

## CHAPTER 76

**AN ACT** revising the special charter for the City of Plainfield and amending and supplementing P.L.1968, c.159.

**WHEREAS**, The City Council of the City of Plainfield in the County of Union has petitioned the Legislature for the passage of a special law to amend the existing special charter for the city, P.L.1968, c. 159, pursuant to Article IV, Section VII, paragraph 10 of the Constitution of 1947 in accordance with the procedures established by P.L.1948, c.199 (R.S.1:6-10 et seq.); and

**WHEREAS**, Notice of intention to apply for the passage of such special law has been published, and the original of the petition, together with a certified copy of the ordinance authorizing the filing of the same, have been presented and filed; now, therefore,

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 1.3 of P.L.1968, c.159 is amended to read as follows:

1.3 Definitions. For the purposes of this act, and for the interpretation of any law, ordinance or resolution applicable to the city, unless the context otherwise requires:

(a) "Charter" shall mean this act and all statutory provisions of the State of New Jersey which are now or may hereafter be applicable specifically to the city of Plainfield or to all cities alike, and which are not inconsistent with this act.

(b) "Council" shall mean the governing body of the city, constituted and elected pursuant to this charter.

(c) "Mayor" shall mean the mayor of the city duly elected pursuant to the charter.

(d) "Administrative code" shall mean an ordinance providing, subject to the charter, for the organization or administration of the city government, for the exercise or discharge of its functions, powers and duties, or for the management or control of its property, affairs or government.

(e) "Administrator" shall mean the business administrator duly appointed pursuant to the charter.

(f) "Department" shall mean an administrative organization unit of the city government established or designated by or pursuant to the charter as a department.

(g) "Director" shall mean the administrative head of a department.

(h) "Division" shall mean an administrative organization unit of the city government established, allocated or assigned within a department.

(i) "Ordinance" shall mean any act of local legislation heretofore or hereafter adopted pursuant to law.

(j) "Month" shall mean a calendar month unless otherwise specifically provided.

(k) "Person" shall mean any corporation, firm, partnership, association, organization or other entity, as well as an individual.

(l) "City" shall mean the city of Plainfield within the boundaries now existing or which may be hereafter established pursuant to law.

(m) "Year" shall mean a calendar year unless otherwise specifically provided.

(n) "General law" shall mean any statutory law or provision of law, not inconsistent with this act, heretofore or hereafter enacted which is by its terms applicable or available to all municipalities, and the following additional laws whether or not such additional laws are so applicable or available to all municipalities: legislation relating to taxation, local courts, education, health, public authorities serving more than one municipality, and municipalities in unsound financial condition.

2. Section 1.4 of P.L.1968, c.159 is amended to read as follows:

1.4 Construction. For the purposes of the charter, other laws, administrative codes and any ordinances heretofore or hereafter adopted, except as the context may otherwise require:

- (a) The present tense includes the past and future tenses and the future, the present.
- (b) The masculine gender includes the feminine and neuter whenever both genders are not explicitly referenced.
- (c) The singular number includes the plural; and the plural, the singular.
- (d) The time within which an act is to be done shall be computed by excluding the first and including the last day, and if the last day be a Sunday or a legal holiday, that day shall be excluded.
- (e) "Writing" and "written" shall include printing, typewriting and any other mode of communication using paper, digitally processed data, image processed document, or similar material which is in general use, as well as legible handwriting.

3. Section 1.5 of P.L.1968, c.159 is amended to read as follows:

1.5 Powers. In addition to such powers as may otherwise be conferred by the charter, the city may:

- (a) Organize and regulate its internal affairs, and establish, alter and abolish offices, positions and employments and define the functions, powers and duties thereof and fix their term, tenure and compensation;
- (b) Adopt and enforce local police ordinances of all kinds and impose one or more of the following penalties for violation thereof: fines not exceeding \$2,000 or imprisonment for any term not exceeding 90 days, or a period of community service not exceeding 90 days for the violation thereof; a minimum penalty, prescribed for the violation of particular ordinances, which shall consist of a fine which may be fixed at an amount not exceeding \$100; a minimum penalty, prescribed for the violation of an ordinance pertaining to unlawful solid waste disposal, which shall consist of a fine which may be fixed at an amount not exceeding \$2,500 or a maximum penalty by a fine not exceeding \$10,000;
- (c) Construct, acquire, operate, or maintain any and all public improvements, projects or enterprises for any public purpose, subject to referendum requirements otherwise imposed by law;
- (d) Sue and be sued, have a corporate seal, contract and be contracted with, buy, sell, lease, hold and dispose of real and personal property, appropriate and expend moneys, and adopt, amend and repeal such ordinances and resolutions as may be required for the management of the city and the good government thereof;
- (e) Exercise powers of condemnation, borrowing and taxation in the manner provided by general law;
- (f) Exercise all powers of local government in such manner as its governing body may determine.

4. 1.7. Periodic charter review. The council, or a committee designated by the council, shall review the charter at least once every 12 years and prepare a report on the functioning of the charter, which shall include any suggested amendments to the charter.

