REPORT OF THE MINNEAPOLIS CHARTER COMMISSION
ON
CITY COUNCIL PROPOSAL TO AMEND
SECTIONS 1.4 AND 4.1 OF THE MINNEAPOLIS CITY CHARTER

1. Executive Summary. This Report is the Charter Commission's review and response to the City Council's proposed amendments to Section 1.4 of the Minneapolis City Charter (pertaining to adding authority for registered voters of the City to propose, by initiative, a rent stabilization ordinance to regulate rents on private residential property in the City) and Section 4.1 (pertaining to adding authority for the Council to adopt a rent control or rent stabilization ordinance to regulate rents on private property in the City and to submit such an ordinance to registered voters of the City and an election). A copy of the proposed amendments is attached as Exhibit 1. For the reasons set forth below, the Charter Commission rejects the amendment to Section 1.4 and suggests a substitute amendment to Section 4.1 to ensure conformity with Minn. Stat. §471.9996, Subd. 2.

2. Statutory Authority. The Charter Commission's amendment process is governed by Minn. Stat. §410.12, subs. 5, which provides in part:

> The council of any city having a home rule charter may propose charter amendments to the voters by ordinance. Any ordinance proposing such an amendment shall be submitted to the charter commission. Within 60 days thereafter, the charter commission shall review the proposed amendment but before the expiration of such period the commission may extend the time for review for an additional 90 days by filing with the city clerk its resolution determining that an additional time for review is needed. After reviewing the proposed amendment, the charter commission shall approve or reject the proposed amendment or suggest a substitute amendment.

After rejection by the Charter Commission, the Council still has the option to place the amendments on the ballot: "On notification of the charter commission's action, the council may submit to the people, in the same manner as provided in subdivision 4, the amendment originally proposed by it." Id.

3. Procedural Posture. The Council submitted its proposed amendments to the Charter Commission for its consideration via letter from the City Clerk dated February 26, 2021. The Charter Commission received the amendments at its May 3, 2021 meeting and referred them to the Rent Stabilization Work Group for review. On April 7, 2021, within sixty days of receipt of the amendments, the Charter Commission requested an additional ninety days to complete its review as permitted by statute. This Report constitutes the Charter Commission's notification to the Council that the Charter Commission rejects the amendment to Section 1.4 of the Charter and suggests a substitute amendment to Section 4.1.

4. Charter Commission Process. After the referral to the Rent Stabilization Work Group, the Work Group met March 30, April 27, May 11, and May 18, 2021 to review the proposed amendments. In addition, the Work Group researched additional materials relating to rent control or rent stabilization and also researched materials pertaining to initiative and referendum. The Work Group also requested and received opinions from the Minneapolis City Attorney's Office on certain topics. These materials were all added to a research library available to all interested parties through the City's LIMS system.

5. History of Rent Control in Minnesota. The implementation of rent control in Minnesota is governed by a statute passed in 1984. Minn. Stat. §471.9996, entitled "Rent Control Prohibited", provides as follows:

> Subdivision 1.**In general.** No statutory or home rule charter city, county, or town may adopt or renew by ordinance or otherwise any law to control rents on private residential property except as

provided in subdivision 2. This section does not impair the right of any statutory or home rule charter city, county, or town:

(1) to manage or control property in which it has a financial interest through a housing authority or similar agency;

(2) to contract with a property owner;

(3) to act as required or authorized by laws or regulations of the United States government or this state; or

(4) to mediate between property owners and tenants for the purpose of negotiating rents.

Subd. 2.**Exception**. Subdivision 1 does not preclude a statutory or home rule charter city, county, or town from controlling rents on private residential property to the extent that the city, county, or town has the power to adopt an ordinance, charter amendment, or law to control these rents if the ordinance, charter amendment, or law that controls rents is approved in a general election. Subdivision 1 does not limit any power or authority of the voters of a statutory or home rule charter city, county, or town to petition for an ordinance or charter amendment to control rents on private residential property to the extent that the power or authority is otherwise provided for by law, and if the ordinance or charter amendment is approved in a general election. This subdivision does not grant any additional power or authority to the citizens of a statutory or home rule charter city, county, or town to vote on any question beyond that contained in other law.

