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AKRON CITY COUNCIL

September 7, 2022

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(Lombardo)

Offered by: INITIATIVE PETITION

ORDINANCE NO. 234 -2022 authorizing and directing the submission to the electors of the City of Akron a proposal to enact Section 68a of the Charter of the City of Akron to establish a Citizens' Police Oversight Board in Akron to be voted upon at the next regular citywide election on November 8, 2022; and declaring an emergency.

WHEREAS, a group of citizens has presented to Council a petition, in parts, to place a proposed Charter amendment on the ballot pursuant to the Ohio Constitution and the Charter of the City of Akron; and

WHEREAS, Section 136 of the Charter of the City of Akron contemplates multiple ways in which to amend the Charter, and in part provides that a petition signed by ten percent of the electors of the City for any proposed amendment of the Charter shall be prepared and filed with the Clerk of the Council in the manner and form prescribed in the Charter for the submissions of ordinances by initiative petition; and

WHEREAS, the Clerk of the Council has determined the aforementioned petition sufficient and the requisite number of signatures has been verified by the Summit County Board of Elections; and

WHEREAS, with respect to initiative petitions, Section 22 of the Charter of the City of Akron provides that, if the Clerk of the Council determines that the petition is sufficient, the Clerk shall submit the same with a certificate to the Council at the next meeting of Council, and then the Council shall thereupon order that the proposed initiative be submitted to the qualified electors of the City for their approval or rejection at the next regular municipal election; and

WHEREAS, the Ohio Supreme Court has held that Sections 8 and 9 of Article XVIII of the Ohio Constitution impose a mandatory constitutional duty upon city councils to submit charter amendment initiatives "forthwith," which means "immediately."

NOW, THEREFORE, BE IT ENACTED by the People of the City of Akron:

Section 1. That Council hereby orders and directs the submission of the Charter amendment proposed by the above-referenced petition to the qualified electors of the City of Akron at the next regular municipal election to be held at the usual places of voting in the City of Akron on November 8, 2022, between the hours of 6:30 a.m. and 7:30 p.m. Eastern Standard Time of said day.

Section 2. That the ballots for said election shall, at the top thereof, be entitled "City of Akron Proposed Charter Amendment" and the question to be separately submitted on said ballots shall be as follows:

Charter Issue No. _____ - Shall the proposed amendments to the Charter of the City of Akron enacting Section 68a thereof be adopted so that, as enacted, that section shall provide as follows:

Section 68a – Police-Community Relations

(A) The Division of Police shall engage in practices that foster strong community relations with the people of the City of Akron. The Mayor shall prescribe rules and regulations, to be implemented by the Chief of the Division of Police, regarding appropriate policies and programs for the Division of Police to improve community relations by providing ongoing officer training that promotes police de-escalation techniques, race and implicit bias training, non-lethal force options, community policing skills, mediation and conflict management, and mental health crisis intervention techniques. The Division of Police, in service to the people of the City of Akron, shall strive to continuously improve and strengthen ties to the community at-large and all residents. Community relation efforts shall routinely be re-evaluated by the Mayor, Council, and the Chief of the Division of Police, in consultation with the Citizens' Police Oversight Board or its successor and include using new research and best practices on community and police relations. Council shall enact ordinances and resolutions in furtherance of these policies and programs.

(B) There shall be a Citizens' Police Oversight Board which shall consist of nine members. There shall be an open application process for all appointments to the Board. Three members shall be appointed by the Mayor with the consent of Council, and six members shall be appointed by Council by a two-thirds majority of the council members. Members shall be representative of the diverse communities within the City of Akron on the basis of race, sex, sexual orientation, gender identity or expression, religion, disability, ethnicity, age, socioeconomic status, and geographic region. Each member shall be a resident of the City of Akron and no more than two members may reside in the same ward. In making appointments to the Board, the Mayor and Council shall endeavor to include the following: an attorney with criminal justice and/or civil rights experience; a member between the ages of 18 and 35; a member from the faith-based community; a member with a professional background in mental health services; a member affiliated with an organization that represents economically disadvantaged and underserved citizens of Akron; and a member with a professional background in law enforcement. No member shall be a current employee of the City of Akron. The initial members of the Board shall be appointed within 90 days of the effective date of this section. The term of office for members of the Board shall be four years, except that three of the initial appointments shall be for two-year terms. No member may serve more than eight consecutive years on the Board. The Mayor may remove any member of the Board, upon notice and hearing, with the consent of Council, for malfeasance, misfeasance, nonfeasance, incompetence, incapacity, or neglect of duty.

