



Clawson City Charter Commission

Frequently Asked Questions about the Proposed Revised City Charter

Why is the City of Clawson going through a charter revision process?

At the November 2021 election, Clawson voters passed a ballot proposal to revise their city charter.

What is the Clawson City Charter Commission and how did it come to be?

At the same time that they voted to revise their city charter, Clawson voters elected nine of their Clawson neighbors to form the Clawson City Charter Commission. The charter commission is responsible for developing and proposing to the people of Clawson a revised city charter. Since November 2021, the charter commission conducted over 40 public meetings to research, seek input, study the Clawson City Charter, and work on the revised charter it proposes to the people of Clawson.

Who oversees the Clawson City Charter Commission?

The people of Clawson elected all nine members of the Clawson City Charter Commission. The charter commission is an independent public body that is not overseen by the city council or the city administration. That means that the charter commission is responsible directly to the people of Clawson. .

Did the Clawson City Charter Commission revise the city charter or write a new one?

The charter commission proposes revising the existing city charter. In other words, the proposed revised city charter on the November 7, 2023, ballot is a *revised* city charter.

How did the Clawson City Charter Commission go about doing its job?

Over the winter of 2021 - 2022, the charter commission adopted its own bylaws, hired an attorney who specializes in constitutional and municipal law, passed a resolution to revise the existing charter rather than write a new one, and voted to forego any payment for its own members.

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How did the Clawson City Charter Commission go about doing its job (continued from Page 1)

From the spring of 2022 to the spring of 2023, the charter commission went over the existing city charter word by word with input from charter experts, city employees and officials (past and present), and citizens.

In April 2023, the charter commission sent its proposed revised city charter to the Attorney General and the Governor of the State of Michigan for their review and approval.

All 40+ of the charter commission's meetings were public and recorded (and may be watched at the City of Clawon's YouTube channel).

Does the proposed revised city charter change the city's basic city council/city manager form of government?

No.

Is this process and the proposed revised city charter legal?

Yes. The November 2021 ballot proposal and the election of the nine charter commissioners is legal. All of the charter commission's work and its proposed revised city charter took place with the advice and counsel of an attorney. Further, the Attorney General of the State of Michigan reviewed the entire process and final document. The Governor of the State of Michigan issued her letter of approval on July 25, 2023.

Why does the charter commission propose increasing city council membership from five to seven members?

Three main reasons.

First, the larger the city council, the more representative it may be of the general public. When the charter commission explored other communities, it found that more city boards, commissions, and councils comprise seven or more members. This may increase citizen participation in government and bring more experiences, points of view, and voices into city government.

Second, individual members of a seven-member city council have less power on their own than members of a five-person city council. In other words, one member who wants to obstruct voting can do that more easily on a five-person city council than a seven-person city council. Compromise and deliberation are more necessary (and therefore more likely to happen) in a seven-person city council.

Third, a seven-person city council has more people overseeing and asking more questions about the administration and policies of the city, which balances out the distribution of power in city government and increases accountability.

Why does the charter commission propose increasing the mayor's term from two years to four years?

The mayor is a voting member of city council and presides over the city council. The charter commission thought it did not make sense for the mayor to serve a two-year term (as the current city charter prescribes) when the other voting members serve four-year terms. When weighing the option to either decrease all city council terms for two years or increase the mayor's term to four years, the charter commission concluded that it would be best to increase the mayor's term to four years so that all seven council members have equal terms.

In addition to increasing the mayor's term from two to four years, does the proposed revised city charter increase the mayor's powers and responsibilities?

No. The mayor retains the same powers and responsibilities that the existing city charter gives to her or him. In essence, the mayor is the de facto president of the city council (as he or she has always been).

How will the change in the number of city council members and the mayor's term go into effect?

Council members who win their seats in November 2023 will serve four-year terms according to the current charter. The mayor who wins the November 2023 election will serve a two-year term according to the current charter. In the 2025 mayoral election, the winner will be the first mayor to begin serving four-year terms.

Also in 2025, the people of Clawson will vote for four city council members (instead of two as would be the case under the current charter). This is the only time that four city council seats will be open in a regular city election. The top three vote getters will serve full four-year terms. The council member who comes in fourth place will serve a two-year term and her or his seat will be open for election to a four-year term in 2027 (along with the two other council seats that were filled by the 2023 election).

So, by 2027, the new seven-person city council (including the mayor serving a four-year term) will be in place.

Why have so many provisions in the current city charter, ones that govern elections, appear to be eliminated or modified in the proposed revised city charter?

Michigan election law governs all elections in the state. Multiple provisions in the current city charter conflict with state election law or state election laws superseded them. In short, the proposed revised city charter is now consistent with Michigan election law.

Does the proposed revised city charter change anything about how city council fills its own vacancies?

