



CITY OF CLEVELAND HEIGHTS

CHARTER REVIEW COMMISSION

2023 – 2024 REPORT

DATED: MAY 29, 2024

INTRODUCTION

The Cleveland Heights Charter Review Commission (Commission) delivers this Report to the Cleveland Heights City Council (Council). This Report includes the Commission's recommendations for revisions to the Charter of Cleveland Heights (City). As discussed below, the Commission set forth the revisions in the form of a First Amended Charter (Amended Charter) as well as in a series of provisions grouped by topic(s) (each, a Proposed Amendment).

The Report includes:

- Assignment – a summary of the purposes of the Commission pursuant to Council's resolution establishing the Commission
- Commission Proceedings – a review of the Commission's work and due diligence
- Recommendations – a brief discussion of the substantive changes which the Commission recommends and some review of the considerations applied by the Commission in reaching its more significant recommendations
- Appendices – a chart summarized the Commission's recommendations section by section (Appendix One); further information about ranked choice voting (Appendix Two)

The Commission's web page on the City's website also includes links to a comparison document showing the differences between the current Charter and the Amended Charter.

The report of the 2019 Charter Review Commission (2019 Commission Report) also is available on the City's webpage. It will be helpful to residents in understanding the recommendations of the Commission to the extent that the Commission has incorporated Charter changes that were recommended by the 2019 Commission.

As noted below, the Commission's web page includes recordings and minutes of the Commission meetings for anyone interested in more detail.

PART ONE - ASSIGNMENT

The current Charter requires Council to assess every ten (10) years whether to appoint a charter review commission. In addition, Council may convene a charter review commission at any time. Council had most recently appointed the 2019 Commission in May 2017. The 2019 Commission issued the 2019 Commission Report and recommended an amended charter in February 2019. Among its recommendations was retaining the city manager-council form of government, but the 2019 Commission also recommended many unrelated, well-founded changes to the Charter.

Subsequently, a citizen-initiated Charter amendment was proposed and passed, providing for an elected mayor. Because the citizen-initiated Charter amendment was proceeding to the ballot, Council determined, out of concern that competing ballot issues would cause confusion

among voters, not to propose any of the Charter amendments recommended by the 2019 Commission.

In December 2023, a Council resolution established the current Commission with nine (9) members, six (6) to be appointed by Council and three (3) to be appointed by the Mayor. The nine (9) appointed members were selected from twenty-six (26) applicants. Council completed the appointments in June, 2023 and the first Commission meeting was held on July 12, 2023.

Council's resolution charged the Commission with these tasks:

- Review the City's Charter and develop recommendations for such amendments to the Charter, if any, as the Commission shall find to be in the best interests of the City, including amendments that the Commission may find necessary or advisable, in light of the passage of Issue 26 (the ballot issue creating an elected mayor-council form of government), to better and further implement and effectuate the Mayor-Council form of government.
- Provide a report of its review and recommendations to City Council by June 30, 2023, unless such time is extended by further action of Council. (Council extended this deadline to January 31 and then to May 31, 2024.)
- Conduct due diligence including, but not necessarily limited to, a review of the report of the 2019 Charter Review Commission (2019 Report) and interviews or consultation with current and former staff, current and former elected officials and any other persons it deems appropriate. The Commission may request that Council engage a facilitator or other consultants to aid it in the discharge of its responsibilities.

PART TWO - COMMISSION PROCEEDINGS

A. Organizational proceedings - The Commission held an organizational meeting July 12, 2023. It elected a Chair, Vice-Chair and Secretary. The Commission decided to meet twice a month, and held this schedule, supplemented by extra meetings to accommodate scheduling interviews (see table below) and to complete the Commission's work. The Commission met over 35 times. The Commission made a commitment to complete its work by the May 31, 2024 deadline set by Council.

A public notice was posted before each meeting in accordance with open meeting rules.

At the early meetings, the Commission agreed on a framework for working procedures, including behavior and expectations for timelines in meetings. The framework emphasized civility and respectful behavior. There were numerous discussions about potential topics for the Commission's focus. As the meetings proceeded, the Commission agreed on its meeting rules, discussed availability of archive materials from the 2019 Commission and discussed whether to request that the City provide a facilitator. In due course, the Commission requested a facilitator and suggested some candidates.

Council retained Kevin Butler, one of the potential facilitators suggested by the Commission, to be a facilitator for the Commission (Facilitator). Mr. Butler is an attorney who has served as law director for Lakewood and Brooklyn. He is currently serving as law director for Brooklyn and as outside counsel to multiple political subdivisions. He also served on Lakewood's City Council from 2005 to 2011. His experience includes work on charter amendments and full charter rewrites for the communities he has served as law director and as an adviser to interested parties in other communities including Brecksville and Chardon.

B. Public information and input – The City provided a dedicated page on the City's website for the Commission, including a link to the 2019 Commission archive. Agendas and minutes for the Commission meetings, along with recordings, were posted promptly to the Commission's page on the City's website. At each meeting, time was reserved for public comment for any citizens who wished to address the Commission, but the Commission did not have many visitors to its meetings. The date and time of each meeting was publicized in advance in multiple media. The Commission has a city email address, crc@clevelandheights.gov; the Commission reviewed comments received from the public via email.

In addition, to solicit public input, the Commission ultimately determined to hold two (2) public meetings. The first meeting was on February 12, to allow input as the work was proceeding. The second meeting was on May 21, to allow for further public input before the draft Amended Charter and this Report were finalized for delivery to Council.

About forty (40) residents attended the February 12 meeting, which focused on three topics:

1. The balance of power among the branches of government
2. Should we continue to elect Council members at large, by defined wards or a combination of at large and wards?
3. Are you interested in ranked choice voting, which allows voters to rank the candidates for a given office on their ballots?

At the meeting, the Chair introduced the members of the Commission, the Facilitator explained the purpose of a charter, the distinction between the purpose of a charter and the purpose of an ordinance and the role of a charter review commission. The attendees then participated in a breakout discussion of each of the three (3) topics, with reports to the group after each round. The comments from the residents are available on the Commission's web page.

For the May 21 meeting, after a summary of the Commission's recommended changes, residents had the opportunity to ask questions and provide comments. About 30 residents attended this meeting. Resident comments covered issues including the form of government and balance of powers; changes to signatures required for candidate petitions; changes to signatures required for initiative, referendum and recall; ethics; ranked choice voting; and the land acknowledgement.

C. Presenters – The Commission discussed quite a long list of potential presenters, including a review of the list of presenters for the 2019 Commission. In February, taking into account the timeline to complete its work and the information obtained through the interviews held with elected officials, the Commission finalized its presenter list to include members of Council, former Council president and member Hart, Mayor Seren and some mayors from other northern Ohio communities with a long history of an elected mayor. (See table below.)

To prepare for the meetings with presenters, the Commission developed a survey and requested that the City's elected officials submit it before a meeting with the Commission. Almost all of the elected officials met with the Commission, and almost all of those elected officials did submit the survey as requested. The survey responses are posted to the Commission's page on the City's website.

The following table lists those who appeared in person before the Commission.

Table 1 Presentations to the Commission

Date	Name	Background	Topic
May 15	Judith Miles and Hugh Weinberg	Chair and Member of Civil Service Commission	Proposed role of CSC in recommending salary adjustments for Council and the Mayor
May 8	James Posch	Council member	Responses to Commission survey and related comments as to Charter recommendations
February 10	Kahlil Seren	Mayor	Responses to Commission survey and related comments as to Charter recommendations
February 10	David Weiss	Mayor, Shaker Heights	Experiences as Council member and Mayor under Mayor-Council form of government
February 7	Jim Petras	Council member	Responses to Commission survey and related comments as to Charter recommendations
February 6	Georgene Welo	Mayor, South Euclid	Experiences as Council member and Mayor under Mayor-Council form of government
February 6	Jeanne V. Gordon and Len Friedson	Committee for Elected Mayor	Background on development of ballot issue for elected mayor
February 6	Kyle Herman	Executive Director, Rank the Vote Ohio	Information on ranked choice voting
January 22	Davida Russell	Council vice president	Responses to Commission survey and related comments as to Charter recommendations
January 18	Melody Joy Hart	Former Council president and member	Responses to Commission survey and related comments as to Charter recommendations

Date	Name	Background	Topic
January 18	Janine Boyd	Council member	Commission survey questions (no survey responses submitted to Commission) and related comments as to Charter recommendations
January 9	Tony Cuda	Council president	Responses to Commission survey and related comments as to Charter recommendations
January 9	Craig Cobb	Council member	Responses to Commission survey and related comments as to Charter recommendations
January 8	Gail Larson	Council member	Responses to Commission survey and related comments as to Charter recommendations

D. Review of Charter and 2019 Commission's proposed amendments - The Commission determined to review the entire current Charter as well as the changes to the Charter recommended by the 2019 Commission and did complete that task.

Commission members volunteered to undertake drafting of particular portions of the Proposed Amendments and the accompanying Report discussion. Commission members had the opportunity to review the drafts, and the drafts were discussed at meetings to allow each member to provide comments as the documents were developed.

Toward the end of the Commission's work, Assistant Law Director Lee Crumrine reviewed and commented on the draft of the Amended Charter and the Proposed Amendments, and the facilitator, Kevin Butler, provided comments on selected issues raised by the Commission. The Commission considered that input accordingly.

On May 29, 2024, the Commission approved the Amended Charter, the Proposed Amendments and this report for delivery to Council.

PART THREE - RECOMMENDATIONS

A. Amended Charter as a Whole versus Series of Proposed Amendments - The Commission recommends that Council adopt the changes reflected in the Amended Charter. The Commission also recognizes that Council will decide to what extent any recommendations result in ballot issues to be placed before the voters. Further, the Commission recognizes that Council may prefer to present the amendments approved by Council as several Proposed Amendments rather than one amended and restated charter, and may decide to present ballot issues arising from our recommendations over the course of more than one election. Once Council makes its decision, the Commission stands ready to help formulate those changes into one (1) or more amendments for the ballot.

This Report organizes the presentation of our recommendations as a series of proposed changes, each designated as an Amendment document that collects related changes. We believe this will facilitate an understanding of the interrelationship of certain changes that appear in a

series of Sections throughout the Charter. In some cases, adopting one (1) amendment will conflict with another. For instance, if ranked choice voting is adopted, provisions in the Charter regarding a mayoral primary would be deleted; otherwise, those provisions should remain in the charter. Accordingly, Proposed Amendment One retains the references to a primary, while Proposed Amendment Five deletes them.

B. Overview of the Proposed Amendments

1. Proposed Amendment One - The overall draft has many changes in wording, to produce a clearer and plainer text; eliminate inconsistent terminology; update the Charter to reflect current language preferences, including for gender neutral language; more clearly organize the Charter in term of numbering articles and sections; and many similar, non-substantive changes.

Because these changes permeate so many of the amendments, we elected to group them in Proposed Amendment One with the changes relating to the shift to the Mayor-Council form of government, which also involves changes to many Sections of the Charter. In its discussions, the Commission commonly referred to a sub-set of these changes relating to the form of government as “balance of power” amendments, reflecting the cooperation and tension between the executive and legislative branches.

Proposed Amendment One includes:

- revised Preamble and Article Two covering Form of Government;
- revised Article Three and Four covering how Council or mayoral vacancies are filled;
- revised Article Five regarding departments and directors;
- revised Section 7.1 regarding elections;
- revised Article Nine covering finances and budget;
- revised Article Eleven covering commissions and boards;
- revised Article Fourteen covering Charter review;
- revised Article Fifteen covering savings clauses; and
- revised Article Sixteen covering the effective date of the revised Charter.

2. Proposed Amendment Two includes:

- revised Sections 7.2 through 7.6, relating to elections, such as the required number of signatures on nominating petitions;

- revised Article Eight regarding rights of initiative, referendum and recall, including a consolidation into a single recall provision of separate current provisions that differ as to Council and the Mayor; and
- revised Article Thirteen covering Charter amendments.

3. Proposed Amendment Three includes new Charter material relating to ethics and training for elected officers.

4. Proposed Amendment Four adds at Article Twelve a nondiscrimination provision.

5. Proposed Amendment Five includes these changes:

- adds new Section 7.7, to provide for election of the Mayor, Council and the Municipal Judge using ranked choice voting;
- revises Section 3.3 concerning an election following an appointment to fill a vacancy on Council;
- revises Sections 7.1 through 7.6; and
- deletes various references in the Charter to a primary.

6. Other Topics - Finally, the Report comments on some issues that the Commission discussed, but determined not to recommend as Charter amendments.

7. References to Charter Sections – The numbering of Articles and Sections in the current Charter uses Roman numerals for articles (Article I) and Arabic numbers for sections (Section 1). The Proposed Amendments refer to Articles using words for the numbers (Article One) and numbers for the sections that begin with the article number (Section 1.1).

For the sake of avoiding the need for references like “Article I, Section 1 of the current Charter” in this Report, references to sections in both the current Charter and the Proposed Amendments use numbers for the sections that begin with the article number (Section 1.1). Because various sections in the current charter are relocated, consolidated or deleted, there are instances in which contents of a section in the current Charter now appear in a section with a different number. The chart at Appendix One specifies any instance of re-numbering.

C. Topics Given Significant Consideration

While the Commission determined to conduct a thorough review of the Charter and the 2019 Commission recommendations for amendments, the Commission also had discussions across a number of meetings concerning topics which should receive particular attention. The Proposed Amendments cover most of these topics.

In the discussion below, the topics are covered in the order of the Proposed Amendments listed above. This discussion does NOT include all changes the Commission recommends, but the Chart in Appendix One has a section-by-section summary of all changes.

1. Proposed Amendment One

Preamble

The existing Charter clearly states in the Preamble the intent to exercise home rule. The Preamble is an aspirational statement, intended to highlight the values of the residents of our City. The Commission recommends changes, similar to those recommended by the 2019 Commission, but with some minor revisions. The Preamble does not change the meaning of the Amended Charter, but does attempt to express the City's spirit.

