

**Ordinance 16-03(Amended)**  
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**Passed: January 25, 2016**  
**Effective: January 25, 2016**

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**TO PROVIDE FOR THE SUBMISSION OF A PROPOSED CHARTER AMENDMENT TO THE ELECTORS OF THE CITY OF HILLIARD, OHIO PURSUANT TO SECTION 12.06 OF THE CITY'S CHARTER; AND DECLARING AN EMERGENCY.**

**WHEREAS**, Section 12.06 of the City Charter states: "Any provision of this Charter may be amended, as provided in Article XVIII, Section 9 of the Ohio Constitution, by submission of a proposed amendment to the voters of the City. Such amendment may be initiated either by a two-thirds (2/3) vote of the Council or by petition to the Council signed by ten percent (10%) of the electors"; and

**WHEREAS**, pursuant to Section 12.06 of the City Charter and Article XVIII, Section 9 of the Ohio Constitution, a proposed amendment to the Charter of the City of Hilliard, Ohio (the "Proposed Charter Amendment"), has been submitted by a petition of the electors (the "Petition"); and

**WHEREAS**, Article XVIII, Section 9 of the Ohio Constitution provides that "[a]mendments to any charter framed and adopted herein provided may be submitted to the electors of a municipality by a two-thirds vote of the legislative authority thereof, and upon petitions signed by ten per centum (10%) of the electors of the municipality setting forth any such proposed amendment, shall be submitted by such legislative authority; and

**WHEREAS**, Article XVIII, Section 14 of the Ohio Constitution provides that the "percentage of electors required to sign any petition provided for herein shall be based upon the total vote cast at the last preceding general municipal election"; and

**WHEREAS**, Article XVIII, Section 8 of the Ohio Constitution provides that "the ordinance providing for the submission of such question shall require that it be submitted to the electors at the next regular municipal election if one shall occur not less than sixty (60) nor more than one hundred and twenty (120) days after its passage; otherwise it shall provide for the submission of the question at a special election to be called and held within the time aforesaid"; and

**WHEREAS**, the Supreme Court of Ohio in *State ex rel. Comm. for the Referendum of Lorain Ordinance No. 77-01 v. Lorain Cty. Bd. of Elections*, 96 Ohio St.3d 308, 2002-Ohio-4194, ¶ 49 has directed that the "settled rule is that election laws are mandatory and require strict compliance and that substantial compliance is acceptable only when an election provision expressly states that it is"; and

**WHEREAS**, the Petition contains an amendment to the Charter of the City of Hilliard, Ohio that includes two sections to Article XII of the Charter, which shall be presented as one ballot issue before the voters; and

**WHEREAS**, the Petition declares that it is governed by Ohio Revised Code Section 731.31; and

**WHEREAS**, Ohio Revised Code Section 731.31 requires that “[a]ny initiative or referendum petition may be presented in separate parts, but each part of any initiative petition shall contain a full and correct copy of the title and text of the proposed ordinance or other measure. . . .”; and

**WHEREAS**, the Petition fails to include a title for the Proposed Charter Amendment; and

**WHEREAS**, the Petition contains an amendment to the Charter of the City of Hilliard, Ohio that includes two sections to Article XII of the Charter, but fails to indicate that both proposed sections would be added to the Charter as new law and that no portion of the Proposed Charter Amendment is existing law; and

**WHEREAS**, the Petition alters the Ohio Secretary of State’s prescribed Form No. 6-B *Petition for Submission of Proposed Amendment to Charter* by inserting the committee name “Keep Hilliard Beautiful Committee” where no space for specifying any committee name is provided, nor permitted on the prescribed form; and

**WHEREAS**, the Franklin County Board of Elections has advised that the total number of electors who participated in the 2013 general municipal election in Hilliard, Ohio was 2,509; and

**WHEREAS**, according to the Franklin County Board of Elections, ten per centum (10%) of the electors of the vote cast at the 2013 general municipal election in Hilliard, Ohio was 251 electors; and

