

Failed 7-14-2020

QA

ORDINANCE NO.: 2020 – 56

INTRODUCED BY: MAYOR AND COUNCIL AS A WHOLE

AN ORDINANCE TO SUBMIT TO THE ELECTORS OF THE VILLAGE OF OAKWOOD THE QUESTION OF AMENDING SECTION 10.02 OF THE VILLAGE CHARTER AS TO ELIMINATE REDUNDANCIES AND ATTENDANT EXPENSE AND DELAYS CONTAINED IN THE PROCESS FOR PASSING ZONING ISSUES, AND DELCARING AN EMERGENCY.

WHEREAS, the Village of Oakwood Charter Commission, pursuant to the authority vested in it by Section 12.02 of the Oakwood Village Charter, has considered the amendment of Section 10.02 of the said Charter concerning procedures for the passage of zoning issues; and

WHEREAS, the Oakwood Charter Review Commission has declined to recommend said revision of Section 10.02 of the Charter failing to pass Charter Review Commission Resolution No. CRC 2020 – 09, and

WHEREAS, Section 12.01 of the Village Charter and the Ohio Constitution authorize Council to submit to the electors any proposed alterations, revisions or amendments to the Charter at the next regular election or at a special election on a date designated by Council after submission by Council of the proposed Charter Amendment;

NOW, THEREFORE, Be It Ordained by the Council of the Village of Oakwood, County of Cuyahoga, State of Ohio, that:

Section 1: There shall be submitted to the electors of the Village of Oakwood, Ohio, on the date of the regular election to be held on the 3rd day of November, 2020, the question of an amendment to the Charter of the Village of Oakwood and to provide therefor by amending and supplementing of the Village Charter by the amendment of Section 10.02, which currently reads as follows:

Sec. 10.02. FUNCTIONS OF PLANNING COMMISSION.

A. GENERAL FUNCTIONS.

It shall be the function and duty of the Planning Commission to make and adopt a general plan for the development and improvement of the Municipality. No general plan or portions thereof or amendments thereto shall be adopted by the Commission until after a public hearing thereon. So much of the general plan as may be established, or from time to time amended, by ordinance of Council shall constitute the official plan and map of the Municipality.

B. POWERS AND DUTIES.

The Planning Commission shall have the power or recommendation concerning the plan, design, location, removal, relocation and alteration of any building or structure

belonging to the Municipality or located in or on public streets or public property; the location, widening, extension and vacation of streets, parks, parkways, playgrounds, recreation areas and other public places; the approval of plats for the subdivision of lands, the zoning of the Municipality for the purpose of regulating the location of trades, industries, multiple dwelling districts or other uses of the property, the height and design of buildings, the percentage of area of the lot which may be occupied by building, the area of lot per family of occupation, the provision of yard spaces, the fixing of building lines and the preparation of plans or maps for the future physical development and harmonious improvement of the Municipality; and such other powers as are now or hereafter may be conferred by ordinance of the Council.

C. MANDATORY REFERRAL.

No public building, street, boulevard, parkway, park, public land, playground, dock, wharf, aviation field, utility, bridge, tunnel, or part thereof shall be constructed or authorized to be constructed in the Municipality, or purchased, or sold, or shall any street, avenue, parkway, boulevard or alley be opened for any purpose whatsoever, or shall any street, avenue, parkway, boulevard or alley be widened, narrowed, relocated, vacated, or its use changed or any ordinance referring to zoning or other regulations controlling the use or development of lands be passed, or become effective or binding upon the Municipality unless and until Council shall have first submitted the same to the Planning Commission for report and recommendation. Any matter so referred to the Planning Commission shall first be considered by the Planning Commission at a public hearing, to be held not earlier than fifteen (15) days after publication of notice thereof in a newspaper of general circulation in the Municipality, and thereafter shall be acted upon by it within sixty (60) days from the date of referral unless a longer time be allowed by Council. If the Planning Commission shall fail to act within the time allotted, Council may act thereon as if it has received a recommendation of approval in such matter. Any provision of any ordinance, resolution or order disapproved by formal action of the Planning Commission shall require a concurrence of three-fourths (3/4) of the members of Council for adoption or authorization.

