

ORDINANCE NO. 16-45

AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORATE OF AMENDMENTS TO THE DELAWARE CITY CHARTER, AND DECLARING AN EMERGENCY.

WHEREAS, the 2016 Delaware City Charter Commission has recommended amendments to the Delaware City Charter; and

WHEREAS, Delaware City Council has considered said amendments and desires to have those amendments acted upon by the electors of the City,

NOW THEREFORE BE IT ORDAINED by the Council of the City of Delaware, Ohio,

SECTION 1. That the question of the amendments to the Delaware City Charter, Sections 4A, 5, 7, 8, 11, 12, 13, 14, 15, 16, 17, 21, 26, 45, 46, 47, 66, 67, 70, 71, 74, 75, 76, 77, 83, 84, 85, 86, 89, 90, 92, 95, 101, 102, 104, 107, 109, 110, 113, 114, 118, 119, and 126 by making revisions thereto, be submitted to the electors of the City of Delaware at the regular municipal election to be held November 8, 2016, so that as amended sections the same shall read as follows:

See Exhibit A attached hereto in which **bold** indicates new language and ~~strike-through~~ indicates deleted language.

SECTION 2. That the Clerk of Council is directed to certify a true copy of this ordinance to the Board of Elections of Delaware County. The Clerk of Council is further directed to cause the full text of the Charter Amendments to be posted on the City's website. In addition, pursuant to Article XVIII Section 9 of the Ohio Constitution, the Clerk of Council shall provide notice of the proposed amendments, along with a link to the full language and notice that paper copies may be obtained at City Hall to be published once per week for two consecutive weeks in a newspaper of general circulation in the City of Delaware, with the first publication being not less than thirty (30) days prior to the election.

SECTION 3. EMERGENCY CLAUSE: That in order to provide for the usual daily operation of the various departments of the municipal government and to provide for the public peace, safety, health and welfare this ordinance is hereby declared to be an emergency measure and shall take effect and be in full force and effect immediately upon its passage and to assure that it will be in effect in time to be certified to the Delaware County Board of Elections so

that the issue may be placed on the ballot at the November 8, 2016 general municipal election.

EMERGENCY CLAUSE:

YEAS 5 NAYS 0
ABSTAIN 0

PASSED: July 11, 2016

YEAS 5 NAYS 0
ABSTAIN 0

ATTEST:

Glaine McCoskey
CITY CLERK

Andy Kapp
MAYOR



June 10, 2016

To: City Council
From: Charter Review Commission
Re: Recommended changes to the Delaware City Charter

Pursuant to the Delaware City Charter, a Charter Review Commission is convened every eight years to review the charter and make recommendations to Council for changes to be submitted to the voters. The 2016 Charter Review Commission recommendations (attached), fall into three categories: modernization, clarification, and style/cleanup. In addition to the recommended revisions, the Commission has future recommendations for Council action on provisions it considered and ultimately did not recommend at this time.

Modernization Changes: Based on the age of the charter, many provisions that made sense years ago simply do not apply to how government operates today.

Clarification Changes: These changes aim to clarify existing sections by improving confusing or ambiguous charter sections. Some of these recommended clarifications have substantive elements geared towards improving processes, but the intent of the section remains the same. For example, in many sections, dates have been updated.

Style/Cleanup Changes: The Commission carefully reviewed each section of the charter. These recommendations are simple changes to style or wording, with the goal of making the document more readable and understandable. These proposed revisions are not substantive changes.

The following chart provides a quick summary of the changes recommended by the Commission.

Charter Section	Type of Change	Notes/Explanation
4A	Clarification	Section 4A: The existing charter section is confusing in that it includes a sunset date that has already passed, rendering the section moot. The limitation on using eminent domain for economic development is not a statewide restriction, so Section 4A is no longer necessary. However, the Commission felt that striking the section could cause confusion because it would look like the voters were voting to remove the prohibition. The recommended change aligns the Charter with State law without appearing to endorse using eminent domain for economic development projects.
5	Modernization	This change allows Council to approve intergovernmental agreements by Resolution, which is a faster process than the current practice of approving these agreements by ordinance. This change is recommended based on the shift towards intergovernmental cooperation and shared services, the uncontroversial nature of these agreements, and the short time frames necessary to enter into some of these agreements.
7	Clarification	This section clarifies the definition of residency by adopting language used in state law.
8	Clarification	This section rewords the existing process to make it easier to understand and changes dates to current dates.
11	Clarification	This section provides the process for discipline and expulsion of council members. The current language does not provide adequate detail on the types of offenses a council member can be disciplined for, the process for determining whether that member should be disciplined, and the rights of a member facing expulsion.
12	Modernization	The proposed revision limits the section to the circumstances where a conflict could occur which would require a council member to vacate a seat.
13	Clarification + Style/Cleanup	Substantively, the Commission has added a requirement that notice of a council vacancy be provided to the public to provide an opportunity for citizens to apply. The remaining changes are aimed at making it easier to understand how the vacancy process works.

14	Style/Cleanup + Modernization	The one substantive change to this section is changing the position that draws lots from the City Clerk to the City Attorney. This change is made to reflect the role the City Attorney currently plays at the Council Organizational Meeting.
15	Clarification + Modernization	The Commission believes that Council should be able to decrease its own salaries by ordinance immediately, which could become necessary in times of economic crisis. The prohibition on <i>increasing</i> salaries remains. The \$120 salary cited is a holdover from the first charter, which was passed before the first ordinance setting salaries existed. Because there is currently an ordinance, the reference to \$120 is confusing and unnecessary.
16	Modernization	Today, the bulk of communication with City Council members is done electronically. Given the ability to provide notification more effectively in many ways, the Commission believes personal service at a residence is no longer necessary.
17	Modernization	This change allows a shift to electronic records, which are preferable to a paper book because it can be shared with the public easier.
21	Modernization	This change allows a shift to electronic records, which are preferable to a paper book because it can be shared with the public easier.
26	Modernization	This change also allows the city to use its website as a means to provide notice to the public, which is becoming the primary method people use to get information about the City.
45	Clarification	Like the change to article 16, this change removes the confusing reference to the original mayor's salary.
46	Modernization	Given the process for hiring City Managers, the Commission felt the situation the deleted language seems to be trying to address is not likely to occur, and if it were to occur, it is unclear why it would be prohibited.
47	Style/Cleanup	This change simply clarifies the language and timing parameters for a possible suspension of the City Manager.
Article XI	Style/Cleanup	Removes "Department" from the Article Title
66	Clarification	The current language treats departments differently. Some are listed as departments while in other sections, the charter spells out responsibilities that must be handled, but leaves it up to council to determine how they are covered. The Commission feels that the second approach provided council with the most flexibility to determine which departments the City should have, as long as the function is being performed.

