

Section 6.01 – Initiative and Referendum

The powers of initiative and referendum concerning laws and resolutions of the borough are reserved to the voters of the borough as prescribed by law. The assembly shall provide for the procedures of initiative and referendum by ordinance.

A. Initiative

1. Applications of Initiative. Through the initiative process, voters of the borough may initiate and subsequently enact, amend or repeal Borough Charter provisions, ordinances, resolutions and existing provisions of Borough Code.

2. Restrictions. Initiative may not be used for dedication of revenues, making or repealing appropriations, creating courts and prescribing their rules, or enacting local or special legislation. Initiative shall not be used to compel the adoption of a measure that is not enforceable by law.

3. Voidance of Petition. An initiative petition is void if the Assembly enacts substantially the same measure prior to the election.

4. Failed Initiative. If an initiative fails to receive voter approval, a new petition application for substantially the same measure may not be filed sooner than six months after the election results are certified.

Attorney notes:

Section 6.01A includes Borough Charter amendments in the initiative process (language repeated in Section 18.01 of the Charter, which specifically addresses charter amendments). However, the time frame for a charter amendment election (next election occurring more than 90 days after petition certification), is different from the time frame for an election on an initiative petition, as set out in Chapter 2.44 of the Code (within 90 days). This could be addressed by adding language to either Chapter 2.44 of the Code, or Article 6 of the Charter, to the effect that an election on an initiative petition addressing a charter amendment will be conducted as set out in sections 18.02 and 18.03 of the Charter. Or, Chapter 2.44 could be amended so that all the election dates match Article 18 (so that all initiative/petition elections are held at the next election occurring more than 90 days following certification – with no requirement for the call of a special election). This is Clerk Thompson's preference.

Section 6.01B(3) provides for suspension of legislation when a referendum petition has been filed. I would recommend changing the language so that certification of the petition triggers suspension, and deleting language from the last sentence, so that the provision reads as follows (new language underlined, language proposed for deletion struck through): " ... Filing of a The clerk's certification of sufficiency of a referendum petition suspends the ordinance or resolution and the assembly may not enact a substantially similar measure during the period of suspension. The suspension terminates ~~on a finding of insufficiency of the petition or~~ upon certification of a majority vote against repeal." The current language would allow for suspension prior to certification of a petition, which we do not recommend