

Citizens' Guide to Proposed 2011 Lakewood Charter Changes



Updated September 13, 2011 by the Lakewood Law Department

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ISSUE NO.	BALLOT QUESTION	SECTION IMPLICATED	CURRENT CHARTER WORDING	PROPOSED CHARTER WORDING	BLACK-LINED VERSION SHOWING PROPOSED ADDITIONS AND DELETIONS	LAW DEPARTMENT ANALYSIS
65	Shall Article I, Section 2, Manner of Exercise, and Article I, Section 3, Interpretation, of the Second Amended Charter of the City of Lakewood be amended to clarify that the City may perform all such actions permitted by the Charter and the Constitution of the State of Ohio?	Art. I, Sec. 2	<p>ARTICLE I. POWERS</p> <p>Section 2. Manner of Exercise.</p> <p>All powers shall be exercised in the manner prescribed by this Charter, or if not prescribed herein, then in such manner as shall be provided by ordinance or resolution of Council. The powers of the City may also be exercised, except if a contrary intent or implication appears in this Charter or in the enactments of Council, in such manner as may now or may hereafter be provided by general law.</p>	<p>ARTICLE I. POWERS</p> <p>Section 2. Manner of Exercise.</p> <p>All powers shall be exercised in the manner prescribed by this Charter, or if not prescribed herein, then in such manner as shall be provided by ordinance or resolution of Council.</p>	<p>ARTICLE I. POWERS</p> <p>Section 2. Manner of Exercise.</p> <p>All powers shall be exercised in the manner prescribed by this Charter, or if not prescribed herein, then in such manner as shall be provided by ordinance or resolution of Council. The powers of the City may also be exercised, except if a contrary intent or implication appears in this Charter or in the enactments of Council, in such manner as may now or may hereafter be provided by general law.</p>	<p>The second sentence of Article I, Section 2 appears to be superfluous vis-à-vis the broad provision found within Article I, Section 1, which is not being changed and which reads: "The City shall have all power now or hereafter granted to municipalities by the Constitution and laws of the State."</p> <p>The ultimate aims of the charter are to protect Lakewood's ability to govern itself and to accurately set out the will of the people in self-governance. If this change were adopted, the city would clarify that henceforth it will govern itself in one of three ways (1) in a manner prescribed by the charter; (2) in a manner prescribed by ordinance or resolution of Council; or (3) under the authority now or hereafter granted to municipalities by the Constitution and laws of Ohio.</p>
65	Shall Article I, Section 2, Manner of Exercise, and Article I, Section 3, Interpretation, of the Second Amended Charter of the City of Lakewood be amended to clarify that the City may perform all such actions permitted by the Charter and the Constitution of the State of Ohio?	Art. I, Sec. 3	<p>ARTICLE I. POWERS</p> <p>Section 3. Interpretation.</p> <p>Words and phrases used in this Charter shall, unless the context clearly requires otherwise, be interpreted in the same manner as provided in the Ohio Revised Code relating to the interpretation of the statutes of the State. As used in this Charter, the term "general law" means and includes the Constitution and statutes of the State, together with the rules and regulations promulgated pursuant to the State Constitution and statutes.</p>	<p>ARTICLE I. POWERS</p> <p>Section 3. Interpretation.</p> <p>Words and phrases used in this Charter shall, unless the context clearly requires otherwise, be interpreted in the same manner as provided in the Ohio Revised Code relating to the interpretation of the statutes of the State. As used in this Charter, the term "general law" is that law which cannot be altered or required by charter.</p>	<p>ARTICLE I. POWERS</p> <p>Section 3. Interpretation.</p> <p>Words and phrases used in this Charter shall, unless the context clearly requires otherwise, be interpreted in the same manner as provided in the Ohio Revised Code relating to the interpretation of the statutes of the State. As used in this Charter, the term "general law" means and includes the Constitution and statutes of the State, together with the rules and regulations promulgated pursuant to the State Constitution and statutes is that law which cannot be altered or required by charter.</p>	<p>The term "general law" is found in 27 places in the charter and is used to permit actions in some circumstances and mandate them in others. This change would narrow the term's definition to be only those statewide laws that municipalities have no power to abrogate or restrict.</p> <p>Thus, where an action required under general law would conflict with the will of Lakewood's citizens — that is, where it conflicts with Lakewood's home rule authority — this change will further clarify that the city may restrict the city's obligations to carry out that action. Where the action required under general law would be consistent with the will of the people of Lakewood, this change would not impact the city's ability to continue to carry out that action.</p>