When the Planning Commission shall make a recommendation to the Council for a change in, or addition to any zoning ordinance or building code, Council shall study each recommendation and take action within sixty (60) days by placing on its first reading an ordinance properly covering such recommendation. Final action by Council on such ordinance shall be taken by placing said ordinance on its third and final reading no later than sixty (60) days after its first reading.

Should be amended to read as follows:

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Section 2: The ballot of said election shall at the top thereof be entitled:

"Proposed Charter Amendment regarding reducing the redundancy involved in passing zoning issues"

and the question to be submitted on said ballot shall be in words as follows:

" Shall Section 10.02 of the Oakwood Village Charter, which presently reads as follows:

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YES - For Passage

NO - Against Passage"

Section 3: A "redline" version of the proposed revision is attached hereto and incorporated herein as Exhibit 1.

Section 4: The Clerk of Council is hereby authorized and directed to forward a certified copy of this Ordinance to the Board of Elections of Cuyahoga County and cause notice of the foregoing proposed Charter amendment to be given in accordance with general law.

Section 5: To pay the cost of publishing said notice, there be and is hereby appropriated from the General Fund such sums of money as may be required.

Section 6: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the citizens of the Village of Oakwood for the reason that it is necessary to submit the proposed Charter Amendment to the Board of Elections for placement upon the ballot for the regular election to be held on November 3, 2020 to eliminate redundancies and attendant time and expense in the zoning process for which time is of the essence and, therefore, this Ordinance shall take effect and be in force immediately upon its passage and approval by the Mayor.

PASSED: _____

Johnnie A. Warren, President of Council

Debra L. Hladky, Clerk of Council

Presented to the
Mayor: _____

Approved: _____

Mayor, Gary V. Gottschalk

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that the foregoing Ordinance No. 2019 - _____ was duly and regularly passed by this Council at the meeting held on the _____ day of _____ 2019.

Debra L. Hladky, Clerk of Council

POSTING CERTIFICATE

I, Debra L. Hladky, Clerk of Council of the Village of Oakwood, County of Cuyahoga and State of Ohio, do hereby certify that Ordinance No. 2019 - was duly posted on the _____ day _____ of _____, 2019 and will remain posted for a period of fifteen (15) days thereafter in the Council Chambers and in not less than five (5) of the most public places in the municipality as determined by the Council of the said Village.

Debra L. Hladky, Clerk of Council

DATED: _____

Memo

To: Council Members
CC: Mayor Gottschalk; Debra Hladky
From: James A. Climer, Law Director
Date: July 14, 2020
Re: Village of Oakwood Re: General Matters 2020, OAKW/200002
Topic: Ordinance 2020-56, Recommended Revisions to Charter Section 10.02 – Supplemental Memo

Dear Council Members:

Please let this serve as a supplement to my memo to you on this subject dated June 29, 2020 (copy attached). On July 13, I had a conversation with Mr. Warren in which he requested that “redline” copies of the suggested revisions to Charter Section 10.02 contained in Amended Ordinance 2020-56 be provided to members of Council. This was somewhat confusing to me as a “redline” version was provided with the ordinance. However, upon review of the ordinance as it appears on the agenda, some of the redlined changes did not show up for unknown reasons.

To clarify the matter, you will find attached three exhibits in PDF, two of which show the suggested changes to the Charter Section in “redline”:

Exhibit 1 – Charter Section 10.02 as it presently reads.

Exhibit 2 – Suggested changes to Charter Section 10.02 as rejected by the Charter Review Commission due to the failure of a motion to approve at its May 20 meeting and defeated by Council at its June 9 meeting.

