President and Council-At-Large, and not less than 50 signatures of registered electors of the City of Berea for the offices of Ward-Council?

Yes  
 No

**SECTION 4.** That the Clerk of Council is hereby authorized and directed to forward a certified copy of this Ordinance to the Board of Elections of Cuyahoga County on or before August 1, 2016.

**SECTION 5.** That the Board of Elections of Cuyahoga County, Ohio, shall cause an appropriate notice to be duly given of the elections to be held on November 8, 2016, on the foregoing amendment to the Charter of the City of Berea, and otherwise to provide for such election in the manner provided by the general laws of the State of Ohio.

**SECTION 6.** That the Clerk of this Council is hereby authorized and directed to cause the full text of such proposed Charter amendment to be published as set forth by law, with the first publication to be made at least fifteen days prior to the election to be held on November 8, 2016, as provided by Article XVIII, Section 9 of the Constitution of the State of Ohio and in Section 731.211 of the Ohio Revised Code.

**SECTION 7.** That there is hereby appropriated from the general fund a sufficient sum of money to pay the costs of carrying out the authorizations and directions of this Ordinance.

**SECTION 8.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

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SECTION 9. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare, or providing for the usual daily operation of a municipal department, and for the further reason that the City must act immediately for the purpose of consistency, clarity, and a standardization of City law. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: June 20, 2016

ATTEST: [Signature]  
Clerk of Council

[Signature]  
President of Council  
APPROVED: June 24, 2016  
[Signature]  
Mayor

Approved as to Form:

[Signature]  
Director of Law