66	Shall Article II, Section 7, Mayor's Investigation, of the Second Amended Charter of the City of Lakewood be amended to eliminate the quasi-judicial authority granted to the Mayor to compel witnesses, compel production of evidence and make findings of contempt?	Art. II, Sec. 7	<p>ARTICLE II. THE EXECUTIVE</p> <p>Section 7. Mayor's Investigation.</p> <p>The Mayor may, without notice, cause the affairs of any department or the conduct of any officer or employee to be examined. The Mayor or any person or persons appointed by the Mayor to examine the affairs of any department or the conduct of any officer or employee, shall have the same power to compel the attendance of witnesses, and the production of books and papers and other evidence and to cause witnesses to be punished for contempt through appropriate judicial proceedings, as is conferred upon the Council or a committee thereof by this Charter or by law.</p>	<p>ARTICLE II. THE EXECUTIVE</p> <p>Section 7. Mayor's Investigation.</p> <p>The Mayor may, without notice, cause the affairs of any department or the conduct of any officer or employee to be examined. The Mayor or any person or persons appointed by the Mayor may examine the affairs of any department or the conduct of any officer or employee.</p>	<p>ARTICLE II. THE EXECUTIVE</p> <p>Section 7. Mayor's Investigation.</p> <p>The Mayor may, without notice, cause the affairs of any department or the conduct of any officer or employee to be examined. The Mayor or any person or persons appointed by the Mayor to may examine the affairs of any department or the conduct of any officer or employee, shall have the same power to compel the attendance of witnesses, and the production of books and papers and other evidence and to cause witnesses to be punished for contempt through appropriate judicial proceedings, as is conferred upon the Council or a committee thereof by this Charter or by law.</p>	<p>Article II, Section 7 appears to be unusual and strangely archaic. It specifically authorizes the mayor to conduct investigations of employees, which would not change, but permits him or her do so in a way that appears to give him or her quasi-judicial authority — that is, the ability to compel attendance, compel the production of documents and punish those who fail to appear with contempt orders — which authority ordinarily remains entirely within the province of the judiciary and not the executive.</p>

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67	<p>Shall Article II, Section 8, Acting Mayor, of the Second Amended Charter of the City of Lakewood be amended to grant City Council the authority to designate an elector to serve as Acting Mayor if the Mayor is temporarily absent, and to appoint an elector to serve as Interim Mayor if the Mayor's office becomes vacant by death, resignation or removal?</p>	Art. II, Sec. 8	<p>ARTICLE II. THE EXECUTIVE</p> <p>Section 8. Acting Mayor.</p> <p>(A) If the Mayor's office becomes vacant, the following individuals shall succeed to the office in the following order: Director of Law, Director of Finance, Director of Public Works, President of Council, and an elector of the City chosen by Council.</p> <p>(B) If a vacancy occurs more than two years and 105 days before the next regular election to be held for the office of Mayor, a successor shall hold office until the first day of January following the next regular municipal election, as provided for in this Charter. If the Mayor-elect dies, resigns, or removes his or her residence from the City, after election but before taking office, the vacancy shall be filled by appointment made by Council prior to the commencement of the term to be filled, and the person so appointed shall hold office until the commencement of the new term for the office of Mayor following the next regular municipal election. In either case, a Mayor shall be elected for the unexpired term at the first regular municipal election following such event.</p> <p>(C) If that vacancy occurs two years and one hundred five days (2 years and 105 days) or less before the next regular election to be held for the office of Mayor, the successor shall hold office for the balance of the term of the Mayor who is succeeded. (D) If the Mayor is temporarily absent from the City, or becomes temporarily disabled for any cause, the duties of the Mayor shall be performed during such absence or disability by one of the officials named, and in the order provided, in this Section, under the title of Acting Mayor.</p>	<p>ARTICLE II. THE EXECUTIVE</p> <p>Section 8. Acting and Interim Mayor.</p> <p>(A) Temporary Absence.</p> <p>When the Mayor is absent and inaccessible, or is unable for any cause to perform the duties of the office of Mayor, the person designated by ordinance or resolution of Council shall be Acting Mayor until the Mayor resumes the office.</p> <p>If the Mayor does not resume the office within sixty (60) days, Council may declare the office vacant and appoint an Interim Mayor as specified in Subsection (B) of this Section.</p> <p>(B) Vacancy in the Office of Mayor.</p> <p>In the case of the death, resignation or removal of the Mayor or the Mayor ceasing to reside within the City, Council shall appoint an Interim Mayor. Until the Council meets and appoints, by a majority vote of its members, a person qualified to be an elective officer of this City to serve as Interim Mayor, the Acting Mayor shall assume the duties of the office. The appointment of an Interim Mayor shall be made within (60) days of such vacancy.