

ORDINANCE NO. 2021- 41

AN ORDINANCE AMENDING CHAPTER 5 OF THE CITY CHARTER
RELATING TO INITIATIVE, REFERENDUM AND RECALL

The City Council of the City of Bloomington, Minnesota does hereby ordain:

Section 1. That Chapter 5 of the City Charter is amended by deleting those words struck through and contained in brackets [] and by adding those words that are underlined, to read as follows:

§ 5.01 POWERS RESERVED BY THE PEOPLE.

The people of the city can initiate and adopt any ordinance, except an ordinance appropriating money or authorizing the levy of taxes. When the council passes an ordinance, the people of the city can require referral to the [~~registered~~] voters registered in Bloomington for approval or disapproval, and they can recall elected public officials. These powers are called the initiative, the referendum, and the recall, respectively.

§ 5.02 EXPENDITURES BY PETITIONERS.

No member of any initiative, referendum, or recall committee, no person circulating a paper for signatures, and no signer of any such paper, or any other person, can accept or offer any pecuniary or other reward for service rendered in connection with the circulation. This does not prevent the committee from paying for legal services and from incurring necessary expenses, including, but not limited to, stationery, copying, printing, advertising, and notary fees. A violation of this section is a misdemeanor.

§ 5.03 ADDITIONAL REGULATIONS.

The council can provide by ordinance additional regulations consistent with this charter for the initiative, referendum, and recall.

§ 5.04 INITIATIVE OF MEASURES.

Any five [~~registered~~] voters registered in Bloomington can establish a committee for the initiation of any ordinance, except an ordinance appropriating money or authorizing the levy of taxes. Before circulating any petition, the committee must submit to the city attorney a copy of the proposed ordinance and the purpose of the ordinance. The city attorney must approve it or put it into a form which is legally sufficient for its intended purpose. If the city attorney fails to act within ten business days from the date the proposed ordinance is submitted to the city attorney, the proposed ordinance is considered legally sufficient and a verified copy must be filed with the city clerk, with the names and addresses of the members of the committee. A verified copy of the proposed ordinance must be attached to each of the signature papers described in Section 5.05, together with their names and addresses as sponsors of the ordinance.

§ 5.05 FORM OF INITIATIVE PETITION AND OF SIGNATURE PAPERS.

The petition for the adoption of any ordinance must consist of the ordinance and all of the signature papers and attached affidavits. The petition is not complete unless signed by a number of voters registered in Bloomington equal to at least ten percent of the total number of votes cast at the last preceding regular municipal election. All signatures need not be on one signature paper, but the person circulating every paper must make an affidavit that each signature on the

paper is the genuine signature of the person whose name it purports to be. Each signature paper must be in substantially the following form:

INITIATIVE PETITION

proposing an ordinance to _____ (stating the purpose of the ordinance), a copy of which ordinance is attached. This ordinance is sponsored by the following committee of ~~registered~~ voters registered in Bloomington:

Name	Address	Printed Name	Signature Date	Birth Year
1.				

(include four additional names.)

The undersigned ~~registered~~ voters registered in Bloomington, understanding the terms and the nature of the ordinance attached, petition the council for its adoption, or, in lieu thereof, for its submission to the ~~registered~~ voters registered in Bloomington for their approval.

Name	Address	Printed Name	Signature Date	Birth Year
1.				

(Include additional names using this format.)

The affidavit of the person circulating the petition must be included at the end of each list of signatures.

§ 5.06 FILING OF INITIATIVE PETITIONS AND ACTION THEREON.

All the signature papers must be filed together in the office of the city clerk at the same time. Within ~~five~~ ten business days after filing the petition, the city clerk must ascertain the number of ~~registered~~ voters registered in Bloomington whose signatures are included and whether this number is at least ten percent of the total number of ~~registered~~ voters registered in Bloomington who cast votes at the last regular municipal election. If the city clerk finds the petition insufficient or irregular, the city clerk must notify at least one ~~or more~~ of the committee members of the insufficiency or irregularity, certifying the reasons for the finding. The committee then has 30 calendar days to obtain and file additional signature papers and to correct the petition. If at the end of the 30 calendar-day period the petition is still insufficient or irregular, the clerk must file it in the clerk's office and notify each committee member. The final finding of insufficiency or irregularity of a petition does not prevent the filing of a new petition for the same purpose, nor does it prevent the council from referring the ordinance to the ~~registered~~ voters registered in Bloomington at the next regular or any special election at its option.

