

**FINAL REPORT OF THE
CITY OF TALLMADGE
2021 CHARTER REVIEW COMMISSION**

Steve Clark

Helen Fire

Robert Higham

Kathryn Kuzior-Lindhe

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Megan Raber

Theodore Roy

Kimberly Sabetta

Randy Sarvis

Meghan Thompson

Mary Tricaso

April 2021

We, the undersigned members of the City of Tallmadge 2021 Charter Review Commission, do hereby state that the attached proposed amendments to the City of Tallmadge Charter are amendments which were discussed and voted upon during Charter Review meetings open to the public pursuant to Article XVIII of the Charter.

April 2021.

Megan Raber, Chairperson

Mary Tricaso

Steve Clark

Meghan Thompson

Robert Higham

Randy Sarvis

Helen Fire

Kimberly Sabetta

Kathryn Kuzior-Lindhe

Theodore Roy

Serif Krkic

Susan Burton, Secretary

SUMMARY OF REVISIONS

<u>Section</u>	<u>Title</u>	<u>Revision, If Any</u>
	PREAMBLE	No Change
Art. I	NAME AND BOUNDARIES	
Sec. 1.01	Name and Boundaries.	No Change
Sec. 1.02	Form of Government.	No Change
Art. II	POWERS OF THE CITY	
Sec. 2.01	Powers of the City.	No Change
Sec. 2.02	Manner of Exercise of Powers.	No Change
Sec. 2.03	Construction.	No Change
Sec. 2.04	Intergovernmental Relations.	No Change
Art. III	MAYOR	
Sec. 3.01	Election and Term.	No Change
Sec. 3.02	Qualifications.	No Change
Sec. 3.03	Powers and Duties.	
	A. Executive Powers	No Change
	B. Legislation Power	No Change
	C. Judicial Powers	No Change
Sec. 3.04	Vacancy in Office.	
	A. Temporary Vacancy	Revised to clarify temporary absence.
	B. Permanent Vacancy	Revised to clarify process if vacancy is left by independent.
Art. IV	COUNCIL	
Sec. 4.01	Election and Term.	No Change
Sec. 4.02	Qualifications.	No Change
Sec. 4.03	Vacancy of Ward Council Member.	No Change
Sec. 4.04	Vacancy of At-Large Council Member.	No Change
Sec. 4.05	Vacancy of Council Member Without	No Change
Sec. 4.06	Organization.	Revised to clarify temporary absence.

Sec. 4.07	Legislative Procedure.	
	A. Quorum and Rules	No Change
	B. Resolutions and Ordinances	No Change
	C. Open Meetings	No Change
Sec. 4.08	Publication of Ordinances and Resolutions.	No Change
Sec. 4.09	Clerk of Council.	No Change
Art. V	DIRECTOR OF FINANCE	
Sec. 5.01	Election and Term.	No Change
Sec. 5.02	Qualifications.	No Change
Sec. 5.03	Powers and Duties.	No Change
Sec. 5.04	Permanent Vacancy.	Revised to clarify process if vacancy is left by independent.
Art. VI	TREASURER (Repealed)	No Change
Art. VII	DIRECTOR OF LAW	
Sec. 7.01	Election and Term.	No Change
Sec. 7.02	Qualifications.	No Change
Sec. 7.03	Powers and Duties.	No Change
Sec. 7.04	Permanent Vacancy.	Revised to clarify process if vacancy is left by independent.
Art. VIII	DIRECTOR OF ADMINISTRATION	
Sec. 8.01	Appointment.	No Change
Sec. 8.02	Qualifications.	No Change
Sec. 8.03	Powers and Duties.	No Change
Art. IX	ADMINISTRATIVE DEPARTMENTS	
Sec. 9.01	Director of Public Safety.	
	A. Appointment	No Change
	B. Qualifications	No Change
	C. Powers and Duties	No Change
Sec. 9.02	Director of Public Service.	
	A. Appointment	No Change
	B. Qualifications	No Change
	C. Powers and Duties	No Change
Sec. 9.03	Other City Departments.	No Change

