



City of Cleveland Heights Charter Review Commission

Submissions to the Commission

Committee of the Whole
2 August 2018

Messages and Documents Index

1. Message from David Porter

The following messages and other materials have been submitted to the Facilitator since the last sharing of Submissions. The materials are ordered by date received.

1. David Porter – 20 July 2018

Jack and Larry - Last night, the Commission got hung up on the following section, especially the bold faced language:

SECTION III-8. GENERAL PROVISIONS. The Council shall determine its own rules and order of business, provide for special meetings and keep a journal of its proceedings. **The Council may by general ordinance provide: for legislative procedure; the form and method of enactment of ordinances; a simplified procedure for levying assessments; the method and manner of giving public notice of passage of ordinances or resolutions of a general or permanent nature; the advertisement and sale of bonds and notes; and the advertisement and awarding of public contracts. Such general ordinances,** when once adopted, shall not be repealed or amended except by vote of five members of the Council or by the people.

Two points:

First, perhaps the following definitions would help people on the Commission understand what “general ordinance” means:

- A general ordinance commonly applies to, and is binding on, all members of a community. Examples include offenses, public improvement procedures, zoning, traffic and street vacation procedures.

- A special ordinance is limited in its application, either in time or in persons or property affected, or both. Examples of special ordinance subject matter include a specific street vacation, a special election, a call for a bond sale and spreading assessments for a public improvement.
- Source: an interesting League of Oregon Cities manual on ordinance drafting - <https://orcities.org/Portals/17/Library/ManualforOrdinanceDraftingandMaintenance12-15-17.pdf>

Second: Query whether the inclusion of the language in bold face is to make clear that as to the listed procedural matters, the City may make its own rules and will not be subject to the general procedures specified by statutes such as the statutes quoted below? Is it legally clear that if the charter does not expressly cover this procedural authority, that the Council later by ordinance alone can override the statutes? I have no idea as to what the answer is, but while listening to the discussions last night that was my suspicion as to why the language might have been put there. I faintly remember reading somewhere long, long ago that Charters can override general statutes as far as procedural matters, but by implication they have to say so to do so. I suspect this is a complex area in Ohio and seems to be a question for a real municipal law maven.

Regards,

David Porter

731.17 Passage of ordinances and resolutions.

(A) The following procedures shall apply to the passage of ordinances and resolutions of a municipal corporation:

(1) Each ordinance and resolution shall be read by title only, provided the legislative authority may require any reading to be in full by a majority vote of its members.

(2) Each ordinance or resolution shall be read on three different days, provided the legislative authority may dispense with this rule by a vote of at least three-fourths of its members.

(3) The vote on the passage of each ordinance or resolution shall be taken by yeas and nays and entered upon the journal.

(4) Each ordinance or resolution shall be passed, except as otherwise provided by law, by a vote of at least a majority of all the members of the legislative authority.

(B) Action by the legislative authority, not required by law to be by ordinance or resolution, may be taken by motion approved by at least a majority vote of the members present at the meeting when the action is taken.

Effective Date: 11-19-1975

731.18 Style of ordinances.

The style of all ordinances shall be, "Be it ordained by the (filling the blank with the name of the legislative authority of the city or village) of, state of Ohio," (filling the blank with the name of the city or village.)

Effective Date: 10-01-1953 .

731.19 Subject and amendment of bylaws, ordinances, and resolutions.

No ordinance, resolution, or bylaw shall contain more than one subject, which shall be clearly expressed in its title. No bylaw or ordinance, or section thereof, shall be revived or amended, unless the new bylaw or ordinance contains the entire bylaw, ordinance, or section revived or amended, and the bylaw, ordinance, or section so amended shall be repealed. Each such bylaw, resolution, and ordinance shall be adopted or passed by a separate vote of the legislative authority of a municipal corporation and the yeas and nays shall be entered upon the journal.

Effective Date: 10-01-1953 .

731.20 Authentication and recording.

Ordinances, resolutions, and bylaws shall be authenticated by the signature of the presiding officer and clerk of the legislative authority of the municipal corporation. A succinct summary of ordinances of a general nature or providing for improvements shall be published as provided by sections [731.21](#) and [731.22](#) of the Revised Code before going into operation. No ordinance shall take effect until the expiration of ten days after the first publication of such notice. As soon as a bylaw, resolution, or ordinance is passed and signed, it shall be recorded by the clerk in a book furnished by the legislative authority for that purpose.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 10-01-1953 .

731.21 Publication of ordinances and resolutions.

(A) A succinct summary of each municipal ordinance or resolution and all statements, orders, proclamations, notices, and reports required by law or ordinance to be published shall be published in a newspaper of general circulation in the municipal corporation. Proof of the publication and required circulation of any newspaper used as a medium of publication as provided by this section shall be made by affidavit of the proprietor of the newspaper, and shall be filed with the clerk of the legislative authority.

(B) The publication shall contain notice that the complete text of each such ordinance or resolution may be obtained or viewed at the office of the clerk of the legislative authority of the municipal corporation and may be viewed at any other location designated by the legislative authority of the municipal corporation. The city director of law, village solicitor, or other chief legal officer of the municipal corporation shall review the summary of an ordinance or resolution published under this section prior to forwarding it to the clerk for publication, to ensure that the summary is legally accurate and sufficient.

(C) Upon publication of a summary of an ordinance or resolution in accordance with this section, the clerk of the legislative authority shall supply a copy of the complete text of each such ordinance or resolution to any person, upon request, and may charge a reasonable fee, set by the legislative authority, for each copy supplied. The clerk shall

post a copy of the text at the clerk's office and at every other location designated by the legislative authority.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.