

THE CITY OF NEWPORT

RESOLUTION

OF THE

COUNCIL

No.

WHEREAS, Section 10-10 of the City Charter requires the Council to provide for periodic review of the Charter by appointing a Charter Review Commission no more than ten (10) years from the date of the appointment of the most recently appointed Charter Review Commission;

WHEREAS, the Council had last appointed a Charter Review Commission on or about June 26, 2013 before having appointed the presently serving Charter Review Commission on or about December 8, 2021 to review charter provisions;

WHEREAS, the Charter Review Commission did conduct its review and submitted a report to the Council, received by the Council on May 11, 2022 containing its recommended revisions and comments concerning the same;

WHEREAS, the Council must review and then decide which recommended revisions of the Commission should be placed on the November 8, 2022 ballot for the voters to consider approval of the same.

NOW THEREFORE, be it

RESOLVED: after reviewing the recommendations of the Charter Review Commission, the Council requests the following referendum be placed on the November 8, 2022 ballot:

1. SECTION 1-1 – FORM OF GOVERNMENT.

The municipal government provided by this Charter shall be known as the "Council-Manager Government." Pursuant to its provisions and subject only to the limitations imposed by the State Constitution and by this Charter, all powers of the City shall be vested in an elective Council, hereinafter referred to as "the Council", which shall enact local legislation, adopt budgets, determine policies, and appoint the City Manager, who shall execute the laws and administer the government of the City. **See also Chapter 2 and Chapter 5.**

2. SECTION 1-3 EXISTING ORDINANCES, RESOLUTIONS, RULES AND REGULATIONS TO CONTINUE IN EFFECT.

Except insofar as they are inconsistent with this Charter, all the ordinances, rules, resolutions, and regulations heretofore made by the representative Council ~~or the Board of Aldermen~~, or any board or commission shall continue in effect until superseded by action of the Council.

3. SECTION 2-1 – THE COUNCIL.

There shall be a Council which shall consist of seven Councilors, ~~one from each of the three wards of the City who shall be elected solely by the qualified electors within their respective wards, and four~~ from the City at large to be elected by the qualified electors of the City.

4. SECTION 2-2 – TERMS OF OFFICE.

The terms of office of the members of the Council shall be for two years and shall begin on the first day of December next following their election.

Councilors shall serve no more than four terms consecutively.

5. SECTION 2-3 – VACANCIES.

Any vacancies arising from death, resignation or any reason in the membership of the Council shall be filled **by the candidate from the prior election who received the next highest number of votes for the seat that is vacated, or absent such a candidate**, four affirmative votes of the remaining members of the Council within thirty (30) days after the Council learns of the vacancy, or in the event of a tie vote or inability to elect, the vacancy shall be filled as soon thereafter as possible by a majority vote of all the remaining members of the Council; provided, however, the Council shall provide for the public solicitation of applicants. **Add application detail here.**

~~The Council shall fill any vacancy arising from death, resignation or any reason in the membership of the School Committee within thirty (30) days after learning of the vacancy or as soon thereafter as may be possible by a majority vote of all members of the Council, provided, however, the Council shall provide for the public solicitation of applicants. Any person appointed to fill a vacancy on the School Committee by the Council shall serve only until a person is elected and qualified at the next City election under this Charter.~~

6. SECTION 2-5 – MAYOR; PRESIDING OFFICER.

~~The Council shall choose one of its members who were elected at large as Chair and another of its members as Vice-Chair.~~ **The elected Councilor (at-large) with the highest number of votes shall be Chair**, shall have the title of Mayor, shall preside at all meetings of the Council, and shall be recognized at the official head of the City for all ceremonial purposes. **The Council shall choose another of its members as Vice-Chair.** He or she shall sign and execute all contracts or other evidences of indebtedness on behalf of the City, make all proclamations in the name of the City and shall be the executive head of the City to the extent required by this Charter. In the absence of the Mayor, or in case of a disability, the Vice-Chair of the Council shall perform all duties of the Mayor.

7. SECTION 2-9 – OFFICERS NOT TO MAKE CONTRACTS IN WHICH THEY ARE INTERESTED.

No officers or employees of the City shall directly or indirectly make a contract with the City or receive any compensation, discount, bonus, gift, contribution or reward from any share in, the profits of any person, firm or corporation making or performing such contract unless, immediately upon learning of the existence of such contract, or that such contract is proposed, they shall notify the Council in writing of the nature of their interest in such contract, and shall abstain from doing any official act on behalf of the City with reference thereto.