Yes. First, it requires that the city council pass an ordinance to set specific actions to fill its vacancies when they occur. The ordinance must also standardize an application and selection process. Second, whenever the city council fills a vacancy, the member it appoints to fill the vacancy may only serve until the next regular city election, at which time the seat will be up for election on the city ballot. This means that the *maximum* any appointed city council member may serve is 13 months (though it is likely to be shorter in most cases).

Speaking of vacancies, we seemed to have a lot of issues that came from city council vacancies over the last few years. What does the charter commission propose to nip those problems in the bud?

People who pay attention to politics in Clawson know that a lot of controversy came about because the current city charter requires both appointed and elected officeholders to resign their seats in order to run for other seats.

For example, a member of the city council must resign to run for mayor or a member of the planning commission has to resign to run for the city council.

Rather than increase the integrity of elections and the performance of appointed and elected government bodies in Clawson, this charter rule created situations that diminished both and led to hardship and high costs for the people of Clawson.

Simply eliminating what the charter commission perceived as a well-intentioned, but misguided, provision from the authors of the 1940 charter may eliminate the cause of several unfortunate situations that arose in Clawson city government over the last two or three years.

Why does the charter commission propose making the city manager responsible for appointing and supervising the city clerk and city treasurer? Will the city council retain any role in hiring and supervising these city officials? How does this change affect the clerk's and the treasurer's accountability to the people of Clawson?

The charter commission concluded that the proposed revised city charter more or less reflects current practice. That is, the city manager works with the city clerk and city treasurer every day and knows more about their jobs and their performance than elected members of city council (who have day jobs and are not involved in the day-to-day management of city operations).

The main motivation for the proposal is that it may be better for the city manager to give direct supervision and performance reviews for the city clerk and treasurer because he or she is in a better position to do so. The charter commission believes that will do two things: 1) Improve the performance of the city clerk and city treasurer because they will have more clarity and direction from the city manager who works every day with them at city hall; and 2) Improve the performance of the city council by freeing up the energy and time that it devoted to performance reviews and supervision of city hall employees.

But doesn't this make the city clerk and city treasurer less accountable to the people of Clawson and their elected representatives on the city council?

The charter commission concluded that the proposal is not likely to diminish the accountability of the clerk and treasurer to the people of Clawson through their elected representatives on city council. Indeed, the charter commission reached a consensus that this proposal could increase accountability.

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City clerk and city treasurer accountability (continued from Page 4)

In essence, the charter commission believed that the proposed revision is less a reorganization and more a reallocation of energy and time among members of city government. In other words, the city manager already works with the clerk and treasurer every day. These three employees have as much interaction with each other as city employees may have. Further, the city manager and the clerk and treasurer are specialists who know and understand their respective motivations, parameters, and responsibilities. As it is now, the city manager already

directs the clerk and treasurer and relies on them for execution, information, and support. Likewise, the clerk and treasurer rely on the city manager for direction, information, and support. In other words, a great deal of energy and time already circulates every day among the city manager, clerk, and treasurer.

The charter commission believes that proposing a direct reporting relationship for the clerk and treasurer to the city manager comes close to reflecting current practice. It is also the most effective and efficient use of the energy and time of these three important city employees.

The clerk and treasurer remain accountable and responsible to the city council through the city council's direct supervision of the city manager. City council retains its power to demand information from, direct the priorities of, and hold to account the clerk and treasurer through the city manager.

In other words, the accountability and transparency of the clerk and treasurer remain a measure of city council's diligence about its oversight responsibilities. In no way, does this new organization chart diminish city council's power or role in relation to what it may require of the clerk or treasurer. It simply changes the way that city council executes its role and uses its power (*i.e.* through the city manager).

I'm concerned that the above changes could make the city manager more powerful than the city council or less accountable to the people and their elected representatives on the city council. How does the charter commission respond to this concern of mine?

The manager can never be more powerful than the city council because the city manager will continue to be responsible to, and serve at the will of, the City Council. The revisions the charter commission proposes are performance revisions that the commission believes will also contribute to accountability and responsiveness in city government.

In reality, the proposed revised city charter does not make many fundamental changes to the city manager position or its relation to the city council. It simply makes the city manager more responsible for day-to-day supervision of all city employees while also making her or him more responsible for reporting on their performance to the city council. City council retains its involvement in the hiring and firing of city employees as the city manager must consult with city council on those decisions. Likewise, under the proposed revised city charter, the city manager continues to serve at the pleasure of the city council. This means that the city council has both the mandate and the right to direct, question, and terminate the city manager. Increasing the size of the city council from five members to seven also increases the number of people who may question the city manager about her or his performance or the performance of city employees who report to the city manager.

In short, the charter commission believes that the proposed revised city charter will *increase* accountability and transparency as well as establish more balance in city government.

Does the proposed revised city charter change or remove ordinance publication requirements?

No.

I noticed that the charter commission proposes a section (4.13) to prohibit elected officials from "interference" with city employees. What does that mean?