**WHEREAS**, the Franklin County Board of Elections also advised on November 18, 2015, that it examined the signatures on the Petition and determined that it contains nine hundred forty six (946) valid signatures; and

**WHEREAS**, notwithstanding the irregularities with the Petition identified above, on January 19, 2016, the Supreme Court of Ohio, in *State ex rel. Carrier et al. v. Hilliard City Council*, Slip Opinion No. 2016-Ohio-155, found that City Council should “approve the necessary ordinance to place the initiative petition on the March 15, 2016 ballot”; and

**WHEREAS**, this Ordinance was placed on the agenda for the first meeting following the Supreme Court’s decision on January 25, 2016.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Hilliard, Ohio that:

**SECTION 1.** That, mindful of its legal duties and obligations under Sections 8 and 9 of Article XVIII of the Ohio Constitution, and in order to comply with the mandamus order of the Supreme Court of Ohio, in *State ex rel. Carrier et al. v. Hilliard City Council*, Slip Opinion No. 2016-Ohio-155, Council hereby determines to submit the Proposed Charter Amendment to the electors at a special election to be held on March 15, 2016.

**SECTION 2.** That, mindful of its legal duties and obligations under Sections 8 and 9 of Article XVIII of the Ohio Constitution, and in order to comply with the mandamus order of the Supreme Court of Ohio, in *State ex rel. Carrier et al. v. Hilliard City Council*, Slip Opinion No. 2016-Ohio-155, Council hereby authorizes and directs the Franklin County Board of Elections to place the Proposed Charter Amendment on the special election ballot as follows:

**PROPOSED CHARTER AMENDMENT BY INITIATIVE PETITION  
CITY OF HILLIARD  
FRANKLIN COUNTY, OHIO**

**A majority affirmative vote is necessary for passage.**

**TO ENACT SECTION 12.09 TO IMPOSE A MANDATORY SIXTY DAY WAITING PERIOD FOR ALL ZONING DECISIONS BY CITY COUNCIL THAT IMPACTS ANY PROPERTY LOCATED WITHIN THE CITY OF HILLIARD, OHIO, AND SECTION 12.10 TO PROHIBIT THE CITY FROM USING CERTAIN STATE-AUTHORIZED TAX INCREMENT FINANCING TO CONSTRUCT PUBLIC INFRASTRUCTURE IMPROVEMENTS PERMITTED BY THE OHIO REVISED CODE SUCH AS ROADS, WATER AND SEWER LINES, UTILITIES, MULTI-USE PATHS, ACQUISITION OF LAND FOR RECREATIONAL AND ECONOMIC DEVELOPMENT AND OTHER PURPOSES ASSOCIATED WITH CONSTRUCTION OF RETIREMENT COMMUNITIES, MIXED-USE RESIDENTIAL AND COMMERCIAL DEVELOPMENTS, MULTI-FAMILY, AND SINGLE FAMILY HOMES.**

**ARTICLE XII, SECTION 12.09 – REFERENDUM AND EFFECTIVE DATE ON ZONING ORDINANCES.**

Notwithstanding any other provision of this Charter, a referendum petition on any Zoning Ordinance may be filed within sixty (60) days after passage by the Council of the Zoning Ordinance, in order to afford an opportunity during that period for the filing of referendum petitions thereon. Notwithstanding any other provision in this Charter, a Zoning Ordinance shall not become effective prior to sixty (60) days following its passage by the Council, in order to afford an opportunity during that period for the filing of referendum petitions thereon. Notwithstanding any other provision of this Charter, no Zoning Ordinance shall be passed by Council on an emergency basis. “Zoning Ordinance” for purposes of this Section, means any ordinance or other measure passed by the Council that modifies the City’s zoning code or modifies the application of the City’s zoning code to any property in the City.