§ 5.07 ACTION OF COUNCIL ON INITIATIVE PETITION.

If the petition is sufficient, the city clerk must certify its sufficiency to the council at its next meeting, stating the number of petitioners and the percentage of the total number of voters they constitute. The council then must read the ordinance and refer it to an appropriate council committee, which can be a committee of the whole. The committee or council must provide for public hearings on the ordinance. After holding hearings, the council must finally act upon the ordinance not later than 65 calendar days after the date the city clerk submitted it to the council.

If the council fails to pass the proposed ordinance, or passes it in a form different from that in the petition and is unsatisfactory to the petitioners, the council must submit the proposed ordinance to a vote of the ~~[registered]~~ voters registered in Bloomington at the next regular municipal election; but if the number of signers of the petition is equal to at least 15 percent of the total number of voters voting at the last regular ~~[municipal]~~ election, the council must call a special election upon the proposed ordinance. The special election must be held at the next uniform election date established in Minnesota Statutes that is at least 75 calendar days from the date of final council action or, if there has been no action, at least 75 calendar days after the expiration of the 65 calendar days from the date of submission to the council ~~[not less than 30 nor more than 45 days from the date of final council action on the ordinance, or, if there has been no action, after the expiration of 65 days from the date of submission to the council; but if a regular election is to occur within three months, the council can submit the ordinance at that election]~~. If the council passes the proposed ordinance with amendments and at least 4/5 of the committee of petitioners do not express their ~~[dissatisfaction]~~ objection with the amended form by a signed and notarized statement filed with the city clerk within ten calendar days of its passage, then the ordinance need not be submitted to the ~~[registered]~~ voters registered in Bloomington.

§ 5.08 INITIATIVE BALLOTS.

Ballots used when voting upon any proposed ordinance must state the substance of the ordinance and give the voters the opportunity to vote either “yes” or “no” on the question of adoption. If a majority of the ~~[registered]~~ voters registered in Bloomington voting on the ordinance vote to adopt the proposed ordinance ~~[in favor of it]~~, it becomes an ordinance of the city after the election results have been canvassed and the ordinance has been published, unless a later effective date is stated in the ordinance. Any number of proposed ordinances can be voted upon at the same election but each must be presented separately. If two inconsistent ordinances are approved at one election, the one approved by the higher percentage of ~~[registered]~~ voters registered in Bloomington voting on the question will prevail to the extent of the inconsistency.

§ 5.09 INITIATION OF CHARTER AMENDMENTS.

Nothing in this charter affects the right of ~~[registered]~~ voters registered in Bloomington to propose amendments to this charter in accordance with the constitution and statutes of Minnesota.

§ 5.10 THE REFERENDUM.

Any five voters registered in Bloomington can establish a committee to request that an ordinance be repealed or submitted to a vote of registered voters. Within 15 calendar days after an ordinance takes effect, the committee’s request with the names and addresses of the committee members must be submitted to the city clerk. ~~[Within 15 days after an ordinance takes effect, a petition signed by registered voters of the city equal to 15 percent of the total vote at the last regular municipal election can be filed with the city clerk requesting that the ordinance be repealed or be submitted to a vote of registered voters. On that filing, the operation of the ordinance is suspended and the council must reconsider the ordinance at its next regular meeting. The council must either repeal it or reaffirm it as originally adopted. If the council reaffirms the ordinance, it must immediately order a special election or submit the ordinance at the next regular municipal election. The ordinance will remain suspended until the election decides its outcome. If a majority of registered voters vote against the ordinance, it will not be effective; but if a majority of registered voters vote for the ordinance, it will be effective immediately or on the date specified in the ordinance.]~~

§ 5.11 THE REFERENDUM PETITION.