67	Clarification	Given the change to Section 66, this section is no longer needed.
70	Modernization	This section contains references to a process that the City followed when it was a lot smaller. For example, the City does not have general storerooms or warehouses for supplies. These changes reflect how purchasing is performed.
71	Modernization	This section removes references to a process that doesn't relate to the way the City budget operates now.
74	Modernization	This change reflects changes in the standard for awarding contracts that has been adopted by the Ohio Revised Code. Using a lowest and best bid standard allows the City to use alternative construction delivery methods that benefit taxpayers. In some cases, a bid could be the 'best' bid even if it costs more (for example, it could come with an earlier completion date).
75	Style/Cleanup	Very minor change removing "But" from the sentence start.
76	Style/Cleanup	Very minor change moving a comma.
77	Modernization	This change provides flexibility in the medium the City can make the budget and message available to the public by expanding permitted methods to include electronic copies and the City's website.
83	Clarification	Removes reference to date that has passed.
84	Style/Cleanup	Renamed section to provide better description.
85	Style/Cleanup	Very minor change moving commas to make it easier to read.
86	Style/Cleanup	Removes unnecessary use of "Generally" in title.
89	Modernization	Given timing of when data for reports is available, this change provides flexibility regarding when the report shall be submitted to City Council.
90	Clarification	Improves the process by which Council can request special audits.
92	Modernization	Securities are now kept electronically and the City does not even receive paper copies.
95	Modernization	Bonds and Notes now kept electronically and the City does not even issue paper copies.
101	Clarification	Adds specific requirement (currently understood but unstated) that the Civil Service Commission members must be electors of the City. Removes reference to long past effective date.
102	Style/Cleanup	Removes unnecessary use of "Generally" in title.
104	Style/Cleanup	Removes unnecessary use of "Generally" in title.
107	Style/Cleanup	Removes unnecessary use of "Generally" in title.

109	Modernization	This section is a hold-over from the role of the Planning Commission prior to the Charter. As a Commission of the City, the Commission no longer has the ability to hire its own employees.
110	Style/Cleanup	The stricken section is redundant in that it simply references another section of the Charter.
113	Style/Cleanup	Clarifies that the number of Council wards may only be changed through the Charter review process.
114	Style/Cleanup	Clarifies reference to ward "resident" as defined by Section 7 of Charter.
118	Clarification	Updates the dates referenced to improve ease of use.
119	Modernization	Given the changes made earlier leaving the establishment of department heads up to Council and the City Manager, this change moves the department heads into the existing process for all employees aside from the Clerk and City Manager.
126	Modernization	Allows copies of the Charter to be maintained electronically.

In addition to the changes outlined above, the Commission considered the following proposals that, while not recommended this year, should receive future consideration:

Expansion in the number of wards: The Commission spent a considerable amount of time examining whether the City should expand beyond the current four wards. Ultimately, the Commission does not recommend an expansion at this time. However, given the growth of the City, the Commission believes the next Charter Review Commission should give this topic strong consideration. To help prepare the next Charter Review Commission eight years from now and to ensure that the topic is given a full vetting, the Commission recommends City Council request that staff compile information that could aid the next commission, which would include the number of wards in other cities and the typical ratio of ward council member to residents.

Requiring 50% of the vote to be elected as a ward council member: Another proposal that received strong consideration was a requirement that a candidate receive 50% of the vote to win election to a ward seat. The rationale for this proposal was the seeming lack of representation when a candidate in a crowded field wins an election with a very small percentage of the vote. Had this change been adopted, it would have required many corresponding Charter changes, as a runoff would be required. Given the fundamental shift in the elections calendar, the Commission ultimately rejected this proposal. However, the Commission recommends that Council request staff compile information regarding the potential implications of adding a 'primary' election to ensure that the successful candidate earns 50% or more of the vote. This would include possible election dates, how the change would impact the schedule, a list of charter sections that would have to be altered to accommodate this change, and the cost of holding another election. This information could be used by the next Charter Review Commission to give this proposal further

consideration.

Recommended Changes Approved by Vote of Charter Review Commission on 6/9/16

SEC. 4A. – CITY PROHIBITED FROM USING EMINENT DOMAIN SOLELY FOR ECONOMIC DEVELOPMENT.

It is the intent of the City of Delaware to protect the private property of its citizens. **THE CITY OF DELAWARE HEREBY RECOGNIZES AND ADHERES TO STATE LAW RESTRICTING THE USE OF EMINENT DOMAIN POWERS SOLEY FOR ECONOMIC DEVELOPMENT.** ~~the City is prohibited from using eminent domain to acquire private property for economic development.~~

Economic Development – **FOR PURPOSES OF THIS SECTION 4A**, the term “economic development” means any activity to increase tax revenue, tax base, employment, or general economic health, when that activity does not result in (1) the transfer of land to public ownership; (2) the transfer of land to a private entity that is a common carrier, such as a railroad or utility; or (3) the transfer of property to a private entity when eminent domain will remove a harmful use of the land, such as the removal of public nuisances, removal of structures that are beyond repair or that are unfit for human habitation or use, or acquisition of abandoned property.

~~The limitations of this Section 4A shall not apply after November 20, 2008.—~~

SEC. 5. - INTERGOVERNMENTAL COMMITTEES AND CONTRACTS.