</p> <p>The term of any Interim Mayor filling such a vacancy shall expire at the end of the unexpired term of the former Mayor if that vacancy occurs two (2) years and one hundred five (105) days or less before the next regular election to be held for the office of Mayor, or otherwise until his or her successor is elected and qualified at the next regular municipal election. Any vacancy that results from a recall election shall be filled in the manner provided by Article XXII of this Charter.</p>	<p>ARTICLE II. THE EXECUTIVE</p> <p>Section 8. Acting and Interim Mayor.</p> <p>(A) If the Mayor's office becomes vacant, the following individuals shall succeed to the office in the following order: Director of Law, Director of Finance, Director of Public Works, President of Council, and an elector of the City chosen by Council. Temporary Absence.</p> <p><u>When the Mayor is absent and inaccessible, or is unable for any cause to perform the duties of the office of Mayor, the person designated by ordinance or resolution of Council shall be Acting Mayor until the Mayor resumes the office.</u></p> <p><u>If the Mayor does not resume the office within sixty (60) days, Council may declare the office vacant and appoint an Interim Mayor as specified in Subsection (B) of this Section.</u></p> <p>(B) If a vacancy occurs more than two years and 105 days before the next regular election to be held for the office of Mayor, a successor shall hold office until the first day of January following the next regular municipal election, as provided for in this Charter. If the Mayor-elect dies, resigns, or removes his or her residence from the City, after election but before taking office, the vacancy shall be filled by appointment made by Council prior to the commencement of the term to be filled, and the person so appointed shall hold office until the commencement of the new term for the office of Mayor following the next regular municipal election. In either case, a Mayor shall be elected for the unexpired term at the first regular municipal election following such event. Vacancy in the Office of Mayor.</p> <p><u>In the case of the death, resignation or removal of the Mayor or the Mayor ceasing to reside within the City, Council shall appoint an Interim Mayor. Until the Council meets and appoints, by a majority vote of its members, a person qualified to be an elective officer of this City to serve as Interim Mayor, the Acting Mayor shall assume the duties of the office. The appointment of an Interim Mayor shall be made within (60) days of such vacancy.</u></p> <p><u>The term of any Interim Mayor filling such a vacancy shall expire at the end of the unexpired term of the former Mayor if that vacancy occurs two (2) years and one hundred five (105) days or less before the next regular election to be held for the office of Mayor, or otherwise until his or her successor is elected and qualified at the next regular municipal election. Any vacancy that results from a recall election shall be filled in the manner provided by Article XXII of this Charter.</u></p> <p>(C) If that vacancy occurs two years and one hundred five days (2 years and 105 days) or less before the next regular election to be held for the office of Mayor, the successor shall hold office for the balance of the term of the Mayor who is succeeded.</p> <p>(D) If the Mayor is temporarily absent from the City, or becomes temporarily disabled for any cause, the duties of the Mayor shall be performed during such absence or disability by one of the officials named, and in the order provided, in this Section, under the title of Acting Mayor.</p>	<p>This change follows Council's debate on the issue of mayoral succession in 2010. The change proposed would create two levels of vacancy in office: one created by a temporary absence (filled by an acting mayor) and one created by a more permanent vacancy (filled by an interim mayor).</p> <p>It would permit Council to set out, in legislation designed to be either temporary or permanent, a line of succession for when the mayor is more than 60 days absent — for instance, Council could use the current line of succession (law director, then finance director, public works director, Council president, and elector chosen by Council) — while permitting other criteria to be established (for instance, the requirement that the person within the line of succession be a Lakewood voter, or else be skipped over).</p> <p>It would also permit Council to fill a more permanent vacancy, as when the officeholder leaves for other elective office or leaves the city, with an interim mayor. This change will give the remaining elected officials — City Council — flexibility in determining who will serve as mayor when the mayor is no longer in the picture.</p> <p>The provisions on the mid-term election of an appointed mayor do not change.</p>