Subdivision 1 does not apply to any statutory city unless the citizens of the statutory city have the authority to vote on the issue of rent control granted by other law.

Summarized, Subdivision 1 prohibits Minneapolis, a home rule city, from adopting an ordinance or any other law that controls rent on private residential property except as provided in Subdivision 2. Subdivision 2 does not preclude a home rule charter city from controlling rents on private residential property so long as the ordinance or charter amendment that "controls" rent is approved at a general election. The voters of a home rule city may petition for an ordinance or charter amendment to control rents if "that power or authority is otherwise provided by law" and approved in a general election. The subdivision does not grant any additional power or authority to the voters.

It is necessary to put section 471.9996 in context. Prior to its passage, the City had the legislative authority to pass an ordinance pertaining to rent control. As a home rule charter city, Minneapolis has, in municipal matters, "all the legislative power possessed by the legislature of the state, save as such power is expressly or impliedly withheld." Bolen v. Glass, 755 N.W.2d 1, 4-5 (Minn. 2008) (quotation omitted). Among these broad powers is the power to enact ordinances "to promote the health, safety, and welfare of residents." Builders Ass'n of Minn. v. City of St. Paul, 819 N.W.2d 172, 180 (Minn. App. 2012). Despite this broad power to legislate in regard to municipal affairs, "state law may limit the power of a city to act in a particular area." City of Morris v. Sax Invs., Inc., 749 N.W.2d 1, 6 (Minn. 2008). "Cities have no power to regulate in a manner that conflicts with state law or invades subjects that have been preempted by state law." Jennissen v. City of Bloomington, 913 N.W.2d 456, 459 (Minn. 2018).

Thus, prior to the enactment of the rent control statute, the City had the power to enact rent control, just as it had the power to enact a minimum wage ordinance or a sick and safe leave ordinance. Instead, state law now limits the legislative authority of the City and requires any legislative action by the Council to be approved at a general election in a referendum. Alternatively, the state law would permit a rent control ordinance by voter petition through an initiative process. However, the Minneapolis Charter does not permit either initiative or referendum. See, Minn. Stat. §410.20 (charters may provide for initiative and referendum).

6. Rent control or rent stabilization. For reasons that are unclear, the amendments proposed by the Council differentiate between rent control and rent stabilization. The amendment to Charter §1.4 allows voters to propose a rent stabilization ordinance by initiative. In contrast, the amendment to Charter §4.1

permits the Council to adopt either a rent control ordinance or a rent stabilization ordinance. Rent control may be described as policies that strictly regulate rent increases, usually in the form of a rent ceiling and are most commonly found in World War I and World War II-era programs. Rent stabilization is the more common form of modern regulations, allowing for yearly capped rent increases— usually in the form of a percentage of the previous year's rent. Minneapolis Rent Stabilization Study, February 2021, Center for Urban and Regional Affairs, Goetz et al (hereinafter "CURA Study"). For purposes of this Report, the two terms are generally used interchangeably. The rent control statute, Minn. Stat. §471.9996, is silent with respect to rent stabilization.

This Report will not discuss the substance of rent control in detail, since it is or should be the focus of the legislative process. In Minneapolis, the City's general legislative and policymaking authority resides with the City Council. City Charter §4.1(a). The focus of the Charter Commission in the amendment process, however, is on any new scheme or framework of government. This Report will focus in more detail later on the issues of initiative and referendum since they directly affect the Charter. Because the substance of rent control does impact the discussion of initiative and referendum, some further discussion is necessary.

As described in the CURA Study and the other materials gathered by the Rent Stabilization Work Group, rent control or stabilization is a complicated topic. The goals of rent regulation include protecting tenants from excessive rent regulation, alleviating the affordable housing crisis, preserving existing affordable housing, providing security, maintaining economic and racial diversity, and preventing real estate speculation. CURA Study, p. 4. While these are laudatory goals, the academic research conflicts as to how successful rent control is in reaching these goals. For example, some studies show rent control has success in maintaining below market rent levels and moderating price appreciation. Other studies show that the "success" is statistically insignificant or show the rents increased. Id at pp. 30-34. Similarly, the empirical evidence on whether rent control achieves its goals regarding racial diversity is mixed. One study finds that rent control in Massachusetts did not adequately serve the populations targeted by the program, predominantly low-income and BIPOC renters. Other studies showed that low income, Black and Latinx were appropriately targeted and benefited. Id at pp. 39-40. One can find evidence of success or failure for each of the purported goals of rent control.