Form of Government

Section 2.1 states that the form of government is Mayor-Council. The current Charter does not state the form of government.

Changes Due to Mayor-Council Form of Government

As noted above, one of Council's specific directions to the Commission was to consider changes that are necessary or advisable, in the best interest of the City, due to the change to a mayor-council form of government. Based on the results of a poll of the Commission members, the Commission's top priorities included several topics related to the change to a mayor-council form of government, including the balance of powers issue.

Limits to 2019 Changes to the Charter - The 2019 ballot issues presented in the citizen-initiated charter amendment, prepared by the Committee for an Elected Mayor, were limited intentionally to adding new provisions, and modifying certain existing provisions, to reflect an elected mayor. When Jeanne Gordon and Len Friedson, who were involved in the ballot issue, presented to the Commission, they confirmed that this narrow range of changes was due to the so-called "single issue rule", which mandates that a ballot issue cover only a single issue.

In 2019, the Council then in office recognized that further changes likely would be needed, but the 2019 Council deferred that work to the Council, which was coming into office the January, 2020, after the ballot issue passed. The current Council highlighted in its resolution establishing the current Commission that the Commission should give attention to this unfinished work.

The Commission's focus was on filling the gaps left by the 2019 ballot issue. Our goal was to provide the tools needed by the executive and legislative branches so they can perform their roles in our City government. We reviewed charters of other cities with elected mayors, focusing especially on the charters of Lakewood, Shaker Heights, South Euclid and University Heights. This review was helpful to the Commission in identifying aspects of our charter that needed adjustment.

Changes to Address Balance of Powers – The Commission’s recommendations in Proposed Amendment One relating to the balance of powers include changes set forth in Sections 3.5, 3.12. 4.3, 4.5, 5.1 and 5.2.

While recognizing that some growing pains are to be expected when a form of government is altered, the Commission took due notice of the apparent need for some guidance to our elected officials as to reasonable levels of cooperation and collaboration between the executive and administrative branches. The Commission’s survey for completion by elected officials included this topic and all of the elected officials offered comments on it.

A charter is not effective to mandate behavior, but the Commission does recommend for Section 3.12 of the Charter a statement of the residents’ expectations that the Mayor and Council will collaborate so each can do their respective jobs. Section 3.12 provides for the handling of Council inquiries and input to Council from the administrative officers and staff. It requires the Mayor, City Administrator and City administrative officers and employees to attend Council meetings and committee meetings when requested to do so. It requires a timely response to inquiries from Council members to the administration. The Commission offers these provisions on the assumption that all elected officials and staff will operate reasonably and in good faith. Both Shaker Heights and South Euclid have robust communication flow between administration personnel and the council and its committees.

As a related matter, Proposed Amendment One deletes from proposed Section 3.4 of the Charter the “inquiry” clause, because that clause is particular to city manager-council charters and is not found in any of the mayor-council charters we reviewed.

While retaining the Mayor’s right to attend Council meetings, the Commission recommends changing Section 4.3 to provide that attendance by the Mayor at executive session meetings of Council should be upon invitation. Council President Cuda suggested this provision. While recognizing that, in many cases, it is appropriate and necessary for the Mayor to participate in executive sessions, this will permit Council alone to participate in executive sessions in some cases, such as when Council is making hiring or appointment decisions that fall within Council’s authority.

Section 4.3 retains for the Mayor the authority to supervise the City administration and control all departments and divisions. It grants to Council the authority to determine the functions and duties of the departments, to create new ones and to abolish or combine departments, but bans abolishing any of the current list of departments. The Mayor retains the authority to appoint officers and employees, but Council has the right to approve appointment of Directors and to define the powers and duties of Directors. These provisions are consistent with some of the charters we reviewed, and the Commission felt they would provide a more balanced approach to the relationship of the executive and legislative branches.

The Commission recognizes the comments made at the May 21 meeting and in some emails submitted regarding the changes addressing respective powers of the executive and legislative branches. The views reflected in those comments had been considered by the Commission in its deliberations regarding these changes, which occurred over the course of

many meetings. The Commission's conclusion remains that the changes are needed to complete the Charter revisions appropriate for a Mayor-Council form of government.

Filling Council and Mayoral Vacancies - The Commission received comments from our elected officials concerning whether changes were needed to the current Charter provisions regarding filling vacancies on City Council. Elected officials raised two (2) issues: the deadline for Council to act to fill a vacancy and the timing for an election following an appointment.

As to the deadline to fill a Council vacancy, the Charter now sets the deadline at forty-five (45) days after the vacancy. The forty-five (45)-day deadline was added in 2022 due to concerns about Council taking months and months to fill vacancies; prior to the 2022 amendment, there was no deadline at all. Elected officials generally told the Commission they preferred sixty (60) days; the Commission recommendation is sixty (60) days.

Under the current Charter, if a vacancy does not occur in the year in which a regular election for that seat is scheduled, an election for the unexpired term is held at the next general election occurring more than one hundred eighty (180) days after the vacancy. This has resulted in two (2) recent cases, the first following the appointment of Gail Larson and the other following the vacancy upon Janine Boyd's resignation, in which the election for the unexpired term is within the same calendar year as the appointment.

Council members who presented to the Commission, with the exception of one who had no opinion on this, agreed that the timing for an election after an appointment should be revised so that it occurs at a later time. In Section 3.2 of the Commission's Proposed Amendment One, the appointee serves until the first to occur of either (i) the expiration of the term of the member who vacated or (ii) a successor is elected. The election for the unexpired term occurs at the next municipal election if (a) the election occurs more than two (2) years prior to the expiration of the unexpired term and (b) the vacancy occurs more than ninety (90) days prior to the election; otherwise, the appointee serves for the unexpired term.

Here is an example of the operation of the proposed change as compared to the current Charter. The current vacancy will be filled in May and relates to a term that would have ended December 31, 2027. Because the next municipal election, in November 2025, is more than two (2) years prior to December 31, 2027, and because the vacancy is more than ninety (90) days before the November 2025 election, the appointee would serve until a successor is elected in the November 2025 municipal election. Under the current charter, the appointee will serve until a successor is elected in the general election in November 2024, a year earlier.

In connection with the review of how Council vacancies are filled, the Commission reviewed how mayoral vacancies are filled. Under Section 4.10 of the current Charter, if an absence or vacancy occurs, the President of Council becomes Acting Mayor. If the vacancy is not temporary (for example, if the vacancy is due to the resignation or death of the Mayor), or if it continues for more than sixty (60) days, Council follows a series of steps to determine the appointed successor to the Mayor, similar to the succession rules applicable to the US President. The succession chain includes, in order, the President of Council, the Vice President of Council, another member of Council and then an elector. The options may be helpful in that, while a member of Council may be a desirable choice if a mayoral vacancy arises, some of these people

may not be willing or able to step into a full-time Mayor role. The Commission was concerned, however, about the lack of any deadlines – our City has a history of the consequences of lack of deadlines in filling vacancies -- and about the number of steps.

Accordingly, the Commission recommends in Section 4.6 of Proposed Amendment One that the Charter retain as a first step the option of the President of Council succeeding the Mayor, with a ten (10) day deadline for the President to decide whether to do so. If the President is unwilling or unable to step into the Mayor's role, then Council shall appoint someone, as is done for Council vacancies. The appointee could be the Vice President of Council or a member of Council, but the pool would be wider, by also including electors, at an earlier point in the process. The deadline for appointment is forty-five (45) days after the declaration of a vacancy. In selecting this deadline, the Commission noted that the trigger for the declaration of the vacancy would have occurred as few as ten (10) or as many as sixty (60) days before the declaration of the vacancy, adding to the time during which Council would be aware of the potential for a vacancy to be filled.

The Commission reviewed the timing for electing a successor to an appointed Mayor. The current Charter provides that an appointed Mayor shall serve until an election to occur at the next November election occurring more than one hundred eighty (180) days after the absence commenced. As noted above, the Commission recommends changing the timing of the election in the case of Council vacancies. But while this presents the same issue as the current Charter provision for filling Council vacancies, in that the election occurs only months after the appointment, the Commission determined that it was important in the case of a mayoral vacancy to have an election promptly because of the singular role of the Mayor. By comparison, Council has seven (7) members, so an appointment with a more delayed election has a less significant impact.

Consolidation of salary provisions applying to Mayor and Council - The Commission recommends in Proposed Amendment One consolidation in Section 3.3 of salary adjustment provisions that the current Charter addresses separately, in Section 3.5 as to Council and in Section 4.7 as to the Mayor. The Commission's recommendations extend to salary and other compensation, but in this Report we refer to salary as a shorthand reference.

Section 3.5 of the current Charter provides that Council may, in odd numbered years, adjust its salary, but the provision in Section 4.7 on the Mayor's salary does not clearly call for such a periodic review. This omission apparently was an oversight, which should be remedied.

The 2019 Commission had recommended that Council must fix Council salaries every four (4) years, after Council considers recommendations from the Civil Service Commission. This process also is used in Lakewood also.

The Commission's recommendation is to retain the optional adjustment of salaries for both Council and the Mayor, but to change from a two (2) year to a four (4) year review cycle and to require that Council pass an ordinance on salaries every four (4) years. The requirement for an ordinance reminds Council to consider whether an adjustment is warranted, but does not mandate any changes. The Commission further adopts the feature of the Civil Service Commission providing recommendations.

The Commission recognizes that there is a lag in the effectiveness of any increase, which is discussed below. Nevertheless, because the Commission recommends that the Civil Service Commission provide recommendations to Council as a first step in the salary review, the Commission felt that a change to a four (4) year review cycle was appropriate because historically increases in the salary have been infrequent, and because of the involvement of the Civil Service Commission. In addition, the Commission felt that it was important for Council to consider salary adjustment every four (4) years because making adjustments too seldom may weaken the pool of potential candidates for our elected offices. The Commission also believes that the political ramifications of increasing salaries is a powerful deterrent against too frequent or too generous adjustments.

The Commission recommends that the Charter include the Civil Service Commission recommendation as a preliminary step. The Commission took into consideration the views expressed by the Civil Service Commissioners. Chair Judith Miles and Civil Service Commissioner Hugh Weinberg met with the Commission to discuss their concerns immediately following a meeting of the full Civil Service Commission. While acknowledging that the 2019 Commission also recommended involving the Civil Service Commission in salary recommendations, their consensus was a reluctance to broaden the Civil Service Commission's role to include this task. Their concerns include that adding to the duties of the Civil Service Commission the review of salaries for Council and the Mayor may inject politics into the role of the Civil Service Commission; that a different commission may be better suited to this task; that this may be a challenge for a three-person commission to handle; and that there would need to be clarification as to the process underlying the recommendations.

The Commission notes that Lakewood has implemented this process, using its Civil Service Commission, so Council may want to consult with Lakewood about its process. The Commission's web page includes two (2) memoranda, from 2016 and from 2020, setting forth the recommendations of the Lakewood Civil Service Commission on the salaries of the mayor and council. The process includes a survey of salaries of similar sized cities, for instance. If Council determines to provide for salary recommendations by the Civil Service Commission, or a new commission, proposed Section 3.5 requires Council to provide, by ordinance or resolution, support for the commission, including budgeting for this process and possibly authorization to identify a consultant to assist with the salary survey. As to a salary survey, it is interesting to note that, in a May 2023 news article on Cleveland.com concerning consideration of salary increase for the Shaker Heights mayor and council, the reporter refers to a salary study conducted by the Cleveland Heights Committee for an Elected Mayor. We mention that to support that a salary study by a neutral party is a useful component of the salary adjustment process for elected officials, because it helps the public understand the factual basis for a recommendation and helps to address any concerns about elected officials giving themselves generous raises.

As to any concern about perceived politicalization of the Civil Service Commission, any new commission dedicated only to salary recommendations for the Mayor and Council likely would be viewed as more political. If, however, Council prefers to establish a new commission, the Columbus City Charter can provide a model. If there is a concern about the workload of the Civil Service Commission, Council may want to consider increasing the size of the Civil Service Commission. The recommendations of the Civil Service commission or any new commission

are not merit based in the sense of an evaluation of individual performance of an elected official; rather the recommendations should reflect the job requirements and comparable salaries paid by other cities.

The revised salary provision includes some guidance on factors to be considered for Council salaries. This parallels the establishment of factors for the Mayor's salary in the 2019 Charter amendments, and adds to the factors for the Mayor's salary the fact that the Mayor's job is full time. These factors would guide any consultant and the Civil Service Commission.

None of our elected officials mentioned salary increases when they spoke with the Commission or submitted comments. The Commission understands that Council salaries were increased from \$7,000 to \$9,000 in 2004. No increases have occurred since then. According to a 2020 recommendation from the Lakewood Civil Service Commission, the range of city council salaries in its salary study was from about \$9,200 to \$22,000. Particularly due to the change in the form of our government, the Council appears to have a heavier workload. That plus the passage of 20 years since the last salary increase for Council would suggest some consideration of Council's salary is due. The Mayor's salary is \$115,000 currently. According to a 2020 recommendation from the Lakewood Civil Service Commission, the range of mayoral salaries in its salary study was \$81,500 to \$150,000.

Another factor affecting salaries for Council and the Mayor is a built-in delay in effectiveness of any increase due to Ohio law. Ohio law prohibits an elected officer from receiving a salary adjustment on which that person voted; rather, the salary adjustment must be effective no sooner than the beginning of the next term. Due to staggered terms, the effect of this is that salary adjustments in some cases have a two (2)-year delay in effective date. For example, if a salary adjustment is adopted in 2027, it would become effective on the following January 1 for Council members with terms beginning on that January 1, but would not be effective for Council members with terms expiring in 2029. The persons elected to Council seats for terms beginning in January 2030 would then receive the salary adjustment. This delay occurs under the current Charter, too.

Miscellaneous Changes relating to Council and the Mayor

Qualifications for Candidates - Section 3.2 in Proposed Amendment One adds a six (6)-month residency requirement for candidates for Council. (The requirement for the Mayor is eighteen (18) months, but the Commission preferred a lower barrier to entry for council candidates.) This section extends throughout a Council member's term the requirement that the member reside in the City and be an elector. It narrows the broad prohibition in 12.1 against members of the Civil Service Commission holding any "municipal employment" to cover only employment by the City.

