

Background

In researching past Charter Review Commissions and other Ohio municipal charters, a simple question has arisen – is there a mechanism for making non-substantive, technical corrections to a charter without a charter amendment? To answer this question, staff conducted an online search of Ohio charters and analyzed a broad sample of such mechanisms.

Columbus History of Charter Corrections

This issue has been dealt with previously by the City of Columbus. Like many cities, our original charter used masculine pronouns throughout. City leaders soon viewed this once-common practice as archaic and discriminatory. The 1998 Charter Review Commission proposed granting authority to the city clerk to address this issue. In response, Council passed Ordinance 1825-98, which placed before Columbus electors the following provision: “The city clerk shall be authorized and directed in the printing of the charter to cause all reference of whatever nature to individuals to be gender neutral without the use of pronouns, “he”, “his”, “him”, “she”, “hers”, or “her.” Voters adopted the amendment.

Unlike other charter amendments, this ballot issue did not attempt to list all affected sections or instances of gender-specific pronouns. Instead, it provided ongoing authority for the city clerk to make very specific technical corrections. Further, the amendment did not add language to the charter – rather, it conferred authority onto the clerk.

At the same election and in response to another Charter Review Commission recommendation, Council passed Ordinance 1829-98 which placed before Columbus electors numerous renumbering, re-sequencing, and reordering provisions. The amendment made no substantive changes to the charter. This had the one-time effect of “making the Charter easier to read” according to the Commission and Council. Voters adopted the amendment.

In both instances, a vote of Columbus electors was required to make technical, non-substantive corrections to the Charter. And, absent changes to gender-specific pronouns, no city official has the authority to make such corrections again in the future.

Charter Provisions for Corrections

Other Ohio cities have provided for a more expansive and permanent version of the “gender-neutral” printing provision by adopting an omnibus correction amendment to the charter. These provisions provide a way to make administrative changes to the Charter without resorting to the ballot box to correct a misspelled word or renumber a few sections.

The following are two examples of such provisions:

KENT, OH CITY CHARTER. SECTION 65. REARRANGEMENT AND REPRINTING OF CHARTER.

Following any election at which any amendment to this Charter is adopted, the Clerk of Council, with the approval of Council and the Director of Law, may, prior to any reprinting of this Charter, make such changes therein, including the numbers, titles and arrangement of articles, sections hereof, and typographical corrections as may be necessary or desirable to maintain or assure the logical and consistent ordering thereof, but no such change shall, in any way, affect the substance or meaning of this Charter or any part thereof or amendment thereto. (Added 11-8-2005.)

BEAVERCREEK, OH CITY CHARTER. SECTION 13.08. CHARTER AMENDMENT.

This Charter may be amended as provided in Article XVIII, Section 9, of the Constitution of the State of Ohio. The Council is granted the authority by affirmative vote of five (5) members to, by ordinance; incorporate administrative changes to this Charter provided no substantive changes to the Charter are caused. Such administrative changes shall be limited to errors of grammar, sentence construction, standardization of similar terms and paragraph renumbering as necessary. Such administrative changes shall be made at the next reprinting of the Charter. (Amendment passed by electorate 11-2-04)

Common Practices for Charter Correction

The authority to correct the charter is rarely vested in a single governmental entity. In Kent, the City Clerk may make corrections only with the consent of Council and the Law Director. In Beavercreek, Council may make corrections, but, as with any ordinance, must have the City Attorneys' sign-off on the ordinance.

The authority to correct the charter is strictly limited to items of an administrative, non-substantive nature. The charters make clear that corrections may not affect the legal intent or purpose of any charter provision.

The authority to correct the charter is often triggered by an event – the reprinting of the charter or the passage of a charter amendment. This provides clarity for the entity given the authority and provides assurance to voters that the authority will be exercised in a limited fashion.

A Unique Approach to Substantive Charter Corrections

In addition to the foregoing, at least one Ohio city has adopted a more far reaching charter corrections provision.

MARYSVILLE, OH CITY CHARTER. SECTION 12.05 – AMENDMENTS TO CHARTER.

Any section of this Charter may be amended as provided in Article XVIII, Section 9, of the Ohio Constitution, by submission of proposed amendments to the electors of the municipality. Such

amendments may be initiated either by vote of five members of Council or by petition to Council of a number of electors equal to ten percent of the total electors voting at the last municipal election. However, City Council may by ordinance amend the Charter so that it conforms with changes to State and Federal law. (Amended November 5, 2013)

As City Attorney Pfeiffer noted in his presentation last week, home rule authority is whatever four Ohio Supreme Court justices say it is.

In light of shifting court rulings on home rule authority, the voters of Marysville chose an innovative method to respond to court decisions that may fall on the side of state law versus home rule authority – rendering moot various provisions of a city charter. In contrast, Columbus, like virtually all Ohio cities, only allows mooted sections to be amended or repealed by a vote of the electors.

While we are not recommending this approach in Columbus, it does illustrate one innovative solution to a long-standing challenge for city charters.

