

Annual Reports of the City of Columbus

Section 231.

The Charter Review Commission recommends amending the charter to establish that annual reports of the city are public records, must be retained permanently and must be retained electronically.

The Columbus City Charter currently requires the compilation of an annual report of the city. The charter stipulates that the annual report must, "...be grouped and published in book form..." The commission recognizes the framer's intent that critical city records be widely available, but finds that the current language does not represent the common means of information sharing.

Charter Review Commissions

Section ---

The Charter Review Commission recommends an addition to the charter to establish decennial Charter Review Commissions, commencing in 2022.

In reviewing the city charters of 33 Ohio cities where comparison would be appropriate, this commission found that 82% required the holding of periodic Charter Review Commissions. Further research identified several common practices, which have been included in our recommendations: balanced appointment mechanisms; limitation of appointees to Columbus residents who hold no office or employment with the city; broad discretion to conduct the review; a time limit for submitting a report; and council discretion in acting on any recommendations.

Charter Technical Changes

Section ---

The Charter Review Commission recommends an addition to the charter to provide council with very limited authority to make technical changes to the charter.

Given the difficulty of amending a city charter, many cities have attempted to craft a process to make technical changes – such as correcting punctuation or misspellings, or renumbering sections – without resorting to a lengthy and potentially expensive ballot process. Columbus previously dealt with a subset of this issue with a charter amendment allowing the city clerk to make certain gender-specific pronouns gender-neutral. To safeguard the use of this authority, the commission recommends the following: the ordinance may not be passed as emergency; the vote must be unanimous; the ordinance must be subject to referendum; changes may not alter the intent or purpose of any provision; and changes must strictly adhere to a list of technical items.

The City Clerk

Sections 11, 14, 145.

Columbus Charter Review Commission Recommendations

The Charter Review Commission recommends reordering and amendment of three charter provisions to provide the city clerk with consistency, clarity and logical sequencing for the clerk's powers and duties.

Currently, the charter sprinkles portions of the city clerk's powers and duties throughout three sections. One section, which establishes a "bureau of information and publicity," references a city publication which the charter does not establish or define; devolves key city clerk duties to an unnecessary bureau within the clerk's office; and does not fully reflect contemporary methods of communication. Two additional sections combine the city clerk's powers and duties with unrelated subject matter. The proposed amendments repeal Sec. 145 and reorder Sections 11 and 14 to remedy these issues.

Civil Service Re-instatement to the Eligible List

Section 149(k).

The Charter Review Commission recommends amending from one year to three years the time-frame for current and former city employees to be reinstated to the eligibility list for a classification without testing.

Although potentially contrary to existing charter language, for the past seven years, the Civil Service Commission has afforded employees the opportunity to reinstate to and remain on an eligible list for a job classification to which they were previously appointed up to three years following their separation from city employment. They may do so without the cost and redundancy of new testing. Because the Civil Service Commission finds that this "3-year rule" has well-served the city, this commission believes it appropriate to amend the charter to authorize current practice.

The Council

Secs. 3-19, 33, 34

The Charter Review Commission recommends numerous amendments to reorder, in logical sequence, the charter provisions for the council; reflect modern organization of the council; and clarify select provisions of the charter relative to the council.

The Columbus City Charter provisions regarding the council were heavily amended before adoption by the Columbus Charter Commission in 1914. Six subsequent amendments have further complicated these sections. As a result, the council section of the charter lacks the coherence and clarity of those related to the mayor, auditor and city attorney.

This commission finds that clarifying amendments, together with additions that reflect council's operations and are in line with other city charters, will provide citizens a clear, logical sequence of powers and duties applicable to the legislative branch of city government; reflect current practice for council; and address select areas where the charter is currently silent and that silence may lead to disruption or lack of continuity in the council.

Council Wards

Secs. 3-19

The Charter Review Commission does not recommend abandoning the city's current form of legislative governance by adopting ward elections for members of city council.

This is not the first charter review commission to address the question of returning to the pre-charter process of electing councilmembers by ward, or by some hybrid of ward and at-large. The 1998 Charter Review Committee most recently considered this question and concluded, "The Committee felt Council Members should come with a citywide perspective rather than with parochial interests which could lead to political "horse-trading" for district advantage. The Council appears to work well as it is presently structured and should remain in its present form."

