



Legislation Text

File #: 17-1947, Version: 1

An Ordinance to Amend the Code of the City of Ann Arbor by Adding a New Chapter, which New Chapter Shall Be Designated as Chapter 6, Procedures for Removal of Councilmembers, of Title I of Said Code (Ordinance No. ORD-17-26)

Section 4.4(h) of the Ann Arbor City Charter mandates the punishment for any misbehavior or the contemptuous or disorderly conduct of any member of Council may only be done pursuant to an adopted ordinance of Council.

Although Section 4.4(h) was adopted as a provision of the City Charter in 1956, the requisite ordinance was not adopted.

The ordinance as presented is the culmination of the review of administrative self-governance process undertaken by the Council Rules Committee and is recommended for passage.

Prepared by: Stephen K. Postema, City Attorney

Sponsored by: Council Rules Committee

ORDINANCE NO. ORD-17-26

First Reading: December 18, 2017

Approved: January 8, 2018

Public Hearing: January 16, 2018

Published: January 12, 2018

Effective: January 22, 2018

PROCEDURES FOR REMOVAL OF COUNCILMEMBERS

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ANN ARBOR BY ADDING A NEW CHAPTER, WHICH NEW CHAPTER SHALL BE DESIGNATED AS CHAPTER 6, PROCEDURES FOR REMOVAL OF COUNCILMEMBERS, OF TITLE I OF SAID CODE.

The City of Ann Arbor Ordains.

Section 1: That Chapter 6 of Title I of the Code of the City of Ann Arbor read as follows:

Chapter 6
Procedures for the Removal of Councilmembers

1:110 Title.

This Chapter shall be known as the Council Internal Regulation Ordinance of the City of Ann Arbor.

1: 111 Intent and Purpose.

Pursuant to Section 4.4 of the Ann Arbor City Charter, the Council has the general power to regulate the actions of its Councilmembers through its own rules In addition, Section 12.12(a) of the Charter

also provides the Council with the general authority to remove a Councilmember, but requires an ordinance for bringing about such a removal.

City Council has determined that the internal regulation of the behavior of City Councilmembers should be done according to Council rules the following procedure.

1:112 Definitions

The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Council* means the City Council of the City of Ann Arbor
- (2) *Removal*. Removal is a formal action of the Council officially removing a Councilmember from office for cause based on official misconduct. It is not necessary that counseling or reprimand precede removal.
- (3) *Cause for removal*. A reason for removal based on the direct connection between the misconduct and the performance of the office. Cause for removal includes: Conviction of any provision of the election laws of the State or City, conviction of a felony or of an offense involving a violation of an oath of office, conviction of the state criminal misconduct in office statute, default of any debt to the city, or repeated violations of the Council Ethics or Administrative rules that demonstrate a disregard for these Rules.

1:113 Requests for Removal of a Councilmember

- (1) The Council Administrative Committee shall act as investigative staff for the City Council in any allegation of act(s) by a Councilmember which may be grounds for reprimand or removal of that Councilmember.
- (2) Any Councilmember may file a written, sworn and signed complaint with the Chair of the Council Administrative Committee alleging a violation of law, ordinance, Council Ethics Rules or Council Administrative Rules on his or her personal knowledge which allegation (s) may be grounds for removal of the named Councilmember The statement must state fully the matter to be subject to consideration.
- (3) On receipt of a Councilmember's sworn complaint, the Chairperson of the Council Administrative Committee shall:
 - a. Review the sworn complaint as to proper form, determining whether the complaint alleged falls under the scope of Council as defined by statute, Charter, and through this Ordinance, as is proper,
 - b. Inform the Council and the named Councilmember of receipt of the Complaint and
 - i. request the City Attorney and/or other Administrative personnel to assist in the investigation of the complaint and report all findings back to the Chair of the Council Administrative Committee for further review by the Council Administrative Committee; or

ii. schedule the complaint for further review and consideration by the Council Administrative Committee

- (4) On completion of investigation and review of the Complaint by the Council Administrative Committee, it shall make a written report and recommendation to City Council that the matter should be:
- a. Dismissed as without merit, or
 - b. Scheduled for a hearing before Council, or
 - c. Referred for other action to the appropriate governmental or law enforcement agency.
- (5) On receipt of the recommendation of the Council Administrative Committee, Council shall, at a regular or special meeting of the Council, act on the recommendations made, which decision shall be adopted by not less than 7 votes.
- (6) If a hearing on the Complaint is determined appropriate by Council, the Council shall set a date for the hearing not more than 30 days from the date of the Council Administrative meeting at which the determination was made. Notice of the hearing shall be given to the Councilmembers involved by personal service or certified mail return receipt requested. Notice shall be given not less than 14 days prior to the hearing date. The Councilmember named in the allegation shall attend the hearing and have the right to present a defense.
- a. The accused Councilmember shall have the right and opportunity to make an opening and closing statement. If any of the alleged conduct occurred outside the Council's proceedings, the Councilmember accused may present witnesses at the hearing and question his or her accusers and any other witnesses that are presented. If the alleged conduct occurred within the Council's proceedings, then witnesses are not necessary. However, in either case, evidence may be presented and responded to.
 - b. The accused Councilmember may be represented by an attorney and may have the representative speak or question witnesses. The City Attorney or outside counsel will provide legal advice to the City Council during the hearing.
 - c. The hearing shall be informal. Judicial rules of evidence do not apply at the hearing, which is not a formal adversarial proceeding. Any witnesses presented by the Councilmember named in the allegation as part of his or her defense shall be sworn in by the City Clerk. The hearing shall be public. A record of the hearing shall be made, which may be by electronic means (tape or other recorder).
- (7) The Mayor shall preside over the hearing. If the hearing involves the Mayor, the Mayor pro tem shall preside over the hearing unless another Councilmember is appointed by

Council. A member of the Administrative Committee, or another person designated by the Administrative Committee, shall present evidence to the Council and call witnesses, if necessary.

- (8) After the hearing, the Council shall bring the request to reprimand or remove a Councilmember by a Resolution outlining the specific charges. A Resolution to remove a Councilmember must be approved by at least eight Councilmembers and they must determine a violation by “clear and convincing” evidence.

Section 2: Severability: In the event any court of competent jurisdiction shall hold any provision of this Ordinance invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision thereof.

Section 3: Effective Date: This Ordinance shall take effect on the tenth day following legal publication.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan at its regular session of January 8, 2018.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk’s Webpage on January 12, 2018.

Jacqueline Beaudry, Ann Arbor City Clerk