City Council may **BY RESOLUTION** authorize or require an officer of **OR** officers of the City to participate with officers of the County of Delaware and of the City School District of the City of Delaware or with other cities, villages, and political subdivisions in committees and organizations for studying or coordinating programs of finance, taxation, public improvements, and other official activities of all such public authorities, for the purpose of improving public services and facilities by them rendered to the public and for the purpose of effecting economies therein. City Council may authorize contracts with other governmental subdivisions in relation to the performance of the functions of the City, as may be authorized by the Constitution and general laws of Ohio. The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the United States or any agency thereof or with any one or more states, or subdivisions or agencies thereof.

SEC. 7. - COMPOSITION; QUALIFICATIONS.

Council shall consist of seven electors of the City of Delaware elected under the provisions of Sections 111 to 118, inclusive, of this Charter. No person shall be eligible for election to Council from a ward who is not at the time of his/her nomination and of his/her election a resident of such ward. **RESIDENCY IS DEFINED AS THE PLACE THE PERSON HAS ESTABLISHED HIS OR HER HOME ON OTHER THAN A TEMPORARY OR TRANSIENT BASIS.** Any person elected to Council from a particular ward who at any time after his/her nomination for a particular term shall cease to be a resident of such ward as the same existed at the time of such nomination, shall thereupon be deemed to have forfeited his/her election to or his/her membership in Council.

SEC. 8. - ELECTION FROM WARDS AND AT LARGE; TERMS OF OFFICE.

~~Three members of Council shall be elected from the City at large in the 2009 general municipal election and one Council Member from each of the four wards shall be elected in the 2011 general municipal election.~~

~~All Council Members shall be elected for four-year terms commencing on the second Monday in November following their election and ending at 12:01 on the second Monday in November following the general municipal election in the fourth year following his/her election.~~

ALL COUNCIL MEMBERS SHALL BE ELECTED TO FOUR YEAR TERMS COMMENCING ON THE SECOND MONDAY IN NOVEMBER FOLLOWING THEIR ELECTION AND ENDING AT 12:01 a.m. ON THE SECOND MONDAY IN NOVEMBER FOLLOWING THE GENERAL MUNICIPAL ELECTION IN THE FOURTH YEAR FOLLOWING HIS/HER ELECTION.

THREE MEMBERS OF COUNCIL SHALL BE ELECTED FROM THE CITY AT LARGE STARTING WITH THE 2017 GENERAL MUNICIPAL ELECTION AND EVERY FOUR YEARS THEREAFTER AND ONE COUNCIL MEMBER FROM EACH OF THE FOUR WARDS SHALL BE ELECTED STARTING WITH THE 2019 GENERAL MUNICIPAL ELECTION AND EVERY FOUR YEARS THEREAFTER.

SEC. 11. – DISCIPLINE AND EXPULSION OF MEMBERS.

Council may, **WITH THE CONSENT OF AT LEAST FIVE MEMBERS**, ~~punish~~ DISCIPLINE its members for ~~violation of its rules or for~~ DISRUPTIVE AND disorderly behavior **THAT OBSTRUCTS THE ADMINISTRATION OF COUNCIL BUSINESS, VIOLATIONS OF THE DELAWARE CITY CHARTER OR CODIFIED ORDINANCES, OR ETHICS VIOLATIONS.**

~~COUNCIL MAY, and, with the consent of at least five members, may expel a member from office therefor~~ **COUNCIL MAY, and, with the consent of at least five members, may expel a member from office FOR DISRUPTIVE AND DISORDERLY BEHAVIOR THAT REMAINS CONSISTENT OR IS ESPECIALLY DISRUPTIVE, CONVICTION OF A FELONY OR A CRIME INVOLVING AN ETHICS VIOLATION, OR COMMITTING OR ATTEMPTING TO COMMIT A VIOLATION OF SECTION 52 OF THIS CHARTER; but no member shall be expelled unless he/she FIRST be notified BY COUNCIL IN WRITING of the grounds of FOR such expulsion and be given an opportunity to be heard BEFORE COUNCIL thereon AT THE NEXT REGULAR MEETING OF COUNCIL FOLLOWING THE PROVISION OF NOTICE. AT THE HEARING, A MEMBER FACING EXPULSION MAY BE REPRESENTED BY LEGAL COUNSEL, PRESENT EVIDENCE AND WITNESS TESTIMONY IN HIS/HER FAVOR, AND CROSS-EXAMINE ANY WITNESS TESTIMONY PRESENTED BY COUNCIL BEFORE COUNCIL HOLDS A VOTE ON EXPULSION.**

SEC. 12. - COUNCIL MAY DECLARE SEATS OF MEMBERS VACANT.

~~Council shall have the power and it shall be its duty to declare vacant the seat of any person elected to Council who during the term for which he/she was elected shall hold any other employment in the service of the City of Delaware except the office of Mayor, Vice Mayor, member of the City Planning Commission, or Trustee of the Police or Firemen's Pension Fund, or who shall cease to possess the qualifications of his/her office, or who shall do or attempt to do anything contrary to the provisions of Section 52 of this Charter, or who shall be convicted of bribery, corruption, or any other crime involving moral turpitude, or who shall be absent from three consecutive regular meetings of Council unless one or more of absences shall have been excused by Council, or who shall forfeit his/her office by the operation of any other provision of this Charter.~~

The seat of any Council member shall be vacated upon the swearing in of the member to another elected public office.

SEC. 13. – MANNER OF FILLING VACANCIES, GENERALLY.