It simply means that elected officials may not direct city employees or interfere with the performance of their jobs, but must work through the established organizational structure that makes the city manager responsible for directing and supervising all city employees.

What about nepotism? Does the proposed revised city charter have anything to say about conflicts of interest or nepotism by city officials?

The proposed revised city charter is clear that all and any form of nepotism is prohibited. It maintains and strengthens conflict of interest and nepotism language from the existing city charter.

What is the reason for proposing revisions to Section 6.07, which concerns the preparation of the annual city budget?

The proposed revisions bring the city charter into compliance with the Michigan Uniform Budgeting and Accounting Act, which governs city budgeting and accounting practices.

Why do purchasing authority and procedure language that appears in the current city charter not appear in the proposed revised city charter?

The charter commission's investigation found that many other cities give their city councils power to change these procedures by ordinance, rather than enshrine them in their charters. Making purchasing procedures subject to ordinance means that the people can influence those ordinances in real time through their elected representatives on the city council. It also gives the city council flexibility and opportunity to adjust to new circumstances and new needs that may arise in the future.

I notice that the proposed revised city charter increases to \$400,000 the value of city property that city council may buy or sell without putting it to the voters on a public ballot. Why increase to this amount?

In its current language, the city charter requires the purchase or sale of property to go before the public for a vote if the value of the property is greater than \$2 per capita according to the most recent U.S. census (Section 3.02). When the current charter passed in 1940, the City of Clawson had just over 4,000 residents. Thus, in 1940, the public had to vote on the purchase or sale of property with a value of greater than \$8,000 (since *per capita* means *per resident*). At no time over the last 83 years did the city council or the voters change the original charter language from 1940. Meaning: The city is still bound to put to a public vote the purchase or sale of property with a value greater than \$22,730 (\$2 times 11,365 residents).

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Value of property that requires public vote for city purchase or sale (continued from Page 6)

The proposed revised city charter adjusts the 1940 *per capita* rate for inflation. Two dollars in 1940 equals \$44.18 in 2023. When the charter commission did the math, it found that the inflation-adjusted per capita rate would mean that the public must vote on the purchase or sale of all city property valued greater than \$502,106 (\$44.18 times 11,365 residents).

The charter commission found consensus around \$400,000 (with a required inflation adjustment as time passes) as a reasonable threshold for determining whether city council may buy or sell property without a public vote.

Why does the charter commission propose taking out special assessment procedures that appear in the current city charter?

The charter commission's investigation found that many other cities give their city councils power to change special assessment procedures by ordinance, rather than enshrine them in their charters. Making special assessments subject to ordinance means that the people can influence those ordinances in real time through their elected representatives on the city council. It also gives the city council flexibility and opportunity to adjust to new circumstances and new needs that may arise in the future.

Does the proposed revised city charter change anything about how city council may sell city parks or recreational space?

The proposed revised city charter strengthens the existing city charter language that prohibits city council from selling parks or recreational land without the approval of a supermajority of Clawson voters.

Does the proposed revised city charter require the city to establish an investment policy for city funds?

Yes. Section 6.03 requires that "city funds shall be invested in accordance with an investment policy established by ordinance or resolution of the city council in accordance with 1943 PA 20, MCL 129.91, as amended."

Why does this proposed revised city charter reduce the amount of time candidates for city office live in Clawson from two years to one year?

Federal courts have held 2-year residency requirements are invalid, but a 1-year residency requirement is lawful.

Why does this proposed revised city charter eliminate the requirement that city managers be residents of Clawson?

This change complies with the Michigan Residency Act, which prohibits cities from requiring most public employees, including city managers, to be residents.

Why does the charter commission propose lowering the age limit from 25 to 21 for city council members?

This proposal matches the eligibility age for citizens to run for the state legislature in Michigan. It also diversifies and widens the pool of prospective candidates for public office in Clawson so that city council may be more representative of more people in the city.

Does the proposed revised city charter maintain residents' power to petition to initiate (i.e. adopt) or have a referendum (i.e. repeal) city ordinances?

Yes. The proposed revised city charter would lengthen the time (from 20 days to 60 days) residents have to petition the city council for an initiative or referendum.

Why do some of the public utility regulations in the current charter not appear in the proposed revised city charter?

Since the current city charter passed in 1940, the State of Michigan shifted regulatory authority over public utilities from local governments to the Michigan Public Services Commission.

If the voters approve it, when will the proposed revised city charter go into effect?

At the stroke of midnight, January 1, 2024.

What happens if voters reject the proposed revised city charter on November 7, 2023?

If voters reject the proposed revised city charter on November 7, the Clawson City Charter Commission will have another year to reconvene and decide whether to 1) take no further action or 2) make a further revision and submit it to the voters. If no action is taken, the charter commission will cease to exist.

Will the proposed revised city charter mandate that a charter review question appear before Clawson voters every 12 years?

Yes, it would require the city council to submit to voters, every 12 years, the question of whether the city should review its charter and elect a charter commission.