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68	<p>Shall Article III, Section 2, Qualifications and Vacancies, of the Second Amended Charter of the City of Lakewood be amended to clarify that an election must be held to fill a vacant City Council position if the vacancy occurs more than two years and 105 days prior to the next election for that position?</p>	Art. III, Sec. 2	<p>ARTICLE III. THE COUNCIL</p> <p>Section 2. Qualifications and Vacancies.</p> <p>Each member of Council shall have been for at least one (1) year immediately prior to the date of taking office both a resident and qualified elector of the City. Each member of Council elected from a ward of the City shall be a resident of the ward from which such member was elected. All members of Council shall continue to be residents and qualified electors of the City and, if elected or appointed from a ward, shall be and continue to be a resident of that ward. Any member who ceases to possess such qualifications shall forthwith forfeit his or her office. Vacancies in Council shall be filled by the remaining members thereof, provided that in the event Council does not so appoint a successor within sixty (60) days of the occurrence of a vacancy, the Mayor may fill the vacancy. Such appointee shall hold office for the unexpired term of the member in whose office the vacancy occurs or until his or her successor is elected and qualified. A successor shall be elected at the next regular municipal election, provided that such vacancy occurs more than two years and one hundred five days (2 years and 105 days) prior to the date of such election.</p>	<p>ARTICLE III. THE COUNCIL</p> <p>Section 2. Qualifications and Vacancies.</p> <p>Each member of Council shall have been for at least one (1) year immediately prior to the date of taking office both a resident and qualified elector of the City. Each member of Council elected from a ward of the City shall be a resident of the ward from which such member was elected. 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Any vacancy that results from a recall election shall be filled in the manner provided by Article XXII of this Charter.</p>	<p>ARTICLE III. THE COUNCIL</p> <p>Section 2. Qualifications and Vacancies.</p> <p>Each member of Council shall have been for at least one (1) year immediately prior to the date of taking office both a resident and qualified elector of the City. Each member of Council elected from a ward of the City shall be a resident of the ward from which such member was elected. All members of Council shall continue to be residents and qualified electors of the City and, if elected or appointed from a ward, shall be and continue to be a resident of that ward. Any member who ceases to possess such qualifications shall forthwith forfeit his or her office. Vacancies in Council shall be filled by the remaining members thereof, provided that in the event Council does not so appoint a successor within sixty (60) days of the occurrence of a vacancy, the Mayor may fill the vacancy. Such appointee shall hold office for the unexpired term of the member in whose office the vacancy occurs or until his or her successor is elected and qualified. A successor shall be elected at the next regular municipal election, provided that such vacancy occurs more than two years and one hundred five days (2 years and 105 days) prior to the date of such election. <u>The term of any appointee filling such a vacancy shall expire at the end of the unexpired term of the former Councilmember if that vacancy occurs two (2) years and one hundred five (105) days or less before the next regular election to be held for the office of the former Councilmember, or otherwise until his or her successor is elected and qualified at the next regular municipal election. Any vacancy that results from a recall election shall be filled in the manner provided by Article XXII of this Charter.</u></p>	<p>The current version of the charter is confused by the phrase "such election" found in the final sentence. "Such election" could be interpreted to mean the next regular municipal election, which is a logical fallacy, as no municipal election may be held more than two years and 105 days from the date of the last municipal election. This merely fixes that error. The intent of the provision does not change.</p>
69	<p>Shall Article III, Section 5, Organization and Open Meetings, Article III, Section 8, Enactment of Ordinances and Resolutions, Article XVI, Section 9, Damages Assessed, and Article XVII, Section 3, Notice, of the Second Amended Charter of the City of Lakewood be amended to give the votes of appointed Councilmembers the same effect as those of elected Councilmembers?</p>	Art. III, Sec. 5	<p>ARTICLE III. THE COUNCIL</p> <p>Section 5. Organization and Open Meetings.</p> <p>The Council shall be the judge of the election and qualification of its members. A majority of all the acting members elected shall be a quorum to do business but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the acting members of Council shall be necessary to adopt any ordinance or resolution and on the passage thereof a vote shall be taken by yeas and nays and entered upon the journal. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings. All meetings of the Council or committees thereof shall be open to the public, except that Executive Sessions may be held in accordance with the Ohio Revised Code. Any citizen shall have access to the minutes and records thereof at all reasonable times.</p>	<p>ARTICLE III. THE COUNCIL</p> <p>Section 5. Organization and Open Meetings.</p> <p>The Council shall be the judge of the election and qualification of its members. A majority of members shall be a quorum to do business but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the acting members of Council shall be necessary to adopt any ordinance or resolution and on the passage thereof a vote shall be taken by yeas and nays and entered upon the journal. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings. All meetings of the Council or committees thereof shall be open to the public, except that Executive Sessions may be held in accordance with the Ohio Revised Code. Any citizen shall have access to the minutes and records thereof at all reasonable times.