

IN THE COURT OF CLAIMS  
OF THE STATE OF OHIO

|                             |   |                             |
|-----------------------------|---|-----------------------------|
| STATE EX REL. OHIO ATTORNEY | ) | Case No. 2025-00925RC       |
| GENERAL DAVE YOST,          | ) |                             |
| Petitioner,                 | ) | JUDGE LISA L. SADLER        |
| -vs-                        | ) |                             |
| CITY OF EAST CLEVELAND,     | ) | <u>RESPONSE TO PETITION</u> |
| Respondent.                 | ) | <u>FOR RECEIVERSHIP</u>     |
|                             | ) |                             |

Now comes the Respondent, the City of East Cleveland (“the City”), and, pursuant to this Court’s order of November 19, 2025, hereby submits its response to the Petition for Receivership, which was filed on November 5, 2025. For the reasons set forth below, the City does not oppose the appointment of a receiver, but strenuously objects to the scope of the receivership as set forth in the Petition and the Proposed Order.

INTRODUCTION

The imposition of a receivership on a public entity is unprecedented in Ohio, and is being requested by the State of Ohio pursuant to a new statute that has never been implemented or tested. Because the statute, O.R.C. 118.29 is both overly-broad and vague, and the Petition and Proposed Order request almost unlimited authority that extends beyond even the parameters of the statute, the City of East Cleveland proposes a middle ground.

While the City welcomes the resources and financial expertise that a receiver could bring,

the City objects to the heavy-handed approach and unfettered discretion proposed by the State. The Proposed Order, if implemented, would violate both the U.S. Constitution and the Ohio Constitution and would strip the City, its duly-elected leaders and its residents, of their Home Rule authority and would unduly punish the current and incoming governments for the financial improprieties and negligence of a previous mayor. The City suggests a receivership that more resembles a partnership between the City and the receiver than a takeover, with procedures built in to require the receiver to seek the approval of the elected leaders of the City, and, where there is disagreement, a built-in dispute resolution procedure to assure a balance between the State's goal of financial stability for East Cleveland, and the City's right to adhere to its Charter.

#### THE EAST CLEVELAND CHARTER

The East Cleveland Charter was passed by the residents of East Cleveland on June 6, 1916; it became effective on January 1, 1918. See East Cleveland Charter, attached as Exhibit A.

The Charter gives the residents of the City the right to

“perpetual succession;” to “sue and be sued;” to “acquire property;” to “sell, lease, hold, manage, and control such property, and make any and all rules and regulations by ordinance or resolution which may be required to carry out fully all of the provisions of any conveyance, deed or will, in relation to any gift or bequest or the provisions of any lease by which it may acquire property;” to “acquire, construct, own, lease and operate and regulate public utilities;” to “assess, levy and collect taxes for general and special purposes on all the subjects or objects which the city may lawfully tax;” to “borrow money;” to “appropriate the money of the city for all lawful purposes;” to “create, provide for, construct, regulate and maintain all things of the nature of public works and improvements;” to “levy and collect assessments for local improvements;” to “define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city, and all

nuisances and causes thereof;” to “regulate the construction, height, and the material used in all buildings, and the maintenance and occupancy thereof;” to “regulate the construction, location, size, height, and the use, for whatever purposes, of the streets and other public places;” to “create, establish, organize and abolish offices and fix the salaries and compensation of all officers and employees;” to “make and enforce local police, sanitary and other regulations;” to “pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the city, and for the performance of the functions thereof.” In addition, the Charter provides that “[t]he city shall have all powers that now are, or hereafter may be granted to municipalities by the Constitution or laws of Ohio; and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this Charter, or when not prescribed herein, in such manner as shall be provided by ordinance or resolution of the Council.”

Charter, Section 1, attached as Exhibit A.

In addition to these general powers, the Charter lists specific procedures for electing the Mayor and City Council (Sections 32 and 33); passing local ordinances by petition (Sections 38-42); recalling elected officials (Sections 49-55); appropriating and spending funds (Sections 60-68); contracting (Sections 72-75); amending the Charter (Section 94). *Id.* The Charter also sets forth the qualifications and powers of the Mayor and City Council (Sections 98-99, 112-113). *Id.*

#### THE OHIO CONSTITUTION AND HOME RULE

Ohio’s constitution and courts recognize that Charter cities have the right to self-governance, otherwise known as Home Rule.

