

MORE REASONS TO VOTE NO ON ISSUE 24

AP·PRO·PRI·A·TION (əˌprōprēˈāSH(ə)n) *noun* **1.** the action of taking something for one's own use, typically without the owner's permission. (google)

Appropriation/Eminent Domain. The right of government entities to appropriate private property through an appropriation, condemnation, or eminent domain lawsuit attempts to delicately balance the fundamental rights of private property against the public's need to use and develop real property for the public good.
(www.porterwright.com/appropriationeminent-domain-practice-areas)

The chart below provides a side-by-side comparison of the Proposed Charter's "Article Ten Appropriation of Property" (which would replace language in the current Charter's Article "XVII. Appropriation of Property"). The chart compares critical notice provisions applicable when the City exercises its authority to appropriate your property, also known as eminent domain.

The introductory "appropriations" language in Article XVII. §1 of our current charter is essentially the same as that found in the proposed Charter's Article Ten, Section 10.1.

The City has represented to voters that the current, Second Amended Charter's §3 Notice provision is "similar" to the Proposed Third Amended Charter's ARTICLE TEN, Section 10.3. (See p. 25 of the City's "Final Report With Section by Section Comparison of Proposed Third Amended Charter of Lakewood with Second Amended Charter of Lakewood". Report is available at onelakewood.com). However, the "Notice" provisions in the Proposed and Current charter are most certainly *not* similar! **Our Current charter goes much further than the Proposed charter in protecting your right to notice if the City's decides to appropriate your property through eminent domain.**

Our Current Charter provides that if City's initial attempt to serve a property owner with notice of its intent to appropriate the owner's property, **"notice shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation in the City."** When you compare the below provisions in the current Charter and the Proposed Charter, you will see *the Proposed Charter's notice provision is significantly shorter. This is because the important notice provision that exists in our Current Charter has been eliminated. This makes it much easier for the City to begin proceedings to appropriate your property if the City Clerk's initial attempt to serve you personally was unsuccessful. The City's attempt to eliminate the continuous three-week publication requirement from our Current Charter is an affront to the rights of property owners and must be rejected.*

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EXISTING LANGUAGE IN 2ND AMENDED CHARTER (CURRENT CHARTER) <i>Compare important protections highlighted below which have been removed from Proposed Charter in right-hand column</i>	PROPOSED LANGUAGE IN 3RD <u>AMENDED</u> CHARTER <i>Compare important changes highlighted below to compare with our Current Charter.</i>
ARTICLE XVII. APPROPRIATION OF PROPERTY SECTION 1. APPROPRIATION: Property within the corporate limits of the City may be appropriated for any public or municipal purpose, and subject only to the limitations thereon imposed by the Constitution of the State, such appropriation shall be made in the manner herein provided. By such appropriation the City may acquire a fee simple title or any less estate, easement or use. Appropriation of property located outside of the corporate limits of the City shall be made according to the requirements of and in the manner provided by the general law.	ARTICLE TEN. APPROPRIATION OF PROPERTY 10.1 APPROPRIATION: Property within the city may be appropriated for any public or municipal purpose, and subject only to the limitations on appropriations imposed by the state Constitution, appropriation shall be made in the manner provided in this article. By appropriation the city may acquire a fee simple title or any lesser estate, easement or use. Appropriation of property located out- side the city shall be made according to the requirements of and in the manner provided by the general law.

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ARTICLE XVII. APPROPRIATION OF PROPERTY SECTION TWO. DECLARATORY RESOLUTION When it is deemed necessary to appropriate property Council shall adopt a resolution declaring such intent, defining the purpose of the appropriation, setting forth a pertinent description of the property, and the estate or interest therein desired to be appropriated. ARTICLE XVII. APPROPRIATION OF PROPERTY SECTION 3. NOTICE. Immediately upon the adoption of such resolution, for which but one reading shall be necessary, the Clerk of Council shall cause written notice thereof to be given to the owner, person in possession thereof or having an interest of record in every piece of land sought to be appropriated, or to his or her authorized agent; and such notice shall be served by a person designated for the purpose and return made in the manner provided by law for the service and return of summons in civil actions. If such owner, person or agent cannot be found, notice shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation in the City, and Council may thereupon pass an ordinance by the vote of two-thirds of all members thereof, directing such appropriation to proceed. (Amended 11-8-11)	ARTICLE TEN. APPROPRIATION OF PROPERTY 10.2.INITIAL RESOLUTION When it is deemed necessary to appropriate property Council shall adopt a resolution declaring such intent, defining the purpose of the appropriation, setting forth a pertinent description of the property, and the estate or interest therein desired to be appropriated. At least one reading of the resolution is required prior to its adoption. ARTICLE TEN. APPROPRIATION OF PROPERTY10.3 NOTICE Immediately upon the adoption of the resolution required by Section 10.2, the clerk of council shall cause written notice to be given to the owner, person in possession or person having a recorded interest in every piece of land sought to be appropriated, or to his or her authorized agent; and the notice shall be served by a person designated for the purpose and return made in the manner provided by law for the service and return of summonses in civil actions. If the owner, person or agent cannot be found, notice shall be given in accordance with the notice provisions adopted under Section 2.11, and council may then pass an ordinance, by a two-thirds vote of all members of council, directing the appropriation to proceed.
	ARTICLE TWO. 2.11 PUBLICATION: Council may prescribe the manner of giving public notice of the enactment of any and all ordinances, resolutions or other acts, procedures, statements, including financial statements, or reports required by law to be published. Publication shall include posting on the official city website.

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