Open Government; Virtual Meetings - Section 3.6 in Proposed Amendment One permits Council to provide by ordinance or resolution for virtual meetings. This Section retains the general rule that meetings be held in public places in the City, but recognizes that there may be circumstances in which virtual attendance by some or all of Council may be appropriate. The Commission is not recommending that virtual meetings be used regularly. Meetings in public places facilitate communication and public participation. Section 3.7 in Proposed Amendment

One permits Council by ordinance to interpret principles of open government. Again, this reinforces the role of the City, as a home rule city, to establish the rules for its meeting, but also emphasizes the goal of transparency. The Commission considered that, during the pendency of the Covid emergency, State law relaxed open meetings laws to permit virtual meetings, but the City's charter, which required meetings in public places, prohibited reliance on the State's temporary rule. The Commission's proposed changes would give flexibility to the City for future public health emergencies, and other circumstances, perhaps not as severe, that nevertheless merit use of virtual meetings. In considering the development of an ordinance regarding virtual meetings, Council should take into account appropriate methods for allowing resident comments at meetings.

Council's Subpoena Power - The Mayor proposed that the Commission consider adding to the Charter subpoena power for the Council. Although the Ohio Revised Code already does permit Council to exercise subpoena power, the Commission did accept the Mayor's recommendation; see Section 3.8 of Proposed Amendment One. The Mayor's suggestion included adding to the Ohio Revised Code's approach a requirement for a supermajority of Council to approve exercise of the Council's subpoena power. The Commission did not feel that deviating from the Ohio Revised Code provision, by requiring a super majority, was needed in this case.

The Mayor also proposed that the Charter include a grant to the Mayor of explicit investigatory power as to the affairs of any department or the conduct of any officer or employee. The Commission decided not to include such a provision because the Charter already grants to the Mayor authority over administrative staff.

Emergency Measures – The current Charter addresses emergency measures in the referendum provision, in Section 8.2, presumably because that provision describes ordinances to which the right of referendum does not apply. The Commission recommends relocating the emergency measures provision to Section 3.9 of Proposed Amendment One, and the 2019 Commission similarly recommended relocating this provision.

The Commission discussed whether to make substantive changes to this provision, or to delete the concept. The Commission acknowledges comments offered by elected officials, and resident comments heard from time to time at Council meetings, regarding too frequent reliance upon the expedited procedures to pass so-called “emergency measures” which did not seem to be “emergencies” in the commonly understood meaning of the word.

The Commission agrees that Council and the Administration could and should be more judicious in the use of the emergency measures procedure, but decided to retain the feature in the Charter, in Section 3.9 of Proposed Amendment One. The emergency measures concept has an accepted meaning under Ohio law which can be important in certain circumstances. Recognizing the benefit of more effectively communicating to residents the rationale for an emergency measure, proposed Section 3.9 adds some guardrails by requiring a supermajority vote of five (5) Council members to pass emergency measures and by requiring that any emergency measure specifically state the “emergency” justifying the expedited procedures.

Judicial Powers of the Mayor – Based upon the recommendation of Municipal Court Judge Costello, the Commission recommends the deletion of Section 4.5, which grants certain judicial powers to the Mayor. Because the City has a municipal court, these powers do not apply to our Mayor.

Finance and Budget

The existing charter provisions related to budgeting were approved by voters November 5, 2019 and became effective January 1, 2022. In Commission interviews of members of Council and the Administration, the Commission learned of significant differences between the description of budget and appropriation preparations in the Charter and the activities which the Administration and Council undertook to prepare the City's 2024 budget. Interviewees uniformly praised the procedure followed for the 2024 budget. Interviewees' suggestions included the recommendation that the Charter reflect the primary attributes of the 2024 budgeting process, so that the City can benefit from lessons learned in coming years.

Due diligence - In preparing the Proposed Amendment relating to the budget, the Commission undertook activities including the following:

- A review of the current Charter and the 2019 Commission Report;
- Communications with Tara Schuster, the City's Acting Finance Director; Melody Joy Hart, past president of Council; Tony Cuda, President of Council; and the Director of Finance of the City of South Euclid through the kind intervention of Mayor Welo;
- Review of local city charters; the charters of the cities of Lakewood and Shaker Heights offered more content to consider than did the charters of the cities of University Heights and South Euclid; and
- Review of the Model City Charter of the National Civic League which offered substantial content for consideration.

Budget activities - In addressing the budget, the Commission sought to describe important information, activities and roles and responsibilities at a level of detail which is useful without being constraining.

Arguments in favor of adopting the Proposed Amendment budget features include the following.

- The Proposed Amendment substantially describes the budgeting process followed for 2024, which was uniformly praised by interviewees from the Administration and Council.
- The Proposed Amendment reflects a similar level of detail to that of the charters of Shaker Heights and Lakewood, and somewhat less than the Model City Charter.

- The Proposed Amendment provides a budgeting process which will support the City's financial management and operations well as the City matures in the mayor-council form of governance.

Other considerations of Commission members include:

- The Commission discussed whether to maintain the related text of the current Charter.
- Given the maturity of the City in the current form of government, the Commission considered the inclusion of a reasonable level of detail, beyond that of the current Charter, to be of benefit to both the Administration and Council.
- The Commission noted that the current text includes a description of a process which was not and is not intended to be followed.

Why should the capital budget portion of the budget report address sustainability? -

The Proposed Amendment refers to “sustainability” in connection with the capital budget:

(d) Annual capital budget. The capital budget must include the following: (i) any departmental capital spending requests and how those spending requests relate to achieving departmental goals; (ii) itemized cost estimates and the anticipated method of financing upon which each capital expenditure is to be reliant; (iii) the itemized estimated annual cost of operating and maintaining the facilities or equipment to be constructed or acquired; (iv) a commentary on how the capital budget addresses the environmental, social, and governance sustainability of the community and region; and (v) any other information as may be required by Council.

The meaning of sustainability in the context of government is somewhat different from that in financial, commercial and other contexts.

A sustainable city should promote economic growth and meet the basic needs of its inhabitants, while creating sustainable living conditions for all.¹ As noted in a lengthy Wikipedia assemblage of information on sustainable cities, “[i]deally, a sustainable city is one that creates an enduring way of life across the four domains of ecology, economics, politics and culture.”²

The United Nations Environment Programme recommends development goals for cities with specific focus on access to housing and basic services, sustainable transport system, sustainable urbanization, access to public spaces, sustainable buildings, per capita environmental

¹ ["Sustainable Cities". UNEP – UN Environment Programme. 2018-01-23. Archived from the original on 2021-01-19. Retrieved 2020-09-22](#)

²

https://en.wikipedia.org/wiki/Sustainable_city#:~:text=A%20sustainable%20city%20should%20promote,economics%2C%20politics%2C%20and%20culture. This Wikipedia page offers many primary sources related to sustainability in a government context.

impact of cities, and policies towards climate change, resource efficiency and disaster risk reduction.³

We cite this UN program, not because the annual budget report as to the capital budget must address all of these points, but simply to illustrate the factors that affect sustainability of our community and the region.

To its credit, our City is already focusing on sustainability, as demonstrated by information on the City's web page devoted to Sustainability. That web page describes various programs and policies to support sustainability. The Mayor recreated the position of Sustainability and Resiliency Coordinator in the Office of the Mayor. The City is developing a Climate Action and Resiliency Plan. This focus tells us that the City will be prepared to address sustainability in the annual capital budget portion of the budget report. Including consideration of sustainability in the annual budget report will remind all of our elected officials of this priority for our City.

The Commission commends the Mayor and City Council for use of the 2023 budget process and recommends inclusion of the framework for it in the Charter so it may guide the City's budget process in the future.

Future Charter Review Commissions

The current Charter calls for a mandatory charter review commission at least once every ten (10) years. Proposed Article Fourteen requires that Council appoint a commission to review the entire Charter at least every ten (10) years. Further, it provides that Council shall consider appointing a commission to review the entire Charter at least every five (5) years. Of course, Council retains the power to consider amendments to the Charter at any time; appointment of a commission is not a pre-requisite.

2. Proposed Amendment Two – Elections; Removal; and Initiative, Referendum and Recall; Charter Amendments; Charter Review Commission

The Commission recommends Charter changes regarding elections; removal of a Council member or a mayor, which is essentially a reversal of an election; and the exercise of such fundamental voter rights as initiative, referendum and recall.

Required Signatures for Nominating Petitions – Elected officials recommended to the Commission that the number of signatures required for nominating petitions should be lower. Section 7.3 of the current Charter requires signatures of not less than two per cent (2%) of the voters who voted in the last regular election of municipal officers. For the 2023 Council elections, that requirement was about 359 signatures.

³ <https://www.unep.org/regions/asia-and-pacific/regional-initiatives/supporting-resource-efficiency/sustainable-cities>. Retrieved May 13, 2024.

In looking at our sample charters, we found that some cities use a percentage (two (2) or three (3) percent), one used three hundred (300) for Council and six hundred (600) for Mayor, and one relies on the state law default, which is fifty (50) signatures.

The Commission's initial recommendation, as reflected in our draft Report published before the May 21 public input meeting, recommended reducing the required signatures to one hundred (100) for the Mayor and fifty (50) for Council members. Based on comments received at the May 21 meeting, the Commission reconsidered this change. The comments urged a higher number of signatures because candidates may benefit from the additional voter interaction needed to obtain signatures on nominating petitions. The Commission's final recommendation is to reduce the required signatures to three hundred (300) for the Mayor and one hundred fifty (150) for Council members. The Commission's rationale for this is that it addresses the concerns about the initial proposal being too low, while also lowering the bar to election for candidates as compared to the requirement in the current Charter.

Limits on Nominating Petitions Signed - The Commission accepted the recommendation of elected officials that Section 7.3 of the Charter no longer prohibit voters signing more nominating petitions for an office than there are candidates on the ballot for that office. Voters tend to be unfamiliar with this requirement, and the Commission felt it was an unneeded barrier to candidates seeking signatures.

Deadline for Nominating Petitions – As recommended by some Council members, the Commission recommends changing Section 7.3's deadline for nominating petitions for candidates to 90 days before applicable election instead of 90 days before primary. This means that candidates for Council would file 90 days before the general election rather than 90 days before the deadline for a mayoral primary. A parallel change in Section 7.4 relates to filing of acceptances of candidacy.

Write in Candidates - The Commission recommends deleting constraints on write in candidates for mayor. This provision currently is in Section 7.5 of the Charter.

Voting by the Military - Section 7.7 of the Charter today includes a provision concerning voting by the military and their families. The Commission recommends deleting this section because it simply incorporates Ohio laws.

Removal of a Council Member or the Mayor - The Charter today includes separate removal provisions for Council in Section 3.3 and for the Mayor in Section 4.9. To streamline the Charter and make the terms applicable to elected officials consistent, the Commission proposes to delete Sections 3.3 and 4.9 and consolidate the removal process in a proposed Section 7.8.

There are few municipal charters which include a specific removal provision. Shaker Heights, South Euclid and University Heights charters include removal provisions. After a review of several, the Commission determined that the Shaker Heights Charter is a useful model.

In the current Charter, Section 3.3 permits Council to remove a Council member for gross misconduct, misfeasance in or disqualification for office, conviction of a crime involving moral

turpitude while in office, violation of the charter or persistent failure to abide by the rules of the Council.

In addition, Section 3.3 requires five (5) Council member votes to remove a member, and a Council member facing removal is given a written copy of the charges against them and an opportunity to be heard.

The text of current Charter Section 4.9 states that, “at any time the Mayor shall cease to be qualified for the office, or shall be convicted of a felony, or shall be declared legally incompetent, the Mayor shall immediately forfeit office.” While recognizing that the trigger for removal is a high bar, and that exercise of a removal sanction is a serious step, the Commission noted that current Section 4.9 does not include any procedure for this removal and discussed the advisability of addressing this omission. Further, while current Section 3.3 contains a due process requirement prior to the removal of a City Council member, current Section 4.9 contains no such safeguard. Current Section 4.9 provides for no formal process or vote required, which results in uncertainty as to the office of the Mayor. The Commission proposes to remedy this omission, while providing due process protections.

The Commission’s final proposed Section 7.8 states that any official of the City is subject to removal as provided by the general laws of Ohio or the charter. It further provides that Council may remove any elected official of the City for failing or ceasing to possess the qualifications established by the Charter or for violation of general laws of Ohio regarding ethics. Elected official includes the Mayor, Council members and the Municipal Judge. The charters of Shaker Heights and University Heights permit Council to remove any officer. Section 10.3 of the proposed Charter requires compliance by public officials (both elected and appointed) and employees with general laws of Ohio regarding ethics.

The Commission discussed the advisability of retaining the current Charter features that include as triggers for removal of a Council member both violation of the Charter and, as to Council, violation of the rules of Council. The Commission decided that it was best to delete those triggers. None of the sample Charters include similar triggers, and these particular triggers seemed too vague and possibly subject to misuse.

Section 10.3 of the Commission’s initial proposals for Charter amendments, as published before the May 21 public input meeting, included as triggers for removal a specific list of felony criminal violations of prohibitions on conflicts of interest and a few other specific rules. Through public comments, we learned that Ohio’s general laws provide a robust program of ethics rules binding on public officials and employees. The Commission determined that it was preferable to refer to the general laws of Ohio governing ethics, some of which provide for felony sanctions and some of which provide for misdemeanor sanctions, rather than to have a more limited set of rules in the Charter with a requirement for a felony conviction. The reference to general laws of Ohio in this context also provides the benefit of guidance through case law and the opinions issued by the Ohio Ethics Commission.

Proposed Charter Section 7.8 requires due process. No expulsion may occur unless and until a hearing is held and the accused officer is given written notice of the charges and an

opportunity to be heard. Finally, removal may not occur unless five (5) members of City Council approve.

