

Wilmington, Delaware
June 16, 2022

#xxxx

Sponsor:

**Council
President
Congo**

WHEREAS, public participation in the electoral process is a vital and guiding principle of democratic governance which City Council desires to promote; and

WHEREAS, City Charter Section 2-101 establishes the process for filling a vacant City Council position between general elections; and

WHEREAS, City Charter Section 2-101 states that if a vacancy occurs in the period less than thirty (30) days before the date of a primary election or pending the election of a councilmember to fill a vacancy, the City Council, by a majority vote of all its remaining members, shall appoint a person to fill the vacancy for the balance of the unexpired term; and

WHEREAS, conducting a special election to fill a Council vacancy promotes public participation in the electoral process as it empowers citizens to choose the candidate they deem best to represent their district or the city at large; and

WHEREAS, pursuant to Title 22, Section 811 of the Delaware Code, a municipal corporation's home rule charter may be amended by act of the Delaware General Assembly passed with the concurrent of two-thirds of all members elected to each House thereof.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that the City Council urges the Delaware General Assembly to amend the City Charter to empower Wilmington citizens to fill vacant Council seats through a special election.

BE IT FURTHER RESOLVED that this Council specifically requests the members of the Delaware General Assembly to amend Section 2-101 of the Wilmington City Charter by adding the underlined language and deleting the stricken language to read as follows:

Sec. 2-101. – The election of councilmembers; vacancies.

At the general election to be held on the Tuesday next after the first Monday in November, 1968, and on the same day in every fourth year thereafter on which general elections are held, one councilman shall be elected from each councilmanic district and four (4) from the city at large, together with the president of the council who shall be elected at large. Each elector shall have the right to vote for one district councilmanmember, the president of the council, and (3) councilmenmembers-at-large. To this end not more than three (3) candidates for councilmanmember-at-large shall be nominated pursuant to law by any party or other political body. When a vacancy occurs in the office of a councilmanmember, the city council shall certify that a vacancy exists. ~~A vacancy occurring more than thirty (30) days prior to the date of a primary election in which city officers are nominated shall be filled in the next succeeding general election held in the city. Councilmen elected in this manner to fill a vacancy shall take office on the first Tuesday following their election. If a vacancy occurs in the period less than thirty (30) days before the date of a primary election or pending the election of a councilman to fill a vacancy as herein provided, the city council, by a majority vote of all its remaining members, shall appoint a qualified person to fill the vacancy until a person is elected by the voters for the unexpired term. Thereafter, the~~

president of the council shall issue a writ of election to the State of Delaware Department of Elections to fill the vacancy for the remainder of the unexpired vacated Council seat term, which election shall be held on a date specified in the writ, but not less than thirty days after its issuance. The president of council may fix as the date of the special election, the date of the next primary or general election. If a vacancy arises less than 180 days from the date the term of said office naturally expires, then the seat shall remain vacant for the balance of the unexpired term and shall instead be filled through the next applicable election cycle for a four-year term. If the vacancy occurs in the office of a district councilmanmember, the new member shall come from the same councilmanic district; but if the vacancy occurs in the office of a councilmanmember-at-large, the new member may come from any place in the city but shall be a member of the same political party as the councilmember who vacated office. ~~Council in filling a vacancy must appoint a member of the same political party as that of the councilman whose office has become vacant.~~ In the event of a vacancy in the office of president of council, the council shall appoint by majority vote from among its members a president of the council to fill the unexpired term. The council office of the councilmanmember so appointed president of the council shall in turn become vacant and shall be filled by a special election as herein provided in this Charter for council vacancies. In the case of a special election to fill an unexpired term, the person elected may qualify and assume office as soon as practicable after the canvass of the election.

All citizens qualified by the Constitution and the laws of the State of Delaware to vote in the city and who satisfy the requirements for registration

prescribed by law shall be qualified to vote for the members of the city council, president of the council, the mayor, and other elected city officials. Except as otherwise provided by this Charter, the provisions of the election laws of the State of Delaware shall apply to elections held under this Charter. All elections provided for by this Charter shall be conducted by the election laws of the State of Delaware. The nomination of persons to be candidates in the general election for mayor, city council ~~men~~members, president of the council, and other elected city officials shall be governed by the election laws of the State of Delaware.

Passed by City Council,

ATTEST: _____
City Clerk

SYNOPSIS: This Resolution requests the Delaware General Assembly to amend Section 2-101 of the City Charter to allow the citizens of Wilmington to fill a vacancy arising on City Council through a special election.

FISCAL IMPACT: [TBD]