Art. X	BOARDS AND COMMISSIONS	
Sec. 10.01	General Provisions.	Revised to reference Architectural Review Board instead of Heritage Commission.
Art. XI	PLANNING AND ZONING COMMISSION	
Sec. 11.01	Composition.	Added an optional alternate.
Sec. 11.02	Powers and Duties.	Added when alternate votes.
Art. XII	BOARD OF ZONING APPEALS	
Sec. 12.01	Composition.	Added an optional alternate.
Sec. 12.02	Powers and Duties.	Added when alternate votes.
Art. XIII	APPEARANCE COMMISSION	
Sec. 13.01	Composition.	Revised to reference Architectural Review Board instead of Heritage Commission. Added optional alternate, modified composition of board, added when alternate votes, and eliminated language to provide more legislative flexibility.
Sec. 13.02	Powers and Duties.	Revised to delete obsolete language and provide more legislative flexibility.
Sec. 13.03	Appeals.	Change name only.
Art. XIV	CIVIL SERVICE COMMISSION	
Sec. 14.01	Composition.	No Change
Sec. 14.02	Powers and Duties.	No Change
Sec. 14.03	Classification of Service.	No Change
Art. XV	NOMINATIONS AND ELECTIONS	
Sec. 15.01	Primary Elections.	No Change
Sec. 15.02	Regular Elections.	No Change
Art. XVI	FINANCIAL MATTERS	
Sec. 16.01	General.	No Change
Sec. 16.02	Deposits and Investments.	No Change

Sec. 16.03	Board of Control.	
	A. Composition	No Change
	B. Competitive Bidding	No Change
	C. Approval of Contracts	No Change
Art. XVII	INITIATIVE, REFERENDUM, RECALL	
Sec. 17.01	Initiative and Referendum.	No Change
Sec. 17.02	Recall.	No Change
Art. XVIII	CHARTER REVIEW	
Sec. 18.01	Charter Review Commission.	Revised to set future Charter Review Commissions every ten years.
Sec. 18.02	Authority to renumber Charter Sections.	No Change
Art. XIX	TRANSITION PROVISIONS	
Sec. 19.01	Elective Date.	No Change
Sec. 19.02	Continuance of Present Employees.	No Change
Sec. 19.03	Continuance of Present Boards and	No Change
Sec. 19.04	Continuance of Ordinances.	No Change
Sec. 19.05	Continuance of Contracts and Public Improvements.	No Change
Sec. 19.06	Pending Actions and Proceedings.	No Change
Sec. 19.07	Oath of Office.	No Change
Sec. 19.08	Personal Interest.	No Change
Sec. 19.09	Severability.	No Change
Sec. 19.10	Proposed 1996 Charter Amendment.	No Change

PLEASE NOTE:

Language proposed to be deleted is stricken (~~stricken~~) and language proposed to be added is underlined in bold type (**underlined in bold type**).

Article III MAYOR

SECTION 3.04 VACANCY IN OFFICE

A. Temporary Vacancy

When the Mayor ~~is temporarily absent from the City or~~ is temporarily unable for any reason to perform the duties of that office, the President of Council shall act as Mayor, with all of the duties, rights and powers of the Mayor during the Mayor's ~~absence or~~ inability to perform the duties of that office.

If the Mayor and President of Council are both ~~temporarily absent or~~ unable to perform their duties, the Vice President of Council shall act as Mayor.

Neither the President nor the Vice President of Council while serving as Acting Mayor, in accordance with the provisions of this section, shall cease to be a member of Council.

B. Permanent Vacancy

In the event of the death, resignation, recall or removal of the Mayor, the President of Council shall thereupon become Mayor and shall serve until a successor is elected and qualified.