Initiative, Referendum and Recall - The 2019 Commission Report provides valuable information on the background and significance of the rights to initiative, referendum and recall found in the City's Charter. The 2019 Commission Report noted that the City's Charter, as an exercise of its home rule powers, sets forth in detail these rights and procedures to effectuate them.

The Charter includes a separate section on each of initiative, referendum and recall, with two (2) additional sections, one (1) on general provisions and another on official publicity. The Commission's recommendations regarding initiative, referendum and recall address several substantive points, as well as some non-substantive changes aimed at simpler language and consistency across the provisions.

Electors - The Commission initially discussed the 2019 Commission's recommendation to change references in the Charter from "electors" to "registered voters". The term "electors" appears in many places in the charter, including in the initiative, referendum and recall provisions relating to the number of signatures needed on petitions, as well as in Article VII regarding elections.

Our initial thought was that "electors" is a term not usually used in discussing voters, so it seemed perhaps dated. The Commission learned that there is a substantive difference between an elector and a registered voter: in relation to an election, electors are those voters who have satisfied all the registration and qualification requirements at least 30 days prior to an election. Accordingly, all electors are registered voters, but all registered voters are not electors. Because the term "electors" is used in state election law in the context of identifying who is authorized to vote, the Commission decided to retain the word "electors" in all cases.

Required signatures for initiative, referendum and recall petitions - Proposed Amendment Two changes Charter provisions relating to the number of signatures needed for petitions for initiative, referendum and recall.

The change relates to how to determine the number of signatures needed. The current Charter refers to a percentage of "the electors of the City". The Ohio Supreme Court has invalidated petitions requirements based on the number of registered voters, because that number may change day to day, making it impossible for a petition circulator to know the number until the day of the filing. (Using electors as a reference point would raise the same issue.) As noted in the 2019 Commission Report, in the context of the 2019 ballot initiative for an elected mayor, the City construed the Charter text referring to a percentage of electors of the City to mean "those who voted in the most recent regular municipal election"; this is consistent with the Ohio Supreme Court decision.

Accordingly, the Commission's recommendations throughout the Charter use as the reference point for all petitions the total vote cast at the last general municipal election.

The Commission considered a second change, reducing the number of signatures needed on initiative, referendum and recall petitions. These requirements are found in Section 8.1(a) for

initiative petitions, Section 8.2(b) for referendum petitions and Section 8.3(b) for recall petitions. These reductions would have been as shown in the chart below, and were presented in the draft of this Report shared with the public in advance of the May 21 meeting. In determining the lower number of required signatures, the Commission reviewed related provisions in the charters of other local cities and in the model charter of the National Civic League. The argument for this change was that it would enable, to the extent reasonable and prudent, the participation of voters in promoting and exercising good governance in the community.

Comments provided in the May 21 public input meeting raised the question of whether the proposed changes resulted in signature requirements that were too low. The Commission reconsidered this issue and determined to retain the same percentage of signatures as is required in the current charter for initiative, referendum and recall petitions. The Commission believes that the lower number of required signatures, as compared to the number required under the current Charter, presents a sufficient threshold for these special voter rights.

This chart compares the number of signatures required under the current rules as compared to both the Commission's initial draft proposal and its final proposed Charter, using the election results from 2023. In the November 7, 2023 election there were 17,095 ballots and 34,269 registered voters in Cleveland Heights, according to the Board of Elections Official Results published November 29, 2023.

Purpose	Current Required % of Electors and Number of Required Signatures	Initial Proposed Required % of Ballots in Last Municipal Election and Number of Required Signatures	Final Required % of Ballots in Last Municipal Election and Number of Required Signatures	Conforming charters
Initiative	10%; 3,427	5%; 855	10%; 1,710	Lakewood and South Euclid (both refer to last mayoral election), University Heights, (refers to last mayoral election), range in Model Charter is 5 to 10%

Purpose	Current Required % of Electors and Number of Required Signatures	Initial Proposed Required % of Ballots in Last Municipal Election and Number of Required Signatures	Final Required % of Ballots in Last Municipal Election and Number of Required Signatures	Conforming charters
Referendum	15%; 5,140	10%; 1,710	15%; 2,565	Lakewood and South Euclid (both refer to last mayoral election), University Heights, range in Model Charter is 5 to 10%
Recall of Council member	25%; 8,568	15%; 2,565	25%; 4,274	Lakewood and South Euclid (both refer to last mayoral election), University Heights, (refers to last Council election), range in Model Charter is 10 to 20%
Recall of Mayor	25%; 4,274	25%; 4,274	25%; 4,274	Lakewood and South Euclid (both refer to last mayoral election), University Heights, (refers to last mayoral election)

The current Charter requires that the petition for recall of the Mayor includes signatures of at least twenty-five percent (25%) of the electors of the City that voted in the most recent mayoral election. For recall of the Mayor the Charter now uses the correct pool of voters, those who cast ballots in the most recent mayoral election. As reflected in the chart above, the Commission does not recommend a change to this provision.

Initiative – Section 8.1 sets out the procedure for Council's consideration of an initiative petition, which allows Council to approve the proposal, reject it or pass it with changes. Section 8.1 now permits the committee advocating for the initiative measure to decide whether to require Council to put on the ballot the initiative as originally proposed, in the form set forth on the petition signed by voters, or to put on the ballot the original initiative as changed by Council, so

long as the changes were presented in writing at a public hearing before a Council committee or during consideration by the Council.

The Commission discussed the advantages and disadvantages of granting discretion to the committee advocating for the initiative measure, essentially allowing the committee to negotiate with Council and to consider changes that may be raised by Council or election officials. Allowing changes of course means that the language the petition signers approved is different from the ballot text. The Commission also discussed the suggestion of the 2019 Commission that changes be permitted only if not substantive, but the Commission decided the distinction between substantive and non-substantive changes could be disputed. In the end, the Commission preferred to retain the language now in the Charter.

In the interest of transparency, the Commission recommends that the Council committee considering any proposed initiative must have public meetings concerning the petition, with opportunity for public comment.

Referendum – The current Charter referendum provision does not include a deadline for Council to act upon a referendum petition. The Commission recommends a thirty (30) day deadline, by which Council must repeal the ordinance or other measure or provide for submitting it to the voters.

Recall – The current Charter has a recall provision in Section 4.11 as to the Mayor and in Section 8.3 as to Council. The use of a separate provision for the Mayor is due to the “single-issue” rule for citizen-initiated ballot issues such as the initiative for an elected mayor. The sample charters we reviewed all use one (1) recall provision.

The Commission recommends changes to Section 8.3 to cover recall of any elected officer of the City, so this would cover a Council member, the Mayor and the Municipal Judge. This means that Section 4.11 would be deleted.

The Commission recommends adding to Section 8.3 a statement that no person recalled is eligible for appointment to fill the vacancy caused by the recall.

General Provisions – Section 8.4 deals with general procedural items that apply to all three (3) types of petitions, and, by cross reference from Section 13.1, to petitions for Charter amendments. The Commission recommends organizing this section with subparagraphs for easier reading. Beyond that, there are four (4) changes worthy of mention:

- Section 8.4(a) of Proposed Amendment Two adds a requirement that a recall petition specify the name of the elected officer to whom the petition applies and state the reason for recall. (Section 8.4(a) already includes requirements for details regarding the contents of initiative and referendum petitions.)
- The current Charter provides for an opportunity to amend a petition if it is found insufficient. In Proposed Amendment Two, this Section specifies that this insufficiency refers only to an inadequate number of valid signatures. Proposed Amendment Two defines when a final determination of insufficiency" occurs,

namely after a second failed attempt. A failure does not preclude another fresh attempt to achieve a successful petition.

- Noting the costs associated with a special election, the Commission agreed with the 2019 Commission that it is preferable to permit a special election, rather than requiring that an election prompted by citizen petitions should be held only in conjunction with regular primary or general elections.
- Section 8.4 of the current Charter provides special rules if an election included the proposed recall of three (3) or more members of City Council. Because the Commission considers it highly unlikely that this scenario would ever occur, we recommend deleting this provision. No other city charter that was reviewed contained such a provision. If an election ever determined that three (3) or members were recalled, the remaining City Council members would appoint new Council members using the procedure Section 3.3 of Proposed Article One.

Official Publicity - The Commission proposes to divide Section 8.5, entitled "Official Publicity," into two (2) sections, the first with that title and the second, new Section 8.6, entitled "Statements in Support and Opposition." This would correctly reflect the subject matter of each section. The Commission added to Article Eleven, as to Charter amendments, the provisions covered in Sections 8.5 and 8.6.

Section 8.5 of the current Charter permits the City to choose one (1) of two (2) methods of informing the public about an initiative, referendum or recall: by regular mail to registered voters or by publication in a newspaper of general circulation in the City. Given the significance of this information, the Commission decided that both methods should be used.

Currently, the election information must be provided at least thirty (30) days prior to an election. In light of the increased use of early voting, the Commission changed this requirement to at least forty (40) days before the election, which would result in electors receiving information in time to review it before early voting begins.

The Commission recommends specifying that the information would be mailed to electors as determined as of the most recent general election.

Statements in Support and Opposition – The Commission recommends that the word limit for a statement, whether in support or opposition, increase from three hundred (300) to five hundred (500) words. Section 8.6 also provides that, in the case of an initiative, referendum or recall petition, any civic body or committee may submit an answer to a statement in support or in opposition to the petition.

Charter Amendments – The Commission recommends including in Section 13.2 provisions related to official publicity regarding proposed Charter Amendments. In the current Charter, Section 8.5 covers Charter amendments as well as initiatives, referenda and recalls.

There are some differences in the requirements due to terms of the Ohio Constitution. While the Commission in proposed Section 8.5 requires that information be distributed to electors by both mail and by publication in a newspaper, the Constitution permits information to

be distributed by either of those methods. Proposed Section 8.5 also moves the deadline for distributing the information to forty (40) days before the election, so early voters have the opportunity to consider the information, while the Constitution requires only a thirty (30) day advance distribution.

Periodic Charter Review Commission - The Commission recommends that the Council shall appoint a commission to review the Charter at least once every ten (10) years, but also that the Council must consider and determine whether to appoint a commission at least every five (5) years. This will facilitate keeping the Charter up to date, to reflect developments in best practices in home rule city charters.

3. Proposed Amendment Three – Ethics and Training

In the Proposed Amendment, a new Article 10 is devoted to ethics and training. The Commission determined that it is important to have a much broader, more modern approach to ethics and training for our government, and that the subject deserves its own separate article.

The Commission determined that a more robust detailed ethics statement, with Council having supplemental authority, is the best option for our Charter. While there are very few Charters in Ohio with ethics provisions, we felt it was important enough to include it in our Charter. The Commission used the Lakewood Charter as a foundation.

General Expectations - Section 10.1 of Proposed Amendment Three establishes general expectations of respect, honesty and fair treatment on the part of all City personnel, along with an obligation of senior City officials to monitor and support all City employees in this regard.

Oath of Office - Section 10.2 of Proposed Amendment Three establishes an oath or affirmation requirement for the Mayor, the City Administrator, all members of Council and all directors of the City. In setting the requirement, the Commission considered the importance of the concept, the breadth of persons who would be covered and the administrative burden. The oath or affirmation required would fully comply with state law, as applicable, for contents of the oath or affirmation.

Public Ethics – Section 10.3(a) of Proposed Amendment Three requires that City officials and employees comply with the general laws of Ohio regarding ethics. Proposed Section 10.3 replaces the separate “Interest in Contracts” provisions in the current Charter at Section 3.10 as to Council and Section 4.8 as to the Mayor. The general laws include various provisions covering conflicts of interest, but also cover other kinds of misconduct by public officials. In some cases, violation of these laws results in sanctions on public officials or employees such as forfeiture of or disqualification from office, as well as criminal sanctions. (Proposed Section 7.8 covers Council’s authority to remove elected officials due to violations of these ethics laws. The removal provision is discussed in the portion of this Report regarding Proposed Amendment Two.)

Section 10.3 also requires periodic ethics training for City officials and employees provided by the Ohio Ethics Commission or, if the Ohio Ethics Commission no longer provides that training, by another provider independent of the City.

Mayor's Implementation Role - Proposed Section 10.3(b) provides that the Mayor is responsible for seeing that each official and employee receives a copy of the ethics laws. It also provides for periodic training for all officials and employees regarding the Ohio ethics laws. Appropriate implementing policies are put in place for all employees and are properly communicated.

Council's Power to Supplement - Proposed Section 10.4 makes clear that Council retains inherent power to supplement these requirements by way of additional rules or penalties, so long as nothing it may introduce would be inconsistent with the contents of the Charter.

Training for Council and the Mayor - During our information gathering and interviews, the Commission came to the conclusion that new Council members and Mayors would benefit from some training, on topics such as how local government functions, balances of power, finance and budgeting and the legislative process. Section 10.5 addresses these issues and once again, the Commission used the Lakewood Charter for guidance. The Commission decided to allow Council to determine topics for the training sessions, but suggested some for consideration. Under Proposed Section 10.5, Council decides which organization or other sources would provide the training, but requires that new Council members and Mayors completed the training within three (3) months of election or appointment to the position of Council or Mayor. Existing Council members and the Mayor also may take advantage of this training opportunity.

4. Proposed Amendment Four - Nondiscrimination Charter Provision

The current Charter includes, in Section 3.6, the City's commitment to be an equal opportunity employer and requires that the Mayor, "at least once each year, shall submit a report to Council... concerning the carrying out of this policy." The City also now has Fair Practices ordinances aimed at securing for all citizens their right to equal housing opportunities, equal employment opportunities, equal access to educational opportunities, and equal access to public accommodations regarding of their age, race, color, religion, sex, familial status, national origin, disability, sexual orientation, or gender identity of expression.⁴

Further, the City, by ordinance, prohibits discrimination in city contracts.⁵

Article Twelve of the Proposed Amendment provides additional protections for all residents from discrimination by the City, city vendors and city grantees. It expands the list of "protected classes". Article Thirteen now includes the language in the current charter requiring an annual report, and provides for a May 31 deadline for the annual report.