</p>	<p>ARTICLE III. THE COUNCIL</p> <p>Section 5. Organization and Open Meetings.</p> <p>The Council shall be the judge of the election and qualification of its members. A majority of all the acting members elected shall be a quorum to do business but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the acting members of Council shall be necessary to adopt any ordinance or resolution and on the passage thereof a vote shall be taken by yeas and nays and entered upon the journal. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings. All meetings of the Council or committees thereof shall be open to the public, except that Executive Sessions may be held in accordance with the Ohio Revised Code. Any citizen shall have access to the minutes and records thereof at all reasonable times.</p>	<p>This is the first instance in the charter that curtails the authority given to appointed (as opposed to elected) councilmembers. It would appear the intent of the drafters was not to limit appointed members' authority in this way.</p>

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69	<p>Shall Article III, Section 5, Organization and Open Meetings, Article III, Section 8, Enactment of Ordinances and Resolutions, Article XVI, Section 9, Damages Assessed, and Article XVII, Section 3, Notice, of the Second Amended Charter of the City of Lakewood be amended to give the votes of appointed Councilmembers the same effect as those of elected Councilmembers?</p>	Art. III, Sec. 8	<p>ARTICLE III. THE COUNCIL</p> <p>Section 8. Enactment of Ordinances and Resolutions.</p> <p>Each proposed ordinance or resolution shall be introduced in written or printed form and shall not contain more than one subject, which shall be clearly stated in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are appropriated. On the passage of each ordinance or resolution the vote shall be taken by yeas and nays and entered upon the Journal. No resolution of a permanent character or ordinance shall be passed until it has been read by title only, unless a majority shall request that it be read in its entirety, on three (3) separate days unless the requirement of reading on three (3) separate days has been dispensed with by a two-thirds (2/3) vote of all of the members elected to Council taken by yeas and nays and entered upon the Journal, but no ordinance or resolution shall under any circumstances be adopted or passed unless it has been read on three (3) separate days, (a) which changes the amount of salary or compensation for any elected officer of the City, (b) which amends any zoning ordinance, (c) which grants, renews or extends a franchise or other special privilege, (d) which regulates the rate to be charged by a public utility for its services. The enacting clause of all ordinances passed by the Council shall be "Be it ordained by the City of Lakewood." The enacting clause of all ordinances submitted by the initiative shall be "Be it ordained by the people of the City of Lakewood." No ordinance or resolution or section thereof shall be revised or amended unless the new ordinance or resolution contains the entire ordinance or resolution or section to be revised or amended, and the ordinance, resolution, section or sections so amended shall be repealed.</p>	<p>ARTICLE III. THE COUNCIL</p> <p>Section 8. Enactment of Ordinances and Resolutions.</p> <p>Each proposed ordinance or resolution shall be introduced in written or printed form and shall not contain more than one subject, which shall be clearly stated in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are appropriated. On the passage of each ordinance or resolution the vote shall be taken by yeas and nays and entered upon the Journal. 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No resolution of a permanent character or ordinance shall be passed until it has been read by title only, unless a majority shall request that it be read in its entirety, on three (3) separate days unless the requirement of reading on three (3) separate days has been dispensed with by a two-thirds (2/3) vote of all of the members elected to of Council taken by yeas and nays and entered upon the Journal, but no ordinance or resolution shall under any circumstances be adopted or passed unless it has been read on three (3) separate days, (a) which changes the amount of salary or compensation for any elected officer of the City, (b) which amends any zoning ordinance, (c) which grants, renews or extends a franchise or other special privilege, (d) which regulates the rate to be charged by a public utility for its services. The enacting clause of all ordinances passed by the Council shall be "Be it ordained by the City of Lakewood." The enacting clause of all ordinances submitted by the initiative shall be "Be it ordained by the people of the City of Lakewood." No ordinance or resolution or section thereof shall be revised or amended unless the new ordinance or resolution contains the entire ordinance or resolution or section to be revised or amended, and the ordinance, resolution, section or sections so amended shall be repealed.</p>	<p>This is the second instance in the charter that curtails the authority given to appointed (as opposed to elected) councilmembers. It would appear the intent of the drafters was not to limit appointed members' authority in this way.</p>