The 1998 Committee's findings are well-founded. Contemporary descriptions of Columbus' pre-charter ward system demonstrate the instability and partisan environment created. For example, one contemporary account stated, "...a councilman, however, derelict in conserving the interests of the city at large, was amendable for his conduct only to the electors of his own ward. Such were some of the leading, and as experience has abundantly shown, mischievous characteristics of this law [the legislative city charter], most of which, with variations chiefly in mischievousness by partisan or State meddling, have been perpetuated in the government of Columbus to the present time." Alfred E. Lee. History of the City of Columbus, Capital of Ohio, Volume II. Munsell and Co, New York, 1892.

Based on our city's history and our belief that Columbus citizens have been well-served by the current council model, this Commission concurs with the 1998 Charter Review Committee and does not recommend change to the process of electing or appointing members of Columbus City Council.

Elected Official Compensation

Sections 7, 15, 59.

The Charter Review Commission recommends a charter amendment creating a Citizens' Commission on Elected Official Compensation, with salaries established by ordinance of council based on the recommendations of such commission.

Throughout the country, citizens have grappled with two competing goals – removing a perception of politics in setting elected official compensation and maintain accountability to voters once the salaries are set. For this reason, a majority of the nation's 30 largest cities, plus Ohio's largest cities, institute salaries by a method other than discretionary ordinance of council. This commission finds that the city would be well served by shifting from the latter approach and embracing a citizens' commission to study and recommend salaries; do so every four years; limit raises to cost of living adjustments; and require council approval based on – but not to exceed – the recommendations.

Elections

Sections 41-56, 200-223, 234.

The Charter Review Commission recommends modernization of the charter's elections provisions, including nominations, initiative, referendum, the recall, ballots, petitions, and charter amendments.

After extensive research and investigation, this commission finds that the elections provisions of the charter can be modernized to provide consistent, uniform and voter-friendly standards to fully exercise the elective franchise. Because state law for many municipal issues has not been updated since the 1950's, the commission does not support abandoning Columbus' tradition of home rule elections provisions. A summary of commission recommendations may be found in the appendix.

Equal Rights and Non-Discrimination

Section ---

The Charter Review Commission recommends that the fundamental rights of equality and non-discrimination be protected in the charter through the adoption of an Equal Rights Amendment.

Today, we pride ourselves on the openness and inclusiveness of our city. Unfortunately, the history of our nation, state, and city demonstrate the volatile and often-incomplete nature of legislative civil and political protections, while there is ample evidence of other cities addressing equality and non-discrimination in their charters. No city ordinance or charter provision can change hearts and minds – but our charter can reflect our fundamental value of equal protection in the most permanent form available to our local government.

This commission proudly recommends placement of protections against discrimination in city services and employment based on race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, family or military status, or any other status that is protected by federal, state, or local law or ordinance.

Ethics and Prohibited Acts for Public Officials

Sections 6, 227.

The Charter Review Commission recommends a streamlined, uniform approach to public official ethics and prohibited acts in the charter, while retaining the enhanced penalty for violation currently in the charter.

Under two charter provisions and general laws of the state, three separate standards apply to the same offense of unlawful interest in public contracts. The charter provisions establish different standards for different elected officials when determining if a violation exists; and neither standard comports with state law. Because state law uses an appropriate criminal standard for a criminal offense, this commission recommends reliance on state law, referenced in the charter, for prohibited acts by public officials. However, this commission finds that the current charter provision appropriately applies a

stiffer penalty for violation and recommends retaining that penalty in addition to any penalties under state law.

Mayor's Budget Estimate

Section 26.

The Charter Review Commission recommends numerous updates to modernize the mayor's budget estimate, better reflecting contemporary budget development and dissemination practices.

Section 26 of the charter requires the mayor to prepare the mayor's budget estimate on "uniform blanks prepared by the auditor," yet this process has not been used or needed for decades. Further, this section requires the printing and distribution of 200 copies of the estimate, reflecting the intent of the framers that information be easily accessible. This commission finds that both provisions, while helpful in 1914, no longer serve their intended purpose and should be updated.

Open Meetings

Section ---

The Charter Review Commission recommends inclusion of an affirmative reference to state laws governing open meetings, while expanding the state law requirements to include purely advisory bodies of the city.

In 2010, Columbus voters approved inclusion of a state law reference for open meetings, but this was limited to council. In addition, purely advisory bodies may or may not be subject to open meetings laws. This commission finds that Columbus citizens will benefit from an affirmation that all public bodies of the city operate in the open and an enhancement to state law expressly including purely advisory bodies in the definition of public bodies.