The inclusive language is designed to give visibility to groups, classes and communities that are subjects of systemic inequities, victims of implicit bias or targets of personal animus. The use of the term "resident" in the Proposed Amendment is intentional, to ensure that all who

⁴ CH ORD Chapter 749.

⁵ CH ORD 171.011.

choose to make Cleveland Heights their home feel an equal and welcome part of the community, regardless of citizenship status.

The Proposed Amendment acknowledges our ever-diversifying community and those who reside in it. In addition to the protections provided by state and federal law, the amendment adds important protections from discrimination at the local level. It supplements and provides a needed backstop to state and federal anti-discrimination protections. However, it does not take away the ability of the City to set standards and requirements that are reasonably necessary and substantially related to job duties and responsibilities.

5. Proposed Amendment Five – Ranked Choice Voting

The Commission recommends that the City adopt ranked choice voting for election of our elected officers, the Mayor, City Council and the Municipal Judge.

Proposed Amendment Five includes the Charter changes needed to effect ranked choice voting.

Types of Ranked Choice Voting— For the Mayor and Judge, Section 7.7 provides that the City would use the method of ranked choice voting known as “instant runoff” vote”. Instant runoff voting results in electing the candidate who receives over fifty percent (50%) of the votes and ensures a broadly popular winner for a single-seat office, such as the mayor.

For the City Council, the Commission recommends that the City would use “proportional ranked choice”, which is also known as “single transferable” vote. This method results in electing multiple winners, each of whom meet a threshold based on the total number of seats to be filled on Council. This method transfers “excess” votes. After the first candidate reaches the threshold and is declared a winner, the election continues in rounds until all the seats are filled. Proportional ranked choice voting ensures that candidates are elected in precise proportion to their level of support.

New Section 7.7 in Proposed Amendment provides that Council shall establish, by ordinance, certain of the details, such as the ballot format, rules for counting the votes and rules for releasing results. In order to facilitate understanding of the ranked choice voting system and the types of ordinance provisions needed, Appendix Two includes a draft ordinance. Among other features, the ordinance provides that the Board of Elections may enact rules to implement the ranked choice voting ordinance.

Arguments in favor of ranked choice voting - All forms of ranked choice voting ensure a majority of voters are represented in their government. Proportional ranked choice voting goes even further by ensuring nearly every voter is represented. Used around the world,⁶ it is widely considered to be fairer, more inclusive and more democratic than the winner-take-all voting system in use in the United States.

⁶ Proportional ranked choice voting has been in use around the world for over 100 years. It is used for national elections in Australia, Ireland, and Malta, plus local elections in other countries like New Zealand and the United Kingdom. See Appendix Two for information on examples of recent adoption of proportional ranked choice voting in the United States.

Ohio is steeped in proportional ranked choice voting history. The first city in the country to adopt it was Ashtabula in 1915. Cincinnati used it from 1925 until 1957, when it was thrown out on the *fifth try* in a race-baiting campaign in 1955. Cleveland used it from 1923-1931 when it was the largest city in the nation to do so. Known at the time as *Proportional Representation*, it was a part of Progressive Era municipal reforms which successfully sought to rid the country of municipal political “bossism” and installed city manager reforms throughout the country in the nation’s largest cities.⁷

Ranked choice voting in all its forms is currently enjoying a resurgence all over the nation. 10 million voters in 24 cities and counties used ranked choice voting in 70 elections in 2023.

In a 1923 decision, the Ohio Supreme Court held that Ohio home rule cities may use ranked choice voting to elect their legislative bodies. Like the City of Cleveland, which was the city whose decision to use ranked choice voting was at issue in this case, Cleveland Heights is a home rule city.

Ease of use and counting - Proportional ranked choice voting is straightforward for voters: **voters rank candidates in order of preference**. Voters can rank as many candidates as they choose, without fear that doing so will hurt their favorite candidate’s chances. Ranking a backup choice will never hurt a voter’s favorite candidate, so voters have no reason to “bullet vote” for only one (1) candidate, nor are they forced to vote the “lesser of evils.”

Candidates who receive a certain share of votes — the “threshold” — are elected based on the number of open seats. For example, if there are three (3) seats to fill, any candidate who gets more than twenty-five percent (25%) of the vote earns a seat. (See Appendix Two for more examples.) Excess votes (those above the threshold) are then counted for the voters’ second choices, ensuring that no votes are wasted. After excess votes are distributed and any additional winner(s) are declared, the candidate with the fewest votes is eliminated. Votes of the lowest ranked candidate are then allocated to voters’ second choice candidate. This process continues until all seats are filled.

It is easy to count votes when ranked choice voting is used, with the use of computers. All that is necessary is for the Board of Election to purchase the appropriate software and obtain the necessary certification from the State of Ohio. In Ohio, this equipment is required to be certified by state and national boards, with state certification dependent on national certification. As contemplated by the Proposed Amendment, Council would need to adopt ordinances implementing the ranked choice voting methods, including specifying a new ballot form.

The effective date for the ranked choice voting provisions is left blank in Proposed Amendment Five. It is likely that the provisions in Proposed Amendment Five would not become effective with other proposed amendments that the Commission recommends due to the requirements, noted above, for federal and state approvals of the change in voting method.

⁷ According to one of the most notable reformers of the 1920’s, Charlie Taft of Cincinnati, unbeknownst to the Charter Committee (the reform movement that brought proportional representation along with the other municipal reforms) at the time, proportional representation turned out to be the “Crown Jewel” of the Progressive Era Reforms in the 1920’s.

Impact on Other Charter Provisions – Proposed Amendment Five includes changes to Section 3.3, regarding vacancies on City Council. With ranked choice voting in effect, when an election occurs after a vacancy has been filled by appointment, all of the Council seats on the ballot are treated as a group for ranked choice voting. This includes both seats for full terms and a seat for an unexpired term. Essentially, this means that, if four (4) Council seats for a full term and one (1) Council seat for an unexpired term are on the ballot, the candidates finishing first, second, third and fourth are allocated the full terms and the fifth place candidate is allocated the unexpired term.

Section 7.1 now has text about a mayoral primary. With ranked choice voting in effect, there would be no primary election; the method of ranked choice voting for mayor is “instant runoff voting”. Other references in the Charter to a primary would be deleted as well.

Why Should Cleveland Heights Enact Ranked Choice Voting? - Ranked choice voting increases voter satisfaction,⁸ because one (1) of the top choices of over ninety percent (90%) of voters is elected, and systemically fosters cooperation and civility in two (2) ways. First, cooperation among candidates increases their chances of winning and these cooperative relationships carry over into the legislative experience, thereby mitigating competitiveness and distrust among sitting councilmembers. Second, it reduces polarization because negative campaigning hurts candidates’ chances of winning as opposed to the current method of conducting elections, in which negative campaigning actually *helps* candidates win.

Ranked choice voting guarantees majority rule but also allows significant and organized minorities to gain seats otherwise impossible for them to win. It is supported by – because it helps – conservatives, moderates AND progressives.

Problems with our voting system abound:

- voters feel they are left out of the political process;
- our political system has grown rancorous and mean-spirited, leading directly to widespread alienation and
- large swaths of the population, especially young people, are disengaged from politics.

There is growing pressure to move toward a more inclusive, democratic and fair way to elect our public officials.

RCV accomplishes these and is the best way to achieve *legislatures* that are cooperative and productive and an *electorate* that is engaged.

The Commission recommends these methods of ranked choice voting because the Commission believes ranked choice voting:

⁸ In the 2023 election cycle, 95% of voters in NYC said it was simple and 77% want to keep using it; 92% of voters in Minneapolis, 85% in Atlanta, and 86% in Boulder said it was easy to complete their ballot.

- is a fairer way to elect our representatives,
- is the most precise barometer of voter preference,
- allows voters to vote for their favorite candidates, eliminating the need for “lesser of evils” voting,
- promotes and engenders cooperation among the candidates and
- reduces polarization.

Our City prides itself on being a progressive city where thoughtful and engaged people from diverse backgrounds come together in the “public square” to effectively interact, understand each other and thrive through the resulting tapestry of mutuality. It deserves a voting system that helps to bring about these aspirations.

A WORD ABOUT CHANGES NOT RECOMMENDED

Method of electing Council – The Commission discussed the methods for electing Council members: at-large, by ward or a hybrid including some wards and some at large seats. The Commission offered this topic for discussion at the February 12 public meeting. The comments at the public meeting were mixed, with some preferring a shift to all wards, some suggesting a hybrid system with some wards and some at large and some preferring the current system. In some cases, attendees noted pros and cons of both the current system and a hybrid system.

The pros for the current system as discussed among the Commission members and at the meeting may be summarized as encouraging all Council members to represent the City as a whole: avoiding divisiveness that may arise with ward representation; and taking advantage of the City-wide pool of potential candidates. The pros for changing to a hybrid system may be summarized as allowing residents a clearer understanding of who on Council to contact for problem-solving; lower costs for running for the office, which may encourage different candidates to run; and residents may feel better represented if their part of the city has a specific Council member.

The Commission discussed a hybrid method at several meetings. The Commission had a very preliminary poll to determine whether there was sufficient support among Commission members to continue discussing a change to a hybrid method of electing Council members; at that point there were only a couple of votes in favor of a change to a hybrid method. With both ranked choice voting and the hybrid method of electing Council on the April 3 agenda, the Commission voted to recommend ranked choice voting but voted not to recommend a change to the hybrid method of electing Council.

With respect to comments about residents not knowing whom to call for problem-solving, the Commission did learn of an approach used in Columbus, which has a system of allocating a Council member to be the liaison for that member’s district. The Columbus approach is provided for in its charter. While Columbus is significantly larger than our City, and that system may not be at all suited to our City, the Commission does recommend that the Mayor

and Council consider non-Charter methods to address the need expressed by some residents for a clearer understanding of “who to call” for issues, including those relating to a particular neighborhood. The Mayor has initiated development of the Mayor’s Action Center and an app for use in submitting questions or complaints to the City, which have excellent potential to address responsiveness needs. At this time, given the frequency with which residents attend City Council meetings to report unanswered questions and complaints and with which residents seek assistance from Council members to address their questions and complaints, residents still appear to need more information about how to achieve attention to their issues. Particularly until the Mayor’s new systems are fully operational, the Mayor and Council might consider publishing broadly information among residents which, while reminding residents about the Mayor’s Action Center, shares more widely Council contact information, committee composition (so that, for instance, a resident with a housing issue could contact the chair of that committee) and other helpful contact information.

Land Acknowledgement - The Commission considered adding a Land Acknowledgement to the Charter following the Preamble. Through information shared by the Lake Erie Native American Council, and Sundance, Executive Director of the Cleveland American Indian Movement, the Commission learned about the history of Indigenous Peoples in the region and gained an understanding of the purpose of implementing a Land Acknowledgement. They emphasized the need for a Land Acknowledgement to be a moment of honest and specific reckoning with past and present mistreatment of Indigenous Peoples, while also recognizing the Indigenous people living in Cleveland Heights today. They also emphasized the importance of such a statement being accompanied by concrete action.

A Land Acknowledgement was drafted based on this advice, on review of Land Acknowledgements from Northeast Ohio institutions and city governments across the country, and on research into Cleveland Heights’ specific historical context of indigenous displacement. This draft was discussed and edited in several Commission meetings, resulting in the drafted language below.

Land Acknowledgement Draft

The City of Cleveland Heights expresses gratitude for the Indigenous Peoples who are the traditional stewards of this land, including members of the groups Mingo, Wyandotte, Delaware, Munsee, Seneca, Cayuga, Oneida, Mohawk, Abneki, Ottawa, Ojibwa, and Mahican. We recognize that the land incorporated as Cleveland Heights was taken from these groups by the United States government through forced displacement and the bad faith negotiation of the 1795 Treaty of Greenville.

This acknowledgement signifies the desire of Cleveland Heights to engage with the ongoing legacies and inequities of settler colonialism. This engagement begins with recognition of the past, present, and future contributions of the indigenous members of our community who continue to call Cleveland Heights home.

While the Commission generally agreed that the Indigenous Peoples suffered from severe injustices, with lasting ramifications to this day, there were concerns raised by several members of the Commission about including the Land Acknowledgement in the Charter. These concerns

included questions about legal vulnerabilities the Land Acknowledgement could create, the desire to avoid the appearance of elevating injustices committed against one group of people above injustices suffered by other groups of people, whether the term “settler colonialism” would be too contentious, lack of precedent at the municipal charter level, the need for purposeful dialogue regarding the future action the land acknowledgement requires and that it would be more appropriately implemented as a resolution. Those in favor of including the Land Acknowledgement in the Charter stated that this injustice was foundational to the formation of the City, that recognizing this injustice does not dismiss the injustices suffered by other groups, that legal challenges have not emerged in other cities who have passed similar Acknowledgements and that including it on the ballot would encourage the City to reckon with and engage with the subject. In a 5-4 vote, the Commission decided that it would not be appropriate to include a Land Acknowledgement in the Charter.

The Commission encourages Council to consider taking action on this issue in a way which reflects the values of Cleveland Heights. This includes true public engagement and conversations among Indigenous people, the City and other residents. The Commission notes that the City annually recognizes the contributions of other groups, by special events for Black History Month, Women’s History Month and Pride Month, and suggests similar recognition for Indigenous Peoples. The Commission also suggests that Council consider a Land Acknowledgement statement; other ways to honor the Indigenous people who came before us; and Indigenous people who are still part of our community, and that the City proactively involve indigenous business owners, thought leaders and artists in the City.

CONCLUSION AND NEXT STEPS

The Commission submits this Report and the accompanying draft of Charter amendments to Council for its consideration. The Commission looks forward to the opportunity to discuss its recommendations before Council and the residents of Cleveland Heights.

The Commission thanks Council for the opportunity to serve our community by reviewing the Charter and recommending changes. In the spirit of the Preamble to the Charter, we have endeavored to reflect in the Charter the values of our City.