The program design choices to made in implementing any rent control ordinance are quite complex. What is the choice of cap for rent increases? Is there a flat annual percentage increase or is it pegged to CPI (and which one) or a combination? Will there be exceptions to the cap that can be passed through to the tenant such as increased maintenance or increased property taxes? Studies show that many landlords assess a variety of "fees" separate from rents. How will such fees be handled? Does the landlord have the right to a "reasonable return" on investment? And who decides what the reasonable return is? Are there going to be exemptions to rent control? New construction is a common exemption. Should it be exempt? Should owner-occupied be exempt?

This sampling of issues is not intended necessarily to weigh in on the wisdom of passing rent control. Rather, these descriptions are intended to show that the consideration of this topic, including its goals and the programmatic choices, are better suited to a legislative process than an initiative process. The City's general legislative authority and expertise resides with the Council. The Council has the ability to not only commission a report such as the CURA Study, it can hold meetings with neighborhood groups, tenants groups, landlord groups, advocacy groups or other affected communities and groups. Through the legislative process, the Council can fashion a program that adequately addresses local concerns and political factors that are not well suited to an initiative process.

7. Initiative and Proposed Council Amendment to Charter §1.4. The proposed Council amendment provides that "Registered voters of the City have the right to propose a rent stabilization ordinance by initiative." Proposed Amendment Charter §1.4(e). The initiative process may be initiated by a petition

signed by registered voters in the City equal to five percent of the total votes cast at the last previous election. Id. §1.4(e)(1). If the petition meets all the technical requirements the Council must do one of three things; enact the ordinance without change; or, direct the City Clerk to submit the ballot question to the qualified voters at a "general or special election"; or direct the City Clerk not to submit the ballot if it fails a City Attorney legal analysis. Id. §1.4(e)(5).

Unlike many of the larger home rule charter cities in Minnesota, the City of Minneapolis Charter has never permitted initiative or referendum. Amending the Charter to permit initiative and referendum directly impacts the form and function of City government and is, therefore, a focus of the Charter Commission. The Charter Commission believes that initiative, in particular, is not appropriate for the City. In theory, initiative and referendum are a form of direct democracy, allowing the people to bypass legislators and special interests and placing legislative power directly in the hands of the populace. However, there are a number of policy concerns surrounding initiative. One particular criticism of citizen initiative is that it often ends up in a badly drafted law since, if passed by the voters, the petition ends as law. It is argued that government officials who are experienced in legislative drafting will provide a better and more defensible law than those who do not have such experience. Legislators can bargain, negotiate and attempt to reconcile incompatible positions to reach a consensus Voters on the other hand are presented with an all or nothing proposition. Similarly, the typical legislative process involves elected officials consulting with staff, including legal counsel, with topic expertise and involving a wide range of political constituencies in the formulation of the law.

Perhaps the most serious criticism of initiative and referendum is their threats to minority rights. These criticisms are outlined in an article by Prof. David Schultz:

> Derrick Bell argues that while ballot initiatives for whites may be an expression of democracy at its finest, for the poor and people of color referenda it is a threat to their rights. Use of initiative and referenda, while often seemingly neutral on their face, discriminate against specific groups. Bell contends that while the Court will police direct democracy when the balance between majority rule and minority rights has been tipped too much against the latter, he asserts that the judiciary has generally not taken an aggressive enough action to look beyond apparent neutral processes to guard against abuses. Bell's conclusion is that the initiative and referendum process is structurally biased against minority rights and therefore should be eliminated in light of the warnings of majoritarian tyranny ….

