

## DETROIT CHARTER REVISION COMMISSION

### PROPOSAL/ISSUE REVIEW SUMMARY

**ISSUE NUMBER:** GOS 224

**ISSUE CATEGORY:** Government Operations & Structure

**SOURCE:** Mayor Bing Administration

**RELATED CHARTER SECTIONS:** §4-114 – §4-119

Letter, dated December 20, 2010

**RELEVANT ORDINANCE SECTION:**

**RELEVANT LAW(S):** Municipal Utilities Association v City of

Kalamazoo, 345 Mich 138 at 328; 76 NW2d 1 (1956)

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**ISSUE/PROPOSAL STATEMENT:** The sections detailing the process and procedure related to passage and enactment of ordinances and resolutions have been rearranged, renamed (in some cases) and clarified to provide for a chronological order of procedures, which is considered lacking in the 1997 Detroit City Charter. In addition, the sections have been changed to make them commensurate with Michigan law which sets forth the distinction between and purposes of ordinances and resolutions in the legislative process. Several notable revisions include the increase in the time cycle for the general codification of the City Code from three (3) to 10 years; eliminate requirement to print and sale resolutions passed by Council; and limit the pertinent State laws to be included in the City Code to the Home Rule City Act.

#### ARTICLE 4. THE LEGISLATIVE BRANCH

##### CHAPTER 1. CITY COUNCIL

###### Sec. 4-114. ~~City action requiring an~~ Ordinances and resolutions in general.

In accordance with state law, an ordinance shall be enacted to provide a permanent rule for the conduct of government, while a resolution shall be adopted to express a determination, to direct a particular action, or to approve a singular event. In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City shall be by ordinance which:

1. Amend or repeal any language in, or add any language to, the Detroit City Code;

~~2. Provide a penalty or~~ Establish a rule or regulation prohibition for violation of which a penalty is imposed based upon a finding that a person committed a misdemeanor, civil infraction, or blight violation; or

~~3. Provide for the laying and collecting of rents, tolls, excises and taxes, except as otherwise provided in Section 8-209 of this Charter concerning property taxes levied by the budget.~~~~or~~

~~3. Amend or repeal any ordinance previously adopted.~~

~~Other acts may be done either by ordinance or resolution.~~

**Sec. 4-115. Ordinance procedure.**

1. Every proposed ordinance shall be ~~introduced~~ introduced in writing. No ordinance may contain more than one (1) subject, and the ordinance's title must clearly express this subject. The enacting clause shall be "It is Hereby Ordained by the People of the City of Detroit . . ."

Any ordinance which repeals or amends an existing ~~ordinance or part~~ chapter, article, or division, or section of the Detroit City Code shall set out in full the ~~ordinance, sections, or subsections~~ chapter, article, or division, or section to be repealed or amended, and shall clearly indicate ~~matter language~~ matter language to be omitted and ~~new matter language~~ new matter language to be added.

2. Upon ~~introduction~~ the filing of any ordinance, the City Clerk shall distribute a copy to each City Council member and to the Mayor, shall file a reasonable number of copies in the Office of the City Clerk and such other public places as the City Council may designate, and shall publish a summary of the proposed ordinance in a daily newspaper of general circulation in the City together with a notice setting out the time and place for a public hearing thereon and for its consideration by the City Council.

The public hearing may not be held ~~sooner~~ earlier than five (5) days after the publication. The public hearing may be held separately or with a regular or special City Council meeting and may be adjourned from time to time. All interested persons shall have an opportunity to be heard.

After the public hearing, the City Council shall vote on the proposed ordinance in accordance with Section 4-108 of this Charter.

~~As soon as practicable after enactment of any ordinance, the city clerk shall have it published in a daily newspaper of general circulation in the city together with a notice of its adoption.~~

~~3. Except as otherwise provided in this Charter, every ordinance shall become effective on the thirtieth (30th) day after enactment or at any later date specified therein.~~

**~~Sec. 4-116. Immediate effect.~~**

~~A two-thirds (2/3) majority of city council members serving may give immediate effect to any ordinance.~~

~~An ordinance given immediate effect shall become effective upon publication or at any later date specified therein.~~

**Sec. 4-~~117~~ 116. Emergency ordinances.**

To meet a public emergency affecting life, health, property or the public peace, one (1) or more emergency ordinances may be enacted. However, an emergency ordinance may not levy taxes; grant, renew or extend a franchise; or regulate the rate charged by any public utility for its service.