Respectfully submitted,

THE CHARTER REVIEW COMMISSION OF THE CITY OF CLEVELAND HEIGHTS

Roland V. Anglin
Harriet Applegate
Graham Ball, Secretary
Jonathan Ciesla, Vice Chair
Drew Herzog
Graig Kluge
Stephanie Morris
Linda Striefsky, Chair
Guy Thellian

APPENDIX ONE

Summary Guide to Charter Revisions by Original Article Numbers

Summary Guide to Charter Changes

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
Preamble	Preamble	1	Retains reference to home rule, but is expanded to include certain aspirational statements concerning accountability, integrity, fair representation and the like.
Article 1 Name and Boundaries	Article One Name and Boundaries	1	
Single Paragraph	Single Paragraph	1	Deletes text because conflicts with Ohio law. Edits for clarity and consistency.
Article II Powers	Article Two Form of Government and Powers	1	
No existing provision	2.1 Form of Government	1	Specifically identifies form of government as Mayor-Council.
Powers Single Paragraph	2.2 Powers	1	Council authority more specifically articulated. Edits for clarity and consistency.
Article III The Council	Article Three The Council	1	
Section 1 Powers, Number, and Term	3.1 Powers, Number, and Term	1	Provides broader, more flexible authority to Council. Edits for clarity and consistency.
Section 2 Qualifications	3.2 Qualifications	1	Adds six-month residency requirement for candidates. Provides Council members must remain resident and elector during term. Eliminates employment with CH/UH and East

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
			Cleveland school districts as disqualification for service on Council. Edits for clarity and consistency.
Section 3 Removal			Deletes, because new Section 7.8 covers removal of both Council members and Mayor. See discussion below.
Section 4 Vacancies	3.3 Vacancies	1 and 5	<p>Extends from 45 to 60 days the time for Council to fill a vacancy by appointment.</p> <p>Changes timing for election following appointment to a later date, to avoid, for example, election in same calendar year as appointment to fill vacancy.</p> <p>If ranked choice voting is adopted, changes allocation of seats in a regular multi-seat race, that includes both seats for 4-year terms and a seat for an unexpired term due to a vacancy filled by appointment, by allotting the unexpired term to the winning candidate with the fewest votes and the 4-year terms to the other winning candidates.</p> <p>Edits for clarity and consistency.</p>
Section 5 Salaries	3.4 Salaries	1	<p>Council must pass ordinance to fix Council and Mayor salaries every 4 years. (There is no requirement that Council change the amount of the salaries.) Adds same periodic salary review for the Mayor.</p> <p>Adds requirement that Civil Service Commission must at that time assess and submit to Council for its use a report recommending salaries. See Section 11.3</p> <p>Adds factors to be considered for Council salary adjustments. Charter already has factors for Mayor's salary, but adds as factor full-time nature of Mayor's job.</p>

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
			Specifies salary of the President of Council is 25% greater than the salary of other members.
Section 6 Appointees First Paragraph	3.5(c) Appointments	1	Deletes sentence regarding “inquiry”; see new Section 3.11 regarding availability of information to Council.
Section 6 Appointees Fourth Paragraph	3.5(d) Appointments	1 and 4	Deletes first sentence regarding employment practices because superseded by new Article Twelve. Relocates second sentence to new Article Twelve.
Section 7 Meetings	3.6 Meetings	1	Permits Council to provide for virtual meetings.
Section 8 General Provisions	3.7 General Provisions	1	Explicitly acknowledges the concept of open government, with requirements to be interpreted and applied in the discretion of Council via ordinance; like ordinances covering other specific subjects in this paragraph, an open government ordinance can be repealed only by affirmative vote of at least 5 Council members, or by an initiative as defined in 8.1. Edits for clarity and consistency.
	3.8 Council’s Subpoena Power	1	Re-states Council’s right, per the Ohio Revised Code, to issue subpoenas.
Section 9 Franchises	3.9 Emergency Measures	1	Moves Franchises from existing Section 9 to Section 3.10. Inserts as 3.9 Emergency Measures (currently found in fifth paragraph of Article IX). Retains the definition of emergency measure as one necessary for immediate preservation of the public peace, health, or safety; adds a requirement for "specificity" in statement of reason for emergency; and retains the requirement for an affirmative

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
			vote of at least 5 Council members for passage.
Section 10 Interest in Contracts	3.10 Public Utilities and Franchises	1	Eliminates previous Section 3.10, with its contents now covered in Article Ten. Expands Franchise provision, formerly in Article X, to include public utilities as well as franchises, and to state the authority of Council to set applicable conditions and to renew them. Continues prohibition against granting a franchise or regulating a utility by an emergency ordinance.
Section 11 Mayor and Vice Mayor First Paragraph	3.11(a) Titles of President and Vice President	1	Removes the titles of Mayor and Vice Mayor, leaving only President and Vice President of Council, respectively. Edits for clarity and consistency.
Section 11 Second Paragraph	3.10(b) President of Council and Vice President of Council	1	Specifically empowers the President, and in the absence of the President, the Vice President, and in the absence of both, the Council Clerk, to set the Council agenda. Creates the office of President Pro Tem to preside at Council meetings from which both the President and Vice President are absent, and specifies terms of selection.
	New Section 3.12 Council Interactions with City Administration	1	Expresses expectation that Council and Mayor will collaborate. Requires Mayor and staff to respond to Council member inquiries in timely manner. Permits Council President or committee chair to require attendance at meetings by Mayor, City Administrator, directors or staff. Recognizes role of Council members as advocates for residents.

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
Article IV City Manager	Article Four The Mayor	1	
Section 1 Appointment	4.1 Term	1	Deletes sentence regarding initial election of Mayor.
Section 2 Qualifications	4.2 Qualifications	1	Clean up changes.
Section 3 Executive Powers	4.3 Executive Powers and Duties	1	<p>Adds reference to “duties” in title.</p> <p>Adds qualification to Mayor’s control over departments due to change in Section 5.2(a).</p> <p>Adds requirement that Mayor submit reports required by Council and perform timely duties conferred by Charter, ordinance or general laws. Deletes reference to affixing seal; that is no longer the practice.</p>
Section 4 City Administrator	4.4 City Administrator	1	<p>Deletes requirement in second paragraph for City Administrator involvement in budget preparation because Article Nine calls for Mayor and Finance Director to submit the draft budget.</p> <p>Revises requirement in fourth paragraph for a City Administrator’s report semi-annually to require annual report in September (to coordinate with the budget process).</p>
Section 5 Legislative Powers	4.5 Legislative Powers	1	<p>Revises to permit Mayor to attend executive sessions of Council only upon request.</p> <p>No change to Mayor’s right to attend Council meetings.</p> <p>Specifies that Mayor does not have power to disapproval initiative measures.</p>

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
Section 6 Judicial Powers	4.6 Judicial Powers	1	Deletes this section, pursuant to recommendation of Municipal Judge Costello.
NOTE ON REMOVAL OF PROVISIONS FROM ARTICLE IV			Sections 7, 8, 9 and 11 in Article IV were moved to other Sections to consolidate them with provisions covering the same topic as to Council. This relates to overall changes to complete the adjustments to the Charter needed due to the elected Mayor form of government but which the 2019 ballot did not address due to constraints on the scope of changes allowed in one ballot issue.
Section 7 Salary		1	Provision on Mayor's salary moved to Section 3.5.
Section 8 Interest in Contracts		3	Moved to Section 10.3(c).
Section 9 Removal		2	Moved to new Section 7.8.
Section 10 Absence and Vacancy	4.7 Absence and Vacancy	1	Revises to simplify procedure for filling vacancy and to add deadlines. Reduces line of succession; if Council President not available to fill vacancy, Council appoints another person to fill vacancy. Retains schedule for first election after vacancy is filled.
Section 11 Recall		2	Moves recall to Section 8.3, where recall of Council is also covered.

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
Article V Administrative Officers and Departments	Article Five Administrative Officers and Departments	1	
Section 1 Departments First Paragraph	5.1(a) Departments	1	Clean up change.
Second Paragraph	5.1(b)	1	Shifts power to determine duties of departments from Mayor to Council. Permits Council to create new, and combine or abolish any existing, departments, except Council may not abolish Law or Finance Departments. Edits for clarity and consistency.
Section 2 Directors First Paragraph	5.2(a) Directors	1	Continues appointment of the directors of all departments by the Mayor, but each must be approved by Council.
Second Paragraph	5.2(b) and (c)	1	Modifies qualifications for Director of Law for flexibility, requiring only admission to practice of law in Ohio. Adds sentence on role of Law Director. Deletes sentence permitting one person to be director of more than one department. Edits in Section 5.2 for clarity and consistency.
Section 3 City Manager as Head of Departments	5.3 Mayor as Head of Departments	1	Edits for clarity and consistency.
Section 4 Salaries and Bonds	5.4 Salaries and Bonds	1	Edits for clarity and consistency.

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
Article Six Municipal Court	Article Six Municipal Court	1	
Sections 1, 2 and 3	6.1, 6.2 and 6.3	1	Edits for clarity and consistency.
Article VII Nominations and Elections	Article Seven Nominations and Elections		
Section 1 Time of Holding Elections	7.1 Time of Holding Elections	1 and 5	<p>Adds cross reference to procedure for filling Council vacancy to parallel cross reference to filling mayoral vacancy.</p> <p>The adoption of ranked choice voting would delete the final paragraph, referring to mayoral primary, as it would be no longer relevant.</p> <p>Edits for clarity and consistency.</p>
Section 2 Ballots First and Third Paragraphs	7.2(a) Ballots	2	Deletes some specifications as to the ballot and instead provides for ballots in accordance with Ohio law, except as provided in the Charter.
Second, Fourth and Fifth Paragraph	7.2(b)	2	Deletes restriction on write in candidate as to mayoral races.
Section 3 Petition for Places on the Ballot	7.3 Petition for Places on the Ballot	2 and 5	<p>Retains term "elector", which means a registered voter who has been registered for 30 days.</p> <p>Reduces signature requirements to 300 for mayoral candidates and 150 for Council candidates.</p> <p>Removes provision restricting persons from signing more petitions than number of positions to be filled.</p> <p>Changes deadline for nominating petitions for candidates to 90 days before</p>

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
			applicable election instead of 90 days before primary. Edits for clarity and consistency.
Section 4 Acceptance	7.4 Acceptance	2 and 5	Changes deadline for filing acceptance to 85 days before applicable election instead of 85 days before primary Edits for clarity and consistency.
Section 5 Who Elected	7.5 Write in Candidates	2 and 5	Title of section changed to "Write-in Candidates". Edits for clarity and consistency.
Section 6 Conduct of Election and Canvass of Votes	7.6 Conduct of Election and Canvass of Votes	2 and 5	Edits for clarity and consistency.
Section 7 Voting by a Member of the Armed Forces and his Family		1	Deletes, because this text effected no change to the governing federal and state law.
	7.7 Ranked Choice Voting	5	New: provides for ranked choice voting for Mayor and Municipal Judge, using instant runoff method, and for Council, using single transferable vote method. Requires Council by ordinance to elaborate on ballot format, how votes are counted and timing for release of information as vote counting proceeds. Permits Council by ordinance to adopt ranked choice voting for any other elected offices. Note: effective date for ranked choice voting likely would be deferred due to need for Board of Elections to obtain necessary equipment and software with federal and state approvals.

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
	7.8 Removal	2	<p>Relocates to in this section removal provisions applicable to any official. (Replaces separate provisions for Council, formerly in Section 3.3, and for Mayor, formerly in Section 4.9.)</p> <p>Provides uniform bases for removal of any elected official for disqualification or violation of Ohio ethics laws. Deletes violation of Charter or of Council rules as trigger for removal of Council member.</p> <p>Adds due process provisions for the Mayor to parallel those for Council.</p>
Article VIII Initiative, Referendum and Recall	Article Eight Initiative, Referendum and Recall	2	<p>For initiative, referendum and recall, changes benchmark for determining required number of votes to electors who voted in most recent regular municipal election. Current text uses number of electors, which is not an acceptable benchmark because it may change day to day.</p>
Section 1 Initiative First Paragraph	8.1(a) Initiative and Petition Signature Requirement	2	<p>Reduces voter pool for determining required signatures from all electors to only those who voted in most recent regular municipal election.</p>
Section 1 Council Committee Actions Second Paragraph	8.1(b) Council and Committee Actions	2	<p>Adds requirement that Council committee considering an initiative petition hold public meetings, with public comment.</p> <p>Edits for clarity and consistency.</p>
Section 1 Actions of Council and Timing Third Paragraph	8.1(c) Actions of Council and Timing	2	<p>No substantive change. Edits for clarity and consistency.</p>
Section 1 Two year prohibition of	8.1(d) Two year prohibition of	2	<p>Edits for clarity and consistency.</p>

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
repealing an initiative Fourth Paragraph	repealing an initiative		
Section 2 Referendum First Paragraph	8.2(a) Referendum	2	Edits for clarity and consistency.
Section 2 Referendum Second Paragraph	8.2(b) Petition requirements for Referendum	2	Reduces voter pool for determining required signatures from all electors to only those who voted in most recent regular municipal election. Edits for clarity and consistency.
Section 2 Referendum Third Paragraph	8.2(c) Referendum only on first if more than one ordinance required for an action	2	Edits for clarity and consistency.
Section 2 Referendum Fourth Paragraph	8.2(d) Subsequent ordinance for bonds not susceptible to referendum	2	Edits for clarity and consistency.
Section 2 Referendum Fifth Paragraph	8.2(e) Ordinances not subject to referendum	2	Definition of, and procedures for adopting, emergency measures have been moved to Section 3.8, but this type of measure continues to be exempt from referendum. Otherwise, no substantive change. Edits for clarity and consistency.
Section 3(a) Recall First Paragraph	8.3(a) Right to Recall	2	Throughout, this Section now covers “elected officers”, which is defined as including Council, the Mayor and the Municipal Court Judge.