70	<p>Shall Article III, Section 12, Publication, of the Second Amended Charter of the City of Lakewood be amended to give the City more flexibility in determining how and where to post notices of official city actions?</p>	Art. III, Sec. 12	<p>ARTICLE III. THE COUNCIL</p> <p>Section 12. Publication.</p> <p>The Council may prescribe the manner of giving public notice of the enactment of any and all ordinances, resolutions or other acts, procedures, statements, including financial statements, or reports required by law to be published or given; provided, however, that such manner prescribed by Council shall include posting copies thereof, for a period of not less than fifteen (15) days, in not less than five (5) of the most public places in the City, which places shall be determined by Council.</p>	<p>ARTICLE III. THE COUNCIL</p> <p>Section 12. Publication.</p> <p>The Council may prescribe the manner of giving public notice of the enactment of any and all ordinances, resolutions or other acts, procedures, statements, including financial statements, or reports required by law to be published or given; provided, however, that such manner prescribed by Council shall require that notice be given for a period of not less than fifteen (15) days.</p>	<p>ARTICLE III. THE COUNCIL</p> <p>Section 12. Publication.</p> <p>The Council may prescribe the manner of giving public notice of the enactment of any and all ordinances, resolutions or other acts, procedures, statements, including financial statements, or reports required by law to be published or given; provided, however, that such manner prescribed by Council shall include posting copies thereof, require that notice be given for a period of not less than fifteen (15) days, in not less than five (5) of the most public places in the City, which places shall be determined by Council.</p>	<p>Currently, by ordinance, the five most public places in the city are outside the council office, a location outside the police station and at the three firehouses. That means the city publishes everything it must publish — council dockets, legislation passed, public notices and the like — in paper form and posts them at all five places.</p> <p>Administrators report that citizens no longer come to the police station or firehouses to review these documents, making this charter change appropriate. If passed, this change would permit Council to shape the city's publication provisions to include, for instance, postings on the city website — provided, however, there remains the expectation that the public be given enough notice to prepare for whatever change the municipality is proposing before the change is made.</p>
71	<p>Shall Article VII, Section 2, Duties Imposed by State Law, of the Second Amended Charter of the City of Lakewood be amended to clarify that the City may use its home rule authority to limit, as necessary, the du-ties imposed upon its Law Director?</p>	Art. VII, Sec. 2	<p>ARTICLE VII. DEPARTMENT OF LAW</p> <p>Section 2. Duties Imposed by State Law. & In addition to the duties imposed upon the Director of Law by this Charter or required of him or her by ordinance, the Director shall perform the duties that are imposed upon city directors of law by general law, beyond the competence of this Charter to alter or require.</p>	<p>ARTICLE VII. DEPARTMENT OF LAW</p> <p>Section 2. Duties Imposed by General Law & In addition to the duties imposed upon the Director of Law by this Charter or required of him or her by ordinance, the Director shall perform the duties that are imposed upon city directors of law by general law, except as may be limited by Council.</p>	<p>ARTICLE VII. DEPARTMENT OF LAW</p> <p>Section 2. Duties Imposed by State-General Law.</p> <p>In addition to the duties imposed upon the Director of Law by this Charter or required of him or her by ordinance, the Director shall perform the duties that are imposed upon city directors of law by general law, beyond the competence of this Charter to alter or require <u>except as may be limited by Council.</u></p>	<p>This charter change would further strengthen the city's home rule authority, making it explicitly clear that Council may restrict dues imposed on the law director by state law if Council deems it necessary to rein in those duties.</p>

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69	<p>Shall Article III, Section 5, Organization and Open Meetings, Article III, Section 8, Enactment of Ordinances and Resolutions, Article XVI, Section 9, Damages Assessed, and Article XVII, Section 3, Notice, of the Second Amended Charter of the City of Lakewood be amended to give the votes of appointed Councilmembers the same effect as those of elected Councilmembers?</p>	Art. XVI, Sec. 9	<p>ARTICLE XVI. IMPROVEMENTS AND ASSESSMENTS</p> <p>Section 9. Damages Assessed.