David Schultz, *Liberty v. Elections: Minority Rights and the Failure of Direct Democracy*, 34 Hamline J. Pub. L. & Pol'y 169, 183 (2013) (Internal citations omitted). Numerous studies have documented this hostility to minority rights:

> David B. Magleby reviewed ballot measures between 1898 and 1978 and found that in general only 33% of them were supported by the voters. But Magleby does not indicate what percentage of those targeting minority rights are successful. Instead, one of the most comprehensive studies regarding the hostility of direct democracy to minority rights was undertaken by Barbara Gamble. Gamble examined local and state ballot measures related to AIDS testing, gay rights, language, school desegregation, and housing/public accommodations desegregation from 1960 to 1993. She found that 78% of the 74 civil rights measures in her study defeated minority interests. Additionally, Sylvia Vargas updated and corroborated the Gamble study, examining ballot initiatives from 1960 to 1998. According to Largos[sic] : "In the eighty-two initiatives and referendums surveyed in this Article, majorities voted to repeal, limit, or prevent any minority gains in their civil rights over eighty percent of the time." Conversely, in efforts to extend civil rights protections, the success rate was barely one in six.

Id. at 185-186 (Internal citations omitted).

Additionally, some argue that the initiative process is often hijacked by well-funded special interest or advocacy groups. Under election law, there is no limit on money that can be spent on initiative or referendum campaigns whether by proponents or opponents. Thus, ballot initiatives can be seen as both targeting minority rights while also at the same time undermining majoritarian preferences because of the ability of wealthy individuals or corporations to use money to thwart popular preferences. Id. at 187.

A final policy concern is that courts will show little deference to ballot measures. In general courts will defer to the will of legislatures so long as there is a rational basis to the policy adopted and there is some legislative finding of fact to support the policy. For example, the City was able to successfully defend equal protection and due process challenges to such significant ordinances as its minimum wage ordinance and its discrimination in Section 8 housing ordinance, in part, because of the record the Council built during its legislative process. See, Graco v. City of Minneapolis, 925 N.W2d 262 (Minn. App. 2019) aff'd, 937 N.W.2d 756 (Minn. 2020); Fletcher Properties v. City of Minneapolis, 931 N.W.2d 410 (Minn. App. 2019) aff'd 947 N.W.2d 1 (Minn. 2020). However, in the case of initiative, no findings of fact or legislative hearings generally exist to support the initiative. Therefore, the courts are not likely to afford the same deference to initiative and referendum as they would to acts of a legislature. Schultz, *supra*, at 190.

In addition to these significant policy concerns about initiative contained in the proposed amendment to Section 1.4, there are legal issues also. First, the amendment states that the ballot question may be approved at a "general or special election". This language violates the directive contained in Minn. Stat. §471.9996, Subd. 2, which requires that any ordinance, charter amendment or other law that controls rents be approved at a general election. In addition, that part of the ordinance which would allow a successful petition to be enacted without change by the Council without an election, also violates state law. See, Proposed Amendment Charter §1.4(e)(5). The City Attorney's Office has acknowledged the conflict with State law.

As noted above, the amendment proposes that a rent stabilization initiative may be initiated by petition and must be signed by registered voters equal to five percent of the total votes cast at the last general election. Proposed Amendment Charter §1.4(e)(1). The five percent requirement is taken from Minn. Stat. §410.12, Subd. 1, which provides for the method of amendment of a home rule charter by petition by registered voters. This is the only "initiative" currently allowed for by voters of the City of Minneapolis. While a number of Minnesota charter cities permit initiative in their charters, they typically have higher signature requirements than Section 410.12. While St. Cloud only requires signature of registered voters equal to five percent of the total votes, Duluth and Bloomington require signatures by registered voters equal to ten percent of the total votes cast at the last general election, and Brooklyn Park and Plymouth require fifteen percent of the total vote at the last election. St. Paul requires signatures of registered voters equal to eight percent of those who voted for the office of mayor in the preceding city election.

Based upon the legal and policy considerations discussed above, the Charter Commission rejects the proposed Council amendment to Section 1.4 of the Minneapolis City Charter.

8. Referendum and Proposed Council Amendment to Charter §4.1. The proposed amendment states in relevant part:

> (g) Rent stabilization.
> (1) Council adoption. The Council may adopt a rent control ordinance or a rent stabilization ordinance to regulate rents on private residential property in the City of Minneapolis.