~~If any member of Council shall die, resign, or be disqualified or expelled or if his/her seat shall be declared vacant, WHEN THE OFFICE OF ANY MEMBER OF COUNCIL BECOMES VACANT, NOTICE SHALL BE PROVIDED TO THE PUBLIC. The remaining members of Council shall by the concurrence of at least four votes choose APPOINT his/her successor FROM THE APPLICANTS, who shall qualify and serve during the remainder of the unexpired term or until a successor shall be IS elected under the following provisions of this section. If any such vacancy or vacancies shall happen prior to ninety days preceding the date of the general election after the beginning of the term in which such vacancy or vacancies shall happen, a candidate or candidates may be nominated and elected at the next general municipal election, agreeably to the provisions of Sections 111 to 118, inclusive, of this Charter, to complete the term or terms in which such vacancy or vacancies shall have happened. IF A VACANCY OCCURS MORE THAN NINETY DAYS BEFORE THE NEXT GENERAL ELECTION FOR COUNCIL MEMBERS, A SUCCESSOR SHALL BE CHOSEN AT THAT ELECTION TO FILL THE UNEXPIRED TERM AGREEABLY TO THE PROVISIONS OF SECTIONS 111 TO 118, INCLUSIVE, OF THIS CHARTER. Any person so elected to fill any vacancy shall qualify as a member of Council at the first regular or special meeting thereof occurring after the election authorities shall have certified his/her election. He/she shall be notified of any such special meeting, agreeably to the provisions of Section 16 of this Charter. If prior to the time of such qualification the vacancy to which such person shall have been elected shall have been filled by Council, such appointment by Council shall thereupon be deemed to be terminated. WHEN A SUCCESSOR IS SO ELECTED AND QUALIFIED, THE PRIOR APPOINTMENT BY COUNCIL FOR SUCH VACANCY SHALL THEREUPON BE TERMINATED. If fewer persons shall be so elected or shall qualify to fill vacancies in terms of members at large of Council than the number of such vacancies which shall have happened prior to such election, the person or persons so elected and qualifying to fill such vacancy or vacancies shall be deemed to have been elected and qualified to fill such vacancy or vacancies which shall have first happened.~~

SEC. 14. - MANNER OF RESOLVING TIE VOTES OF APPOINTMENTS TO FILL VACANCIES.

~~If any vacancy shall happen more than three months before the expiration of the regular term in which it happens and if by reason of the failure of any person to receive as many as four votes it shall not be filled by Council during the first or second meeting of Council at which it might be filled, (not counting meetings after the fourteenth day of June and before the general municipal election in any year in which such vacancy might be filled by election by the people of a member of Council to complete the unexpired term), lots shall be drawn to determine which of the persons who shall have received THE SAME AND THE HIGHEST NUMBER OF votes at the last roll call on such appointment shall be deemed to be chosen to fill such vacancy. If two or more persons shall each have received the same and the highest number of votes on such roll call, all other persons shall be excluded from such lot. If not more than one person shall have received the same vote on such roll call, such lot shall be confined to the persons who shall have received the highest and second highest numbers of votes on such roll call. If two or more persons shall each have received the same and second highest number of votes on such roll call, one of such persons shall first be determined by lot, who shall thereupon be deemed to have received the second highest number of such votes for the purpose of the next foregoing provision. All such lots shall be drawn under the supervision of the City Clerk ATTORNEY, at the usual place of meeting of Council. Council may direct such lots to be drawn PRIOR TO THE SECOND MEETING AT WHICH THE VACANCY COULD BE FILLED BY A MAJORITY VOTE. during its session; otherwise they shall be drawn immediately upon the adjournment of the second session at which Council might be and do such choice. Any person eligible to participate in any such lot shall personally draw his/her own lot if he/she be present; otherwise the City Clerk shall appoint another person to draw in behalf of the person who shall be absent. If any person eligible to participate in any such lot shall decline to do so, he/she shall be deemed to have drawn the lower or lowest order therein. Any person deemed to be chosen to be a member of Council pursuant to any such lot shall qualify as such member agreeably to the provisions of Section 13 of this Charter relating to the qualification of persons elected by the people to fill vacancies in Council.~~

SEC. 15. - COMPENSATION.

Each member of Council shall receive a salary payable at such times as may be prescribed by ordinance. ~~Until otherwise fixed by ordinance such salary shall be at the rate one hundred and twenty dollars (\$120) per year.~~ No ordinance ~~fixing or changing~~ **increasing** the salaries of members of Council shall be passed as an emergency measure, nor shall any increase ~~or decrease~~ made thereby be put into effect before the first day of January next occurring more than ninety days after the passage of such ordinance.

SEC. 16. - MEETINGS.

The first regular meeting of each regular term of Council shall convene at 7:00 p.m. on the second Monday following the November municipal election. Council shall meet at the usual place for holding meetings of the Council, and shall proceed to elect a Mayor and Vice Mayor as provided in Section 42 of this Charter. Thereafter Council shall meet at such times as may be prescribed by rule of Council or by ordinance, not fewer than twelve times each year. The Mayor or any three members of Council may call special meetings of the Council upon at least twelve hours' ~~written~~ **written** notice to each member of Council, ~~served personally upon each member or left at his/her usual place of residence.~~ Such notice shall state the subjects to be considered at such special meeting and no other subject shall be considered thereat. All meetings of Council or of committees thereof shall be public, except for executive sessions limited to such subjects and subject to such procedures as are now or hereafter provided by the general laws of Ohio.

SEC. 17. - RULES OF ORDER AND JOURNAL OF PROCEEDINGS.

Council shall determine its own rules and order of business and shall keep a journal of its proceedings, **in a form determined by Council**, which shall be open to public inspection at all reasonable times. The journal need only reflect the general subject matter of discussions in executive sessions and the opening and closing time of such sessions.

SEC. 21. - MUNICIPAL CODE AND SUPPLEMENTS.

Any ordinance enacting a complete municipal code or code of ordinances of the City of Delaware, which shall supersede or repeal all general ordinances prior thereto, and any ordinance enacting a complete revision or re-enactment thereof, shall be deemed to be confined to a single subject. All general ordinances enacted after the enactment of any such code or revision thereof shall be enacted as supplements to, amendments of, or as re-enactments or revisions of such code. The ordinance enacting such code and any ordinance enacting a complete revision or re-enactment thereof, shall **be made available to the public in a manner determined by Council.** ~~be published in book form, bearing a certificate of the Mayor and the City Clerk attesting the correctness of such publication, and no other publication thereof shall be required.~~

~~Council may from time to time cause to be published in book or pamphlet form supplements to such code, showing all supplementary, amended, revised, and repealed sections of such code as of the time of publishing such supplement; and such supplement shall bear the certificate of the Mayor and the City Clerk attesting its correctness. Such code, and any supplement, so published and certified, shall be received in evidence in any court for the purpose of proving the ordinance or ordinances therein contained or the supplements, amendments, revisions, or repeals therein shown, the same and for the same purposes as the original book, ordinances, minutes, or journals would be received.~~

SEC. 26. - PUBLICATION.