The petition for the repeal or submission to a vote of an ordinance must consist of the ordinance and all of the signature papers and attached affidavits. The petition is not complete unless signed by a number of voters registered in Bloomington equal to at least 15 percent of the total number of votes cast at the last preceding regular municipal election. ~~[The requirements laid down in Section 5.04 and 5.05 on the formation of committees for the initiation of ordinances and the form of petitions and signature papers applies to the referendum.]~~ All signatures need not be on one signature paper, but the person circulating every paper must make an affidavit that each signature on the paper is the genuine signature of the person whose name it purports to be. A referendum petition must read as follows:

REFERENDUM PETITION

proposing the repeal of an ordinance to (stating the purpose of the ordinance), a copy of which is attached. The proposed repeal is sponsored by the following committee of ~~[registered]~~ voters registered in Bloomington:

Name	Address	Printed Name	Signature Date	Birth Year
1.				

(Include four additional names.)

The undersigned petitioners, understanding the nature of the ordinance attached and believing it to be detrimental to the welfare of the city, petition the council for its submission to a vote of ~~[registered]~~ voters registered in Bloomington for their approval or disapproval.

Name	Address	Printed Name	Signature Date	Birth Year
1.				

(Include additional names using this format.)

The affidavit of the person circulating the petition must be included at the end of each list of signatures.

5.12 FILING THE REFERENDUM PETITION.

The referendum committee must file the signature papers with the city clerk within 15 calendar days of its initial request. All the signature papers must be filed together in the office of the city clerk at the same time. Within ten business days after the petition is filed, the city clerk must determine if the petition is complete. If the city clerk finds the petition insufficient or irregular, the city clerk must notify at least one of the committee members of the insufficiency or irregularity, certifying the reasons for the finding. The referendum committee then has 15 calendar days to obtain and file additional signature papers and to correct the petition. If at the end of the 15 calendar-day period the petition is still insufficient or irregular, the city clerk must file it in the city clerk’s office and notify each committee member.

5.13 COUNCIL ACTION ON REFERENDUM PETITION.

Upon the city clerk’s finding the petition is complete, the ordinance is suspended and the council must reconsider the ordinance at the next regular meeting after published notice of the

reconsideration. The council must either repeal it or reaffirm it as originally adopted. If the council reaffirms the ordinance, it must order an election to be held at the next uniform election date established in Minnesota Statutes that is at least 75 calendar days from the date of council reaffirmation of the ordinance. The ordinance will remain suspended until the outcome of the election. If a majority of registered voters vote against the ordinance, it will not be effective; but if a majority of registered voters vote for the ordinance, it will be effective after the election results have been canvassed and the ordinance has been published, unless a later effective date is stated in the ordinance.

§ 5.14~~[12]~~ REFERENDUM BALLOTS.

Ballots used in any referendum election must conform to the rules in Section 5.08.

§ 5.15~~[13]~~ THE RECALL.

Five ~~[registered]~~ voters registered in Bloomington can establish a committee for the purpose of recalling an~~[y]~~ elected officer of the city whose term expires more than 300 calendar days before the filing of a recall petition. The committee must ~~[certify to]~~ file with the city clerk the name of the officer whose removal is sought, a statement of the grounds for removal in less than 250 words, ~~[and]~~ its intention to initiate the recall, and the names and addresses of the members of the committee. Within 5 business days of receiving the filing, the city clerk must determine whether the committee filing complies with this section and if so provide a certificate to at least one member of the committee. If the filing is noncompliant, then the city clerk shall notify at least one member of the committee within 5 business days. A copy of this certificate must be attached to each signature paper and no signature paper can be put into circulation previous to certification.

§ 5.16~~[14]~~ THE RECALL PETITION.

~~[The requirements laid down in Section 5.04 and 5.05 on the formation of committees for the initiation of ordinances and the form of petitions and signature papers applies to the recall.]~~ The petition for the recall of any official must include a certificate identical with that filed with the city clerk together with all the signature papers and affidavits attached. Signatures need not be on one signature paper, but the person circulating each paper must make an affidavit that each signature on the paper is the real signature of the person whose name it purports to be. Each signature paper must be in substantially the following form:

RECALL PETITION

proposing the recall of _____ from the office as _____ which recall is sought for the reasons set forth in the attached certificate. The following committee of ~~[registered]~~ voters registered in Bloomington sponsors this recall petition:

Name	Address	Printed Name	Signature Date	Birth Year
1.				

(Include four additional names.)

