

PROPOSED EMERGENCY AUTHORITY, PUBLIC SPENDING & GOVERNING-BODY ACCOUNTABILITY AMENDMENT

City of Cleveland, Oklahoma

Proposed Charter / Municipal Rule Amendment and Companion CMA Governance
Amendment

Discussion Draft - September 4, 2026

PURPOSE

To prevent any past or future emergency clause, public-safety rationale, administrative delegation, consent-agenda procedure, or Cleveland Municipal Authority (CMA) action from being used as a continuing substitute for public governing-body approval of consequential spending, contracts, ordinances, rules, or policy changes.

Drafting note. This is a citizen policy proposal for public discussion and legal review. Final language should be reviewed by qualified municipal counsel for conformity with the Oklahoma Constitution, Title 11, the Oklahoma Open Meeting Act, Title 60 public-trust law, the Cleveland City Charter and Municipal Code, and the CMA trust indenture/bylaws. Nothing in this draft is intended to reduce any greater protection or voting requirement imposed by law.

Core policy principles

- No old emergency clause becomes a continuing or evergreen grant of emergency power.
- No individual City employee or department may unilaterally create an emergency exception to Council approval.
- CMA emergency action may not substitute for City Council consent where City or beneficiary approval is required.
- Consequential emergency actions must be publicly noticed, debated, and decided by recorded roll-call vote.
- Multi-year obligations are evaluated by the enforceable commitment created when signed, not merely by annual invoices.
- Later purchase orders, payments, or generalized consent-agenda approvals do not silently cure a missing prior approval requirement.

Proposed Amendment Text

Section 1. Purpose

The purpose of this amendment is to ensure that emergency authority is used only for genuine, immediate emergencies; that emergency declarations do not become continuing delegations of governmental authority; that expenditures, contracts, ordinances, regulations, and material policy changes remain subject to public governing-body oversight; and that the Cleveland Municipal Authority may not be used to avoid approval requirements applicable to the City of Cleveland or the governing body of the beneficiary.

Section 2. No Continuing or Evergreen Emergency Authority

No ordinance, resolution, policy, rule, declaration, administrative action, or other enactment containing an emergency clause, including Ordinance No. 556 adopted in 2011, shall be interpreted as creating continuing, permanent, or prospective emergency authority to waive or bypass otherwise applicable requirements for:

1. City Council approval;
2. competitive purchasing or procurement;
3. spending or contracting limits;
4. public notice;
5. public voting;
6. budget authorization;
7. enactment or amendment of ordinances, rules, or policies; or
8. approval by the governing body of the beneficiary of a public trust.

An emergency clause shall operate only for the purpose and transaction expressly considered and approved by the governing body at the time of its adoption, unless continuing authority is expressly stated and is otherwise lawful.

A general reference to public safety, public welfare, peace, health, convenience, governmental efficiency, or benefit to the community shall not, standing alone, constitute an emergency or authorize circumvention of an approval requirement.

Section 3. Definition of Emergency

For purposes of this Charter and any conforming municipal rule, an emergency means a sudden, unforeseen condition presenting an imminent and substantial threat to:

- human life or physical safety;
- public health;
- continuity of essential water, sewer, natural gas, police, fire, or other essential municipal services; or
- substantial public property where delay necessary to obtain ordinary approval would materially increase the danger or damage.

An emergency shall not exist solely because of:

- expiration of a vendor quote or contract offer;
- administrative delay;
- budget timing;
- failure to place an item on an earlier agenda;

- availability of a grant or funding opportunity;
- convenience;
- anticipated cost savings;
- a generalized public-safety benefit; or
- a desire to expedite a governmental decision.

Section 4. Emergency Action Requires Governing-Body Approval

Whenever emergency authority is relied upon to depart from an otherwise applicable purchasing, contracting, spending, notice, approval, bidding, rulemaking, or policy requirement, the proposed action shall require approval by an affirmative vote of a majority of the entire authorized membership of the City Council, and any greater vote requirement imposed elsewhere in the Charter or by law shall remain controlling.