In case of any such interest on the part of any officers whose duty is to sign such contract on behalf of the City, the contract may be signed by any other officer of the City duly authorized by the City Manager. When a contractor with the City is a corporation or a voluntary stock association, the ownership of less than five percent of the stock or shares actually issued shall not be considered as involving an interest in the contract within the meaning of this section, and such ownership shall not affect the validity of the contract unless the owner of such stock or shares is also an officer or agent of the corporation or association, or solicits or takes part in the making of the contract. **(Add reference here to ordinance memorializing the Code of Ethics.)**

8. SECTION 2-10 – CONTRACT TO BE VOIDABLE; PENALTIES.

A violation of any provision of the preceding section shall render the contract with respect to which such violation occurs voidable in whole or in part at the option of the City. ~~Any person violating the provisions of said section shall be punished by a fine of not~~

~~more than one thousand dollars (\$1,000), or by imprisonment for not more than one year, or both.~~ **Any person violating the provisions of said section will be subject to prosecution and fined under the law.** A conviction for a violation of said section shall be deemed a crime involving moral turpitude.

9. SECTION 2-12 – ACTION BY RESIDENT OR TAXPAYER.

If the **City** Manager shall fail to perform any act required of him or her by the preceding section of this Charter, any resident or taxpayer may require him or her to perform such act by filing with the City Clerk a demand in writing signed by such resident or taxpayer for such performance, which shall contain a recital of the facts upon which such demand is based.

10. SECTION 2-14 – POWER OF REFERENDUM

EDIT FOR CLARITY: The electors shall have the power to approve or reject at the polls any ordinance passed by the Council, or submitted by the Council to a vote of the electors, such power being known as the referendum. Ordinances submitted to the Council by initiative petition and passed by the Council without change shall be subject to the referendum in the same manner as other ordinances. Within thirty (30) days after the enactment by the Council of any ordinance, a petition signed by the qualified electors of the City equal in number to at least ten percent of the number of persons registered to vote at the last regular Municipal election may be filed with the City Clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors. A majority of those casting votes at such election shall determine whether such ordinance is repealed or sustained.

When a referendum petition has been certified as sufficient by the City Clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.

11. SECTION 2-18 – QUORUM; PROCEDURE.

A simple majority of all the members of the Council shall constitute a quorum. All members of the Council present must vote on any question ~~coming before it, unless they disclose a personal interest therein and are excused by vote of the remaining members, or a barred by law.~~ ADD: **“unless they recuse themselves on the question before the Council on ethical or other legal grounds.”**

~~The Council shall from time to time establish rules for its proceedings.~~ **The Council shall establish rules for proceedings by Resolution, in December following elections and as needed.**

12. SECTION 2-19 – ADJOURNMENTS BY LESS THAN QUORUM; COMPELLING ATTENDANCE.

If there is no quorum a majority of the members of the Council present may adjourn from time to time and be authorized to compel the attendance of absent members in such manner and under such penalties as ~~may be prescribed by the rules of the Council~~ **prescribed in the City of Newport Rules of the Council.**

13. SECTIONS 2-20 THROUGH 2-23

Charge the order of the Sections 20-23 from current sequence to the following sequence: **2-20/2-23/2-22/2-21**

14. SECTION 2-20 INTRODUCTION AND PASSAGE OF ORDINANCES AND RESOLUTIONS.

Every ordinance and resolution shall be introduced only in written or printed form, **and digital form**. No ordinance or resolution shall be so amended in its passage as to change its original purpose. Any ordinance adopting a budget or making appropriations shall be confined to the subject of the budget or the appropriations. No ordinance shall be acted upon until it has been read on two separate days, nor until at least forty-eight hours shall have elapsed between such two readings, except in the case of an emergency ordinance as hereinafter provided. The second reading of such ordinance shall be in full unless a copy thereof shall have been furnished to each member of the Council prior to such reading.

The enacting clause of all ordinances shall be “Be it Ordained by the City of Newport.”

15. SECTION 2-22 - AUTHENTICATION AND PUBLICATION OF ORDINANCES AND RESOLUTIONS.

Upon its final passage, each ordinance or resolution shall be authenticated by the signature of the City Clerk and shall be recorded in a book kept for that purpose **and maintained in the Office of the City Clerk.**

16. SECTION 3-2 – NOMINATION PETITION; SIGNATURES.

The nomination of all candidates for elective office in the primary election provided for by this Charter shall be by petition. The petition of each candidate for ward Councilor, ~~Councilor at Large, and School Committee~~ shall be signed by not less than fifty qualified electors of the City. **The Petition of each candidate for Councilor-at-Large and School Committee shall be signed by not less than one hundred qualified electors of the City.** A voter may sign any number of nomination papers for any office the voter may lawfully vote for at the general election.