Every ordinance and resolution shall upon its final passage or adoption be recorded ~~in a book kept for that purpose, and shall be authenticated therein by the signatures of the Mayor and the City Clerk.~~ Penal and regulatory ordinances, other than those published in the Ohio Revised Code or supplements thereto, shall be published by title with such further statement as may be necessary to indicate the nature of their provisions and penalties if any, and with their respective numbers and dates. Publication shall be made by advertisement in a newspaper of general circulation in the City of Delaware **or by posting on the City of Delaware website, and shall state that copies of such ordinances are available in the office of the City Manager.**

SEC. 45. - SALARY OF MAYOR.

For his/her services as Mayor the Mayor shall receive **additional compensation to be set by ordinance**, ~~in addition to his/her salary as a member of the Council, a salary at the rate of one hundred and twenty dollars (\$120) per year, which may be changed agreeably to the provisions of Section 15 of this Charter governing the change of salaries of members of Council.~~

SEC. 46. - CITY MANAGER; QUALIFICATIONS, ABSENCE OR DISABILITY.

Council shall appoint a City Manager who shall be the chief executive and administrative officer of the City. The appointee shall be chosen by Council solely on the basis of executive and administrative qualifications and with special reference to actual experience in, or knowledge of the best practices in respect of the duties of the office as set forth in this Charter. The City Manager need not when appointed be a resident of the City of Delaware or of the State of Ohio, but shall reside in the City while performing the duties of the office. ~~No person who is a candidate for election to Council at any election shall be appointed City Manager sooner than the first day of the fourth December after such election, and No person who serves as a member of Council during any term, shall be appointed City Manager until at least one year after the expiration of such term.~~ Council shall designate or provide by ordinance for the designation of some qualified officer in the administrative service of the City who shall perform the duties of the City Manager during absence or disability, or during temporary vacancies in the office of City Manager.

SEC. 47. - TERM, SUSPENSION AND REMOVAL OF CITY MANAGER.

The City Manager shall be appointed for an indefinite term, and shall be removable by Council at its pleasure, at least four members concurring therein. Council may at any time suspend the City Manager from the exercise of the duties and powers of his/her office, for not longer than forty days. Any action of Council to remove the City Manager shall be effective at such time as Council shall determine, except that if the City Manager demands a public hearing thereon, the City Manager shall continue in office but under suspension from the exercise of the powers and duties of his/her office until the completion of such hearing, which shall be begun and diligently proceeded with **between seven and thirty five days, as set by Council**, ~~at a time to be appointed by Council, not later than thirty five days thereafter, nor sooner than seven days thereafter unless the City Manager consents to an earlier day.~~ At such hearing Council shall hear the testimony of the City Manager and of witnesses in his/her behalf and adverse to him/her, and shall receive writings and exhibits in evidence supporting or contradicting the grounds which may be alleged for his/her removal, and the City Manager may have process to compel the attendance and testimony of witnesses and the production of books, papers, records, accounts, and exhibits in his/her behalf. The action of Council in removing the City Manager shall be final, it being the intent of this Charter to vest all authority and fix all responsibility for such removal in Council. ~~If Council removes the City Manager it shall immediately enter upon its journal a statement of its reasons for such removal, and If the City Manager submits a written statement in response within two weeks of his/her removal, and If the City Manager submits a statement in reply to the statement of Council his/her statement also shall be entered upon the journal of Council.~~ **shall submit a statement in reply to the statement of Council his/her statement also shall be entered upon the journal of Council.**

SEC. 50. - APPOINTMENT, SUSPENSION AND REMOVAL OF SUBORDINATES OF CITY MANAGER.

The City Manager shall be responsible to Council for the proper execution and administration of all affairs of the City appertaining to him/her as chief executive and administrative officer, and to that end, subject to the civil service provisions of this Charter, he/she shall have power to appoint, suspend, and remove all officers and employees in the service of the City, for whose appointment this Charter makes no other provision. ~~But~~ The City Manager may authorize the head of a department or office responsible to him/her to appoint, suspend, and remove subordinates in such department or office. Appointments made by or under the authority of the City Manager shall be made on the basis of executive ability and on the training, experience, and fitness of such appointees in the work which they are to perform.

ARTICLE XI. ~~DEPARTMENT OF PUBLIC WORKS~~

SEC. 66. - ~~ESTABLISHMENT; APPOINTMENT OF DIRECTOR.~~ **ADMINISTRATION OF PUBLIC WORKS**

~~There is hereby established a Department of Public Works, the principal officer in which shall be a Director of Public Works who shall be appointed by the City Manager.~~ **Council shall provide for the administration of the public works. Such public works shall be administered by such department, division, bureau, or office under the City Manager as shall be determined by or pursuant to ordinance.**

~~SEC. 67. - DUTIES OF DIRECTOR OF PUBLIC WORKS.~~

~~The Director of Public Works, under the supervision of the City Manager, shall have charge of the administration of the public works of the City and of such other functions as shall be assigned to the Department of Public Works by or pursuant to ordinance.~~

SEC. 70. - DESIGNATION AND DUTIES GENERALLY OF PURCHASING AGENT.

