CLARK COUNTY
STAFF REPORT

DEPARTMENT: Clark County Council

DATE: July 20th, 2021

REQUESTED ACTION:
County Council consideration of an ordinance to place a proposition on the November 2021 general election ballot regarding procedures for processing initiative and referendum petitions.

____ Consent __X__ Hearing ____ County Manager

BACKGROUND
The Clark County Charter provides registered voters with the power of initiative and referendum. Current County Charter language has some ambiguous language regarding the procedures for processing initiative and referendum petitions. The County Auditor supports clarifying this language.

Section 9.6 of the Clark County Charter allows the County Council to propose amendments to the charter by "enacting an ordinance to submit a proposed amendment to the voters at the next November general election occurring at least ninety (90) days after enactment. A minimum of four (4) affirmative votes of the council shall be required to enact such an ordinance."

COUNCIL POLICY IMPLICATIONS
If approved, this ordinance would send a proposed amendment to the County Charter to the voters at the November 2021 general election. If approved by a majority of the voters, the Charter would be amended regarding procedures for processing initiative and referendum petitions. Specifically, the amendment would:

- Specify that the petition proposal must be filed with the Auditor;
- Clarify certain terms, such as "petition;"
- Specify when certain deadlines are triggered;
- Detail to procedures for the Auditor to verify and canvass the names of the legal voters on the petition.

ADMINISTRATIVE POLICY IMPLICATIONS
N/A

COMMUNITY OUTREACH
This matter was discussed at previous Council Time meetings, and if the ordinance is approved by Council, the matter will go to the voters for their consideration on the November 2021 ballot.

BUDGET IMPLICATIONS

YES	NO	
X		Action falls within existing budget capacity.

		Action falls within existing budget capacity but requires a change of purpose within existing appropriation
		Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

DISTRIBUTION:
Board staff will post all staff reports to The Grid. http://www.clark.wa.gov/thegrid/

LS

Lindsey Shafar
Senior Policy Analyst

Kathleen Otto
County Manager

Primary Staff Contract Name and Extension: Lindsey Shafar, x4157

APPROVED: Eileen J. O'Brien
CLARK COUNTY, WASHINGTON
CLARK COUNTY COUNCIL

DATE: July 20, 2021

SR# —

APPROVED: _____
Kathleen Otto, County Manager

DATE: _____

ORDINANCE NO. 2021-07-11

AN ORDINANCE proposing an amendment to the Clark County Home Rule Charter relating to procedures for processing initiative, mini-initiative, and referendum petitions:

WHEREAS, the Clark County Home Rule Charter allows for citizen initiative, mini-initiative, and referendum; and

WHEREAS, the Clark County Council desires to put forth an amendment to the Clark County Home Rule Charter for voter consideration that would clarify the procedures for processing initiative, mini-initiative, and referendum petitions; and

WHEREAS, the Council is considering the matter at a duly-advertised public hearing and concludes that adoption will further the public health, safety and welfare; now, therefore

BE IT ORDERED, RESOLVED AND DECREED BY THE CLARK COUNTY COUNCIL, STATE OF WASHINGTON, AS FOLLOWS:

Proposed Amendment to the Clark County Charter regarding procedures for processing initiative and referendum petitions:

Pursuant to Section 9.6 of the Clark County Home Rule Charter, the Clark County Council directs the Clark County Auditor to submit the following proposed amendment to Article 7 of the Clark County Home Rule Charter to a vote at the next general election:

Article 7 – Initiative and Referendum

Section 7.2 Initiative

The people reserve the power of initiative. An ordinance or amendment to an ordinance, except as limited by state or federal law or court interpretation, may be proposed by filing an initiative petition with the auditor. No ordinance enacted as a result of initiative shall be amended or repealed within two (2) years after enactment, except as a result of a subsequent initiative or referendum or as required by state or federal law.

A. Initiative Limitations.

The following are limited by state or federal law or court interpretations and may not be proposed or adopted by initiative.