17. Section 3-4 PRIMARY ELECTION; SCHOOL COMMITTEE.

At each primary election, the candidates for School Committee receiving the highest number of votes, double the number of each respective office to be filled, shall be deemed and declared to be the candidates for the office of School Committee.

18. SECTION 4-2 – PROBATE COURT.

The Council shall elect a ~~Judge of Probate~~ **Probate Judge** for a term concurrent with the term of office of said Council. The **Probate** Judge shall be a member of the bar of the State of Rhode Island. Whenever the Judge of Probate Court is a party, or is interested in any proceeding about to be heard in the Court, or is absent or unable to perform the duties, or there is a vacancy in such office, the duties shall be temporarily performed by the Municipal Court Judge, and the fact of such interest, absence, inability or vacancy shall be recorded in the records of said Court.

19. SECTION 4-3 – BOARD OF TAX APPEALS.

There shall be a Board of Tax Appeals for the City of Newport consisting of three members who shall be elected by the Council. Biennially, the Council shall elect a member of said Board for a term of office of six years. **Two alternates shall be appointed by Council to serve in instances where a member would need to recuse themselves from a vote.**

Said Board shall receive and consider appeals from property owners regarding the amounts of their assessed valuation as determined by the Tax Assessor, provided such appeals are properly filed in accordance with state law. Said Board shall have authority to adopt rules and regulations as to the procedure in presenting, considering and disposing of appeals and may hold hearings, administer oaths and receive testimony and exhibits. It shall have the power to order the Tax Assessor to change any assessed valuations appealed and reviewed, but only after the Tax Assessor has been given an opportunity to appear before it or

otherwise present the case, provided that this provision shall in no way alter Council power of abatements, as provided by law. Hearings of the Board of Tax Appeals shall be open to the public. Nothing herein contained shall be construed in any way to limit or extend the right of a taxpayer to apply to the superior court in accordance with law for relief from the assessment as originally made by the Tax Assessor.

The members of said Board shall be selected upon the basis of their knowledge of the subject of property taxation and real estate value. ~~and shall at the time of their appointment have been residents of the City for at least five years immediately preceding and shall continue as residents during their terms of office. If members of such Board shall cease to be a resident, their office shall thereby become vacant.~~ No member of said Board shall hold any elective public office. The members of said Board shall elect one of their number as Chair. The members of said Board shall receive such compensation as may be fixed from time to time by the Council.

20. SECTION 4-4 – PLANNING BOARD.

There shall be a Planning Board to administer the laws and ordinances relating to planning, whose members shall be elected by the Council. **The Council shall strive to select a diverse group of individuals from throughout the City to serve on this board.**

21. SECTION 4-5 – **ZONING** BOARD OF REVIEW.

There shall be a Board of Review to administer the laws and ordinances relating to zoning, whose members shall be elected by the Council. **The Council shall strive to select a diverse group of individuals from throughout the City to serve on this board.**

22. SECTION 4-6 – CANVASSING AUTHORITY.

There shall be a Canvassing Authority pursuant to the General Laws of the State of Rhode Island.

~~There shall be a Canvassing Authority as provided by the provisions of the Constitution and laws of the State. The Council shall elect one member for a term of two years, one member for a term of four years and one member for a term of six years. On the first day in November following all subsequent elections the Council shall elect a member of the Canvassing Authority for a term of six years. All powers and duties now vested in the Board of~~

~~Canvassers and Registration shall vest in the Canvassing Authority. The Council may designate one member to be Clerk.~~

23. SECTION 4-7 – TRUST AND INVESTMENT COMMISSION.

~~There shall be a Trust and Investment Commission, which commission shall consist of five members who shall be chosen on the basis of their knowledge of investments and financial management. This commission shall have custody and control of all funds now held or hereafter held for the payment of pensions and health benefits and premiums for city and school department employees; and said commission shall have the power to sell, exchange, invest or reinvest said funds and to receive, collect, and hold all income thereof and to pay and appropriate the same in such manner and for the purposes prescribed by law or by said will, deed, gift or indenture. Said commission shall have such other powers and duties, and its members shall be appointed and serve for such terms, as the council may by said ordinance prescribe.~~

REPLACE WITH

There shall be a Trust and Investment Commission, which commission shall consist of five members who shall be chosen by the City Council on the basis of their knowledge of investments and financial management of pension and other post-employment benefit funds. This commission shall be responsible for overseeing the investments, including the selection and monitoring of all funds now held or hereafter held: (a) the payment of pensions for city police and fire department employees and health benefit and premiums for city and school department employees; and (b) as trusts and scholarship funds donated or bequeathed to the city to be used for specified purposes, but excluding any funds held by the city in cash to pay current benefits and expenses. Said commission shall have the power to sell, exchange, invest or reinvest said funds and to receive, collect; and hold all income thereof and to pay and appropriate the same in such manner and for the purposes prescribed by law or by said will, deed, gift or indenture. Said commission may recommend the engagement by the city of an investment advisor to help meet its responsibilities and shall have such other powers and duties, and its members shall be appointed and serve for such terms, as the Council may by said ordinance prescribe. The commission shall be indemnified by the city pursuant to R.I. General Laws §45-15-16.