Prohibited Use of Public Funds

Section ---

The Charter Review Commission recommends that the charter include a general prohibition on use of public funds in any manner contrary to the charter, ordinance of council, or general laws of the state; and that the charter require council to establish by ordinance prohibited uses of public funds.

While the Columbus City Charter contains numerous safeguards for the appropriation and expenditure of public funds, it is silent on prohibited uses. The state law governing prohibited uses excludes charter municipalities. Fortunately for Columbus residents, the city currently follows state law regarding prohibited uses of public funds, even with this exclusion. This commission finds that the charter should require adoption of local rules governing prohibited uses of public funds, but do so in a flexible manner.

Public Records

Section ---

The Charter Review Commission recommends an affirmation, in the charter, of the city's responsibility to provide records of the city to the public pursuant to general laws of the state.

Unlike many Ohio charters, the Columbus City Charter does not reference public records, though it does require several publications and journals that give the public ready access to the actions of their government. As the old adage says, "Sunlight is said to be the best of disinfectants." This commission finds that citizens will benefit from an affirmation of the city's responsibility to follow state laws pursuant to public records.

Qualifications for City Elected Officials

Secs. 4, 6, 58, 66, 79.

The Charter Review Commission recommends creating uniform qualifications for city elected officials, with distinct, but appropriate, additions for the mayor and city attorney.

Currently, qualifications for office vary in the city charter – usually with little apparent reason. For example, only the mayor may serve as a member in the reserves of the US Armed Forces; only council members are subject, as a qualification of office, to the requirement that they have no interest "...in the profits of emoluments of any contract, job, work or service for the municipality." ; and the city attorney and auditor have neither the authority or prohibition to hold other public office. This commission finds that prospective candidates would benefit from more consistent, uniform standards; however, the commission recommends retention of the prohibition on other public employment by the mayor and the requirement that the city attorney be an attorney-at-law admitted to practice in Ohio.

Recreation and Parks Commission

Sec. 128.

The Charter Review Commission recommends modernizing the qualifications for and composition of the Recreation and Parks Commission.

Under current charter provisions, citizens of Columbus who live outside Franklin County are barred from serving on the Recreation and Parks Commission. In addition, numerous organization and trade references are no longer relevant to the commission. This commission finds that two changes can help provide the broadest pool of qualified applicants – first, eight members of the commission would be appointed by the mayor with concurrence of council, while a ninth member would be appointed upon recommendation of the Columbus and Franklin County Metropolitan Park Board with concurrence of council and the mayor; and second, members may live in Columbus, Franklin County, or counties contiguous thereto, but a majority of the commission members must live in Columbus.

Residency for City Employees

Sec. 158-1.

The Charter Review Commission recommends no action on Section 158-1 at this time; but endorses the proposal of the Civil Service Commission and the Mayor's Administration to begin a 18-24 month process of evaluating this section and developing a solution to this moot provision of the city charter.

In *Lima v. State of Ohio*, 2009-Ohio-2597, the Supreme Court upheld Ohio Revised Code Section 9.481 which states "no political subdivision shall require any of its employees, as a condition of employment, to reside in any specific area of the state;" but includes an exception for emergency personnel. Because of that ruling, Section 158-1 of the Columbus City Charter is currently inoperative. However, this commission understands that merely repealing the provision may not meet the city's public policy goals and that significant stakeholder outreach, internal dialogue, and public participation should take place before acting on this section of the charter. While, as a general rule, this commission does not support leaving a moot section of the charter intact, the special circumstances regarding this provision necessitate a different approach.

The Sinking Fund

Sections 15, 26, 32, 61, 93120, 121, 123, 133-141.

The Charter Review Commission recommends repeal of the Sinking Fund and redistribution of responsibilities and duties of that archaic office among the auditor, mayor's administration, and city treasurer, while maintaining council's role in those processes.

It is a rare public servant who recommends eliminating a city board and, in the process, the employee's own job. However, the current secretary of the Trustees of the Sinking Fund did just that – and Mr. David Irwin is to be commended for his recommendation. This commission finds that the Sinking Fund, while an appropriate mechanism to ensure payment of the city's debt obligations in 1914, now duplicates processes and procedures that may be appropriately handled by other entities and, as a result, should be repealed from the charter. However, this commission further finds that, to ensure checks and balances, the division of current duties should include the auditor, the mayor's administration, the city treasurer, and city council, and key elements should be retained in the charter.