The City Manager or one of his/her subordinates designated by the City Manager shall act as City Purchasing Agent. ~~and as such shall~~ **Any** purchase or contract for all supplies, materials, and equipment for the City **shall be** in accordance with **policies and** regulations made by the City Manager or by ordinance or both, and who shall, in accordance with such regulations, sell all property, real and personal, of the City not needed for public use, or which may have become unsuitable for public use, or which may have been condemned as useless under such regulations. ~~He/she shall have charge of all general storerooms and warehouses of the City, and shall maintain an inventory and appraisal of all items carried therein.~~ All advertising of purchases, sales, and contracts shall be ~~done~~ **approved** by the Purchasing Agent, and all bids shall be received and opened by him/her **or his/her designee**.

SEC. 71. - PURCHASING REGULATIONS.

Before making any purchase or sale or contract therefor the City Purchasing Agent shall give opportunity for competition under such **policies and** regulations as may be made by the City Manager or by ordinance. ~~Supplies required by any department or office may be furnished upon requisition from the stores under the control of the Purchasing Agent, and whenever so furnished shall be paid for by the department or office furnished therewith by warrant or transfer to the credit of the store's account or fund. The Purchasing Agent shall not furnish any supplies to any department or office unless the same be so paid for by such department or office from its unencumbered appropriations.~~

SEC. 74. - MANNER OF AWARDING CONTRACTS; EXECUTION.

The City Manager shall award every contract as to which competitive bidding is required or obtained to the **bidder with the lowest and best bid** ~~lowest-responsible and responsive bidder therefor~~, except that contracts pertaining to investigations or audits made by or under the direction of Council shall be awarded by Council. The City Manager shall execute all contracts and agreements to which the City shall be a party, except that the City Purchasing Agent may be authorized to execute contracts and agreements for the purchase of supplies, materials, and equipment or any of the same, by ordinance or by written order of the City Manager, and except that bonds and notes of the City shall be executed as may be provided by general law. **The City has authority to use alternative construction project delivery methods, including but not limited to design-build, construction manager at risk, or single prime contractor.**

SEC. 75. - AUTHORITY TO MAKE CONTRACTS AND AGREEMENTS.

The annual appropriation ordinance and supplements thereto shall be sufficient authority for the City Manager to enter into any contract or agreement the consideration of which is to be paid from monies appropriated therein. No other contract or agreement shall be entered into unless the ordinance appropriating money to be paid thereunder shall authorize such contract, or unless such contract shall be authorized by a separate ordinance. ~~But~~ Council shall have no power by ordinance or otherwise to direct or require the City Manager to award any contract to any particular person, firm, or corporation as a condition of authorizing such contract, or otherwise. ~~But~~ Every contract to which the parties are the City of Delaware and any other governmental subdivision or subdivisions of the State of Ohio shall be specifically authorized by ordinance, except routine contracts for the services or products of public utilities, and final grant agreements once the grants have been approved by Council.

SEC. 76. - BUDGET MESSAGE AND ORDINANCE; FORM AND CONTENT OF BUDGET.

On or before November 15 of each year the City Manager shall lay before Council a comprehensive annual appropriation budget and budget message for the ensuing year. One section of the annual appropriation budget shall correspond in form to the requirements of general law as to annual appropriation ordinances. Another section or sections shall present data for the two preceding fiscal years and estimates for the current fiscal year and the ensuing fiscal year, exhibiting and analyzing revenues and estimates thereof by amounts and by sources; expenditures by object, operating unit, and otherwise, as the City Manager shall determine or as Council shall require. So far as it may be practicable to do so the annual appropriation budget shall state, for the same respective years, what services have been rendered and are proposed to be rendered, in comparable units or quantities, and shall if practicable state the costs or proposed costs thereof for each such service during each such year, both in total and in unit costs. It is the intent thereof that the annual appropriation budget and message shall set forth, clearly and in readily intelligible form, language, figures, and exhibits, a concrete financial and operating plan for the City during the ensuing year, together with data facilitating comparisons with like data of the performances of preceding years, indicating and explaining contemplated increases or decreases in either services or expenditures and the means of defraying them. With such annual appropriation budget and message the City Manager shall present a draft of an annual appropriation ordinance, which shall be deemed to be regularly introduced into Council.

SEC. 77. - HEARINGS; COPIES OF BUDGET.

Upon receipt of the City Manager's annual appropriation budget and message Council shall cause the same to be referred to an appropriate committee for consideration and for the holding of not fewer than two public hearings thereon by such committee or by Council, at which hearings reasonable opportunity shall be afforded to interested citizens to present their views. ~~A sufficient number of copies of such annual appropriation budget and message shall be provided~~ **The annual appropriation budget shall be made available, on the City's website, electronically, or via another method determined by Ordinance**, to enable such citizens to inform themselves as to the contents thereof, before such hearings.

SEC. 83. - ESTABLISHMENT; APPOINTMENT OF DIRECTOR.

There is hereby established a Department of Finance, the principal officer in which shall be the Director of Finance. ~~Effective January 1, 1985, the~~ **The** Director of Finance shall be appointed by the City Manager and shall report thereafter to the City Manager.

SEC. 84. - ~~VACANCY.~~ **FINANCE DIRECTOR PROHIBITED FROM HOLDING OTHER POSITION**

Except as otherwise provided in the Charter, if the Director of Finance shall accept appointment by the City Manager to any office other than that of Director of Finance he/she shall thereupon be deemed to have vacated the office of Director of Finance.

SEC. 85. - ACTING DIRECTOR OF FINANCE.

The City Manager shall designate an officer or employee in the Department of Finance or some suitable person who, during the absence or disability of, or during a vacancy in the office of the Director of Finance, shall on a temporary basis exercise the powers and discharge the duties of the Director of Finance, under the title of Acting Director of Finance.

SEC. 86. - ~~DUTIES GENERALLY~~ **DUTIES OF DIRECTOR OF FINANCE.**

The Director of Finance under the supervision of the City Manager shall be the fiscal officer and chief accounting officer of the City. He/she shall discharge all the duties and exercise all the powers vested in him/her by or pursuant to this Charter, and those which shall be vested in City auditors by general law. Except as is otherwise provided by or pursuant to this Charter, he/she shall have charge of the keeping and supervision of its accounts, the receipt or collection of all taxes, assessments, fees, and other revenues of the City; the prevention of expenditures not authorized under law and ordinance; and such other duties of financial nature as may be required of him/her under this Charter. He/she shall discharge all the duties and exercise all the powers of officers of the City in connection with the payment of the principal of and interest on bonds and notes of the City, and with the administration of the Bond Retirement Fund.