24. SECTION 4-11 – COUNCIL NOT TO INTERFERE WITH ADMINISTRATION.

Neither the Council nor any of its members shall direct or request the appointment of persons to, or their removal from office by the City Manager or by any of his or her subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the City or interfere in any way with any administrative division or department. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. ~~Any Councilor violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000.00) or be imprisoned for not more than sixty (60) days, or both, and shall forthwith cease to be a Councilor.~~ **Any Councilor violating the provisions of this section shall be subject to prosecution under the law and shall forthwith cease to be a Councilor.**

25. SECTION 4-2 -- POWER TO COMPEL TESTIMONY.

In connection with any investigation which may be conducted by the Council, or any committee thereof, the Council or committee may compel the attendance of witnesses and the production of books, papers and other evidence, and for that purpose may issue subpoenas which shall be signed by the Mayor or the Chair of any such committee. If witnesses shall refuse to testify to any facts within their knowledge, or to produce any papers or books in their possession, or under their control, relating to matters under inquiry, before the Council, or any such committee, the Council by resolution may cite such witness in contempt and upon conviction thereof such witness shall be ~~fined not more than one thousand dollars (\$1,000.00) or be imprisoned for not more than sixty (60) days, or both.~~ **subject to prosecution and fined under the law.**

Witnesses shall not be excused from giving information touching upon their knowledge of the matter under investigation in any such inquiry, but such testimony shall not be used against them in any subsequent criminal prosecution except for perjury committed upon such inquiry, unless witnesses shall, in writing at the time of so testifying, waive their rights not to have such testimony used against them.

26. SECTION 4-13 -- PUBLIC HEARINGS.

When any ordinance or resolution shall be referred by the Council to a committee for further **investigation review**, said committee may hold public hearings thereon. If a petition shall be presented to the City Clerk signed by at least fifty (50) qualified electors of the

City, then said committee shall hold a public hearing or hearings thereon. The City Clerk shall give notice thereof at least two days in advance of any such public hearing by posting a notice thereof on a bulletin board placed conspicuously in the City Clerk's office **as well as on city's website and social media** so as to be clearly visible to members of the public.

27. SECTION 5-4 – DUTIES.

The duties of the Manager shall include the following:

- (a) To see that the laws and ordinances are enforced;
- (b) To see that all terms and conditions imposed in favor of the City in any contract or franchise are faithfully kept and performed;
- (c) To keep the Council informed at all times concerning the financial condition and needs of the City and other pertinent matters relating to its administration;
- (d) To recommend to the Council such measures as the Manager may consider necessary or expedient;
- (e) To prepare and recommend to the Council an annual budget;
- (f) To prepare and present to the Council a comprehensive annual report of the financial transactions and other activities of the City following the close of each fiscal year;
- (g) To make any study or investigation which in the Manager's opinion may be for the best interest of the City or which may be ordered by the Council;
- (h) To approve all rules and regulations of the several administrative officers and departments under the Manager's jurisdiction before they shall become effective;
- (i) To perform such other duties as may be required of him or her by the Council.
- (j) To be known as the City Public Safety Officer when circumstances require the title.**
- (k) It shall be the duty of the Manager to attend meetings of the Council. (previously Section 5.5)**

28. SECTION 5-6 – APPOINTMENT OF ADMINISTRATIVE OFFICERS.

Except as otherwise provided by this Charter the **City** Manager shall appoint all administrative officers and heads of departments including the City Clerk and Probate Clerk. All such appointments

shall be for indefinite terms **determined by** ~~at the pleasure of the~~ **City Manager.**

Notice of the appointment by the **City** Manager of any department head or other principal officer shall be in writing and filed with the City Clerk.

The **City** Manager may serve as the head of any administrative department.