The President of Council may decline the office of Mayor within seven (7) days of the vacancy by submitting written notice to Council. In that event, the vacancy shall be filled in the manner provided by general law with respect to a vacancy in the office of Mayor of a city. **If the person vacating the seat was not a member of a political party that elected precinct committee members, the replacement shall be chosen by the committee listed on the nominating petitions by the candidate, within thirty (30) days. If the person vacating did not designate a committee, Council shall fill the vacancy within fourteen (14) days.**

In the event the President of Council shall become Mayor in accordance with provisions of this section, his or her office shall be declared vacant and shall be filled in accordance with the applicable Section 4.03, 4.04 or 4.05 of this Charter.

There shall be an election for the office of Mayor at the next succeeding municipal election following the vacancy in said office that will occur more than ninety (90) days subsequent to the vacancy in said office. Nominations shall be made as provided by general law except that, if there is no primary election, the appropriate committee to fill a party nomination shall consist of the party precinct committee members residing in the City. The Mayor newly elected pursuant to this provision shall assume office immediately following the official certification of the election.

REASON FOR RECOMMENDATION:

This clarifies the language related to temporary absence. This change provides for the process to fill a vacancy for Mayor if the vacancy is left by an Independent.

Article IV COUNCIL

SECTION 4.06 ORGANIZATION

Within ten (10) days after January 1 following a Regular Municipal Election, Council shall organize at the Council Chambers and elect a member to serve as President for a term of two (2) years by a majority vote. Council shall also elect a member to serve as Vice President for a term of two (2) years.

The President shall preside at all regular and special meetings of Council and shall be entitled to vote on all matters. When the President of Council ~~is temporarily absent from the City or~~ is temporarily unable for any reason to perform the duties of that office, the Vice President shall act as President of Council.

REASON FOR RECOMMENDATION:

This clarifies the language related to temporary absence.

Article V DIRECTOR OF FINANCE

SECTION 5.04 PERMANENT VACANCY

A permanent vacancy in the office of Director of Finance shall be filled in the manner provided by general law except that if an election is required to fill the remainder of the term and there is no primary election, the appropriate committee to fill a party nomination shall consist of the party precinct committee members residing in the City. **If the person vacating the seat was not a member of a political party that elected precinct committee members, the replacement shall be chosen by the committee listed on the nominating petitions by the candidate, within thirty (30) days. If the person vacating did not designate a committee, Council shall fill the vacancy within fourteen (14) days.**

REASON FOR RECOMMENDATION:

This change provides for the process to fill a vacancy for Director of Finance if the vacancy is left by an Independent.

Article VII DIRECTOR OF LAW

SECTION 7.04 PERMANENT VACANCY

A permanent vacancy in the office of Director of Law shall be filled in the manner provided by general law except that if an election is required to fill the remainder of the term and there is no primary election, the appropriate committee to fill a party nomination shall consist of the party precinct committee members residing in the City. **If the person vacating the seat was not a member of a political party that elected precinct committee members, the replacement shall be chosen by the committee listed on the nominating petitions by the candidate, within thirty (30) days. If the person vacating did not designate a committee, Council shall fill the vacancy within fourteen (14) days.**

REASON FOR RECOMMENDATION:

This change provides for the process to fill a vacancy for Director of Law if the vacancy is left by an Independent.

Article X BOARDS AND COMMISSIONS

The following Boards and Commissions are hereby created and established as City Boards and Commissions:

- A. Planning and Zoning Commission
- B. Board of Zoning Appeals
- C. ~~Heritage Commission~~ **Architectural Review Board**
- D. Civil Service Commission

REASON FOR RECOMMENDATION:

This name change allows for more legislative flexibility.

Article XI PLANNING AND ZONING COMMISSION

SECTION 11.01 COMPOSITION

The Planning and Zoning Commission shall consist of five (5) members, **and may consist of one (1) alternate**, who shall hold no other office or position, elected or appointed, within the City, appointed for a staggered term of four (4) years.