**ARTICLE XII, SECTION 12.10 – PROHIBITION OF CREATION OF TAX INCREMENT FINANCING INCENTIVE DISTRICTS FOR DWELLING UNIT IMPROVEMENTS AND PROHIBITION OF DWELLING UNIT IMPROVEMENTS TO BE A PUBLIC PURPOSE.**

Notwithstanding any other provision of this Charter or Ohio law, the Council shall not:

- (a) declare an improvement to any parcel in the City to be a “public purpose,” pursuant to section 5709.40(B) of the Revised Code, or any other provision of the Revised Code Chapter 5709, as now exists or hereafter amended, if the improvement includes the construction or creation of one or more Dwelling Units; or
- (b) create an “incentive district,” pursuant to section 5709.40(C) of the Revised Code, or any other provision of Revised Code Chapter 5709, as now exists or hereafter amended, unless the Council limits the improvements in the “incentive district” so as to exclude the construction or creation of one or more Dwelling Units in the “incentive district.”

“Dwelling Unit” for purposes of Section 12.10, means any permanent building or portion thereof which is designated or used exclusively for residential occupancy containing sleeping, cooking and sanitary facilities, including but not limited to, apartments, houses, town houses, row houses, retirement communities or condominiums.

**Shall the proposed amendment to the Charter for the City of Hilliard, Ohio be adopted?**

**YES**

**NO**

**SECTION 3.** That, mindful of its legal duties and obligations under Sections 8 and 9 of Article XVIII of the Ohio Constitution, and in order to comply with the mandamus order of the Supreme Court of Ohio, in *State ex rel. Carrier et al. v. Hilliard City Council*, Slip Opinion No. 2016-Ohio-155, Council hereby authorizes and directs the Clerk of Council to determine the potential cost and expense to the City to either: (a) mail a copy of the Proposed Charter Amendment, as set forth in Section 2 herein, to each City elector whose name appears upon the poll or registration books of the 2015 General Election; or (b) to give notice by appropriate newspaper advertising pursuant to state law and to utilize the most economic and efficient alternative to provide such notice not less than thirty (30) days prior to March 15, 2016.

**SECTION 4.** That, mindful of Section 3501.01(D) of the Ohio Revised Code stating that in any year in which a presidential primary election is held, no special election shall be held in May, but may be held on the second Tuesday after the first Monday in March, this Council determines that the proposed Charter Amendment be voted upon at the Primary Election to be held on March 15, 2016, at the regular places and times of voting in the City.

**SECTION 5.** That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of the Council and that all deliberations of the Council and any of the decision making bodies of the City of Hilliard which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the City of Hilliard, Franklin County, Ohio.

**SECTION 6.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the City and for the further reason that Council must act "forthwith" under Article XVIII, Section 8 of the Ohio Constitution. This Ordinance shall take effect and be in full force and effect immediately upon its passage.

**ATTEST:**



**Lynne M. Fasone**  
Clerk of Council

**SIGNED:**



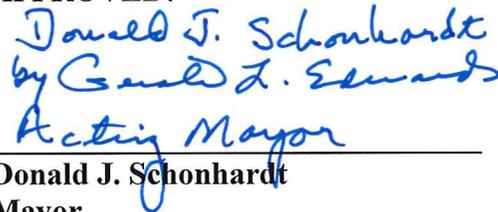
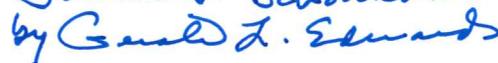
**Nathan D. Painter**  
President of Council

**APPROVED AS TO FORM:**



**Tracy L. Bradford**  
Director of Law

**APPROVED:**

  
by   
Acting Mayor

**Donald J. Schonhardt**  
Mayor

**Ordinance 16-03(Amended)**

VOTE:	Yea	Nay	Abstain
Baker		✓	
Carrier	✓		
Erb		✓	
Iosue	✓		
McGivern	✓		
Painter	✓		
Uttley	✓		
<b>TALLY</b>	<b>5</b>	<b>2</b>	<b>0</b>