Article XVIII of the Ohio Constitution, the Home Rule Provision, vests municipalities with the authority to exercise all powers of local self-government. East Cleveland has adopted a charter pursuant to Section 7, Article XVIII of the Ohio Constitution,

establishing the parameters of those powers of local self-governance. It is well established that if a conflict exists between a city charter and statutory provisions governing the filling of a vacancy, the charter takes precedence and must be followed to fill the vacancy. State ex rel. Devine v. Hoermie, 168 Ohio St.461, 156 N.E. 2d 131 (1959), paragraph two of the syllabus; State ex rel. Branch v. Pitts, 2018-Ohio-1184, P9, 110 N.E. 3d 87 (8<sup>th</sup> Dist). This is because “Home Rule gives municipalities a sovereignty over matters of local government. In such matters, if a provision of a municipal charter conflicts with state law, the charter provisions will prevail.” Kanter v. City of Cleveland Hts., 2017-Ohio-1038, P 15, 86 N.E. 3d 1022 (8<sup>th</sup> Dist), citing State ex rel. Bardo v. Lyndhurst, 37 Ohio St.3d 106, 108-109, 524 N.E. 2d 447 (1988), citing State ex rel. Devine v. Hoermie, 168 Ohio St. 461, 156 N.E. 2d 131 (1959), and State ex rel. Allison v. Jones, 170 Ohio St. 323, 153 N.E.2d 417 (1960). See also State ex rel. Minor v. Eschen, 74 Ohio St.3d 134, 138, 1995-Ohio-264, 656 N.E. 2d 940 (1995) (“In matters of local self-government, if a portion of a municipal charter expressly conflicts with parallel state law, the charter provisions will prevail.”).

State ex rel. Shabazz v. Morgan, 2025-Ohio-2603 P 15 (8<sup>th</sup> Dist.).

Thus, because O.R.C. 118.29 and the Proposed Order, if implemented, divest the City of the authority of self-governance, it is unconstitutional on its face and as applied.

#### THE HISTORY OF FINANCIAL EMERGENCY AND NON-COMPLIANCE

The City does not dispute the factual accuracy of the Affidavit of Tisha Turner, attached as Exhibit A to the Petition. The City has been in a state of fiscal emergency since 2012. See Tisha Turner Affidavit, attached to Petition as Exhibit A.

However, the vast majority of the instances of the City’s non-compliance with accounting, reporting and spending rules occurred in 2023, 2024 and early 2025, under the administration of former Mayor Brandon King. See Turner Affidavit at paragraphs 8-21.

Between March, 2025 and December, 2025, when then-Interim Mayor Sandra Morgan and current Mayor Lateek Shabazz presided over the City's finances, these two short-term administrations (both of which were appointed to office with less than one day's notice) have attempted in good faith to correct the financial problems caused by the ten years of the Brandon King administration (indeed, King did not even file annual audits for the years 2021-2024, which the current Shabazz administration is working with the State Auditor to correct).

#### THE CITY'S POSITION ON THE PROPOSED RECEIVERSHIP

The City of East Cleveland does not object to the appointment of a receiver. But the City objects to the sweeping and unlimited and unfettered scope of the receivership, as envisioned by the Auditor in the Petition and the Proposed Order.

In order for the receivership to be constitutional, it must not conflict with the East Cleveland Charter. In order for the receivership not to conflict with the Charter, it must not abrogate the powers of the elected Mayor and the elected City Council. The receiver must not only work collaboratively with the Mayor and City Council, he or she must seek approval of the Mayor and City Council to enact many of the provisions sought by the Petition.

For example, the statute and the Petition call for the receiver to report to the Mayor and City Council monthly and to appear in an open meeting every three months. Under new Local Rule 23 of the Local Rules of the Court of Claims, the receiver must report to the Court within two months of appointment, and then every six months until the conclusion of the receivership. The receiver also would have the authority to craft a financial plan and submit it to the financial planning and supervision commission without the approval of the City.

Under these terms, the receivership would violate many of the requirements of the East Cleveland Charter, which gives the Mayor and the City Council control over finances, employment, contracting, taxes and land use. The statute, the Petition and the Proposed Order only require the receiver to consult with City Council, do not mention the Mayor at all, and do not allow for the City to have any input on any decisions made by the receiver, much less any decision-making authority.

There is also a catch-all provision, O.R.C. 118.29(C)(8), which allows the receiver to “[e]xercise any other powers granted to the receiver by the court necessary to perform the duties stated in this section.”

