

DETROIT CHARTER REVISION COMMISSION
PROPOSAL/ISSUE REVIEW SUMMARY

ISSUE NUMBER: GOS 197

ISSUE CATEGORY: Government Operations & Structure

SOURCE: Mayor Bing Administration

RELATED CHARTER SECTIONS: §2-111 (Rule Making)

Letter, Rec'd December 21, 2010

RELEVANT ORDINANCE SECTION:

RELEVANT LAW(S):

ISSUE/PROPOSAL STATEMENT: Various substantive changes to the process and procedure for rule making by City government affecting method of hearing notice, prior notice time frame, contact for information, hearing, public comments and recommendations, inspection of public comments and recommendations, recording of new rule(s), rules adoption, emergency rule making, appropriate substance of proposed rules and due process.

Sec. 2-111. ~~Rule-making~~ Promulgation of Administrative Rules.

(1) Where a City ordinance permits or requires a City department director, agency head, or multi-member body to promulgate a rule governing dealings between the City and the public, or establishing hearing procedures for resolving matters in dispute, the City department director, agency head, or multi-member body shall comply with this section.

~~(1)~~ (2) Before adopting any rule governing dealings between the City and the public, or establishing hearing procedures for resolving matters in dispute, a City department director, agency head, or multi-member body shall give notice of a hearing by publication in a daily newspaper of general circulation, and by electronic posting available to the public, at least four (4) two (2) weeks in advance of the scheduled hearing.

The notice of hearing shall:

- A. Contain the proposed rule or procedure, or a statement of it's the substance;
- B. Specify the ~~officer or employee~~ department director or agency head or his or her designee, from whom additional information can be obtained; ~~and~~
- C. Specify the location, date, and time ~~, place, and method~~ for oral presentation of views by interested persons; and
- D. Specify that written comments and recommendations shall be submitted no later than the conclusion of the public hearing.

~~The agency shall give any interested person the opportunity to submit all written recommendations and comments, copies of which~~

(3) All recorded and written comments and recommendations shall be kept on file and made available for public inspection by the promulgating department director, agency head, or multi-member body.

~~(4) No~~ After the conclusion of the public hearing and consideration of all comments and recommendations, the proposed rule shall become effective until it has been published upon publication in a daily newspaper of general circulation. All effective rules and procedures shall be printed in a book of city rules codified to correspond to the chapter of the City Code, which authorized adoption of the rules or procedures, and included in the Detroit City Code after City ordinances in a separate part titled "Administrative Rules."

2- ~~(5)~~ Notwithstanding the preceding subsections, in the case of an emergency declared in writing by the Mayor or the City Council concerning the public health safety or welfare, a proposed rule may be given effect for a period not to exceed ~~sixty (60)~~ seven (7) days ~~pending completion of the required procedure.~~

~~(6)~~ When promulgating a rule or procedure under this section, a City department director, agency head, or multi-member body is limited to proposing any rule, which establishes procedures and is precluded from promulgating a rule or procedure which is substantive in nature and is required to be enacted through an ordinance.

~~(7) If~~ Where rules governing hearing procedures for resolving matters in dispute are adopted, those rules shall ~~forbid the admission of any evidence where the admission would be contrary to~~ be consistent with due process of law.

RATIONALE: *"Since the adoption of this section on July 1, 1974, when the 1974 Detroit City Charter became effective, and continuing after the adoption of the 1997 Detroit City Charter, there has been a great deal of confusion concerning the parameters and requirements of the section. The recommended changes will assist in clarifying ambiguities that have arisen over the past 36 years."*-Bing Administration, Letter, dated December 20, 2010.

ANALYSIS:

DISPOSITION/COMMISSION ACTION:

NOTES: