

McGINTY, HITCH, PERSON, ANDERSON & REVORE, P.C.

MEMORANDUM

TO: Charlotte City Council

FROM: Thomas M. Hitch, City Attorney

RE: **Transition to Even-Year Elections for City Councilmembers**

DATE: March 15, 2023

As the Council is aware, last year the Council entertained, and I prepared, proposed Charter amendments that provided for changing the term of the Mayor, eliminating wards, and going to even-year elections. As the matter proceeded, I became aware of a change in the Election Code, which provided for the change of odd-year to even-year elections by a resolution of the City Council. After discussing the matter extensively with George Elworth, the Assistant Attorney General that oversees Charter revisions on behalf of the Governor, and other potential changes to Charters, it was decided to address these issues one at a time, thus making this significantly easier to accomplish.

As the Council remembers, last year a Charter amendment was proposed, approved by the Governor for passage, and approved by the City electors, changing the Mayor's term to four years, instead of the current term of two years.

I have had discussions with the City Manager and the Assistant Attorney General regarding addressing the elimination of wards and going to even-year elections. It remains the considered judgment of the Assistant Attorney General, of which I agree, that trying to make these changes occur simultaneously remains a very daunting task. The problem is that terms of a sitting Councilmember cannot be shortened. In converting to an even-year election, MCL 168.664(g) provides that the term of a Councilmember may be lengthened beyond the term set forth in the Charter in order to make an orderly transition to the even election year.

It is my opinion that it is simply too difficult to try to manage simultaneously the elimination of wards and implementing a conversion to even-year elections. As discussed with Erin LaPere, the dollar savings for the City will begin immediately upon the elimination of the last odd-year election in 2023. Between eliminating wards and the odd-year elections, the savings would be immediate, because at present, all of the State and Federal elections are on an even year, the City is now conducting elections annually. With that change, even-year elections only will bring a cost savings as on the odd years, there will be no election.

The other immediate benefit is that this does not require approval by the Governor, as this not a Charter amendment. Making this change by resolution greatly simplifies what the City is required to do to bring about this cost saving to the City.

If the Council desires to convert to even-year elections, it must comply with the provisions of MCL 168.642. As provided at Subsection 7, the resolution is valid only if the City Council adopts it in compliance with the subsections, which read as follows:

A resolution permitted under this section or section 642a is valid only if a city council adopts the resolution in compliance with all of the following:

- (a) The resolution is adopted before 1 of the following:
 - (i) If the resolution is permitted under subsection (2), (3), or (4), January 1, 2005.
 - (ii) If the resolution is permitted under section 642a(1), (2), or (4), January 1 of the year in which the change in the date of the election takes effect.
- (b) Before adopting the resolution, the council holds at least 1 public hearing on the resolution. The public hearing may be held on the same day and immediately before considering the adoption of the resolution.
- (c) The council gives notice of each public hearing on the resolution in a manner designed to reach the largest number of the jurisdiction's qualified electors in a timely fashion.
- (d) The council votes on the resolution and, on a record roll call vote, a majority of the council's board members, elected or appointed, and serving, adopt the resolution.
- (e) The council files the resolution with the secretary of state.

I have prepared a resolution for your review and use if Council desires to proceed in this matter. In discussing this with the City Manager, the change needs to occur no later than the last Council meeting in April.

TMH:cf

CITY OF CHARLOTTE
EATON COUNTY, MICHIGAN

RESOLUTION NO. _____

A RESOLUTION ESTABLISHING REGULAR ELECTIONS
IN NOVEMBER OF EACH EVEN YEAR COMMENCING
WITH THE CITY ELECTION OF NOVEMBER 2026

Moved by _____, supported by _____, to adopt the following:

WHEREAS, the City of Charlotte regularly conducts its City elections in November of each odd-numbered year pursuant to Section 13.1 of Chapter 13 of the City Charter; and

WHEREAS, at each regular City odd-year November election the Mayor of the City is now elected for a four-year term and three Councilmembers are elected for a four-year staggered terms; and

WHEREAS, the Michigan Election Code, at MCL § 168.642(a)(4), authorizes a home rule city that holds elections for city officers at the odd-year November election to change its regular election schedule for future years to even-year city November elections by the adoption of a resolution in compliance with the requirements of MCL § 168.642, provided that the terms of the City's elected officers elected hereto for and at the last odd-year November city election in November, 2023 are not shortened and that those terms of previously elected city officers continue until their successors are elected and qualified at the next regular city election.

WHEREAS, the City Council has held a public hearing regarding this resolution pursuant to the published notice of the public hearing.

NOW, THEREFORE, BE IT RESOLVED that:

1. The date of the regular city election is changed from the first Tuesday after the first Monday in November of each odd-numbered year to the first Tuesday after the first Monday in November of each even-numbered year commencing with the regular city election in November 2026 resulting in the last city regular odd-year November election being held on November 7, 2023.
2. A primary election shall be held, if provided for by the applicable charter provision of the current charter, at the August primary for each year in which there is a city regular November election.
3. The term of the Mayor and three (3) Councilmembers duly elected at the odd-year November election this year (2023) which would otherwise expire in November

2027 shall continue until their successors are elected and qualified in November 2028.

- 4. The terms of the three (3) Councilmembers duly elected at the odd-year November election in 2021 which would otherwise expire in November 2025 shall continue until their successors are elected and qualified in November 2026. Provided, however, for purposes of this resolution, this provision shall apply to the two (2) Councilmembers appointed to fill vacancies by the City Council and who are up for election on November 7, 2023 pursuant to Section 3.13 of the City Charter.
- 5. The City Clerk is hereby instructed to file this resolution with the County Clerk of Eaton County, and the elections division of the Secretary of State of the State of Michigan.

AYES: _____

NAYES: _____

ABSENT: _____

RESOLUTION DECLARED ADOPTED.

STATE OF MICHIGAN)

:SS.

COUNTY OF EATON)

I, the undersigned, the duly qualified and acting Clerk of the City of Charlotte, County of Eaton, State of Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Charlotte at a regularly scheduled meeting held on Monday, _____, 2023, relevant to the Michigan Open Meetings Act, the original of which is on file in my office as part of the council minutes.

IN WITNESS WHEREOF, I have hereunto set my official signature, this _____ day of _____ 2023.

Mary LaRocque, City Clerk
City of Charlotte
Eaton County, Michigan

Approved as to Form:

Thomas M. Hitch (P25558)
Charlotte City Attorney