5. Section 2.3 of P.L.1968, c.159 is amended to read as follows:

2.3 Qualification; term. (a) Each council member shall be a registered voter of the city and a resident of the ward or wards from which he or she is elected, in the case of a ward council member, or of any ward in the city in the case of an at-large council member, for at least 1

year immediately prior to the date upon which the election for the office is held, or prior to the date that an appointment to office is made, as the case may be.

(b) Each council member shall serve for a term of 4 years beginning on January 1 next following his or her election, except that of those first elected the first ward council member shall be elected for a term of 1 year; second ward, 2 years; third ward, 3 years; fourth ward, 4 years; and council member-at-large, 3 years; council member-at-large from first and fourth wards, 2 years; and council member-at-large from second and third wards, 1 year.

6. Section 2.4 of P.L.1968, c.159 is amended to read as follows:

2.4 Vacancies. A vacancy in the office of council member occurring during a term shall be filled in accordance with the "Municipal Vacancy Law," N.J.S.40A:16-1 et seq.

7. Section 2.6 of P.L.1968, c.159 is amended to read as follows:

2.6 Meetings. Council shall convene in regular meetings at least once each month at such times and places fixed by resolution and noticed to the public, except in the event of a public catastrophe or emergency which renders such meeting impractical or unduly hazardous. Special meetings upon at least 2 days public notice may be called by the mayor whenever he or she deems necessary, and shall be called by the city clerk upon written request signed by a majority of the council members. The call for a special meeting shall specify the purpose of the meeting, and no other business may be conducted at such meeting.

8. Section 2.8 of P.L.1968, c.159 is amended to read as follows:

2.8 Investigations; removals. (a) The council may make investigations into the affairs of the city and the conduct of any city department, office, commission or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence.

(b) Council may remove any officer or employee, other than the mayor or a council member, for cause, upon notice and an opportunity to be heard.

9. Section 2.11 of P.L.1968, c.159 is amended to read as follows:

2.11 Compensation. The council may provide by ordinance for an annual salary of council members, provided that no ordinance increasing or decreasing such salary shall take effect prior to the next budget year following a general election which occurs not less than 60 days after its adoption. In addition to such salary, council members may be paid their reasonable, actual, and necessary expenses incurred in the performance of the duties of their office.

10. Section 3.2 of P.L.1968, c.159 is amended to read as follows:

3.2 Mayor; qualifications and compensation. A mayor shall have been a registered voter and a resident of the city for at least 4 years immediately prior to the date on which the election for the office is to be held, or prior to the date of an appointment to the office, as the case may be. The mayor's compensation shall be fixed by ordinance and may not be increased or decreased during the term for which he or she was elected.

11. Section 3.3 of P.L.1968, c.159 is amended to read as follows:

3.3 Vacancies. Whenever the mayor shall be unable to attend to the duties of his or her office, due to his or her absence, disability or other cause, for a period of less than 48 hours, the business administrator or, in the event of his or her inability to serve, a department head

designated by the mayor in writing filed with the city clerk, shall serve as acting mayor. Whenever the mayor shall be unable to attend to the duties of his or her office:

(a) For a period of less than 48 hours and at a time when neither the business administrator, nor a duly designated department head can serve; or

(b) For a period of more than 48 consecutive hours; or

(c) At any time during an emergency declared by the council;

a council member designated under this section shall serve as acting mayor. The mayor may at any time designate in writing filed with the city clerk a council member to serve as acting mayor under the provisions of this section. Whenever the provisions of this section require a council member to serve as acting mayor and the mayor has failed to make such a designation or the council member so designated by the mayor is unable to serve, the council shall by a majority vote of its whole number appoint an acting mayor from among its membership. Any person appointed pursuant to this section shall succeed to all of the rights, powers and duties of the mayor, until the mayor returns, the disability or other cause ceases.

(d) A vacancy in the office of mayor for any of the reasons set forth in N.J.S.40A:16-3 shall be filled in accordance with the "Municipal Vacancy Law," N.J.S.40A:16-1 et seq.

12. Section 3.5 of P.L.1968, c.159 is amended to read as follows:

3.5 Appointments and removals. (a) The mayor shall appoint and remove officers and employees as authorized by the charter or administrative code; and shall, with the advice and consent of the council, make all appointments for which no other provision is made by or pursuant to the charter.

(b) The mayor may remove a department head, the business administrator, or corporation counsel, whenever, in his or her discretion, the public interest so requires; and any such removal shall take effect 10 days after the mayor files notice of removal with the city clerk unless prior thereto the council shall at a regular or special meeting disapprove of such removal by resolution adopted by the affirmative vote of 2/3 of the entire membership. In the event of such resolution of disapproval, the affected officer shall be restored to his or her office without loss of pay.

13. Section 4.4 of P.L.1968, c.159 is amended to read as follows:

4.4 Departments. (a) There shall be the following administrative departments of the city government:

(1) Administration and Finance;

(2) Public Works;

(3) Public Affairs and Safety.

In addition, the council may, by ordinance adopted by a majority vote of its whole number, establish up to an additional five administrative departments of the city government. The council may, by ordinance adopted by a majority vote of its whole number, abolish, amend, or rename any such optional administrative departments established pursuant to this subsection.