This section grants unilateral and unfettered authority to the receiver and to this Court to completely take over any and all functions of city government. Not only does this section conflict with the previously-mentioned provisions of the East Cleveland Charter, but it is void for vagueness, is overly-broad and unlawfully grants unfettered discretion to the receiver and this Court, in violation of the residents’ rights to elect their representatives.

Under the terms proposed by the State, the receiver could buy and sell property, hire and fire employees, negotiate or nullify collective bargaining agreements, unilaterally decide not only on whether to settle lawsuits, but decide on whether and when lawsuits could be filed against the City. These provisions are blatantly unconstitutional, and yet the only remedy (which are built in to the new Local Rule 23 but not built into the Petition or the Proposed Order) would be for the City to have an opportunity to file an objection to this Court. Nothing in the Local Rules, the Statute, the Petition or the Proposed Order requires the Court to give any credence whatsoever to the objections of the City. Nor would any resident of East Cleveland

have the right to file a lawsuit or an objection without the prior approval of the receiver.

The order establishing a receivership must set forth procedures that require the receiver to work with the Mayor and City Council so as not to usurp the Charter-mandated authority of the Mayor and City Council. The Court should order the receiver to meet with the Mayor and City Council and their Counsel to negotiate a set of procedures so that the authority of the Mayor and City Council are maintained. The City suggests that while there will inevitably be some give-and-take in these procedures, at the end of the day, the receiver should be required to seek the approval of the City, as well as the Court, before taking any actions. The receiver should be required to consult with the Mayor and City Council in advance of taking any actions, and to receive the approval of the Mayor and the passage of a resolution by City Council, before seeking approval of the Court. In the event that the receiver cannot obtain the approval of the Mayor and City Council, so that any motions for approval to this Court are unanimous, the parties should be required to seek a resolution amongst themselves and failing resolution, then a procedure should be devised whereby either the receiver or the City can file a motion with this Court setting forth the action the receiver seeks to take and the nature of the City's disagreement, and asking the Court to hold a hearing and to make a ruling on the action proposed to be taken by the receiver.

While this proposed procedure might slow the actions taken by the receiver, it also preserves the Charter-mandated authority of the Mayor and City Council, comports with the East Cleveland Charter, resolves any potential constitutional violations, and assures that all parties are either on the same page, or at least that the City has meaningful recourse in the event of a disagreement with the receiver.

Unlike a receivership imposed on a private company, a receivership imposed on a government entity—especially the first one in the state of Ohio--must be done cautiously, incrementally, with consensus, and correctly. The City acknowledges that its finances have been non-compliant for a long time and thus, a receiver is necessary to help the City resolve some of these long-standing financial problems. But the answer is not to bulldoze over the City's elected leaders, especially new leadership that is attempting to correct the deficiencies that have come about over the course of more than ten years (and with a state oversight commission that, in reality, did little to stop the abuses of the King administration). The process must be collaborative and must recognize the authority of East Cleveland's residents to elect their representatives. It must recognize the constitutional nature of government. The state cannot, by fiat, take away the residents' right to vote in the name of fiscal responsibility. The Petition and the Proposed Order, if approved, strip the City's leaders of all authority. Safeguards must be built into the court order so that the receiver shares power and authority with the City's leaders, rather than the receiver taking full control over every aspect of city government.

#### THE UNCONSTITUTIONAL PROVISIONS OF THE PETITION

The proposed Order Appointing Receiver not only asks for the powers enumerated in the statute, but explicitly seeks additional authority. In the State's own words from the Petition: "In addition to the powers set forth in R.C. 118.29 and 2735.04, the Receivership Order provides for the following additional powers pursuant to R.C. 118.29(h):" [There is no such section of the statute as 118.29(h). It can only be presumed that the State is referencing its own lettering system set forth in Paragraph 41 of the Petition, which mirrors O.R.C. 118.29(C)(8) and asks



this Court to permit the receiver to “[e]xercise any other powers granted to the receiver by the court necessary to perform the duties stated in R.C. 118.29.” Petition at Par. 41(h).

It should also be noted that O.R.C. 118.29(C) gives the receiver all of the powers stated in O.R.C. Section 2735.04, which is the statute that sets forth the powers of a receiver in a private setting. Those powers are even more Draconian than the powers listed in O.R.C. 118.29.