1. Ordinances providing for compensation or working conditions of county employees or elected officials.
2. Redistricting council districts.
3. Authorizing or repealing an appropriation of money or any portion of the annual budget.
4. Authorizing or repealing taxes or fees.
5. Authorizing or repealing any provision of a service or program provided by the county.
6. Amending or repealing this charter.

B. Initiative Requirements.

1. Initiatives that require new or additional sources of revenue shall include a recommended revenue source adequate to finance the result of the initiative.

C. Initiative Procedures.

1. Any registered voter of Clark County may file an initiative proposal with the auditor, who shall transmit a copy to the prosecuting attorney. Within ten (10) business days of the filing date, the prosecuting attorney shall formulate a true and impartial ballot title, posed as a positive question not exceeding fifty (50) words.
2. The prosecuting attorney shall transmit the initiative petition to the auditor, who shall give the proposed initiative a number that will be the identifying number. Within an additional five (5) business days, the auditor shall confer with the petitioner to review and establish the form and style of the initiative petition as required by the auditor or ordinance. Within an additional ten (10) days t((~~T~~))he prosecuting attorney shall evaluate the petition and provide the petitioner and auditor with the following statement: "In the opinion of the Clark County Prosecuting Attorney, the subject of this initiative is within the scope of local initiative powers. Yes [ ] No [ ] No opinion at this time [ ]." The prosecuting attorney shall mark the box that reflects his or her opinion. The petition may include this statement on the petition.
3. The petitioner shall have one hundred twenty (120) days after receipt of the Prosecuting Attorney's statement as required in 7.2. C (2) ((~~conferring with the auditor~~)) to collect signatures of registered county voters. Valid signatures collected shall number no less than: ten (10) percent of the number of votes cast in the last gubernatorial election. Each petition shall contain the warning clause prescribed by state law, full text of the proposed measure, ordinance or amendment to an ordinance, and ballot title.
4. The auditor shall verify the number of signatures on the petition, and, if a sufficient number of valid signatures has been submitted, place the proposal on the ballot for the next general election.
    a. Signatures on the petition must be submitted to the auditor no less than one hundred fifty (150) days before the date of the next general election.
    b. If the council enacts the proposal without change or amendment not less than sixty (60) days prior to said election, the proposal shall be removed from the ballot.
    c. If the council does not adopt the proposed amendment but adopts a substitute measure not more than fifteen (15) days after the petition validation, the substitute measure shall be placed on the same ballot with the initiative proposal.
5. When a ballot contains an initiative petition, substitute measure or multiple initiative measures on the same topic, the voters shall be given the choice of rejecting or accepting each initiative.
    a. If the voters accept more than one (1) initiative on the same topic, and the measures are incompatible, the initiative receiving the highest number of affirmative votes shall be approved.

b. If there are multiple measures on the same topic, compatible with one another, they may all be approved.
c. If the voters reject all initiatives, none shall be approved.
d. If the voters approve one (1) initiative and reject the others, the approved initiative shall be approved.

Section 7.3 Mini--initiative

The people reserve the power of mini-initiative, except as limited by state or federal law and subject to Article 7, Section (2)(A). Ordinances or amendments to an existing ordinance may be proposed to the council by transmitting the proposal to the auditor. An initiative petition shall bear the signatures of qualified voters totaling no less than three (3) percent of the number of votes cast in the county in the last gubernatorial election. The auditor shall have thirty (30) business days to validate signatures. If a sufficient number of signatures is verified, the auditor shall transmit the initiative petition to the county council. The council shall hold a public hearing on the proposed ordinance or amendment to an existing ordinance within sixty (60) days, and enact, reject or modify the proposed ordinance within thirty (30) calendar days of the hearing.

Section 7.4 Referendum

The people reserve the power of referendum. Referendum may be ordered on any ordinance, or any part thereof, passed by the council, except as limited by state or federal law or court interpretations.