SEC. 89. - MONTHLY FINANCIAL STATEMENT; OTHER REPORTS.

Each month, the Director of Finance shall prepare for submission to the City Manager and Council, ~~not later than the tenth day of each month~~, a summary statement of revenues and expenses for the preceding month, by appropriations and funds, so as to show the exact financial condition of the City and of each department and office thereof as of the last day of the next preceding month. He/she shall prepare and submit to Council and to the City Manager a complete report of the finances and financial operations of the City for each fiscal year immediately after the end thereof. Such report shall be in such form and detail as the Director of Finance shall determine, or as may be prescribed by ordinance. Whenever Council or the City Manager shall so require, the Director of Finance shall forthwith prepare and furnish to the authority so requiring it a report of any information concerning the finances of the City, or of any office, department, division, bureau, commission, officer, or employee thereof, for such period of time, and in such form and detail, as the authority requiring such report shall prescribe. Upon request, the Director of Finance shall permit inspection of all public records in his/her custody which are not otherwise prohibited from being disclosed by general law.

SEC. 90. - SPECIAL AUDITS; ACTION ON RESULT OF SUCH AUDITS.

Upon the death, resignation, removal, or expiration of the term of any officer of the City **REQUEST BY CITY COUNCIL**, the Director of Finance **OR OTHER DESIGNATED INDIVIDUAL** shall ~~cause an~~ audit and ~~investigation of~~ the accounts of such **ANY** officer **OR DEPARTMENT** to be made and shall report the results thereof to the City Manager and to Council. ~~Either Council or the City Manager may at any time provide for an examination or audit of the accounts of any officer or department of the City, and for that purpose may appoint or employ competent persons not regularly in the employ of the City. In case of the death, resignation, or removal of the Director of Finance, the City Manager shall cause an audit to be made of his/her accounts. If, as a result of any such audit or examination, any officer or employee~~ **DEPARTMENT** be found indebted to the City, the Director of Finance, or other person ~~on making such audit or investigation~~ **DESIGNATED INDIVIDUAL**, shall immediately give notice thereof to Council, the City Manager, and the City Attorney, and the City Attorney shall forthwith proceed to collect such indebtedness.

SEC. 92. - SAFEKEEPING OF SECURITIES.

All securities owned by the City or held by it in trust or on deposit, and all instruments of title, and all instruments in writing indemnifying the City against loss or liability, shall be recorded by the Director of Finance, and ~~shall be kept in some safe deposit vault or vaults at all times when it is not necessary to remove them in connection with the business of the City.~~

~~SEC. 95. - RECORDATION OF BONDS AND NOTES.~~

~~No bond or note of the City hereafter issued shall be valid in the hands of any purchaser until it shall have been recorded in the office of the Director of Finance, and unless and until the fact of such recording be endorsed thereon over the signature of the Director of Finance.~~

SEC. 101. - CIVIL SERVICE COMMISSION.

There shall be a Civil Service Commission consisting of three members, **being electors of the City of Delaware**. The Civil Service Commission shall be deemed to be established agreeably to the provisions of this Charter. ~~After the thirty-first day of December 1953,~~ **Appointments of members of the Civil Service Commission of Delaware shall be made by the Mayor, subject to confirmation by Council.**

The Civil Service Commission shall establish rules and regulations for the determination of merit and fitness for the appointment and promotion of employees in the classified service. Except for Chief of Police and Chief of Fire, vacancies in positions above the rank of patrol in the Police Department and firefighter in the Fire Department shall be filled by promotion from among the persons holding positions in a rank lower than the position to be filled. The Civil Service Commission shall also establish rules and regulations governing appeal rights and procedures for employees in the classified service. These rules and regulations shall be submitted to Council for approval by ordinance and may modify, supplement or supersede the general laws of the State of Ohio, and in the case of conflict shall prevail over the laws of the State of Ohio.

SEC. 102. - CITY PLANNING COMMISSION GENERALLY.

There shall be a City Planning Commission composed of seven members, consisting of one member from each of the four wards and three members at-large. One member shall be a City Councilperson and six being electors of the City of Delaware who hold no elective office. All members shall be chosen by the Mayor and confirmed by Council.

SEC. 104. - PROCEDURE IN CITY PLAN LEGISLATION ~~GENERALLY.~~

When Council refers any measure to the City Planning Commission under the provisions of Sections 103, 105, 106, 107, or 108 of this Charter, the City Planning Commission shall within twenty-five days (unless Council shall extend such period) consider the same and report to Council whether such measure or plat conforms to the City Plan or to the zoning plan or to the platting rules or regulations, as the case may be, and whether the Commission approves or disapproves the same, the reasons for its approval or disapproval, and if it disapproves, any recommendation it may have for the modification of the measure so that it may be approved. If the Commission approves such measure, either in its original form or as modified, the affirmative votes of four members of Council shall suffice for its passage or adoption. If the Commission disapproves, the affirmative votes of five members of Council shall be required for its passage or adoption notwithstanding such disapproval.

SEC. 107. - PLATTING ~~GENERALLY.~~

The City Planning Commission shall be the platting commission of the City. It shall prepare and recommend to Council rules and regulations governing the subdivision and platting of land within the City and adjacent to the City within such distance as may be provided by general law, and prescribing requirements for the provision, location, width, and improvement of streets and other ways and other public grounds, or the security to be given to assure that such improvements as may be required will be made, as conditions for the approval of such plats and subdivisions, or the acceptance of such streets, ways, or grounds. Such rules and regulations, and amendments thereto or revisions thereof, shall be passed as ordinances by Council. Any ordinance on any such subject, not previously approved by the City Planning Commission, shall be referred to the City Planning Commission, and subsequent actions thereon shall be subject to the provisions of Section 104 of this Charter.