The undersigned ~~[registered]~~ voters registered in Bloomington, understanding the nature of the charges against the officer sought to be recalled, request the holding of a recall election.

Name Address Printed Name Signature Date Birth Year
1.

(Include additional names using this format.)

The affidavit of the person circulating the petition must be included at the end of each list of signatures.

§ 5.17[45] FILING OF RECALL PETITION.

Within 30 calendar days after ~~[the filing of the original certificate]~~ city clerk certification of the committee filing, the committee must file the completed petition in the office of the city clerk. The city clerk must examine the petition within ~~[five]~~ 10 business days to determine its sufficiency. ~~[If the clerk finds it irregular in any way, or finds that the number of signers is less than 25 percent of the total number of registered voters who voted at the last preceding regular municipal election, the clerk must notify one or more members of the committee.]~~ The required number of signatures for citywide municipal offices is 25 percent of the total number of registered voters who voted at the last preceding regular municipal election. The required number of signatures for a district municipal office is 25 percent of the total number of registered voters who voted in that district at the last preceding regular municipal election in which that office was on the ballot and those signatures must be of voters registered in that district. If the clerk finds the petition insufficient or irregular, or finds that the number of signers is less than the total required, then the clerk must notify at least one member of the committee. The committee has ten calendar days in which to file additional signature papers and to correct the petition in all other respects, but it cannot change the statement of the grounds upon which the recall is sought. If, at the end of that time, the city clerk finds the petition still insufficient or irregular, the clerk must notify all the members of the committee and file the petition in the clerk's office. No further action will be taken.

§ 5.18[46] RECALL ELECTION.

If the petition or amended petition is found sufficient, the city clerk must transmit it to the council ~~[without delay]~~ at the next regular meeting, and must also notify the person sought to be recalled in writing of the sufficiency of the petition and of the pending action. The council must provide by resolution at its next regular meeting for the holding of a special recall election to be held at the next uniform election date established in Minnesota Statutes that the city can comply with all applicable statutory requirements. Upon passage of the resolution by the City Council, the person sought to be recalled has 10 calendar days to submit to the city clerk a written statement of not more than 500 words answering the charge of the petitioner's ground for recall. [within 45 days after such meeting but not before the expiration of 30 days from the passage of the resolution. If a regular election is to occur within 60 days after the meeting, the council can provide for the holding of the recall election at that time.]

§ 5.19[47] PROCEDURE AT RECALL ELECTION.

The clerk must include in the published notice of election ~~[a]~~ the petitioner's statement of the grounds for recall as required by section 5.15 and ~~[, in not more than 500 words,]~~ the answer of the officer concerned. Candidates to succeed the officer to be recalled shall file for office in accordance with section 4.04 ~~[are nominated in the usual way]~~, and the election is conducted ~~[as far as possible,]~~ according to the regular procedure in municipal elections.

§ 5.20[18] FORM OF RECALL BALLOT.

Unless the officer whose removal is sought resigns within ten calendar days after the council receives the completed recall petition, the recall election will proceed and the form of the ballot must read: “Shall _____ be recalled?” (the name of the officer whose recall is sought being inserted in the blank). Registered voters will vote separately “Yes” or “No” upon this question. The ballot must also contain the names of the candidates to be voted upon to fill the vacancy, if the recall is successful, under the caption: “Candidates to fill the place of _____ if recalled.” The officer whose recall is sought will not be listed as a candidate on the ballot. If a majority of those voting on the question vote “yes” ~~in favor of the recall~~, the official is removed from office, and the candidate elected using the ranked choice voting method ~~[who receives the highest number of votes for the office]~~ is elected for the remainder of the unexpired term. The remainder of the unexpired term begins eight calendar days after the canvassing board certifies the results or, if a recount is conducted, then the next regular council meeting after the recount results have been certified. If the officer sought to be recalled resigns within ten calendar days after the council receives the completed recall petition, the form of ballot at the election is the same, or as nearly as is possible, as the form in use at the regular municipal election.

Passed and adopted this 29th day of November, 2021.

/s/ Tim Busse
Mayor

ATTEST:

/s/ Matt Brillhart
Secretary to the Council

APPROVED:

/s/ Melissa J. Manderschied
City Attorney