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
Section 3(a) Recall Second Paragraph	8.3(b) Recall petition requirements	2	<p>Reduces voter pool for determining required signatures from all electors to only those who voted in most recent regular municipal election.</p> <p>Provides that any signature affixed to a recall petition fewer than 180 days after the beginning of the term being challenged is invalid.</p> <p>Edits for clarity and consistency.</p>
Section 3(a) Recall Third Paragraph	8.3(c) Action of Clerk and Council	2	No substantive change. Edits for clarity and consistency.
Section 3(b) Recall First Paragraph	8.3(d) Recall by affirmative vote vacates Council seat	2	No substantive change. Edits for clarity and consistency.
Section 3(b) Recall First and Second Paragraph	8.3(e) Seat vacant when official canvass confirms vote; how vacancy or vacancies filled	2	<p>Deletes special rule for expedited election following recall if more than three Council members are recalled. Adds that no person recalled is eligible for appointment to fill vacancy.</p> <p>Otherwise, no substantive change. Edits for clarity and consistency.</p>
Section 3(b) Recall Third Paragraph	8.3(f) Reasonable expenses for unsuccessful recall	2	No substantive change. Edits for clarity and consistency.
Section 4 General Provisions	8.4(a) through 8.4(h) General Provisions	2 and 5	<p>Adds that the name of a Council member being recalled must be stated in the petition along with reasons for the removal. Replaces specifics on circulator statement with reference to Ohio law.</p> <p>Specifies that a second ruling of insufficiency of a petition, following submission of supplementary signatures to remedy a prior insufficiency, is final.</p>

Current Charter Provision	First Amended Charter Provision	Proposed Amend. #	Changes
			Otherwise, no substantive change. Edits for clarity and consistency.
Section 5 Official Publicity	8.5(a) and (b) Official Publicity	2	<p>Requires distribution of information by both mailing and by publishing in a newspaper.</p> <p>Changes the deadline for mailing and publishing to 40 days before the election instead of 30 days, in order to reflect the start of early voting.</p> <p>Moves publicity provisions for proposed Charter amendments to Article Thirteen.</p>
Section 5 Official Publicity	8.6(a) Statements in Support or Opposition	2	<p>Newly numbered section titled, "Statements in Support and Opposition." Reference to Mayor changed to Council President.</p> <p>Otherwise no substantive change; edited for clarity and consistency.</p>
Section 5 Official Publicity	8.6(b) – (f) Statements in Support or Opposition	2	<p>Changes to provide Council President, not Mayor, appoints committee to prepare answer to petitioner's statement.</p> <p>Expands permitted size of explanation or argument for an issue from 300 to 500 words. Requires that all statements filed with Clerk due at least 40 days before the election. Permits any civic body or committee to submit a statement.</p> <p>Edits for clarity and consistency.</p>
Article IX Finances	Article Nine Finances	1	
No existing section	9.1 General	1	<p>Adds statement that the laws of the State of Ohio generally control the City's budget process and other fiscal matters.</p> <p>As noted immediately below, the original language that began this article was an</p>

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
			incorrect statement of the budgeting process as conducted in 2023.
Section 1 Budget	9.2 Compliance with Laws and Provision of Information to Council Regarding Annual Budget	1	Adds description of procedure for annual tax budget, which is basis for annual appropriations. Continues the requirement for use of a budget.
Section 2 Appropriation Ordinance	9.3 Preparation and Adoption of Full City Budget	1	Consistent with process used in 2023, requires Administration to submit annual budget document to Council, including budget message; annual revenue budget; annual appropriation budget; and annual capital budget. Adds requirement that Council and Mayor collaborate to ensure Council and public have budget information and opportunity to comment by publishing, and hold hearings on, budget information. Requires Council to implement the budget and to provide by ordinance for administration and oversight of budget. Moves appropriations provisions to Section 9.4.
	9.4 Appropriation and Additional Ordinances	1	Requires Council to adopt an appropriation ordinance at beginning of year. Explicitly permits use of an interim appropriation ordinance and for amendment of both types of ordinances. Requires Council to take other actions necessary to achieve purposes of the budget.
Sections 3 Transfer of Funds	No provision	1	Eliminated as unnecessary; topics effectively covered by state law.

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
Section 4 Unencumbered Balances	No provision	1	Eliminated as unnecessary; topics effectively covered by state law.
Section 5 Payment of Claims	No provision	1	Eliminated as unnecessary; topics effectively covered by state law.
Section 6 Certification of Funds	No provision	1	Eliminated as unnecessary; topics effectively covered by state law.
Section 7 Money in the Funds	No provision	1	Eliminated as unnecessary; topics effectively covered by state law.
Section 8 Bond Issues	9.5 Bond Issues	1	No substantive change. Edits for clarity and consistency.
Section 9 Maturity of Bonds	9.6 Maturity of Bonds	1	Limitation to using only serial bonds removed. Otherwise no substantive change. Edits for clarity and consistency.
Section 10 Temporary Loans	No provision	1	Eliminated as unnecessary; topic effectively covered by state law.
Section 11 Limitation on Rate of Taxation for Current Operating Expenses	9.7(a) Limitation on Rates of Taxation	1	Combines with Section 11(A) into new single Section 9.7 with two subsections, and re-designates as 9.7(a). No substantive change. Edits for clarity and consistency.
Section 11(A) Limitation on Rate of Taxation for Improvement and Maintenance of City Owned Parks, Recreation and	9.7(b)	1	Combines with Section 11 into new single Section 9.7 with two subsections, and re-designates as 9.7(b). No substantive change. Edits for clarity and consistency.

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
Cultural Facilities			
Section 12 Auditing Finances	9.8 Auditing Finances	1	<p>Expressly requires an annual financial audit of the City, which may be done by the state auditor or an authorized independent accountant or firm.</p> <p>Separately empowers Council to use the services of an independent accountant or firm to audit City finances as it deems necessary.</p>
Article X Franchises	3.10	1	Largely eliminates existing provisions, with clauses that remain now in Article Three, Section 3.9.
No existing provision	Article X Ethics and Training	3	Entirely new provisions.
No existing provision	10.1 General Expectations	3	<p>Adds general statement of behaviors expected of all who work for the City, including, for example, to behave legally and ethically.</p> <p>Adds requirement for City officials to educate and monitor employees on the expectations.</p>
No existing provision	10.2 Oath of Office	3	<p>Adds requirement for Mayor, Council, City Administrator and all other all City officers to take an oath or affirmation before starting to work for the City.</p> <p>Refers to state law for contents of oath or affirmation.</p>
No existing provision	10.3(a) Ohio ethics laws	3	Requires all City officials and employees to comply with Ohio ethics laws.
No existing provision	10.3(b) Ethical policy duty of Mayor	3	Gives Mayor responsibility to deliver copy of ethics laws to officials and employees. Requires periodic training on ethics for officials and employees.

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
No existing provision	10.4 Role of Council	3	Empowers Council to adopt additional ethics provisions.
	10.5 Training for Council and Mayor	3	<p>Expresses City's commitment to best practices.</p> <p>Requires new Council members and Mayor to complete training, at City expense, on best practices of municipal governance and administration; suggests topics.</p> <p>Council determines training sessions.</p> <p>Requires 8 hours of training for new Council members and 16 hours for new Mayors within 3 months of election or appointment. Permits existing Council members and Mayor to have the training.</p> <p>Requires Clerk of Council to certify completion and retain files.</p>
Article XI City Planning Commission	Article Eleven Boards and Commissions	1	
	11.1 General Provisions	1	<p>New. Establishes City Planning Commission and Civil Service Commission.</p> <p>Permits Council to establish by ordinance any other boards or commissions it deems necessary. Permits Council to combine or abolish any board or commission other than City Planning Commission and Civil Service Commission.</p> <p>States that any member of a board or commission established by the Charter or by Council is an officer of the City.</p>
Section 1 Establishment	11.2	1	

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
	City Planning Commission		
Section 1 Establishment	11.2(a) Establishment	1	No substantive change. Edits for clarity and consistency.
Section 2 Powers [for Planning Commission	11.2(b) Powers	1	Adds as to scope of recommendations, the modifying phrase, “including but not limited to such factors as economic, environmental and social sustainability.” Otherwise, no substantive change. Edits for clarity and consistency.
Article XII Civil Service Commission	Section 11.3 Civil Service Commission	1	
Section 1 Establishment	11.3(a) Establishment	1	Narrows prohibition against member of commission holding other municipal employment to prohibit only City employment. Edits for clarity and consistency.
Section 2 Officers and Employees	11.3(b) President and Secretary	1	Title of section changed to, “President and Secretary” to conform to contents of text. No substantive change to text.
Section 3 Powers and Procedures	11.3(c) Powers and Procedures	1	Requires Council to provide the powers, duties and jurisdiction of the Commission by codified ordinance.
	11.4 Council and Mayor Compensation Review	1	Requires Commission to conduct review of compensation for Council and Mayor every 4 years and to submit recommendations for salary and other compensation to the Clerk of Council by May 1.

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
			<p>Requires Council to provide by ordinance for appropriate budget and support to salary review.</p> <p>Requires Commission to consider factors specified in Section 3.4.</p>
	ARTICLE TWELVE Nondiscrimination	4	<p>New. Adds to Charter nondiscrimination provision as to equal access to city services and equal opportunity in employment and promotion on basis of specified protected classes. Continues exceptions in relation to employment matters.</p> <p>Expands protected classes beyond current City ordinances.</p> <p>Continues requirement for annual report by the Mayor concerning carrying out policy as to employment; this was previously in Article III, Section 6 as to the City's equal opportunity employer policy. Adds May 31 deadline for report.</p>
Article XII Amendments	Article Thirteen Amendments	2	
	13.1(a) Submission of Amendments	2 and 5	<p>Retains 10% requirement for petition signatures, but reduces voter pool against which that percentage is applied from all electors to only those who voted in most recent regular municipal election.</p> <p>Adds specific reference to Sections 8.1 and 8.4 for requirements for petitions.</p>
	13.1(b)	2	Sets forth publicity requirements as in Article Eight for initiative but, due to Ohio Constitution, sets 30 day deadline for distribution of information to voters and permits distribution of information by either mailing or publishing in a newspaper.

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
	13.1(c)	2	As in Section 8.6, provides for Council committee to prepare statement in support of amendment proposed by Council, as prescribed in Section 8.6.
	13.1(d)	2	As in Section 8.6, as to any proposed Charter Amendment, permits any civic body or committee to submit an answer, as prescribed in Section 8.6.
	13.2 Effective Date	2	No substantive changes. Edits for clarity and consistency.
Article XIV Savings Clauses	Article Fourteen Charter Review	2	Savings Clauses moved to Article Fifteen. Charter Review moved from Article XV. Retains requirement that Council establish a commission for a full charter review every 10 years. Adds that, in the interim, every 5 years Council must consider whether to establish a charter review commission.
Article XV Charter Review	Article Fifteen Savings Clauses	1	Charter Review moved to Article Fourteen. Savings Clauses moved from Article XIV.
	15.1 Laws Continued in Force	1	No substantive change. Edits for clarity and consistency.
	15.2 Partial Invalidity	1	No substantive change. Edits for clarity and consistency.
	15.3 Continuation of Present Officials	1	No substantive change. Edits for clarity and consistency.
	15.4	1	No substantive change. Edits for clarity and consistency.

Current Charter Provision	First Amended Charter Provision	Proposed Amend.#	Changes
	Continuation of Contracts and Vested Rights		
Article XVI When Charter Takes Effect	Article Sixteen Effective Date	2	Charter would be effective on January 1 of the year when approved by the voters (year to be inserted), except that ranked choice voting provisions would have delayed effective date (see comments on Section 7.7).
Final concluding statement	Deleted		Deletes concluding statement and list of signers of original City Charter.

APPENDIX TWO
RANKED CHOICE VOTING

A. Sample Ordinance

Ordinance

SECTION 1: FINDINGS & PURPOSE

(a) The Council finds that:

- (1) ranked choice voting is an election method that provides each voter with one vote and gives voters the ability to rank candidates in order of choice;
- (2) ranked choice voting has been used effectively in elections for public office in the United States and around the world;
- (3) changing the city's current methods of election to ranked choice voting may promote more civil and issue-oriented campaigns, enhance voter choice, allow for more honest and sincere voting by addressing the "spoiler" effect, encourage a greater range of candidates to run for office, and strengthen democracy by providing for broader and more inclusive political representation.

(b) It is the purpose of this Act to implement ranked choice voting for all city elections.

SECTION 2: RANKED CHOICE VOTING BALLOT

(a) Any city mayoral, municipal judge, and council election contest involving three or more qualified candidates, including qualified write-in candidates, shall be conducted by ranked choice voting.

(b) In any contest using ranked choice voting, the ballot shall allow voters to rank candidates in order of preference.

(c) In any contest using ranked choice voting, the ballot shall allow voters to rank at least four more qualified candidates than the number of seats to be filled, including qualified write-in candidates. If the contest involves fewer than this number of qualified candidates, the ballot shall allow voters to rank as many preferences as there are qualified candidates and write-in lines. In any event, the number of rankings allowed in any given contest shall be uniform for all voters voting on that contest within the city.

SECTION 3: RANKED CHOICE VOTING TABULATION

(a) **Single-Winner Tabulation.** In all mayoral and municipal judge elections conducted by ranked choice voting, each ballot shall count as one vote for the highest-ranked active candidate on that ballot. The candidate with the greatest number of votes at the end of tabulation is elected. Tabulation shall proceed in rounds as follows:

- (1) If there are more than two active candidates, the active candidate with the fewest votes is eliminated, and votes for the eliminated candidate are counted for each ballot's next-ranked active candidate.
- (2) If there are two or fewer active candidates, tabulation is complete.