~~SEC. 109. - PLANNING COMMISSION ASSISTANTS AND EMPLOYEES.~~

~~The City Planning Commission shall appoint its own secretary and other employees; with the consent of the City Manager it may appoint in its service, for part time or irregular time, employees in that part of the City service for which the City Manager is responsible. Upon the request of the City Planning Commission the City Manager may assign officers or employees under his/her supervision to the temporary service of the City Planning Commission, or may cause such officers or employees to prepare studies, reports, data, maps, or plans in compliance with the request of the City Planning Commission. The City Planning Commission may employ or contract with experts and consultants who need not be in the classified service of the City.~~

SEC. 110. - ADDITIONAL POWERS AND FUNCTIONS OF PLANNING COMMISSION.

Council may by ordinance confer upon the City Planning Commission such other powers and functions as appertain by nature or general law to planning authorities, and as do not appertain under this Charter to City Council or the City Manager. ~~Council may direct through the City Manager that the City Planning Commission carry out specific planning tasks as prescribed by Article 21 of this Charter.~~

SEC. 113. - WARDS.

The City of Delaware shall be divided into four wards for the purpose of electing four members of Council. The wards existing at the time of the adoption of this Charter shall be deemed to be the wards contemplated in this Charter, until and unless the City shall be redivided into wards agreeably to general law and this Charter. It shall be lawful for Council at any time to redivide the City into four wards in compliance with general law. **But (The number of wards shall not be increased or decreased except through the charter change process. never be reduced below four, or increased above four, notwithstanding any provisions to the contrary in any law other than this Charter.** Nor shall the City ever be divided into wards by any officer or authority other than Council, or otherwise than by ordinance.

SEC. 114. - NOMINATING PETITIONS FOR COUNCIL CANDIDATES.

Candidates for election as members of Council shall be nominated only by non-partisan petition. Each petition paper shall present the name of not more than one person as a candidate, together with a

statement of the address at which the candidate resides, a statement that the candidate is an elector of the City of Delaware, and a statement over the candidate's signature accepting the nomination. If the petition be one nominating a candidate for election from a ward it shall include a statement that the person is a resident of such ward, as defined by Section 7 of this Charter, and is nominated as a candidate from such ward. No signature on any nominating petition shall be counted unless it be made in ink, nor unless such signature shall have been made after the 1st day of January, next preceding the election, nor unless there shall appear on the same line with it a statement of the subscriber's address with street and number, and the date on which the subscriber shall have signed. Any number of petition papers may be combined to form a petition for any one candidate, and such petition shall be filed with the County Board of Elections not later than the date prescribed by the general laws of Ohio, but no petition bearing more than fifty nor less than twenty-five signatures shall be received. If any signature appears on more than one petition nominating candidates for election from a ward, or on more than three petitions nominating candidates for election from the City at large, it shall be counted only on the one or on the three petitions respectively which shall be first filed.

SEC. 118. - DETERMINATION OF SUCCESSFUL CANDIDATES.

In 2019, and every fourth year thereafter, that candidate in each ward who shall have received the greatest number of votes cast therein for member of Council from such ward shall be elected as member of Council from such ward. In 1953 2017 and every fourth year thereafter the three candidates for member of Council at large who shall have received the three greatest numbers of votes respectively shall be deemed to be elected. In other years candidates for election as members of Council at large who shall have received the greatest numbers of votes respectively, to the number of the vacancies to be filled at any such election in the Council at large, shall be deemed to be elected. If it be impossible to determine which candidates for election from any ward, or which three (or other requisite number) candidates for election from the City at large shall have received the greatest numbers of votes respectively by reason that two or more candidates shall have received the same number of votes, such candidates having such same numbers of votes shall draw lots to determine the election, under the supervision of the election authorities. Any candidate eligible to participate in any such lot shall personally draw his/her own lot if he/she be present; otherwise the election authorities shall appoint another person to draw in behalf of the person who shall be absent. If any person eligible to participate in any such lot shall decline to do so, he/she shall be deemed to have drawn the lower or lowest order therein. But no candidate shall be deemed to have waived any right under general law or under this Charter to require a recount of ballots, or to contest an election, by reason of any such drawing of lots.

SEC. 119. - COMPENSATION OF OFFICERS AND EMPLOYEES.

The salaries or compensation of the City Clerk and his/her assistants, and of the City Manager, ~~of the directors or heads of departments or offices established by this Charter and of departments or offices established by ordinance,~~ shall be fixed by ordinance. Salaries or compensation of all other officers or employees appointed by or under the authority of the City Manager shall be fixed by ordinance, or by the City Manager within limits established by ordinance, which ordinances shall fix schedules of minimum and maximum salaries or compensation for each class or grade within the City service. Such schedules shall provide uniform compensation for like service, and in fixing individual salaries the City Manager shall take into consideration the length of service and the efficiency of the employee. Salaries or compensation of the Civil Service Commission, and of the City Planning Commission, shall be fixed by ordinance.

SEC. 126. - AUTHENTICATION OF CHARTER.

~~This Charter shall be executed in quadruplicate and all four original copies deposited with the Clerk of Council until after the November 1951 general election. If said Charter is adopted by the electors at such election, one copy of the original Charter and any amendments thereto shall be kept among the municipal records in the custody of the finance officer of the City of Delaware, one shall be kept by the City Manager with his/her official records, one shall be kept by the Clerk of Council with his/her official records, and one shall be filed and deposited at some off-site location to be selected by the City Manager. Each of said four executed copies of such Charter shall be deemed to be the correct and authentic text~~

~~thereof, and no error or variance therefrom in any other copies shall be deemed to alter the meaning or to derogate from the force and effect of this Charter.~~ **The City shall maintain an official copy of the Charter and any amendments. The official copy may be maintained electronically.** Copies thereof certified to be such over the signature of the Clerk of Council and impressed with the seal of the City of Delaware shall be accepted as prima-facie evidence of the official text of said Charter in all courts and in all instances where copies may be required by law.