> (2) Submission to voters. The Council *may* submit a rent control or rent stabilization ballot question to qualified voters to regulate rents on private residential property in the City of Minneapolis. It must be submitted at a general or special election on a date allowed under Minnesota election law. If more than half the votes cast on the ballot question are in favor of its adoption, the ordinance will take effect in 30 days from the date of the election or at such other time as is fixed in the ordinance.

(Emphasis added). First, this section has the same conflicts with state law that the Council's proposal amendment to Charter §1.4 has. Since Subparagraph (2), "Submission to voters" is permissive, Subparagraph (1), "Council adoption" purports to allow the Council to adopt a rent control or rent stabilization ordinance without a vote at a general election. This would violate the State law requiring that any rent control law be approved at a general election. Minn. Stat. §471.9996, Subd. 2 provides:

> Subd. 2.Exception. Subdivision 1 does not preclude a statutory or home rule charter city, county, or town from controlling rents on private residential property to the extent that the city, county, or town has the power to adopt an ordinance, charter amendment, or law to control these rents *if* the ordinance, charter amendment, or law that *controls* rents is approved in a *general election*. Subdivision 1 does not limit any power or authority of the voters of a statutory or home rule charter city, county, or town to petition for an ordinance or charter amendment to *control* rents on private residential property to the extent that the power or authority is otherwise provided for by law, and if the ordinance or charter amendment is approved in a *general election*. This subdivision does not grant any additional power or authority to the citizens of a statutory or home rule charter city, county, or town to vote on any question beyond that contained in other law.

(Emphasis added). The Minnesota canons of construction of legislative language provide that words and phrases are construed according to rules of grammar and according to their common and approved usage. Minn. Stat. 645.08. In this instance, the focus is on the word "control(s)" since any law, charter amendment or ordinance that "controls" rents must be approved in a general election. Control in this context simply means "to adjust to a requirement; regulate". *The American Heritage Dictionary of the English Language*, Fifth Edition. Subparagraph (1) of the proposal simply is the enabling language which grants the Council the "power or authority" which is necessary to pass an ordinance that actually controls or regulates rents on private property. If the Council exercises its authority and passes an ordinance that actually controls rents, then State law requires that law must be approved at a general election. In order, to comply with State law, subparagraph 2 must be require that the ordinance go to a general election. To the extent that subparagraph 2 would permit the ordinance to be approved at a special election, as discussed earlier, it also violates State law.

The proposed amendment also states that if the question goes to the voters, and "if more than half the votes cast on the ballot question are in favor of its adoption, that it is approved". While the Charter Commission recognizes that most home rule cities that permit initiative and referendum require approval by a majority of voters voting on the issue, it believes that the more appropriate measure would be that passage requires the approval of fifty-one percent of those voting on the measure. This is the requirement with which City voters are familiar with since is the requirement for passage of amendments to the Charter. Minn. Stat. 410.12, Subd. 4. Finally, the Charter Commission believes the proposed amendment should acknowledge that any rent control or rent stabilization ordinance is subject to mayoral approval.

As discussed in Section 5 of this Report, in the absence of section 471.9996, the subject of rent control would have been within the legislative jurisdiction of the Council. And unlike the proposed amendment to Charter §1.4 which would permit initiative for rent stabilization, the Charter Commission believes that the Council is the proper place for a full discussion of such a complicated and significant topic. While the proposed amendment to Charter §4.1 returns the topic to its proper venue, the Council and its legislative

process, the amendment does need to comply with state law. Therefore, the Charter Commission proposes a substitute amendment to Charter §4.1.

9. Standards for review. On October 7, 2020, the Minneapolis Charter Commission adopted "Standards for Considering Proposals to Amend the City Charter." The Commission determined that these standards would be applied from that time on for any proposed amendments that were to come before the Commission. It is expected that, generally, a proposed amendment then should pass all of these tests before the Charter Commission may recommend placement on the ballot. The tests and their application to the proposed Rent Stabilization amendments are as follows:

A. Section 1.4 of the Charter.

Is the amendment germane to the Charter? Yes. Minnesota Statute Sec. §471.9996 prohibits the City of Minneapolis, as a home rule charter city, from enacting any Charter amendment, ordinance or other law to control rents unless approved in a general election. Thus, the amendment, which provides for such approval is clearly germane to the Charter by operation of state law. In addition, as noted above, amending the Charter to permit initiative and referendum directly impacts the form and function of City government and is therefore germane to the Charter.