Conclusion

Based on staff research, we recommend that the Commission consider recommending a charter amendment that allows technical, non-substantive corrections to the charter. If the Commission chooses to recommend such a change, it would be very useful to carefully consider the following:

1. What checks-and-balances are necessary to guard against overreach?
2. Should the amendment strictly limit those items that may be corrected, and, if so, how?
3. Should action be by Council ordinance so any change would be subject to the referendum?
4. Should corrections be tied to a specific event or timeline, or should they be on an as-needed basis?

Representative Sample of Charter Corrections Provisions

BEAVERCREEK

SECTION 13.08. CHARTER AMENDMENT.

This Charter may be amended as provided in Article XVIII, Section 9, of the Constitution of the State of Ohio. The Council is granted the authority by affirmative vote of five (5) members to, by ordinance; incorporate administrative changes to this Charter provided no substantive changes to the Charter are caused. Such administrative changes shall be limited to errors of grammar, sentence construction, standardization of similar terms and paragraph renumbering as necessary. Such administrative changes shall be made at the next reprinting of the Charter. (Amendment passed by electorate 11-2-04)

TROTWOOD

SECTION 10-7. CORRECTIONS OF MISSPELLINGS AND GRAMMAR; MAKING THE LANGUAGE GENDER NEUTRAL; AND RENUMBERING UPON CODIFICATION.

(A) Misspellings and Error in Grammar. Any misspellings and errors of grammar or construction may be corrected upon reprinting of this Charter, provided that no substantive changes to the Charter language are made.

(B) Making Language Gender Neutral. Upon reprinting of this Charter, any gender specific terms shall become gender neutral, provided that no substantive changes to the Charter language are made.

(C) Renumbering upon Codification. Any changes in the numbering of the provisions of this Charter or the cross referencing of provisions of this Charter by the addition or deletion of Articles, Sections, or Subsections may be made upon reprinting of this Charter, provided that no substantive changes to the Charter language are made. (Amended 11-7-2006).

KENT

SECTION 65. REARRANGEMENT AND REPRINTING OF CHARTER.

Following any election at which any amendment to this Charter is adopted, the Clerk of Council, with the approval of Council and the Director of Law, may, prior to any reprinting of this Charter, make such changes therein, including the numbers, titles and arrangement of articles, sections hereof, and typographical corrections as may be necessary or desirable to maintain or assure the logical and consistent ordering thereof, but no such change shall, in any way, affect the substance or meaning of this Charter or any part thereof or amendment thereto. (Added 11-8-2005.)

MIAMISBURG

SECTION 12.08 CHARTER TO BE GENDER NEUTRAL; CORRECTION OF MISSPELLINGS.

The Charter shall be reprinted to be gender neutral and any misspellings shall be corrected. (Amended Nov. 2, 1993)

GAHANNA

SECTION 22.04 CERTIFICATION OF AMENDMENTS.

Following certification by the Board of Elections of the results of any election in which an amendment to this Charter appears on the ballot, the Commission last appointed shall meet with the Clerk of City Council and certify an official version of the Charter reflecting the certified results of the election. The certification shall consist of the dating and signature by the Chairman of the Commission. The official version shall be deposited with and maintained by the Clerk of City Council. The preparation and certification of the official version of this Charter following the election at which this provision shall have been on the ballot shall include the correction of typographical errors appearing in prior versions of this Charter. (Amended Nov. 3, 1981.)

KIRKLAND

ARTICLE VI, Section 3. Corrections to Charter.

In the event that a typographical, grammatical, numerical or organizational sequencing, or other non-substantive error, including absence of gender neutral references, is found to exist in the Charter, and the correction of which will not change the legal intent or purpose of any part of the Charter, then City Council may correct such error by unanimous vote of the entire Council and no ballot measure would be required.

STOW

SECTION 9.04 CHARTER CHANGE.

The Law Director shall be authorized to make typographical corrections to or changes or deletions in, as well as changes in the form of, the Charter; however, the changes shall relate to matters of form only. Any such modification, change, or correction shall, in all cases, be approved by resolution of Council, prior to going into effect. In no event shall any such modification, change, or correction affect the construction, meaning, substance, or intent of the Charter as adopted and amended by the people.

The Law Director may correct obvious misspellings and typographical errors.

The Law Director may divide the text of any section or paragraph into shorter paragraphs or subparagraphs and letter or number the same to improve clarity and ease of reference.

The Law Director may renumber the sections and rearrange their order to provide:

- (a) More coherent grouping of sections related in subject matter; and
- (b) Continuous, consecutive numbering of sections.

Upon the adoption of any amendment that creates or abolishes an office or offices or changes the powers or duties of any officer or agency of the City, the Law Director shall make necessary correlative changes in existing sections that refer to such offices, officers, or agencies by deleting therefrom, as the case may be, the name of the office abolished or title of the officer or agency no longer having such powers or duties and inserting therein, as the case may be, the name of the office created or the title of the officer or agency then having such powers or duties. (Amended 11-4-80)

MARYSVILLE

SECTION 12.05 – AMENDMENTS TO CHARTER.

Any section of this Charter may be amended as provided in Article XVIII, Section 9, of the Ohio Constitution, by submission of proposed amendments to the electors of the municipality. Such amendments may be initiated either by vote of five members of Council or by petition to Council of a number of electors equal to ten percent of the total electors voting at the last municipal election. However, City Council may by ordinance amend the Charter so that it conforms with changes to State and Federal law. (Amended November 5, 2013)