(C) There shall be an Office of the Independent Police Auditor ("OIPA"), consisting of a full-time Independent Police Auditor, a full-time Deputy Independent Police Auditor, at least one other full-time staff member focused on administrative support and community engagement; and such other personnel as needed. The personnel of the OIPA shall be appointed by a two-thirds vote of the Board. The Independent Police Auditor shall be directed solely by the Board, and the Independent Police Auditor shall be the chief executive of the OIPA and shall solely direct all other employees of the OIPA. Upon the effective date of this section, the individual serving as the Independent Police Auditor for the City of Akron, Ohio shall become the Independent Police Auditor under this section for

a period of one (1) year, after which they may be re-appointed by the Board. The Board may terminate the employment of any personnel within the OIPA, upon notice and hearing, for malfeasance, misfeasance, nonfeasance, incompetence, incapacity, or neglect of duty.

(D) The OIPA and the Board shall provide external and independent oversight and review of policing practices within the City of Akron, Ohio. Such oversight shall include but not be limited to the receipt of complaints from the public alleging misconduct by members of the Division of Police, the investigation of alleged misconduct by members of the Division of Police, and the reporting of findings and recommendations concerning alleged misconduct by members of the Division of Police to the Mayor and Council. Upon a vote of two-thirds of the Board, the Board and OIPA may on its own initiative conduct investigations of the operations and policies of the Division of Police and of police officer conduct and report its findings and make recommendations to the Mayor and Council. The Division of Police and any other city office or department shall make available its records relating to any incident or investigation that the OIPA is permitted to monitor or audit under this section, subject to the restrictions of applicable federal and state law. The OIPA and the Board shall have the authority to compel the attendance and testimony of witnesses and the production of documents, photographs, audio recordings, electronic files, and other tangible evidence relating to any incident or investigation that the OIPA is permitted to monitor or audit under this section, subject to the restrictions of applicable federal and state law.

(E) Subject to the approval of Council, the Board shall adopt rules providing for the procedures and operations of the Board and the OIPA, including for the scheduling of regular Board meetings and for the election of a Board chair and vice chair. Proceedings of the Board and records of the Board and the OIPA shall be subject to Ohio's public meetings and public records laws, but the Board may by rule provide for greater public access than provided under state law.

(F) The Board and the OIPA shall propose a budget on an annual basis, and funding for the Board and the OIPA shall be appropriated on an annual basis in an amount sufficient to pay for the personnel services and other expenses necessary for the effective operations of the Board and the OIPA. Annual appropriations made for the Board and the OIPA shall not be reduced unless financial circumstances dictate an overall reduction to the City's budget, in the event of which, the annual appropriation made for the Board and the OIPA shall not be reduced in an amount disproportionate to the overall decrease in city expenditures. The Mayor shall set forth the basis for any reduction in writing to the Council and the Board at the time of submission to the Council of any reduction in appropriations as measured against the appropriations made for the previous fiscal year. Within 30 days of the adoption of this section, Council shall make an initial appropriation of \$100,000 for the Board to begin operations and thereafter make a supplemental appropriation for the first fiscal year within 60 days after being requested by the Board.

(G) The Board shall annually issue a report to the community of its activities and recommendations made to the Mayor and Council.

(H) Council shall enact any necessary additional legislation implementing this Section no later than June 30, 2023.

(I) This Section shall be interpreted and applied in a manner that is consistent with the terms of any relevant collective bargaining agreement.

(J) Any provision of this Section held invalid by a court shall be severable from the remaining portions of this Section.

Section 3. That it is the desire and request of this Council that the ballot for the Charter amendment question referred to in Section 2 of this ordinance shall be substantially in the following form:

PROPOSED CHARTER AMENDMENT

CITY OF AKRON

A Majority Affirmative Vote Is
Necessary For Passage

Shall the Charter of the City of Akron be amended by enacting Section 68a in order to establish a citizens' police oversight board and the office of the independent police auditor consisting of a full-time Independent Police Auditor, a full-time Deputy Independent Police Auditor, and at least one other full-time staff member, with funding appropriated on an annual basis in an amount sufficient to pay for the personnel services and other expenses necessary for the effective operation of both the oversight board and the independent police auditor, including an initial appropriation of \$100,000.00?

YES

NO

Section 4. That, upon the passage of this ordinance, the Clerk of Council is hereby directed to immediately transmit a duly certified copy of this ordinance to the Board of Elections of Summit County, Ohio.

Section 5. That the Clerk of Council is hereby directed and authorized to have the full text of the above proposed Charter amendment published once a week for not less than two (2) consecutive weeks in a newspaper of general circulation in the City of Akron with the first publication being at least fifteen (15) days prior to the election at which this amendment is to be submitted to the electors of the City of Akron, or in such manner as permitted by law.

Section 6. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare for the reason that its immediate effectiveness is necessary to place this proposed amendment to the Charter on the ballot at the next regularly scheduled municipal election on November 8, 2022, as mandated by the Ohio Constitution and the Charter of the City of Akron.

Regardless of passage as an emergency measure, this ordinance shall take effect and be in force immediately upon its passage by Council pursuant to Section 25(d) of the Charter.

Passed September 8, 2022

Dana R. Biviano
Clerk of Council

Ray Lammell
President of Council

Approved 9/8, 2022

Dan Ahn
MAYOR