</p> <p>At the time of the passage of the ordinance determining to proceed with the improvement as hereinbefore provided, Council shall determine whether the claims for damages so filed shall be judicially inquired into before commencing or after the completion of the proposed improvement. When claims for damages are filed within the time limited, and Council having passed an ordinance for making the improvement, determines that the damage shall be assessed before commencing it, the Director of Law shall make a written application for a jury, to a court of competent jurisdiction, or a judge in vacation. The court or judge shall direct the summoning of a jury in the manner provided for the appropriation of property and fix the time and place for the inquiry and the assessment of such damages, which inquiry and assessment shall be confined to such claim. The proceedings had relative to such inquiry and determining of such damages shall be in the manner provided by general laws for the appropriation of property to assess the amount of damage in each particular case. When Council determines to assess the damages after the completion of the improvement, for which a claim for damages has been filed as hereinbefore provided, the Director of Law shall, within ten (10) days after the completion of such improvement make written application as hereinbefore provided in the case of the ascertainment of damages before the improvement was made, and the same proceedings shall be had. No person who claims damages arising from any cause shall commence a suit therefor against the City until he or she shall have filed a claim for such damages with the Director of Finance and sixty (60) days shall have elapsed thereafter, to enable the City to take such steps as it may deem proper to settle or adjust the claim; but this provision shall not apply to an application for an injunction or other proceeding to which it may be necessary for such applicant to resort in case of urgent necessity. No public improvement, the cost or part of cost of which is to be specially assessed on the owners of property, shall be made without the concurrence of three-fourths of the members of Council elected thereto, unless the owners of a majority of the foot frontage to be assessed petition in writing therefor in which event Council, a majority of the members elected thereto concurring, may proceed with the improvement in the manner provided herein.</p>	<p>ARTICLE XVI. IMPROVEMENTS AND ASSESSMENTS</p> <p>Section 9. Damages Assessed.</p> <p>At the time of the passage of the ordinance determining to proceed with the improvement as hereinbefore provided, Council shall determine whether the claims for damages so filed shall be judicially inquired into before commencing or after the completion of the proposed improvement. When claims for damages are filed within the time limited, and Council having passed an ordinance for making the improvement, determines that the damage shall be assessed before commencing it, the Director of Law shall make a written application for a jury, to a court of competent jurisdiction, or a judge in vacation. The court or judge shall direct the summoning of a jury in the manner provided for the appropriation of property and fix the time and place for the inquiry and the assessment of such damages, which inquiry and assessment shall be confined to such claim. The proceedings had relative to such inquiry and determining of such damages shall be in the manner provided by general laws for the appropriation of property to assess the amount of damage in each particular case. 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No public improvement, the cost or part of cost of which is to be specially assessed on the owners of property, shall be made without the concurrence of three-fourths of the members of Council, unless the owners of a majority of the foot frontage to be assessed petition in writing therefor in which event Council, a majority of its members concurring, may proceed with the improvement in the manner provided herein.</p>	<p>ARTICLE XVI. IMPROVEMENTS AND ASSESSMENTS</p> <p>Section 9. Damages Assessed.</p> <p>At the time of the passage of the ordinance determining to proceed with the improvement as hereinbefore provided, Council shall determine whether the claims for damages so filed shall be judicially inquired into before commencing or after the completion of the proposed improvement. 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No public improvement, the cost or part of cost of which is to be specially assessed on the owners of property, shall be made without the concurrence of three-fourths of the members of Council elected thereto, unless the owners of a majority of the foot frontage to be assessed petition in writing therefor in which event Council, a majority of the its members elected thereto concurring, may proceed with the improvement in the manner provided herein.</p>	<p>This is the third instance in the charter that curtails the authority given to appointed (as opposed to elected) councilmembers. It would appear the intent of the drafters was not to limit appointed members' authority in this way.</p>

ISSUE NO.	BALLOT QUESTION	SECTION IMPLICATED	CURRENT CHARTER WORDING	PROPOSED CHARTER WORDING	BLACK-LINED VERSION SHOWING PROPOSED ADDITIONS AND DELETIONS	LAW DEPARTMENT ANALYSIS