(b) **Multi-Winner Tabulation.** In all Council elections, each ballot shall count, at its current transfer value, for the highest-ranked active candidate on that ballot. Tabulation shall proceed in rounds. Each round proceeds sequentially, until tabulation is complete, as follows:

- (1) If any active candidate has a number of votes greater than or equal to the election threshold for the contest, that candidate shall be designated as elected, and the surplus votes shall be transferred to other candidates as follows:
 - (A) Unless paragraph (3) applies, each ballot counting for an elected candidate shall be assigned a new transfer value by multiplying the ballot's current transfer value by the surplus fraction for the elected candidate, truncated after 4 decimal places.
 - (B) Each candidate elected under this paragraph shall be deemed to have a number of votes equal to the election threshold for the contest in all future rounds, each ballot counting towards the elected candidate shall be transferred at its new transfer value to its next-ranked active candidate, and a new round shall begin.
 - (C) If two or more candidates have a number of votes greater than the election threshold, the surpluses shall be distributed simultaneously in the same round.
- (2) Unless paragraph (1) or paragraph (3) applies, the active candidate with the fewest votes is eliminated, each vote cast on a ballot for the eliminated candidate shall be counted for the next-ranked active candidate on the ballot, and a new round shall begin.
- (3) If the number of elected candidates is equal to the number of seats to be filled and any remaining votes in excess of the election threshold have been counted for each ballot's next-ranked active candidate, or if the sum of the number of elected candidates and the number of active candidates is less than or equal to the number of seats to be filled at any time, tabulation is complete.

(c) **Filling Vacancies on the Council.**

- (1) Successor(s) to fill the unexpired term of any member(s) who vacated their seat(s) shall be elected in the same election as Council members elected for full four-year terms
- (2) In municipal elections that include the election of any successor(s) to fill the unexpired term of any member(s) who vacated their seat(s), the number of seats to be filled in that election shall increase by the number of successors to elect, and the election threshold shall change accordingly
- (3) Any active candidate that has a number of votes greater than or equal to the election threshold for the contest shall be designated as elected for a full four-year term until all seats for full four-year terms are filled.
- (4) Any active candidate that attains a number of votes greater than or equal to the election threshold for the contest after all seats for full four-year terms are filled shall be designated as elected to fill the unexpired term(s) of the member(s) who vacated their seat(s).

(d) Treatment of Ballots.

- (1) An undervote is a ballot that does not rank any candidates in a particular contest. An undervote does not count as an active or inactive ballot in any round of tabulation of that contest.
- (2) An inactive ballot is a ballot that ceases in a round of tabulation to count for any candidate for the remainder of the tabulation of the contest because either:
 - (A) All candidates ranked on the ballot have become inactive; or
 - (B) The ballot includes an overvote and any candidates ranked higher than the overvote have become inactive. An overvote occurs when a voter ranks more than one candidate at the same ranking.
- (3) During tabulation, a ballot shall remain active and continue to count for its highest-ranked active candidate notwithstanding any skipped or repeated rankings on the ballot. A skipped ranking occurs when a voter leaves a ranking unassigned but ranks a candidate at a subsequent ranking. A repeated ranking occurs when a voter ranks the same candidate at multiple rankings.

(e) Ties. If two or more candidates are tied with the fewest votes, and tabulation cannot continue until the candidate with the fewest votes is eliminated, then the candidate to be eliminated shall be determined by lot. If two or more active candidates are tied with the highest vote total and it cannot be determined who shall be elected for the final seat for a full four-year term or for a seat filling the unexpired term of a member who vacated their seat, then the candidate to be elected shall be determined under general Ohio election law. Election officials may resolve prospective ties between candidates prior to tabulation. The result of any tie resolution must be recorded and reused in the event of a recount.

SECTION 4: RESULTS REPORTING

(a) Unofficial Results. Unofficial results shall be released after the polls close. This includes:

- (1) round-by-round results, which shall be:
 - (A) first released as soon as a reasonable number of precincts have reported but in no event later than required by state law,
 - (B) periodically released at regular intervals until the counting of ballots is complete, and
 - (C) clearly labeled as unofficial and include the number of counted and uncounted ballots to date; and
- (2) ballot-level ranking data on a contest-by-contest basis, which shall be:
 - (A) released no later than the counting of ballots is complete,
 - (B) published online in a machine-readable, open format that can be retrieved, downloaded, indexed, sorted, and searched by commonly used internet search applications and commonly used open format software,

- (C) identifiable by precinct to the extent such identification is feasible and can be provided consistent with the need to maintain voter privacy, and
- (D) clearly labeled as unofficial.

(b) Final Results. In addition to any other information required by law to be reported with official final results, the following information shall be made public:

- (1) the number and percentage of votes that each candidate received in each round of the official tabulation;
- (2) the number of ballots that became inactive in each round for the reasons set out in section 3(d)(2), reported as separate figures; and
- (3) ballot-level ranking data on a contest-by-contest basis in a machine-readable, open format that can be retrieved, downloaded, indexed, sorted, and searched by commonly used internet search applications and commonly used open format software, and in a manner identifiable by precinct to the extent such identification is feasible and can be provided consistent with the need to maintain voter privacy.

SECTION 5: DEFINITIONS

For the purposes of this Act, the following terms have the following meanings:

- 1. “Active candidate” means any candidate who has not been eliminated or elected, and is not a withdrawn candidate.
- 2. “Election threshold” means the number of votes sufficient for a candidate to be elected in a Council contest. The election threshold equals the total votes counted for active candidates in the first round of tabulation, divided by the sum of one plus the number of offices to be filled, then adding one, disregarding any fractions. $\text{Election threshold} = ((\text{Total votes cast})/(\text{Seats to be elected}+1)) + 1$, with any fraction disregarded.
- 3. “Highest-ranked active candidate” means the active candidate assigned to a higher ranking than any other active candidate.
- 4. “Ranking” means the number available to be assigned by a voter to a candidate to express the voter’s preference for that candidate. The number “1” is the highest ranking, followed by “2” and then “3” and so on.
- 5. “Round” means an instance of the sequence of voting tabulation described in section 3(a) for mayoral and municipal judge contests or section 3(b) for Council contests.
- 6. “Surplus fraction” is a number obtained by subtracting the election threshold from an elected candidate’s vote total, then dividing that number by that elected candidate’s vote total, truncated after four decimal places. $\text{Surplus fraction} = ((\text{Elected candidate vote total}) - (\text{Election threshold})) / (\text{Elected candidate vote total})$, truncated after four decimal places.
- 7. “Transfer value” means the proportion of a vote that a ballot will contribute to its highest-ranked active candidate. Each ballot begins with a transfer value of 1. If a ballot contributes to the election of a candidate under section 3(b)(1), it receives a new transfer value.

8. “Vote total” means the total transfer value of all ballots counting for a candidate in a round of counting.
9. “Withdrawn candidate” means a candidate who has filed (or had an authorized designee file) a signed letter of withdrawal prior to election day according to any applicable rules established by the Director of Cuyahoga County Board of Elections.

SECTION 6 RULEMAKING AUTHORITY

The Cuyahoga County Board of Election may promulgate such rules as are necessary to regulations to implement this Ordinance.

B. How Election Thresholds Are Determined

ELECTION THRESHOLDS	
Percent for One Seat	Seats to Elect
50% + 1	1 Seat
33.3% + 1	2 Seats
25% + 1	3 Seats
20% + 1	4 Seats
16.7% + 1	5 Seats

C. Q & A from Fair Vote

The information in these FAQ's is taken from the research and experience of Fair Vote, a national organization whose mission is to promote Ranked Choice Voting in all its forms throughout the country. The answers have not been independently verified by the Commission.

Q: Why does proportional RCV transfer “surplus votes”?

A: Transferring surplus votes ensures that every ballot has the greatest possible impact on the race. No ballots are “wasted” on candidates that have already been elected, and everyone’s vote counts the same. Imagine your vote is one dollar. If you only had to pay 90 cents to get your favorite candidate elected, wouldn’t you like to use the extra 10 cents to help a backup choice?

Without surplus transfer, a small subset of voters could have a disproportionate impact on election results. By using this mechanism, we ensure the results are as representative of the voting public as possible.

Consider an example of what could happen if the tabulation did not include surplus transfer:

Imagine an election in a city where five candidates are running for three seats. 60% of voters support the Pizza Party (no matter what kind of Pizza) and 40% prefer the Ice Cream Party (no matter what kind of Ice Cream). If most Pizza Party voters choose Pepperoni as their first choice, Pepperoni Pizza will earn the first seat. The remaining two seats would go to the two Ice Cream candidates. In this scenario, the Ice Cream party earns two out of three seats even though they only represent 40% of the electorate.

Because Pizza voters consolidated around just one candidate, they were deprived of a majority of seats, despite comprising a majority of the electorate. Surplus transfer prevents this kind of scenario. With surplus transfer, after Pepperoni Pizza crosses the 25% threshold and wins a seat, everyone who voted for Pepperoni has a fraction of their vote transferred to Veggie Pizza or Pineapple Pizza, allowing the Pizza party to control two seats and Ice Cream to control one – and ultimately resulting in better treats for everyone.

Q: Why do surplus votes get transferred before eliminating candidates?

A: Eliminating candidates is always a last resort. When transferring surplus votes, it is possible for a trailing candidate to grow their share by enough that they stay in the race. Therefore, candidates are only eliminated from a proportional RCV tally after there are no surplus votes left to transfer.

Q: Will proportional RCV change who gets elected?

A: Proportional RCV allows like-minded voters to elect their preferred candidates in proportion to their voting strength. Because proportional RCV has a lower threshold to elect (such as 25% of the vote in a 3-winner election), some voter groups will gain representation that they did not have before. Proportional RCV preserves majority rule, and also awards a fair number of seats to minority factions.

Q: Will proportional RCV elect extremists?

A: Proportional RCV elects candidates who cross a minimum threshold of support (such as 25% in a 3-winner election) so fringe candidates will be unlikely to earn a seat. For congressional elections, most candidates would need more votes with proportional RCV than they need in our current single-winner congressional districts. In our current system, 80% of seats are “safe seats”

for one party, where the winner only needs to win a plurality of votes in a low-turnout primary election consisting of heavily partisan voters. With proportional RCV, a winning candidate must earn a sizable vote share from the full electorate during a general election.

The threshold to win seats in proportional RCV is also higher than the threshold used by most European countries for their own forms of proportional representation.

Q: How does proportional RCV impact the voting power of people of color?

A: Proportional RCV gives greater voting power to people of color by establishing a fair threshold-to-elect. For example, in a single-winner plurality contest, a group needs to make up more than half of the electorate to have deciding power over who wins. This means that in jurisdictions where people of color are in the minority, a candidate could win without a single vote from a person of color.

Because proportional RCV has a lower threshold to elect (such as 17% of the vote in a 5-winner election), people of color have power to elect candidate(s) of their choice in proportion to their share of the electorate. Voters of the same ethnic or racial group, of course, do not act as monolithic voting blocs, but proportional RCV means that elections cannot be decided without voters in the minority having a say.

Since the Voting Rights Act of 1965, “majority-minority districts” have been key to advancing representation for people of color. However, voting rights protection is becoming increasingly dependent on courts that seem increasingly averse to race-conscious district-drawing. Proportional RCV is another option to secure fair representation for people of color, without the need for drawing race-conscious districts.

Q: Does proportional RCV impact women’s representation?

A: Proportional RCV will most likely lead to more women in elected office. Various forms of proportional representation have benefitted women around the world. Analysis from FairVote and RepresentWomen indicates that women would be likely to earn 40% more seats in the U.S. House of Representatives than they hold today if we implemented proportional RCV for Congress. Additional research examines the history of proportional RCV in the U.S. and present-day uses of the single-winner use of RCV and finds that both are beneficial for women candidates.

Q: How does proportional RCV impact the major parties?

A: In partisan elections, proportional RCV will ensure that the major parties win seats in proportion to their levels of support. For example, in a district that is 60% Democratic and 40% Republican, proportional RCV would preserve the Democratic majority but also award a fair number of seats to Republicans (whereas in single-winner plurality contests, Republicans would not get any representation at all). With proportional RCV in partisan elections, voters from each party will have a true voice in every election.

Q: How many candidates can be elected at a time with proportional RCV?

A: Proportional RCV can elect any number of candidates, but we typically recommend it for elections with 9 winners or fewer. In an election for 10 or more seats, the ballot could become too long and could increase the cognitive burden on voters. For larger bodies like a state legislature or the U.S. House of Representatives, we recommend splitting the jurisdiction into multi-member districts and using proportional RCV within each district, which also leads to proportional outcomes overall. Research has shown that proportional RCV leads to fair partisan outcomes and fair racial representation outcomes,

D. FURTHER RESOURCES

“How Proportional Representation gave American Voters Meaningful Representation in the 1900’s; and How Racial Fears and the Red Scare Stopped it in its Tracks.” by Jay Lee and Kristin Eberhard, Sightline Institute, 2021

“History in Ohio.” Rank the Vote Ohio, June 2023 <https://www.rankthevoteohio.org>>history.

“Reform, Politics, and Race in Cincinnati; Proportional Representation and the City Charter Committee, 1924-1959,” by Robert Burnham, Journal of Urban History, Vol 23, No.2, January 1997, 131-163

Proportional Representation and Election Reform in Ohio, by Kathleen Barber, OSU Press, 1995.

“Coming to America: An Analysis of Proportional Representation in the States” by Keith Zimmerman, George Wythe Review, Spring 2018

“Common Criticism of PR and Responses to Them” by D.J. Amy, Fair Vote.
[Http://www.fairvote.org/common_critisms_of_pr_and_responses_to_them](http://www.fairvote.org/common_critisms_of_pr_and_responses_to_them)

Proportional Representation: The Key to Democracy by G.H.Hallett & C.G.Hoag. 1940

Fair Vote is a 501(c)(3) organization that researches and advocates for electoral reform in the United States. It was founded in 1991 as Citizens for Proportional Representation to support the implementation of proportional representation in American elections. Its focus expanded over time to include other election reform proposals, such as instant-runoff voting (IRV) a national popular vote for president, a right-to-voter amendment to the Constitution and universal voter registration. It changed its name to the Center for Voting and Democracy in 1993 and to Fair Vote in 2004 to reflect those changing focuses.

These resources are helpful in explaining ranked choice voting:

- <https://fairvote.org/our-reforms/proportional-ranked-choice-voting/>
- <https://fairvote.org/our-reforms/proportional-ranked-choice-voting-information/>
a deeper dive, which includes a really good FAQ section:
and also includes this embedded video:
- <https://www.youtube.com/watch?v=l8XOZJkozfI>