

RESOLUTION NO. R2018.88

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, ORDERING A SPECIAL ELECTION ON NOVEMBER 6, 2018, FOR THE QUALIFIED ELECTORS OF THE CITY OF TEMPE, ARIZONA, TO DETERMINE WHETHER TO APPROVE A PROPOSED AMENDMENT TO THE TEMPE CITY CHARTER TO AUTHORIZE THE CITY COUNCIL TO REMOVE A COUNCIL MEMBER FOR UNLAWFUL CONDUCT

**WHEREAS**, the Tempe City Charter, Article II, Section 2.07, Judge of qualifications, provides the City Council with the authority to judge the election and qualifications of its members and of the grounds for forfeiture of their office, and to subpoena witnesses, administer oaths, and require the production of evidence;

**WHEREAS**, the Tempe City Charter, Article IX, Section 9.02, Charter amendments, provides that Charter amendments may be initiated by the City Council and that all proposed amendments shall be submitted to the qualified electors of the City at a general or special election;

**WHEREAS**, the Arizona Constitution, Article XIII, Section 2 and Arizona Revised Statutes §§ 9-283(C) and 19-143(C) provide that the Tempe City Charter may be amended by amendments proposed and submitted by the City Council of the City of Tempe to the qualified electors at a general or special election;

**WHEREAS**, the Tempe City Council desires to submit a proposed amendment to the Tempe City Charter, to add a new subsection 2.06(D) Removal from office, to authorize the City Council to remove a councilmember, by a supermajority of 5 of 7 votes, for unlawful conduct involving moral turpitude, fraud or corruption, to be voted on by the qualified electors at the City of Tempe Special Election on November 6, 2018;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AS FOLLOWS:

Section 1. That a Special Election be held on November 6, 2018, in conjunction with the Statewide General Election to be held on that date.

Section 2. That the following proposition be submitted to the qualified electors of the City of Tempe, to determine whether the proposed amendment to the Tempe City Charter should be approved:

**Official Title**

A proposed amendment to the Charter of the City of Tempe, Arizona, Article II, *City Council, Sec. 2.06 Vacancies; forfeiture of office; filling of vacancies*, adding subsection 2.06(D), *Removal from office*.

**Descriptive Title**

Shall the Tempe City Charter be amended to add subsection 2.06(D), Removal from office, to authorize City Council to remove a Councilmember by an affirmative vote of 5 of 7, with due process and clear and convincing evidence, for unlawful conduct involving moral turpitude, fraud or corruption?

A "YES" vote shall have the effect of amending the Tempe City Charter, to authorize the City Council to remove a Councilmember for unlawful conduct.

A "NO" vote shall have the effect of not amending the Tempe City Charter, to authorize the City Council to remove a Councilmember for unlawful conduct.

YES  NO

Section 3. That the qualified electors favoring the proposed amendment to the Tempe City Charter shall vote "YES" and the qualified electors opposing the proposed amendment to the Tempe City Charter shall vote "NO".

Section 4. If a majority of the qualified electors vote in favor of the proposed amendment, the Tempe City Charter will be amended to read as follows:

**Sec. 2.06(D). Removal from office**

Notwithstanding subsection 2.06(B), the City Council may remove a Councilmember, by affirmative vote of five (5) of seven (7) Councilmembers, with due process and clear and convincing evidence, for unlawful conduct involving moral turpitude, fraud or corruption.

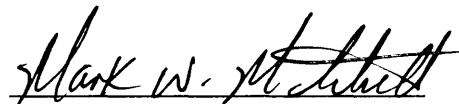
Section 5. That the Special Election shall be held in conformity with the provisions of the Tempe City Charter and the general election laws of the State of Arizona.

Section 6. That the City Council shall cause the ballot and publicity pamphlets to be printed and shall provide a sufficient number of ballots to conduct the election.

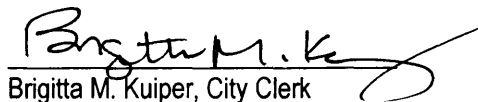
Section 7. That arguments supporting or opposing the proposed Tempe City Charter amendment to authorize the City Council to remove a councilmember for unlawful conduct, to be published in the publicity pamphlet shall be filed electronically with the City Clerk on or before August 8, 2018. Each argument shall not exceed 300 words in length and shall contain the sworn statement of each person sponsoring it. If the argument is sponsored by an organization, the sworn statement of two executive officers is required. If the argument is sponsored by a political action committee, the sworn statement of the committee's chair or treasurer is required. Persons signing shall also identify themselves by giving their residence or post office address and a telephone number, which shall not appear in the pamphlet. With each argument supporting or opposing the proposition, one hundred dollars (\$100.00) shall be deposited with the City Clerk to offset a portion of the proportionate cost of paper and printing the argument.

Section 8. That if a majority of the qualified electors of the City voting at the election vote in favor of the proposed amendment to the Tempe City Charter, it shall be the duty of the City Council, immediately upon canvassing the vote cast in the election as provided, to transmit a certified copy of the approved Charter amendment to the Governor of the State of Arizona for approval, as provided by the Tempe City Charter and the Arizona Constitution.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this 28th day of June, 2018.

  
Mark W. Mitchell, Mayor

ATTEST:

  
Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

  
Judith R. Baumann, City Attorney