Thus, the State seeks the appointment of a receiver whose powers and authority encompass not only those powers listed in the statute that was created specifically for public entities like the City of East Cleveland, but all of the powers normally associated with receiverships granted by courts to take over private entities.

Among these “additional” powers the State seeks for the receiver are the “authority to suspend, negotiate, or terminate contracts that conflict with the financial plan or contribute to the fiscal emergency condition....” This presumably would apply to collective bargaining agreements, the suspension or termination of which could violate Ohio’s collective bargaining laws. This provision could also nullify civil service requirements, which are set forth in Sections 29 and 30 of the Charter and state law.

Other additional powers sought by the receiver are: “Restructure debt obligations....”; “Freeze non-essential hiring, promotions, and compensation adjustments....”; “Audit all financial records, systems and personnel....”; “Recommend legislative actions to the City Council....” ; “File a petition for relief under Chapter 9 of Title 11 of the United States Code on behalf of the City....” Proposed Order at 5.

The Proposed Order seeks several other unconstitutional or otherwise unlawful powers for the receiver: To bypass or ignore public records laws, by making all records that are

maintained in the ordinary course of City governance placed in the custody of the receiver; to allow the receiver to have access to and control of “any record related to City personnel,” with no stated restrictions or acknowledgment of the privacy rights of City employees, in matters such as medical privacy, personally-identifiable information or Social Security information; to find, with no advance notice or fact-finding, that “all persons and entities shall be enjoined from interfering with the Receiver’s exercise of its duties and powers under the terms of this Order and from initiating or continuing any judicial, administrative, or other proceedings against the City of the Receiver without prior leave of this Court.” Proposed Order at 7.

This means that all persons or entities that currently have litigation pending against the City would be automatically prohibited from continuing that litigation unless this Court approves it; it means the City could not challenge anything the receiver does without prior permission from this Court. It means no resident of East Cleveland could sue or otherwise challenge anything the receiver does without going to this Court for prior permission. This Proposed Order would give this Court the authority to strike any pleading or other challenge to anything the receiver does because it would violate an existing court order that requires the Court’s permission to even file any such challenge. This is the same type of restriction placed on vexatious litigators, without any finding of vexatious litigation.

This proposal is particularly odious when placed in the context of the Petition itself; the Petition, and the Proposed Order, do not permit any sort of due process or ability for the City to respond or challenge or even be heard on any matter. It was only after this Court, *sua sponte*, amended its own local rules to allow for some element of due process, that the State moved for a hearing and a request that the City be permitted to be heard on the receivership. Absent this

Court's own amendment of its local rules, and leaving the State to its own devices, this response by the City would not only not be permitted, but it would presumably be prohibited by the terms the State has asked this Court to implement. It is clear that the State would be perfectly content to treat this municipal receivership the same as a private receivership. It is just as clear that such a broad-based and complete takeover of the City by a receiver violates the U.S. Constitution, the Ohio Constitution, the East Cleveland Charter and several state statutes.

Given that this case is the first time O.R.C. 118.29 is being implemented, and given that the City of East Cleveland is being used by the State as a guinea pig, it is vitally important that this receivership is implemented cautiously, collaboratively and correctly. The City, the State, the receiver and this Court must get this right. In order to do that, a deliberative, incremental approach is warranted, not the sledgehammer the State wishes to take to the City.

The City acknowledges that it meets the criteria for a receivership, and the City does not object to the appointment of a receiver. But the statute, the Petition and the Proposed Order have large-scale problems that must be resolved at the outset. Some of the problems can be resolved by this Court via a narrowly-tailored order that restricts the receiver's authority and acknowledges the constitutional and statutory authority of the City's elected officials and the rights of the City's residents. The receivership must balance the goals of the State to influence compliance with fiscal responsibility laws and to bring the City of East Cleveland into fiscal balance, with the rights of the residents to elect their leaders and to govern themselves. The City's Charter makes clear that the City chooses to govern itself, and the Ohio Supreme Court has repeatedly ruled in favor of a charter where it conflicts with a state statute in Home Rule cities like East Cleveland. In this case, as written, the statute, the Petition and the Proposed

Order conflict with the Charter and thus violate the Home Rule provisions of the Ohio Constitution, as well as other constitutional and statutory provisions. However, if the proper balance is struck between receiver oversight and municipal governance, no such conflict will exist. This Court should appoint a receiver, but strike the provisions of the statute, the Petition and the Proposed Order that strip the City leaders of their authority, and strip the City and its residents of their ability to challenge or object to the receiver's actions. This Court should order the receiver and the City to work together to devise a plan of collaboration, such that the receiver must seek the approval of the Mayor and City Council before implementing any plans or objectives, and such that the City has the ongoing ability to challenge the receiver's proposed actions prior to implementation by filing a motion with this Court.