An emergency ordinance shall be introduced in the form and manner required for ordinances ~~generally~~ under Section 4-115 of this Charter, except that ~~the ordinance~~ shall contain, after the enacting clause, a declaration stating that an emergency exists and describing ~~the emergency~~ in clear and specific terms.

An emergency ordinance may be ~~adopted~~ passed and given immediate effect at the meeting at which ~~the ordinance~~ is introduced by a two-thirds (2/3) majority of City Council Members present.

An emergency ordinance shall become effective upon publication or at any later date specified therein.

Every emergency ordinance is automatically repealed on the sixty-first (61st) day after its enactment, unless re-enacted as an emergency ordinance.

**Sec. 4-117. Procedure for approval or veto by Mayor and City Council's override of veto.**

Every ordinance or resolution of the City Council, except quasi-judicial acts of the City Council including any under Section 9-302, appointments by the City Council or action taken under Sections ~~2-107(2-3)~~ 2-107(2), 4-102, 4-105, 4-108, 4-109, 4-120, 4-121, 7-1006, or 12-110 of this Charter, shall be presented by the City Clerk to the Mayor within four (4) business days after adjournment of the meeting at which the ordinance is passed or the resolution is adopted.

~~The mayor,~~ Within seven (7) days of its receipt of an ordinance or resolution, the Mayor shall return it the ordinance or resolution to the City Clerk with or without approval, or with a veto and a written statement explaining the veto. However, with respect to an emergency ordinance, the Mayor shall notify the City Clerk of a veto in any reasonable manner within twenty-four (24) hours after the Mayor's Office ~~received~~ receives written notice from the City Clerk that the emergency ordinance has been ~~adopted~~ passed.

An ordinance approved by the Mayor shall be deemed enacted thereupon. An ordinance returned to the City Clerk neither approved nor vetoed by the Mayor shall be deemed enacted upon receipt by the City Clerk. The Mayor shall return any resolution neither approved nor vetoed to the City Clerk with a written statement explaining the reason that the resolution was neither approved nor vetoed. An ordinance or resolution not returned to the City Clerk within seven (7) days of receipt by the Mayor shall be deemed enacted upon expiration of the seven (7) day period ~~;~~ however, with respect to an emergency ordinance, should , provided, that, where the Mayor fails to notify the City Clerk of a veto within twenty-four (24) hours of receipt by the Mayor's Office of notice that the an emergency ordinance has been ~~adopted~~ passed, the emergency ordinance shall be deemed enacted upon expiration of the twenty-four (24) hour period.

An ordinance or resolution vetoed by the Mayor can be reconsidered by the City Council only at a regular meeting within one (1) week after receipt of the Mayor's veto. A two-thirds (2/3) majority of City Council Members serving may pass the ordinance or adopt the resolution over the Mayor's veto.

~~As soon as practicable after enactment of any ordinance, the city clerk shall have it published in a daily newspaper of general circulation in the city together with a notice of its adoption.~~

~~3.—Except as otherwise provided in this Charter, every ordinance shall become effective on the thirtieth (30th) day after enactment or at any later date specified therein.~~

**Sec. 4-118. Effective date for ordinances.**

An ordinance shall become effective only after passage by the City Council, approval by the Mayor, and publication by the City Clerk. After publication, each ordinance shall be printed in a form for codification within the Detroit City Code.

As soon as practicable after enactment of any ordinance, the City Clerk shall have the law published in a daily newspaper of general circulation in the City together with a notice of its enactment as follows:

1. Where the ordinance is passed by a two-thirds (2/3) majority of the City Council Members serving, it shall be given immediate effect and become effective upon publication;

2. Where this ordinance is passed by less than two-thirds (2/3) majority of the City Council Members serving, it shall become effective no later than thirty (30) days after publication; or
3. Where the ordinance specifies a certain date to become effective, it shall become effective in accordance with the date specified therein.

**Sec. 4-118 119. Ordinances after enactment and resolutions after adoption.**

1. The City Clerk shall authenticate by signature and record all ordinances and resolutions in a properly indexed book kept for the purpose. After enactment, the City Clerk shall cause each ordinance to be printed in a loose-leaf format for distribution to the public prior to codification of the ordinance in the Detroit City Code. At the end of each calendar year, or more frequently if possible, the City Clerk shall cause loose-leaf ordinances to be codified within the Detroit City Code.