29. SECTION 5-7 - ~~ABSENCE OR DISABILITY OF MANAGER.~~ **DESIGNATION OF ACTING CITY MANAGER.**

The **City** Manager may designate an administrative officer of the City to exercise and perform the powers and duties during the **City** Manager's temporary absence or disability. **Such designation shall be made in writing and filed with the City Clerk. Any such designation shall not be for a period greater than thirty (30) days.** In the event that the City Manager is unable to make such a designation, then the Council shall be empowered to make such a designation. ~~Such designation shall be made in writing and filed with the City Clerk. Any such designation shall not be for a period greater than thirty (30) days.~~

30. SECTION 5-8 - ~~ACTING MANAGER.~~ **APPOINTMENT OF INTERIM CITY MANAGER.**

The Council shall appoint some capable person as ~~Acting Manager~~ **Interim City Manager** during a vacancy in the office. Such appointment shall be on a temporary basis until a **City** Manager has been appointed and has assumed the duties of City Manager. Such person while in the capacity of ~~Acting Manager~~ **Interim City Manager** shall have all the powers and duties conferred by this Charter on the City Manager.

31. SECTION 6-2 - COMPENSATION OF EMPLOYEES.

The Council shall have the power to fix the compensation of all officers and employees of the City **through the budget process.**

32. SECTION 6-4 - OATH OF OFFICE

~~Every officer, elected or appointed, shall take and subscribe the following~~ **Any elected or appointed individual assuming a city role or job, may be required to take and subscribe to the following** oath of office: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and the State of Rhode Island ~~and Providence Plantations,~~ and that I will faithfully

discharge the duties of such office to the best of my ability," and shall file such oath, duly certified by the officer before whom it was taken, as a public record in the office of the City Clerk.

33. SECTION 6-5 ~~SURRENDER OF BOOKS, PAPERS, MONEY AND EFFECTS.~~ **SURRENDER OF CITY ISSUED PROPERTY.**

Whenever any officers or employees shall resign or be removed from office, or the term for which they shall have been elected or appointed shall expire, they shall, immediately, surrender to their successor **or superior** in office all ~~the books, papers, moneys and effects of the City~~ **city issued property** in their custody. ~~In the event there is no successor said books, papers, moneys and effects shall be surrendered to the City Manager.~~ **In the event there is no successor or superior said city issued property will be surrendered to the office of the City Manager.** Every person violating this provision ~~shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000), or by imprisonment for not more than one year.~~ shall **be subject to prosecution under the law.**

34. SECTION 9-1 - FISCAL YEAR AND STRATEGIC PLAN.

The Council shall provide by ordinance for the fiscal year of the City.

The Council is responsible for having, approving and adhering to a five-year strategic plan for the City and scheduling progress review workshops. **The strategic plan is used as guidance in setting budget priorities** and ~~The strategic plan~~ should be updated and approved each year no later than the first council meeting in March. Implementation should be managed by the City Manager. The strategic plan will include:

- Vision and Mission Statements **that project over ten years**
- Long-term goals projecting forward at least five years
- Short-term goals with two-year projections
- Corresponding revenue and expense projections
- Milestones and individuals/departments accountable
- Performance measurements

The City's Strategic Plan will be reviewed periodically and progress reported no less often than annually at a public hearing.

35. SECTION 9-19 – CAPITAL IMPROVEMENT PROGRAM.

No later than February 1 of each year, the City Manager shall prepare and submit to the City Council a five-year capital improvement program, including a capital budget.

The City Council, by resolution, shall adopt in concept a capital improvement program on or before the first regularly scheduled Council meeting in April; the first year of the program shall be incorporated into the proposed operating budget for the ensuing fiscal year. The City Council, at least one week before the adoption in concept of the capital improvement program, shall hold a public hearing thereon.

No later than February 15 the City Manager shall publish in a newspaper **and digital outlets** of general circulation a general summary of the capital improvement program and a notice stating:

- (1) The date, time and place for a public hearing on the program; and
- (2) The location where copies of the program are available for inspection.

The definition of capital improvement, the contents of the program, and the general criteria used in determining priorities of projects, shall be prescribed by ordinance.

36. SECTION 10-4 EXISTING BOARDS AND COMMISSIONS

All commissions and boards in existence on the first day of November, 1953, shall continue in existence until discharged by action of the Council.

QUESTION FROM THE CHARTER COMMISSION – Is there a purpose for this Section or is it outdated?

37. Section 10-10 Charter Review

The Council shall provide for periodic review of this charter by appointing a Charter Review Commission no more than 10 years from the date of appointment of the most recent Charter Review Commission.

The Charter Commission shall be given eight months to complete their task and shall supply a completed report to the City Council for review and action. Upon review and action of the Charter Review Commission's report, the City Council will create a report that references the changes that were accepted and/or rejected by the Council.

IN COUNCIL
READ AND PASSED

LAURA C. SWISTAK
CITY CLERK