#### MAYOR-ELECT MORGAN'S AFFIDAVIT

Sandra Morgan was appointed by Cuyahoga County Probate Court Judge Anthony Russo on February 28, 2025 as Interim Mayor pursuant to Ohio Revised Code Section 3.16, to temporarily fill the vacancy in the office of Mayor caused by the Ohio Supreme Court's suspension of then-Mayor Brandon King, who at the time was under indictment on public corruption charges.

On July 17, 2025, the Ohio Eighth District Court of Appeals appointed then-East Cleveland City Council President Lateek Shabazz as Mayor after the conviction of Mayor King, pursuant to the Section 114 of the East Cleveland Charter, which states that the President of City Council ascends to the office of Mayor in the event of a long-term or permanent vacancy in the office of Mayor. Mayor Shabazz is the current Mayor, but on November 4, 2025, the

residents of East Cleveland elected Ms. Morgan as Mayor for a full four-year term. Ms. Morgan defeated Mayor Shabazz in the election by approximately 85% to 15%. Mayor-elect Morgan takes office on January 1, 2026.

Mayor-elect Morgan is in favor of a receivership, but is also in favor of the restrictions and limitations set forth in this response. Mayor-elect Morgan states that the plan outlined by the State in the Proposed Order would result in the receiver having unlimited power and unfettered discretion which would result in the usurpation of the Mayor's authority and the virtual cancellation of her own large mandate. Mayor-elect Morgan and the City also ask this Court to order the receivership to begin on or after January 1, 2026, to coincide with her and a new City Council taking office. See Sandra Morgan affidavit, attached as Exhibit B.

#### THE ROLE OF ICE MILLER

The City wishes to bring to the Court's attention the fact that from approximately 2022-2024, the law firm of Ice Miller LLP represented the City of East Cleveland in broadband communications issues, and invoiced the City for approximately \$131,000, which was paid by the City. Ice Miller now represents the State Auditor as outside counsel and is the law firm of record in this case, having filed the Petition and Proposed Order which is the subject of this response and of the upcoming hearing. Ice Miller never notified the City in advance that it was representing the State Auditor in litigation against the City, and the City does not know if Ice Miller informed the State Auditor of its prior representation of the City. The City has never waived any potential conflict of interest. The City is not seeking the disqualification of Ice Miller, but wanted to bring Ice Miller's prior representation of the City to the Court's attention

in the interest of transparency. The City is concerned that as part of the receiver's (or the State Auditor's) audit of prior expenditures, Ice Miller's invoices for a total of \$131,000, including billing at hourly rates as high as \$700 per hour during 2022-2024, might come under scrutiny. If that happens, then all parties, including the receiver, and this Court, should be aware of the prior relationship between the City and Ice Miller, and it is better that all parties and this Court know about this prior relationship now, since Ice Miller has not formally informed the Court of this prior relationship to the City's knowledge, and the City does not know if Ice Miller has informed the State Auditor, the State Attorney General or the receiver candidates.

#### THE CITY'S RECOMMENDATION FOR RECEIVER

Mayor-elect Sandra Morgan interviewed both of the State's proposed candidates for receiver and her recommendation, which also reflects the City's view, is that the receiver should be George Shoup.

#### THE COST OF THE RECEIVERSHIP

While the statute states that the State will bear the cost of the receivership, this Court's order establishing the receivership should order both the receiver and the State not to pass any of the costs of the receivership on to the City of East Cleveland, and the Order should broadly define fees and costs so that the City will not bear any receivership expenses, including any secondary fees or expenses. As part of the receiver's initial report to the Court, the receiver should include all categories of expected fees and expenses, so that all parties and the Court are aware in advance of any possible fees and expenses that could eventually be paid. The statute

does not prohibit the State or the receiver from attempting to recoup fees or expenses from the City, and it should be clear in the Court's order that any attempt to seek reimbursement from the City by the receiver, any person or entity associated with the receiver, or the State and any person or entity associated with the State, would be prohibited.