Is the amendment well considered? No. Notes and Comments attached to the Standards suggest that such consideration "…might include whether the requested change was explored thoughtfully, based on evidence…" and so forth. Moreover, "the Commission should consider whether it represents good public policy…." The Minneapolis Charter (like the State Constitution) does not permit the use of initiative. There is no evidence in the record provided by the City Council that suggests the consequences of enacting a mechanism that threatens minority rights was discussed or considered. Rather, it appears to be merely the product of a desire to offer every possible option, without regard to consequences. For the reasons discussed above, creating an initiative process does not constitute good public policy.

Is the amendment clear and specific? Yes, but in this case, clarity does not override the negative policy implications or the legal requirements of authorizing the use of initiative.

Does the proposed amendment interfere with or take away any rights of the voters? Yes. As discussed above, studies show that initiatives often constitute "majoritarian tyranny" and that, in particular, the very people whom rent control or rent stabilization ordinances are designed to benefit may be the ones who benefit least when an initiative mechanism is in place.

Is the proposed amendment consistent with state law? No. Certain portions of the proposed amendment are contrary to Minn. Statute Section§ 471.9996, Subd. 2. Specifically, while the statute directs that any ordinance to control rents must be submitted to the voters in a general election, the proposed amendment improperly permits that the ordinance may also be submitted for a vote in a special election. Moreover, the proposed amendment provides that upon receipt of an initiative that satisfies all technical requirements, one option granted to the City Council is simply to enact the ordinance without change and without submission to the voters. The statute does not permit such an option. These violations of state law could conceivably be corrected by a substitute amendment, but because the proposed amendment also raises more substantive issues, a substitute amendment is not recommended.

Finally, is the proposed amendment necessary to accomplish its intended objective? No. For the reasons discussed in this report, the proposed amendment to Section 1.4 of the Charter will not accomplish its intended objective. The proposed amendment to Section 4.1, however,

provided that changes are adapted to render it consistent with state law, will accomplish the intended objective.

Because the proposed amendments to Section 1.4 of the Charter do not meet all of the Charter Commission's review standards, these standards support rejection.

B. Section 4.1 of the Charter.

Is the amendment germane to the Charter? Yes. The analysis is the same as it was for Section 1.4.

Is the amendment well considered? Yes. With the technical corrections offered by the substitute amendment, the amendment will provide the authority necessary for the City of Minneapolis to take the first step required by Minnesota Statute Sec. 471.9996, Subd. 2, to lead to the potential enactment of a rent stabilization or rent control ordinance.

Is the amendment clear and specific? Yes.

Does the proposed amendment interfere with or take away any rights of the voters? No. With the initiative option removed, the referendum process allows the Council, in its legislative role, to systematically investigate and properly present the issue to the voters in a general election.

Is the proposed amendment consistent with state law? No. This section of the proposed amendment has the same conflicts with state law as referenced with respect to Section 1.4 of the Charter and as described above. Therefore, it must be rejected as it is written and, instead, a substitute amendment that complies with state law is proposed.

Finally, is the proposed amendment necessary to accomplish its intended objective? Yes and no. The proposed substitute amendment, with the technical changes needed to bring it in compliance with state law, will accomplish the intended objective, namely, to submit a Charter change to the voters that will authorize the City Council to enact an ordinance, if it so desires, "to control rents." This amendment, unlike the proposed amendment to Section 1.4 of the Charter, would properly provide the means for a democratic process to engage voters on this important public policy issue while mitigating the risks inherent in initiative. While the risks of "majoritarian tyranny" exist with referendum as well, it does not raise all of the concerns that a citizen-initiated petition does. State law requires rent control go to the voters and the referendum process allows for a full legislative process prior to submission to voters.

Because the proposed amendment to Section 4.1 of the Charter conflicts with state law, the standards support rejection of the amendment as written and further support adoption of a proposed substitute amendment.