72	<p>Shall Article XVI, Section 31, Levy for Reconstruction, Expansion, Operation and Maintenance of a Sewage Disposal Plant, of the Second Amended Charter of the City of Lakewood be amended to include the city sewer system among those municipal improvements that may be supported by the millage identified in that Section?</p>	Art. XVI, Sec. 31	<p>ARTICLE XVI. IMPROVEMENTS AND ASSESSMENTS</p> <p>Section 31. Levy for Reconstruction, Expansion, Operation and Maintenance of a Sewage Disposal Plant.</p> <p>Without prejudice to the use of other funds from taxes or other sources available for such purpose, Council may levy a tax upon all real and personal property listed for taxation upon the tax list and duplicate at a rate not to exceed two (2) mills outside of the levies provided in Sections 29 and 30 of this Article to provide a fund for the purpose of financing the reconstruction, expansion, operation and maintenance of a sewage disposal plant, and the capital needs of street infrastructure, municipal buildings, parks and recreation facilities.</p>	<p>ARTICLE XVI. IMPROVEMENTS AND ASSESSMENTS</p> <p>Section 31. Levy for Reconstruction, Expansion, Operation and Maintenance of a Sewage Disposal Plant.</p> <p>Without prejudice to the use of other funds from taxes or other sources available for such purpose, Council may levy a tax upon all real and personal property listed for taxation upon the tax list and duplicate at a rate not to exceed two (2) mills outside of the levies provided in Sections 29 and 30 of this Article to provide a fund for the purpose of financing the reconstruction, expansion, operation and maintenance of a sewage disposal plant and sewer system, and the capital needs of street infrastructure, municipal buildings, parks and recreation facilities.</p>	<p>ARTICLE XVI. IMPROVEMENTS AND ASSESSMENTS</p> <p>Section 31. Levy for Reconstruction, Expansion, Operation and Maintenance of a Sewage Disposal Plant.</p> <p>Without prejudice to the use of other funds from taxes or other sources available for such purpose, Council may levy a tax upon all real and personal property listed for taxation upon the tax list and duplicate at a rate not to exceed two (2) mills outside of the levies provided in Sections 29 and 30 of this Article to provide a fund for the purpose of financing the reconstruction, expansion, operation and maintenance of a sewage disposal plant <u>and sewer system</u>, and the capital needs of street infrastructure, municipal buildings, parks and recreation facilities.</p>	<p>If adopted, this change would permit the municipal improvements receiving a dedicated millage under Article XVI, Section 31 to include upgrades to the city sewer system, which has seen increased federal and state regulation of late. Currently only the following projects receive capital improvement dollars from this revenue stream: the wastewater treatment plant, streets, city buildings and parks.</p>
69	<p>Shall Article III, Section 5, Organization and Open Meetings, Article III, Section 8, Enactment of Ordinances and Resolutions, Article XVI, Section 9, Damages Assessed, and Article XVII, Section 3, Notice, of the Second Amended Charter of the City of Lakewood be amended to give the votes of appointed Councilmembers the same effect as those of elected Councilmembers?</p>	Art. XVII, Sec. 3	<p>ARTICLE XVII. APPROPRIATION OF PROPERTY</p> <p>Section 3. Notice.</p> <p>Immediately upon the adoption of such resolution, for which but one reading shall be necessary, the Clerk of Council shall cause written notice thereof to be given to the owner, person in possession thereof or having an interest of record in every piece of land sought to be appropriated, or to his or her authorized agent; and such notice shall be served by a person designated for the purpose and return made in the manner provided by law for the service and return of summons in civil actions. If such owner, person or agent cannot be found, notice shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation in the City, and Council may thereupon pass an ordinance by the vote of two-thirds of all members elected thereto, directing such appropriation to proceed.</p>	<p>ARTICLE XVII. APPROPRIATION OF PROPERTY</p> <p>Section 3. Notice.</p> <p>Immediately upon the adoption of such resolution, for which but one reading shall be necessary, the Clerk of Council shall cause written notice thereof to be given to the owner, person in possession thereof or having an interest of record in every piece of land sought to be appropriated, or to his or her authorized agent; and such notice shall be served by a person designated for the purpose and return made in the manner provided by law for the service and return of summons in civil actions. If such owner, person or agent cannot be found, notice shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation in the City, and Council may thereupon pass an ordinance by the vote of two-thirds of all members thereof, directing such appropriation to proceed.</p>	<p>ARTICLE XVII. APPROPRIATION OF PROPERTY</p> <p>Section 3. Notice.</p> <p>Immediately upon the adoption of such resolution, for which but one reading shall be necessary, the Clerk of Council shall cause written notice thereof to be given to the owner, person in possession thereof or having an interest of record in every piece of land sought to be appropriated, or to his or her authorized agent; and such notice shall be served by a person designated for the purpose and return made in the manner provided by law for the service and return of summons in civil actions. If such owner, person or agent cannot be found, notice shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation in the City, and Council may thereupon pass an ordinance by the vote of two-thirds of all members elected thereto <u>thereof</u>, directing such appropriation to proceed.</p>	<p>This is the fourth and final instance in the charter that curtails the authority given to appointed (as opposed to elected) councilmembers. It would appear the intent of the drafters was not to limit appointed members' authority in this way.</p>