2. Within ~~three (3)~~ ten (10) years after the effective date of this Charter and at least every ten (10) years thereafter, the City Council shall provide for the preparation of a general codification of all City ordinances ~~and resolutions having the effect of law.~~

The general codification shall be enacted by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, ~~pertinent provisions of the 1963 Michigan Constitution and other laws of Michigan, the Michigan Home Rule City Act, and other rules and regulations which the city council may specify promulgated under Section 2-111 of this Charter.~~ This compilation shall be ~~known~~ designated as the Detroit City Code with the designation proceed by the year that the Code became effective.

~~Copies~~ A copy of the Code shall be ~~furnished~~ provided to City elective officers, appointees and necessary employees, placed in libraries and public offices for free public reference, and made available for purchase by the public at a reasonable price fixed by the ~~City Council~~ Clerk.

3. Each ordinance ~~and resolution having the effect of law~~ and each amendment to this Charter, shall be printed promptly after enactment, and the printed ordinances, ~~resolutions~~ and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the ~~City Council~~ Clerk.

~~After publication of the first (1st) Detroit City Code, the ordinances, resolutions, and Charter amendments shall be printed in a form for integration with the Code currently in effect.~~

**Sec. 4-119. ~~Veto.~~**

~~Every ordinance or resolution of the city council, except quasi-judicial acts of the city council including any under section 9-302, appointments by the city council or action taken under section 2-107(2-3), 4-102, 4-105, 4-108, 4-109, 4-120, 4-121, 7-1006, or 12-110 of this Charter, shall be presented by the city clerk to the mayor within four (4) business days after adjournment of the meeting at which the ordinance or resolution is adopted.~~

~~The mayor, within seven (7) days of receipt of an ordinance or resolution, shall return it to the city clerk with or without approval, or with a veto and a written statement explaining the veto. However, with respect to an emergency ordinance, the mayor shall notify the city clerk of a veto in any reasonable manner within twenty four (24) hours after the mayor's office received written notice from the city clerk that the emergency ordinance has been adopted.~~

~~An ordinance approved by the mayor shall be deemed enacted thereupon. An ordinance returned to the city clerk neither approved nor vetoed by the mayor shall be deemed enacted upon receipt by the city clerk. The mayor shall return any resolution neither approved nor vetoed to the city clerk with a written statement explaining the reason the resolution was neither approved nor vetoed. An ordinance or resolution not returned to the city clerk within seven (7) days of receipt by the mayor shall be deemed enacted upon expiration of the seven (7) day period; however, with respect to an emergency ordinance, should the mayor fail to notify the city clerk of a veto within twenty four (24) hours of receipt by the mayor's office of notice that the ordinance has been adopted, the ordinance shall be deemed enacted upon expiration of the twenty four (24) hour period.~~

~~An ordinance or resolution vetoed by the mayor can be reconsidered by the city council only at a regular meeting within one (1) week after receipt of the mayor's veto. A two-thirds (2/3) majority of city council members serving may pass the ordinance or resolution over the mayor's veto.~~

**RATIONALE:**       *"Section 4-114 through 4-119 of the 1997 Detroit City Charter provide for City Council's passage of ordinances and adoption of resolutions, the Mayor's approval or veto of ordinances and resolutions, the City Council override of the Mayor's veto of ordinances and resolutions, and the enactment of ordinances. Section 4-114 through 4-119 have been rearranged and clarified to provide for a chronological order of procedures, which is lacking in the 1997 Detroit City Charter.*

*"In addition, these sections have been changed to make the sections commensurate with Michigan law, including Municipal Utilities Association v City of Kalamazoo, 345 Mich 138 at 328; 76 NW2d 1 (1956), in which the Michigan Supreme Court articulated the difference between a resolution and an ordinance. Examples of long-term conduct requiring the enactment of an ordinance are the establishment of a regulatory scheme for the licensing a particular type of business, the prohibition of activity by the issuance of a misdemeanor, civil infraction or blight violation, or the ethical standards that City public servants are required to follow. Examples of singular events requiring the adoption of a resolution are the erection of a traffic-control device, the settlement of a lawsuit, or the honoring of an individual by a testimonial." -Mayor Bing Administration, Letter, dated December 20, 2010.*

**ANALYSIS:**

**DISPOSITION/COMMISSION ACTION:**

**NOTES:**