Exhibit 3 – Suggested changes to Charter Section 10.02 drafted and resubmitted in response to Ms. Hardin’s comments at the June 9 Council meeting to the effect that Council should perhaps reconsider the shortened deadlines in the suggested revisions. Exhibit 3 deletes the 15-day waiting period after publication of notice for the Planning Commission hearing and requires the Planning Commission to act within 30 rather than 60 days of the referral. The publication and 15-day waiting period can be restored without creating any conflicts in the Charter if Council so chooses but this will add time to the process. As explained in my June 29 memo, it is not possible to shorten the time for Council action from 60 to 30 days. Finally, the suggested revision adds a sentence to explicitly permit zoning issues to be passed by Council upon suspension of the rules upon a $\frac{3}{4}$ affirmative vote so as to match a recommended revision to Charter Section 7.13 (adopted on June 9 Ordinance 2020-48) and avoid conflicts in the Charter. If this provision is not implemented

in Amended Ordinance 2020-56, then Ordinance 2020-48 should be repealed and the revisions to Charter Section 7.13 should not be submitted to the Board of Elections.

Thank you for your consideration in this matter.

Memo

To: Council Members
From: James A. Climer, Law Director
Date: June 29, 2020
Re: Village of Oakwood Re: General Matters 2020, OAKW/200002
Topic: Ordinance 2020-56, Recommended Revisions to Charter Section 10.02

Dear Council Members:

Pursuant to our discussions at the Council meeting of June 23, 2020, I have looked into the issue of how two different versions of the recommended revisions to Oakwood Charter Section 10.02 appeared on the June 23 Agenda (Ordinance 2020-56) and the work session agenda (2020-WS-01). In short, the version appearing on the work session agenda appears to contain the same heading as proposed legislation I sent to Ms. Hladky by email on June 17. However, I have been unable to determine the source of the version which appears on the 6/23 Council Agenda.

That said, following the defeat of the recommended revisions to Charter Section 10.02 at the June 9, 2020 Council meeting (Ordinance 2020-53), I understood Ms. Harden and, possibly, other members of Council wanted to reconsider the matter so as to potentially adopt the deadlines shortened from 60 days to 30 days. In addition, it would be my recommendation to also explicitly permit zoning issues to be passed by Council by suspension of the rules upon a $\frac{3}{4}$ affirmative vote so as to match a recommended revision to Charter Section 7.13 adopted on June 9 (CO Ordinance 2020-48) and avoid conflicts in the charter.

In further reviewing the matter, it became apparent that shortening the deadline for Planning Commission action to 30 days as well as permitting Council to dispense free readings by a $\frac{3}{4}$ vote would be possible. However, it is apparent that it will not be possible to shorten the deadline for Council to place the matter on for first reading from 60 to 30 days. This is because recommended revisions to Charter Section 10.04 contained in Ordinance 2020-54 were defeated at the June 9 Council meeting. The present version of Charter Section 10.04 requires Council to give 30 day's notice of its consideration of a Planning Commission recommendation on the zoning change then hold a public hearing before placing the matter on its first reading. This would require the publication of the notice on the same day as the Planning Commission recommendations received and any delay caused by work absences, etc. would render the deadline impossible to meet.

You will find attached the present recommendation for revisions to Charter Section 10.02. Should anyone have any questions, please feel free to contact me.

Attachment

Ex 1

EXHIBIT 1 – CHARTER SECTION 10.02 AS PRESENTLY WORDED

Sec. 10.02. FUNCTIONS OF PLANNING COMMISSION.

A. GENERAL FUNCTIONS.

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EX 1

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(Amended November 2, 2010)

**EXHIBIT 2 – AS PROPOSED TO AND REJECTED BY CHARTER REVIEW
COMMISSION**

Sec. 10.02. FUNCTIONS OF PLANNING COMMISSION.

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EXHIBIT 3 – AS PROPOSED IN AMENDED ORDINANCE 2020-56

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