Nothing in this section shall reduce any existing Charter or statutory requirement for a greater number of affirmative votes on an emergency ordinance or other measure.

No City Manager, department head, police official, employee, officer, contractor, or other person may independently invoke an emergency or public-safety justification to exercise authority otherwise reserved to the City Council.

Section 5. Emergency Session: Full-Membership Notice and Public Roll-Call Vote

Any emergency governmental action involving an expenditure or commitment of public funds; execution or material amendment of a contract; assumption of a financial obligation; enactment, suspension, or amendment of an ordinance; adoption or modification of a governmental rule; material change in City policy; or waiver of an otherwise applicable purchasing or approval requirement shall be considered at a properly noticed public meeting consistent with the Oklahoma Open Meeting Act.

Every sitting councilmember shall receive actual notice by reasonable available means and shall be afforded a reasonable opportunity to participate, subject to lawful conflicts, recusals, disability, or circumstances making participation impossible.

At the meeting, each attending and legally eligible councilmember shall publicly state YES, NO, or ABSTAIN. The vote or abstention of each member shall be entered into the official minutes by name.

No emergency action covered by this section may be approved through a consent agenda. No secret ballot, informal poll, serial approval, email consensus, verbal authorization, or administrative concurrence shall constitute governing-body approval.

Section 6. Immediate Protective Action When a Genuine Emergency Prevents Timely Council Action

If a genuine emergency makes timely governing-body action impossible, municipal employees may take only those temporary operational measures reasonably necessary to prevent imminent loss of life, injury, interruption of essential services, or substantial property damage.

Such temporary authority shall not include:

- entering a multi-year contract;
- adopting or amending an ordinance;
- adopting a permanent rule or policy;
- acquiring a surveillance system or other long-term program;
- creating indebtedness;

- waiving a governing-body approval requirement; or
- making a continuing financial commitment beyond what is immediately necessary to address the emergency.

Any temporary emergency expenditure or action taken under this section shall be disclosed to the City Council at the earliest lawful public meeting and presented for any legally required approval or ratification as a separately described agenda item.

Section 7. Cleveland Municipal Authority - No Emergency Bypass

Because the Cleveland Municipal Authority is a separate public trust for which the City of Cleveland is the beneficiary, no emergency declaration, emergency clause, public-safety justification, or similar authority of the CMA shall be used to circumvent an approval, spending, contracting, indebtedness, or oversight requirement of the City or the governing body of the beneficiary.

Whenever the CMA proposes to rely upon emergency authority to incur an obligation; execute or materially modify a contract; expend funds outside ordinary previously approved operations; waive competitive requirements; adopt or change a material rule or policy; or undertake an action for which beneficiary approval is required, prior consent of the Cleveland City Council shall be required at a separate public City Council meeting and by recorded roll-call vote.

Following City Council approval, the CMA shall separately consider the matter at a properly noticed CMA meeting and conduct a second recorded public roll-call vote.

Approval given by persons acting as City Councilmembers shall not automatically constitute approval by those same persons acting as CMA Trustees, and CMA approval shall not automatically constitute City Council approval.

Section 8. Companion CMA Trust / Bylaws Amendment

The City Council, acting as governing body of the beneficiary to the extent authorized by applicable law and the trust instrument, should cause a conforming amendment to be considered for the Cleveland Municipal Authority Trust Indenture and/or bylaws, substantially as follows:

"No Trustee, officer, employee, manager, or agent of the Cleveland Municipal Authority may invoke an emergency declaration, emergency ordinance, emergency clause, public-safety justification, or other emergency authority to waive or bypass beneficiary approval, public meeting, competitive purchasing, financial approval, or other governing requirements.

Any emergency action creating an obligation, material expenditure, contract, indebtedness, permanent rule, or policy shall require prior recorded approval of the governing body of the City of Cleveland as beneficiary, where such beneficiary approval may lawfully be required, and separate recorded approval of the Trustees of the Cleveland Municipal Authority."