10. Racial Equity Impact Analysis. The City Council authors of the proposed amendments, along with policy aides and city staff, prepared a Racial Equity Impact Analysis (undated) of the substantive issues connected to rent stabilization. It did not include any reference to the mechanisms incorporated in the amendments, initiative and referendum, other than to define them as "multiple pathways" to reach the desired outcome. The Analysis further notes that the amendments "do not, themselves, create a substantive rent stabilization policy."

The Charter Commission believes that the underlying policy considerations related to a rent stabilization or rent control ordinance are not before us in our review of the amendments. The Racial Equity Impact Analysis, including particularly the extent to which it reflects the CURA study, is apt. Although issues regarding the potential negative impact of the use of initiative as proposed for Section 1.4 of the Charter would conceivably require a separate analysis, it is not needed for purposes of this report because of the recommended rejection of that amendment. The proposed amendment to Section 4.1, on the other hand, is in a different category that may require a separate Racial Equity Impact Analysis both because the referendum process is essentially an enabling provision (that process may have an impact on affected communities) and which would be followed by potential substantive public policy, if successful.

If the City Council were nevertheless to include its original proposed amendment to Section 1.4 as a ballot question on the November 2021 ballot, it would be incumbent on it not only to complete a Racial Equity Impact Analysis on the use of initiative but also to hold a public hearing to explore this "pathway" as a substantive policy question prior to doing so.

11. Conclusion. For the reasons set forth above, the Charter Commission rejects the amendment to Section 1.4 and suggests the following substitute amendment to Section 4.1 to ensure conformity with Minn. Stat. §471.9996, Subd. 2 (new language in italics):

§ 4.1. - Function.

(a) **Governing body**. The governing body is the City Council, in which the City's general legislative and policymaking authority resides.

(b) **Scope**. The Council may act on the City's behalf in any matter, except where—

(1) this charter reserves the action for a different board, commission, or committee; or

(2) the action is inconsistent with this charter or otherwise unlawful.

(c) **Council as statutory board**.

(1) **Generally.** Where the law provides for municipal action through a board or commission, and this charter does not reserve that authority to a board or commission other than the Council, the Council must either—

(A) itself serve as the board or commission for which the law provides, even if the board or commission is a statutory rather than a municipal agency; or

(B) provide by ordinance for the board or commission, in which case—

(i) the board's or commission's membership may (but need not) consist partly or wholly of Council members, and

(ii) the Council may (but need not) organize the board or commission as a municipal department.

(2) **Board of appeal and equalization**. The Council may provide under this section 4.1(c) for a board of appeal and equalization, in which case it may also provide that any such board must return to the Council the assessment rolls that the board has revised, in which case the Council may confirm the board's revisions or return the rolls to the board for further revision.

(d) **Franchises**. The Council may grant and regulate any lawful franchise.

(e) **Licenses**. The Council may grant a license only if the license expires within one year.

(f) **Liquor licenses**. Subject to any other applicable law, the Council may grant a license for the sale of liquor.

(1) **Zoning**. The Council may grant a liquor license only in an area zoned for commercial or industrial use, not for residence or office use.

(2) **Wine licenses**. The Council may grant a license for the on-sale of wine, which may include the on-sale of intoxicating malt beverages, to a restaurant which otherwise qualifies for the license under each applicable law or ordinance.

(3) **On-site consumption**. The Council must by ordinance establish standards for a restaurant holding a liquor license.

(4) **Other limits**. The Council may by ordinance impose additional limits on granting a liquor license.

(5) **Other laws and ordinances apply**. All laws and ordinances that otherwise apply to a licensed site remain applicable after the Council has granted a liquor license.

(g) Rent stabilization.

(1) Council adoption. *The Council may adopt a rent control or rent stabilization ordinance (subject to sec. 4.4(c)) to regulate rents on private residential property in the City of Minneapolis.*

(2) Submission to voters*. Before the ordinance can take effect, the Council must submit the rent control or rent stabilization ordinance to voters in a ballot question at a general election. If 51 percent or more of the votes cast on the ballot question are in favor of its adoption, the ordinance will take effect 30 days from the date of the election or at such other time as is fixed in the ordinance.*