Utilities

Sections 118-124, 194.

The Charter Review Commission recommends modernizing the charter's provisions regarding city utilities and franchises, to reflect the changing landscape of utilities over the last 100 years.

While the charter sets forth strong protections for city utility customers, bondholders and taxpayers, it does not adequately reflect the utilities practices of 2014. For example, the charter limits references to "water" and the "water department," with a catch-all provision to attempt some reference to other utilities. This commission finds that, in the interest of city utility ratepayers and taxpayers and utilities

administrators, the utilities section of the charter should be overhauled to address all potential utilities; guide those responsible for utilities debt obligations; protect non-discrimination in franchises; and allow for, but not require, a modern programs to assist those in need with their city utility bills.

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APPENDIX: Summary of Elections Provisions

General Provisions

- Elections conducted under general laws of the state, unless provided by charter or ordinance
- Maintain nonpartisan elections by secret ballot
- Maintain every citizens' right to vote for every elected official in their city government

Campaign finance

- Add "disclosure requirements" and "ballot issues" to current authority of council to regulate campaign finance

Ballots

- Eliminate all ballot forms in charter; include some additions (e.g., summaries vs. full text of ballot issues)
- Retain ability to make modifications to ballots by charter or ordinance of council

Nominations

- Use state petition forms, except provided by charter or ordinance
- Maintain requirement that candidate submit 1,000 valid signatures
- Eliminate requirement that signers "pledge to support" candidate
- Remove archaic requirement that candidates "accept" nomination
- Add "disqualified" to death and withdrawal as conditions to replace candidates in primaries or generals; use state law deadlines and processes for withdrawal, replacement

Petitions for ordinance, referendum, recall, charter amendment

- Uniform general provisions, including petition templates
- Adopt modified version of state law for municipal petitions, incorporating elements of state law regarding statewide issues because those sections are more up-to-date (e.g., part-petition circulated as a single instrument; printing in uniform color; title must be without argument and placed on top of sequentially numbered pages; full text must appear on petition; circulator's statement must disclose payment for circulation)
- Must file statement of intent to compensate and report of compensation for paid petitions, which harmonizes state law requirements for municipal and state ballot issues
- May not withdraw physical petitions, as they are public records; may withdraw a petition from consideration or from the ballot
- All petitions filed with city clerk – both certified copy and final petition
- Establish duties of clerk, city attorney, council, and board of elections in processing petition
- State law controls circulation and validation, with limited exceptions
- Signatures may not be collected prior to filing certified copy

Columbus Charter Review Commission Recommendations

- One year to file ordinance or charter amendment petition after filing certified copy, modeled after state law provisions for petitions
- Maintain 30 day window to file referendum or recall after filing certified copy
- Council must, with the exception of recall petitions, determine the sufficiency of a petition
- Council must act by ordinance on petitions
- Per case law, ordinance may not be vetoed or subject to referendum

Initiative and referendum

- Require 5% of votes cast in last mayoral election (state law prescribes 10% of votes cast for governor; charter currently prescribes 5% of last municipal election, creating unnecessary inconsistency for voters)
- Give board of elections 10 days to validate petition signatures, in line with state law
- Council must determine sufficiency of petition with 14 days of the board's report on signatures (state law is silent re: timeframe for municipal action to determine sufficiency)
- Council then has 30 days to pass/repeal, or submit to voters (charter currently provides two council meetings to make such decision – essentially seven days; constitution provides four months for general assembly consideration of an initiated statute)
- Council must prescribe ballot summary and may prescribe arguments for/against to be posted in voting locations
- Clarify those ordinances not subject to referendum: annual appropriations (vs. “the annual appropriation ordinance”) and ordinances submitting proposal to electors

Charter amendments

- Retain constitutional requirements re: signatures, deadlines
- Initiated charter amendment limited to a single subject
- Council must prescribe ballot summary and may prescribe arguments for/against to be posted in voting locations

The Recall

- Adopt modified version of state law (our charter currently allows recall by general law, in addition to the charter provision)
- Maintain requirement that recall petition have signatures of 15% of votes cast in the last regular municipal election for mayor
- May not file within 180 days of taking office or within 90 days of a general election for the office
- No more than three elected officials may be recalled at a single election
- City clerk to determine sufficiency of petition
- Maintain requirement that vacancy after recall be filled as otherwise provided by charter