## CONCLUSION

For the reasons set forth above, the City of East Cleveland does not object to the appointment of a receiver, but asks the Court to impose the following restrictions on the authority of the receiver:

- 1) Order the Receiver to honor and adhere to the East Cleveland Charter, to wit:
  - a) The receiver must consult with the Mayor and City Council prior to implementing any plans or actions;
  - b) The receiver must seek the approval of the Mayor and City Council before implementing any plans or actions;
  - c) Any such approvals must be formalized by City Council's passage of ordinances or resolutions;
  - d) The receiver must work with the Mayor and City Council and, within sixty (60) days of appointment, file with the Court a proposed joint conflict resolution plan, which would set forth the parties' proposal for how to resolve any disputes that may arise in implementing the receivership. Such a plan must include, at a minimum, a requirement that in the event of a dispute, the receiver and the City must consult with each other about possible compromises and resolutions. Such a plan must also include a mechanism by which one or both parties have the option of filing a motion with this Court setting forth the nature of the dispute, each party's position, and attempts at resolution.
- 2) The State will not at any point attempt to transfer the costs and expenses of the Receivership to the City.
- 3) The receivership will not take effect earlier than January 1, 2026.

Respectfully submitted,

/s/Kenneth D. Myers  
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CERTIFICATE OF SERVICE

The foregoing has been sent via e-mail to Matthew L. Fornshell, Esq. and John C. Cannizzaro, Esq., Ice Miller, LLP, 250 West Street, Suite 700, Columbus, OH 43215, [Matthew.fornshell@icemiller.com](mailto:Matthew.fornshell@icemiller.com) and [John.cannizzaro@icemiller.com](mailto:John.cannizzaro@icemiller.com), this 3<sup>rd</sup> day of December, 2025.

/s/Kenneth D. Myers  
KENNETH D. MYERS

Counsel for the City of East Cleveland



# CHARTER OF THE CITY OF EAST CLEVELAND

Editor's note: The East Cleveland Charter was originally adopted on June 6, 1916, and became effective January 1, 1918. Dates appearing in parentheses following a section heading indicate that those provisions were subsequently adopted, amended or repealed or replaced on the date given.

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Appendix A Repealed Charter Sections

## **CORPORATE POWERS, RIGHTS AND PRIVILEGES**

### **§ 1 NAME AND POWERS.**

The inhabitants of the City of East Cleveland, as its limits now are, or may hereafter be, shall be a body politic and corporate and by name the City of East Cleveland, and as such shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property in fee simple or lesser interests or estate by purchase, gift, devise appropriation, lease, or lease with the privilege to purchase for any municipal purpose; may sell, lease, hold, manage, and control such property, and make any and all rules and regulations by ordinance or resolution which may be required to carry out fully all the provisions of any conveyance, deed, or will, in relation to any gift or bequest or the provisions of any lease by which it may acquire property; may acquire, construct, own, lease and operate and regulate public utilities; may assess, levy and collect taxes for general and special purposes on all the subjects or objects which the city may lawfully tax; may borrow money on the faith and credit of the city by the issue or sale of bonds or notes of the city; may appropriate the money of the city for all lawful purposes; may create, provide for, construct, regulate and maintain all things of the nature of public works and improvements; may levy and collect assessments for local improvements; may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city, and all nuisances and causes thereof; may regulate the construction, height, and the material used in all buildings, and the

maintenance and occupancy thereof; may regulate the construction, location, size, height, and the materials used in all billboards, and the maintenance and use of the same; may regulate and control the use, for whatever purposes, of the streets and other public places; may create, establish, organize and abolish offices and fix the salaries and compensation of all officers and employees; may make and enforce local police, sanitary and other regulations; and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the city, and for the performance of the functions thereof. The city shall have all powers that now are, or hereafter may be granted to municipalities by the Constitution or laws of Ohio; and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this Charter, or when not prescribed herein, in such manner as shall be provided by ordinance or resolution of the Council.

## **§ 2 ENUMERATED POWERS NOT EXCLUSIVE.**

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the city shall have, and may exercise, all other powers which, under the Constitution and laws of Ohio, it would be competent for this Charter specifically to enumerate.

## **THE COMMISSION**

### **§ 3 POWERS.**

(Repealed 5-7-85.)

### **§ 4 TERM OF OFFICE.**

(Repealed 5-7-85.)

### **§ 5 QUALIFICATION OF MEMBERS.**

(Repealed 5-7-85.)

### **§ 6 VACANCIES.**

(Repealed 5-7-85.)