The members of the Planning and Zoning Commission shall be appointed by the Mayor and confirmed by Council. Appointments to the Planning and Zoning Commission shall be confirmed by Council within 30 days after written notification to Council of the appointment is made by the Mayor. If Council fails to act upon the Mayor's appointment within 30 days, the appointment shall be deemed approved.

SECTION 11.02 POWERS AND DUTIES

The powers and duties of the Planning and Zoning Commission shall be as provided for municipal planning commissions by general law except as otherwise provided by ordinance.

At least four (4) affirmative votes shall be required of the Planning and Zoning Commission members to change any property zoned residential to commercial, industrial or conditional-use classification.

At least five (5) affirmative votes of Council shall be required for passage of any ordinance or resolution that is contrary to a recommendation of the Planning and Zoning Commission. **The alternate may vote only in the absence of a member for any reason, or if a member has a conflict of interest.**

REASON FOR RECOMMENDATION:

This allows for an optional alternate to be appointed and sets forth when the alternate may vote.

Article XII BOARD OF ZONING APPEALS

SECTION 12.01 COMPOSITION

The Board of Zoning Appeals shall consist of five (5) members, **and may consist of one (1) alternate,** appointed for staggered terms of four (4) years.

The members of the Board of Zoning Appeals shall be appointed by the Mayor and confirmed by Council. The appointments to the Board of Zoning Appeals shall be confirmed by Council within 30 days after written notification to Council of the appointment is made by the Mayor. If Council fails to act upon the Mayor's appointment within 30 days, the appointment shall be deemed approved.

SECTION 12.02 POWERS AND DUTIES

The Board of Zoning Appeals shall hear and decide appeals made for exceptions to and variations from the application of ordinances, orders, and regulations of City administrative officials or agencies, governing building and zoning in the City. Such appeals and decisions shall be in conformity with the purpose and intent of such ordinances and regulations. The Zoning Board of Appeals shall have such other duties as Council may designate that are not inconsistent with the powers and duties provided for in this section. **The alternate may vote only in the absence of a member for any reason, or if a member has a conflict of interest.**

REASON FOR RECOMMENDATION:

This allows for an optional alternate to be appointed and sets forth when the alternate may vote.

Article XIII ~~HERITAGE COMMISSION~~ ARCHITECTURAL REVIEW BOARD

SECTION 13.01 COMPOSITION

There shall be a ~~Heritage Commission~~, an Architectural Review Board, which shall consist of five (5) members, and may consist of one (1) alternate, appointed by the Mayor for staggered four (4) year terms, ~~all of whom shall be residents of the City. One member shall be the representative, who is an employee of a business that is located in the Design Control District under the jurisdiction of the Heritage Commission.~~ The persons appointed to the ~~Commission~~ Board shall be chosen on the basis of their training, education, and experience in matters relating to the appearance and use of buildings and land. At least three (3) members shall be residents of the City as shall be the alternate if one is appointed. ~~for the purpose of protecting the distinctive architectural and historic character of the Design Control District of the City as hereinafter provided for. The decisions of the Heritage Commission shall be governed by the Design Control District Review Handbook. The alternate may vote only in the absence of a member for any reason, or if a member has a conflict of interest.~~

~~———— The Design Control District shall be defined by the Council to include, but need not be limited to, the area encompassing Tallmadge Circle and all contiguous properties.~~

SECTION 13.02 POWERS AND DUTIES

The ~~Heritage Commission~~ Architectural Review Board shall have the ~~same~~ powers and duties of the ~~Appearance Commission/Design Control Board~~ heretofore provided by ordinance, or as those powers and duties may be changed by ordinance, relating to the maintenance, safeguarding and enhancement of the distinctive architectural and/or historic character of ~~the Design Control District, Overlay Districts within the City and in such area~~ as authorized by codified ordinance, to protect and preserve property, promote the stability of property values and protect real estate from impairment or destruction of value, ~~which powers shall include the authority to:~~

~~———— (a) ——— approve or disapprove plans for the construction, improvement or renovation of structures inside the Design Control District; and~~

~~———— (b) ——— approve or disapprove applications for certificates of appropriateness relating to structures inside the Design Control District.~~

SECTION 13.03 APPEALS

Final actions of the ~~Heritage Commission~~ Architectural Review Board on any application requiring the approval of the ~~Commission~~ Board may be appealed by the applicant to the Board of Zoning Appeals, within the time and upon such other conditions as provided by ordinance. A three-fourths (3/4) vote of the members of the Board of Zoning Appeals is required to overrule a decision of the ~~Heritage Commission~~ Architectural Review Board.