A. Referendum Limitations.
The following are limited by state or federal law or court interpretations and may not be proposed or adopted by initiative.
1. Emergency ordinances.
2. Ordinances providing for compensation or working conditions of county employees or elected officials.
3. Ordinances authorizing or repealing an appropriation of money or any portion of the annual budget.
4. Ordinances authorizing or repealing taxes or fees.
5. Ordinances required by state or federal law.

B. Referendum Procedure.
A referendum petition proposal shall be filed with the auditor within ten (10) days after the council passes an ordinance. Except as set forth in this section, a referendum petition proposal may be filed against an ordinance or any portion of an ordinance. Any registered Clark County voter may file with the auditor a referendum petition proposal signed by at least one hundred (100) registered voters of Clark County.
1. The auditor shall verify signatures on the referendum petition proposal within ten (10) calendar days. After one hundred (100) signatures are validated, the ordinance or portion of the ordinance subject to referendum is suspended until:
a. Sufficient valid signatures are collected within the time prescribed by this section to place the measure on the ballot and voters have voted on the measure.
b. Valid signatures are not collected within the time prescribed by this section to place the measure on the ballot.

2. Filing a referendum petition proposal against a portion of an ordinance shall not delay the remainder of the ordinance from taking effect.
3. Within five (5) business days of filing the referendum petition, the auditor shall confer with the petitioner to review the ((~~proposal~~)) referendum petition as to form and style, as required by the auditor or ordinance. The auditor shall give the referendum petition an identifying number and transmit a copy of the referendum petition to the prosecuting attorney and county manager. Within ten (10) business days after receipt, the prosecuting attorney shall write a ballot title not to exceed fifty (50) words and posed as a positive question, which shall express a true and impartial statement of the measure. The prosecuting attorney shall then promptly transmit the referendum petition's ballot title to the auditor who shall provide it to the petitioner within five (5) business days.
4. The petitioner shall have one hundred (120) calendar days from the date of delivery of the ballot title as required in 7.2 B (3) ((~~registration~~)) to collect signatures of the required registered Clark County voters. The number of valid signatures collected shall equal no less than ten (10) percent of the total votes cast in the county in the last gubernatorial election. Each petition shall contain the full text of the referred measure and ballot title. The auditor shall verify the number of signatures and, if valid, submit the measure to voters at the next general election. Petition signatures must be submitted to the auditor for verification no less than one hundred fifty (150) calendar days before the date of the next general election.

Section 2. Effective Date. This Ordinance and the proposed amendment to the Clark County Home Rule Charter set forth herein shall be filed with the Auditor immediately upon adoption for submittal to the voters at the next eligible general election. Should a majority of voters vote in favor of the amendment, the amendment shall be incorporated immediately into the Clark County Home Rule Charter upon certification of the election results. The Prosecuting Attorney is hereby requested to prepare an appropriate ballot title for the proposed amendment.

Section 3. Instructions to Clerk. The Clerk of the Council shall:

A. Record and transmit a copy of this Ordinance with the Clark County Auditor; and
B. Cause notice of adoption of this Ordinance to be published forthwith, pursuant to Clark County Code 1.02.140.
C. Provide a copy of this Ordinance to Code Publishing.

Section 4. Roll Call Vote. The following persons voted in favor of the above ordinance:
Temple Lentz, Julie Olson, Karen Bowerman, Gary Medvigy, + Eileen Quiring O'Brien.

The following persons voted in opposition to the above ordinance:
_____.

ADOPTED on this 20th day of July, 2021.

CLARK COUNTY COUNCIL
CLARK COUNTY, WASHINGTON

Attest:

Clerk to the Council

Eileen O'Brien, Chair

Approved as to Form Only:
ANTHONY GOLIK
Prosecuting Attorney

By:
Taylor Hallvik,
Deputy Prosecuting Attorney

Temple Lentz, Councilor

Julie Olson, Councilor

Karen Bowerman, Councilor

Gary Medvigy, Councilor