(b) Council shall by ordinance allocate and assign all of the administrative functions, powers and duties of the city among and within such departments. Council may, by ordinance, create, abolish and modify boards and commissions, whether or not heretofore or hereafter established by or pursuant to ordinance; provided that whenever a board, commission, public corporation or other body is abolished or substantially altered by ordinance and has outstanding bonded indebtedness or other obligations, the city shall assume and become liable for such indebtedness and obligations to the same extent and with the same security and enforceability

as though such indebtedness and obligations had been issued or incurred originally in the same form by the city itself.

14. Section 4.5 of P.L.1968, c.159 is amended to read as follows:

4.5 (a) Each department shall be headed by a director, who shall be appointed by the mayor with the advice and consent of the council. A director shall serve during the term of office of the mayor appointing the director and until the appointment and qualification of a successor, subject to removal as provided by the charter.

(b) The director of each department may, with the approval of the mayor, appoint one confidential assistant, who shall be in the unclassified service of the Civil Service. In addition, the business administrator may authorize a division director to appoint one confidential assistant, who shall be in the unclassified service of the Civil Service. No more than 10 confidential assistants in total shall be appointed pursuant to this subsection across all departments and divisions.

15. Section 4.7 of P.L.1968, c.159 is amended to read as follows:

4.7 Corporation Counsel. There shall be a corporation counsel who shall be nominated and appointed by the mayor with the advice and consent of the council. The corporation counsel shall serve during the term of the mayor appointing him or her and until the appointment and qualification of his or her successor, subject to removal as provided by the charter. Corporation counsel shall be the chief legal officer of the city government, and shall have such specific functions, powers and duties and may appoint such assistants, as may be provided by the administrative code.

16. Section 4.8 of P.L.1968, c.159 is amended to read as follows:

4.8 Other appointments. Whenever any statute applicable to the city authorizes the appointment of the members of any board, commission, authority or other body for municipal purposes within the city, the power of appointment, notwithstanding any provision to the contrary in such statute, shall be exercised by the mayor with the advice and consent of council.

17. Section 4.9 of P.L.1968, c.159 is amended to read as follows:

4.9 Reserved.

18. Section 5.6 of P.L.1968, c.159 is amended to read as follows:

5.6 Action by the council. (a) The council shall consider the executive budget, make available for public distribution copies of the budget document and cause a budget ordinance to be introduced, published and hearing thereon held pursuant to the local budget law.

(b) The council may increase, decrease, or eliminate any item in the executive budget for current operating expenses, except that it may not increase any item unless, upon separate motions as to increase, 2/3 of the members of the council shall vote in favor thereof.

(c) The council may include, exclude, increase, or decrease a capital outlay or capital project contained in the executive budget, and may add capital outlays and capital projects thereto. Any capital outlay or project not included in the executive budget shall be referred to the planning board for a report and recommendation prior to the council's action thereon. The planning board shall report within 30 days and may recommend either that the project or outlay be approved or that it be disapproved or deferred. In the event that the planning board should recommend that the project or outlay be disapproved or deferred, such project or outlay shall not be included in the budget adopted by the council except upon a favorable vote of 2/3 of the

members of the council, upon separate motion as to each project or outlay. If the planning board should fail to report within 30 days, it shall be deemed to recommend approval. The requirements of this section shall be in addition to any imposed by the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) and the "Local Budget Law," N.J.S.40A:4-1 et seq.

19. Section 6.15 of P.L.1968, c.159 is amended to read as follows:

6.15 Number of signatures. A recall petition shall demand the removal of a designated incumbent, shall be signed by qualified voters equal in number to at least 25 percent of the registered voters of the city or ward, as the case may be, and shall be filed with the city clerk. It shall set forth a statement of the case upon which the removal is sought.

20. Section 7.2 of P.L.1968, c.159 is amended to read as follows:

7.2 Reserved.

21. Section 7.3 of P.L.1968, c.159 is amended to read as follows:

7.3 Dual office holding.

(a) A person shall not simultaneously hold more than one elective public office as provided in section 3 of P.L.2007, c.161 (C.19:3-5.2).

(b) A person who holds a city of Plainfield elected office either by election of the general electorate or by appointment to fill a vacancy shall not simultaneously hold any other paid or unpaid position with the city of Plainfield or any of its agencies or instrumentalities, except for positions on agencies, boards, commissions, and committees specifically set aside for elected officials in the municipal code; provided, however, that the mayor or a council member may accept an acting position under circumstances described in the charter or administrative code for which no salary or other compensation is paid.

(c) A person who holds any position with the city of Plainfield as the result of appointment by the mayor with the advice and consent of the council or by the council for which a salary or other compensation is paid shall not simultaneously hold any other position with the city of Plainfield or any of its agencies or instrumentalities; provided, however, that the mayor may, from time to time and in writing, authorize any person holding such a position to accept another specified position, for which no salary or other compensation is paid, under circumstances described in the charter or administrative code.

22. This act shall take effect immediately.

Approved August 10, 2018.