REASON FOR RECOMMENDATION:

The name of the board is changed. This allows for an optional alternate to be appointed and sets forth when the alternate may vote. This allows for one additional member to be a non-resident to make sure that the appointment meets the training, education and experience required. The deletion of specific references to the Design Control District allow for more legislative flexibility.

ARTICLE XVIII CHARTER REVIEW

SECTION 18.01 CHARTER REVIEW COMMISSION

A Charter Review Commission shall be appointed by the Mayor with approval of City Council in November ~~2020~~ **2030 and every ten years thereafter**. The Charter Review Commission shall consist of eleven qualified electors of the City who shall neither hold nor be a candidate for the position of Council member.

All meetings of the Charter Review Commission shall be public. Such Commission shall select its own Chairman and Secretary and shall adopt its own rules for the conduct of its business. The members of the Commission, unless otherwise provided by Council, shall serve without compensation and the term of the Commission shall end on the day of the next general election.

Such Commission shall recommend to the Council, not less than one hundred twenty days prior to the next regular general election, any revisions and amendments to this Charter as in its judgment seem advisable.

REASON FOR RECOMMENDATION:

Obsolete language needs to be changed to reflect the next ten years and automatically adjusts moving forward so that it doesn't have to be taken to the electorate following every Charter Review.

DRAFT BALLOT LANGUAGE:

Shall Section 3.04 A and Section 4.06 be amended to eliminate a temporary absence from the City as a basis for the President of Council temporarily performing the duties of Mayor and the Vice President of Council temporarily performing the duties of the President of Council?

Shall Sections 3.04B, 5.04, and 7.04 be amended to require that if a person vacating the position of Mayor, Director of Finance, or Director of Law was not a member of a political party, the replacement shall be chosen by the committee listed on the nominating petitions by the candidate, within thirty (30) days, and if the person did not designate a committee, Council shall fill the vacancy within fourteen (14) days?

Shall Sections 11.01, 12.01 and 13.01 be amended to provide that the Mayor may appoint one (1) alternate to the Planning and Zoning Commission, Board of Zoning Appeals, and Heritage Commission (proposed name change to Architectural Review Board)?

Shall Sections 11.02, 12.02, and 13.01 be amended to provide that the alternate may vote only in the absence of a member for any reason, or if a member has a conflict of interest?

Shall Articles X and XIII be amended to change the name of the Heritage Commission to Architectural Review Board?

Shall Section 13.01 be amended to provide there shall be an Architectural Review Board, which shall consist of five (5) members, and may consist of one (1) alternate, appointed by the Mayor for staggered four (4) year terms. The persons appointed to the Board shall be chosen on the basis of their training, education, and experience in matters relating to the appearance and use of buildings and land. At least three (3) members shall be residents of the City as shall be the alternate if one is appointed. The alternate may vote only in the absence of a member for any reason, or if a member has a conflict of interest?

Shall Section 13.02 be amended to provide that the Architectural Review Board shall have the powers and duties provided by ordinance, or as those powers and duties may be changed by ordinance, relating to the maintenance, safeguarding and enhancement of the distinctive architectural and/or historic character of Overlay Districts within the City to protect and preserve property, promote the stability of property values and protect real estate from impairment or destruction of value?

Shall Section 18.01 be amended to provide that the next Charter Review Commission shall be appointed by the Mayor with approval of City Council in November 2030 and every ten years thereafter?