

RESOLUTION

At a regular meeting of the City Council of the City of Warren, County of Macomb, Michigan, held on April 9, 2024, at 7 p.m. Daylight Savings Time, in the Warren City Council Chambers, located at 5460 Arden Road, Warren, Michigan.

PRESENT: Councilmembers Boike, Dwyer, Lafferty, Magee, Moore, Newnan, Rogensues

ABSENT: Councilmembers None

The following preamble and resolution were offered by

Councilmember Moore and supported by

Councilmember Lafferty

On July 28, 1998, the Warren City Council proposed a charter amendment to the electors in the City of Warren to establish terms limits on the office of mayor, city council, city clerk and city treasurer to the greater of three complete terms or 12 years.

On August 19, 1998, the Michigan Department of Attorney General advised the Governor of Michigan that the ballot language was reviewed and approved but advised that the City Council may wish to consider the effect of this proposed amendment on mid-term vacancies when an office holder completes twelve years of service in an elected office.

On November 3, 1998, the electors of Warren approved the term limits charter amendment, and the City Council did not address the issue of mid-term vacancies raised by the Attorney General.

Since 1998, there have been multiple amendments to the term limits language in the city charter proposed by City Council and approved by the electors without any language addressing the issue of mid-term vacancies.

The issue of mid-term vacancies in the Warren City Charter was litigated in the Macomb County Circuit Court in Case No. 2023-0304-AW and in a published decision of the Michigan Court of Appeals Case No. 365681¹.

As a result of the holding in Court of Appeals Case No. 365681, a partial term served by a city elected official does not count toward any term limits set by the Warren City Charter where a person is not eligible to hold a particular office for “more than the greater of three complete terms or 12 years”.

This issue was reviewed by the City Council Charter Review Committee and referred to the full City Council for a recommendation to address the issue raised by the Michigan Department of Attorney General in August 1998.

The City Council Charter Review Committee met on February 6, 2024, and on March 11, 2024, and recommended to the Council at its regular meeting on March 26, 2024 that the Council proposed a charter amendment to address mid-term vacancies.

The City Council Charter Review Committee recommended that if an elected officer services more for a period greater than one half of a term, that person shall be considered to have been elected to serve one time for purposes of term limits, which would follow the Constitution of Michigan of 1963 term limits for state elected officials who serve incomplete terms.

At its regular meeting of March 26, 2024, the City Council voted to have appropriate charter amendment language drafted to adopt the recommendation of the committee.

¹ https://www.courts.michigan.gov/4a094f/siteassets/case-documents/uploads/opinions/final/coa/20230522_c365681_24_365681.opn.pdf

THEREFORE, IT IS RESOLVED, that it is hereby proposed, pursuant to the provision of Act No. 279 of the Public Acts of Michigan, 1909, as amended that Sections 4.3(d) and 4.4 (d) of the Charter of the City of Warren which currently read:

Sec. 4.3 - Certain persons ineligible for city office.

(d) A person shall not be eligible to hold the office of mayor, city council, city clerk or city treasurer for more than the greater of three (3) complete terms or twelve (12) years in that office.

Sec. 4.4 - Terms of office.

(d) A person shall not be eligible to hold the office of mayor, city council, city clerk or city treasurer for more than the greater of three (3) complete terms or twelve (12) years in that particular office.

Shall, if approved by voters, be amended to read as follows:

Sec. 4.3 - Certain persons ineligible for city office.

(d) A person shall not be eligible to hold the office of mayor, city council, city clerk or city treasurer for more than three (3) terms. Any person elected or appointed to an incomplete term of more than (2) two years in the office of mayor, city council, city clerk, or city treasurer shall be considered to have held the office one term for purposes of this section.

Sec. 4.4 - Terms of office.

(d) A person shall not be eligible to hold the office of mayor, city council, city clerk or city treasurer for more than three (3) terms. Any person elected or appointed to an incomplete term of more than (2) two years in the office of mayor, city council, city clerk, or city treasurer shall be considered to have held the office one term for purposes of this section.

And the purposes of such proposed Charter Amendments shall be designated on the ballot to be submitted to the electorate as follows:

WARREN CITY CHARTER AMENDMENT

A PROPOSAL TO COUNT INCOMPLETE TERMS OF OFFICE GREATER THAN TWO (2) YEARS AS ONE TERM FOR TERM LIMIT PURPOSES

The mayor, city council, clerk, and treasurer each serve terms of four (4) years and are subject to a limit of three (3) complete terms or twelve (12) years in each office, whichever is greater. As a result, incomplete terms of office do not count for term limit purposes. The proposed amendment would count incomplete terms of office greater than two (2) years as one term for term limit purposes.

PROPOSAL: Should incomplete terms of office greater than two (2) years count as one term for term limit purposes for the offices of mayor, city council, clerk, and treasurer?

YES _____

NO _____

IT IS FURTHER RESOLVED, that the proposed charter amendment shall be, and the same is hereby ordered to be, submitted to the qualified electors of the city at the Primary Election to be held in the City of Warren on August 6, 2024, and the City Clerk is hereby directed to give notice of the election and notice of registration therefore in the manner prescribed by law and to take all action necessary to submit such charter amendment to the vote of the electors as required by law.

AYES: Councilmembers Moore, Lafferty, Boike, Dwyer, Magee, Newnan, Rogensues

NAYS: Councilmembers None

RESOLUTION DECLARED ADOPTED this 9th Day of April 2024 by a three-fifths vote of its membership pursuant to the authority granted by Act 279 of the Public Acts of 1909, as amended.



MINDY MOORE
Secretary to the Council

CERTIFICATION

STATE OF MICHIGAN)

) SS.

COUNTY OF MACOMB)

I, SONJA BUFFA, duly elected City Clerk for the City of Warren, Macomb County, Michigan, hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Council of the City of Warren at its meeting held on April 9, 2024.

SONJA BUFFA
City Clerk