

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND RESTATE REFERENDUM ORDINANCE 5862 THAT PROPOSED AN AMENDMENT TO THE CHARTER OF THE CITY OF MEMPHIS TO MODIFY THE EXISTING REQUIREMENTS FOR QUALIFICATIONS FOR MAYOR AND THE CITY COUNCIL MEMBERS OF THE CITY OF MEMPHIS

WHEREAS, the qualified voters of the City approved Referendum Ordinance No. 1852 on November 6, 1966, changing the form of government from a Mayor Commission form of government to a Mayor-Council form of government in order to implement Home Rule as permitted by Article XI, Section 9 of the Tennessee Constitution (“Home Rule Charter”); and

WHEREAS, the Home Rule Charter expressly provided in Section 1 thereof specific qualifications for members of the City Council and expressly provided in Section 4 thereof that “[t]hat the qualifications of the Mayor shall be the same as those required herein for members of the Council...”; and

WHEREAS, the Home Rule Charter did not provide any other separate and independent qualifications for the Office of Mayor in addition to those provided in Sections 1 and 4 thereof; and

WHEREAS, the Home Rule Charter expressly repealed all laws in conflict with its provisions; and

WHEREAS, the qualified voters of the City approved an amendment to the City’s Home Rule Charter by Referendum Ordinance No. 4346 on November 5, 1996, in which the qualifications of members of the Council in Section 1 of the Home Rule Charter were expressly repealed and replaced with the requirement “[t]hat each Council Member shall be a resident, as defined by State election laws, of the City and of the District from which he or she is elected.”; and

WHEREAS, Referendum Ordinance No. 4346 did not amend or repeal the qualifications for the Mayor as set forth in Section 4 of the City’s Home Rule Charter; and

WHEREAS, the City’s Home Rule Charter does not presently provide qualifications for the Mayor that are separate and independent from the qualifications for Council Members; and

WHEREAS, it is desired by the Memphis City Council that the City of Memphis Charter be amended by ordinance as provided by Article XI, Section 9 of the Constitution of the State of Tennessee (Home Rule Amendment) for the purpose of amending the existing qualifications for the office of Mayor and replacing the existing qualifications with the requirement that no person shall be elected Mayor unless he or she the person shall have been a bona fide resident of the City of Memphis for at least one (1) year preceding the date of the municipal election for Mayor; and

WHEREAS, Referendum Ordinance No. 5862 was approved by the Memphis City Council on July 11, 2023, to be published and submitted by the City of Memphis to its qualified voters during the general election on August 1, 2024; and

WHEREAS, it is the intent of the Council to amend and restate Referendum Ordinance No. 5862 to be published and submitted by the City of Memphis to its qualified voters during the state general election on November 5, 2024.

Section 1. Proposed Amendment Authorized.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, TENNESSEE, That pursuant to Article XI, Section 9 of the Constitution of the State of Tennessee, as amended, a proposal for amending the Charter of the City, as set forth in this ordinance, shall be published and submitted by the City of Memphis to its qualified voters at the first general state election held in the City of Memphis at least sixty (60) days after such publication.

Section 2. Publication of Home Rule Amendment as required by Tennessee Constitution.

BE IT FURTHER ORDAINED, That the Comptroller is hereby directed to cause this Ordinance, as finally adopted, to be published pursuant to provisions of Article XI, Section 9 of the Constitution of the State of Tennessee immediately after adoption by the City Council.

Section 3. Certification and Delivery to Election Commission.

BE IT FURTHER ORDAINED, That upon the adoption of this Ordinance becoming effective as required by law, the Comptroller of the City of Memphis shall immediately certify adoption of this Ordinance and deliver a certified copy thereof to the Shelby County Election Commission in charge of holding the General State Election on November 5, 2024, and shall request that the proposed amendment to the Home Rule Charter of the City of Memphis, in the preferred form set forth in this Ordinance, be placed on the ballot.

Section 4. Proposal and preference.

BE IT FURTHER ORDAINED, That the City Council does hereby adopt the suggested proposal and form of question to be placed on the ballot for a referendum vote on a Home Rule Amendment to the Charter of the City of Memphis in a General State Election to be held on the 5th day of November, 2024, which question shall read as follows:

“Shall the Charter of the City of Memphis be amended to read:

- A. ‘No person shall be eligible for the office of Mayor who is not at least eighteen (18) years of age, and who has not been a bona fide resident of the City of Memphis for at least two (2) years preceding the date of the municipal election for Mayor, or who at the time of his election and qualification holds any other office, or who is directly or indirectly interested in any contract with the City.’
- B. ‘No person shall be eligible for any office of the City Council who is not at least eighteen (18) years of age, and who has not been a bona fide resident of the City of Memphis for at least two (2) years preceding the date of the municipal election.’
- C. ‘All existing provisions of the Charter that establish qualifications for the Mayor are hereby expressly repealed.’?”

*I, Walter Person, Director of Finance for the City of Memphis do hereby certify that the foregoing amendment shall have no impact on the annual revenues and expenditures of the City.*

FOR THE AMENDMENT	(YES) _____
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AGAINST THE AMENDMENT	(NO) _____
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Section 5. Effective Date of Charter Amendments Amended and Restated.

BE IT FURTHER ORDAINED, That any referendum question proposed by this Ordinance shall take effect for the purposes set forth herein on January 1, 2025, if any of such questions is approved by a majority of the qualified voters voting thereon in an election to be held on the 5th day of November 2024, the public welfare, requiring it.

Section 6. Certification of Results.

BE IT FURTHER ORDAINED, That the Shelby County Election Commission certify the result of said election on the referendum question to the Comptroller of the City of Memphis, who shall see that said result is made a part of the Minutes of the Council of the City of Memphis.

Section 7. Nonconflicting - Conflicting Laws.

BE IT FURTHER ORDAINED, That from and after the effective date of this Home Rule Amendment, all laws constituting the present Charter of the City of Memphis in conflict with the subject matter of this amendatory Home Rule Ordinance shall be immediately annulled, vacated, and repealed and all laws constituting the present Charter of the City of Memphis not in conflict with this amendatory Home Rule Ordinance, be and the same are here continued in full force and effect.

Section 8. Severability.

BE IT FURTHER ORDAINED, that if any clause, section, paragraph, sentence or part of this Ordinance shall be held or declared to be unconstitutional and void, it shall not affect the remaining parts of this Ordinance, it being hereby declared to be the legislative intent to have passed the remainder of this Ordinance notwithstanding the parts so held to be invalid, if any.

Section 9. Publication as Required by the City Charter.

BE IT FURTHER ORDAINED, that this Ordinance shall also be published by the Comptroller at the same time and manner as required by the City's Charter for all ordinances adopted by the City Council.

Section 10. Enactment of Referendum Ordinance.

BE IT FURTHER ORDAINED, that the adoption of this Referendum Ordinance shall take effect from and after the date it shall have passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

SPONSOR(S):

JB Smiley, Jr.

JB Smiley, Jr.  
CHAIRMAN