Section 9. Written Emergency Finding Required Before Vote

Before voting on an emergency measure under this amendment, the agenda item, resolution, staff memorandum, or other public written record shall identify:

1. the emergency;
2. the specific immediate threat;
3. why ordinary procedures cannot reasonably be followed;
4. the expenditure or obligation involved;
5. the vendor or contracting party, if any;
6. the duration of the obligation;
7. the specific provision of law, Charter, ordinance, rule, or policy proposed to be suspended or bypassed;
8. the maximum financial exposure;
9. whether the obligation extends beyond the current fiscal year; and

10. when the action will return to the Council for review.
The written emergency finding shall be maintained as a public record.

Section 10. Multi-Year Obligations and Anti-Splitting Rule

For purposes of determining whether governing-body approval is required, a contract shall be evaluated according to the maximum legally enforceable obligation created when the contract is executed, rather than merely the amount of an individual installment, invoice, annual payment, or purchase order.

A multi-year agreement shall not be divided, characterized, billed, invoiced, or administratively processed as separate annual purchases for the purpose of avoiding an applicable approval threshold.

Where a contract grants the City an unconditional right to terminate without additional liability before a subsequent period begins, only the legally enforceable obligation shall be considered, provided that the termination provision is expressly identified in the public approval record.

Section 11. No Retroactive Ratification by Routine Consent Agenda

A contract, expenditure, obligation, rule, or policy requiring prior governing-body approval shall not be deemed authorized solely because:

- a later invoice was paid;
- a purchase order was subsequently issued;
- funds appeared in a claims register;
- the expenditure appeared in a general budget;
- the item was included within a generalized consent-agenda approval; or
- the governing body subsequently learned that the transaction occurred.

Any proposed ratification of an action requiring prior approval shall appear as a separately described agenda item, shall identify the original action and maximum financial obligation, and shall receive an individual recorded roll-call vote.

Section 12. Severability, Construction, and Higher Standards

If any provision of this amendment is held invalid or unenforceable, the remaining provisions shall continue in effect to the maximum extent permitted by law.

Nothing in this amendment shall be construed to reduce any greater voting, disclosure, procurement, competitive-bidding, public-meeting, public-records, beneficiary-approval, or other accountability requirement imposed by the Oklahoma Constitution, Oklahoma statutes, the City Charter, the Cleveland Municipal Code, or the CMA governing instruments.

Nothing in this amendment independently authorizes conduct that is prohibited by state law, alters the legal status of the CMA as a public trust, or eliminates any lawful conflict-of-interest, recusal, quorum, or due-process requirement.

Proposed Ballot Title

Shall the Charter of the City of Cleveland be amended to require public City Council approval before emergency authority may be used to bypass ordinary spending, contracting, purchasing, or policy requirements; prohibit old emergency clauses from serving as continuing blanket authority; require recorded public roll-call votes for consequential emergency governmental actions; require separate City Council and Cleveland Municipal Authority approval where applicable; and require multi-year contracts to be evaluated according to the legally enforceable obligation created when they are executed?

Implementation framework

For adoption, this proposal should be separated into the legal instruments required by Cleveland's governing structure rather than relying on a single document to control every entity:

- A City Charter amendment or other voter-approved measure for provisions that belong in the Charter.
- Conforming City ordinances and purchasing rules implementing the Charter standard.
- A companion CMA trust-indenture and/or bylaws amendment adopted through the procedure required by the trust instrument and Oklahoma public-trust law.
- Standard agenda language and a written emergency-finding form so the required facts are documented before any emergency vote.
- A procurement rule requiring staff to disclose the full enforceable value, term, termination rights, and maximum exposure of every multi-year agreement before approval.

Policy outcome

- No old emergency clause becomes a blank check.
- No City employee creates a personal emergency exception.
- No CMA action silently substitutes for required City approval.
- No installment billing disguises a multi-year commitment.
- No consequential emergency spending disappears inside a routine consent agenda.
- Every consequential emergency decision ends with the facts, names, and votes preserved in the public record.

END OF DISCUSSION DRAFT