### **§ 7 SALARY.**

(Repealed 5-7-85.)

### **§ 8 PRESIDENT.**

(Repealed 5-7-85.)

### **§ 9 APPOINTEES.**

(Repealed 5-7-85.)

### **§ 10 TIME OF MEETING.**

(Repealed 5-7-85.)

### **§ 11 PENALTY FOR ABSENCE.**

(Repealed 5-7-85.)

### **§ 12 LEGISLATIVE PROCEDURE.**

(Repealed 5-7-85.)

### **§ 13 ORDINANCE ENACTMENT.**

(Repealed 5-7-85.)

### **§ 14 EMERGENCY MEASURES.**

(Repealed 5-7-85.)

### **§ 15 RECORD AND PUBLICATION.**

(Repealed 5-7-85.)

## **§ 16 PRICE AND MODE OF PUBLICATION.**

(Repealed 5-7-85.)

## **§ 17 SALARIES AND BONDS.**

(Repealed 5-7-85.)

## **§ 18 GENERAL DISQUALIFICATIONS.**

(Repealed 5-7-85.)

# **THE CITY MANAGER**

## **§ 19 APPOINTMENT.**

(Repealed 5-7-85.)

## **§ 20 POWERS AND DUTIES.**

(Repealed by implication 5-7-85)

## **§ 21 VICE-MANAGER.**

(Repealed 5-7-85.)

# **ADMINISTRATIVE OFFICERS AND DEPARTMENTS**

## **§ 22 DEPARTMENTS.**

The following administrative departments are hereby established: (1) Department of Law. (2) Department of Public Service. (3) Department of Public Safety. (4) Department of Finance. (5) Department of Public Health. The Council shall determine and prescribe the functions and duties of each department and by vote of four of its members and may create new departments, combine or abolish existing departments, and establish temporary departments for special work.

## **§ 23 DIRECTORS.**

There shall be a director of each department who shall have the supervision and control thereof, who shall be immediately responsible to the Mayor for the administration of the department. The Director of Public Health shall be a physician, who shall have been duly admitted to practice in the State of Ohio, and who shall have been engaged in the active practice of medicine continuously for a period of three years next preceding his appointment. The Director of Law shall be an attorney-at-law, who shall have been duly admitted to practice in the State of Ohio, and who shall have engaged in the active practice of law continuously for a period of three years next preceding his appointment.

The Director of Law and the Director of Finance shall be appointed by the Mayor, but such appointments must be confirmed by at least three-fifths of the Council. The Director of Law or the Director of Finance may be removed by the Mayor, provided the removal is confirmed by at least three-fifths of the Council.

(Ord. 75-12, passed 7-31-2012)

## **§ 24 MAYOR AS ACTING DEPARTMENT HEAD.**

Excepting the departments of Law, Finance and Health, the Mayor shall be the acting head of each and every department of the city until otherwise provided by the Council.

# **MUNICIPAL COURT**

## **§ 25.**

(Repealed 5-6-52.)

## **§ 26.**

(Repealed 5-6-52.)

## **§ 27.**

(Repealed 5-6-52.)

# **CIVIL SERVICE**

## **§ 28 THE CIVIL SERVICE COMMISSION.**

There shall be a Civil Service Commission consisting of three members, who are qualified electors of the city, not more than two of whom shall belong to the same political party, who shall be appointed by the Mayor subject to the approval and confirmation of the Council. Of the members first appointed, one shall hold office for a term of two years; one for a term of four years; and the other for a term of six years; and their successors shall be appointed for terms of six years. The Mayor shall fill all vacancies by appointment for the unexpired term, subject to the approval and confirmation of the Council. The Mayor may at any time remove any civil service commissioner for inefficiency, neglect of duty or malfeasance in office, having first given to such commissioner a copy of the charges against him and an opportunity to be publicly heard in person or by counsel in his own defense; and any such removal shall be final.

## **§ 29 CLASSIFICATION.**

The civil service of the city is hereby divided into the unclassified and the classified service.

The unclassified service shall include:

- (1) All officers elected by the people.
- (2) The Mayor, and all directors of departments.
- (3) The members of all boards or commissions appointed by the Council or the Mayor.
- (4) The Clerk of Council, and such other offices and positions as may be determined and prescribed by the Council.

The classified service shall consist of the police, sanitary police, and fire forces of the city, and such other offices and positions as shall be determined and prescribed by the Council, except as hereinbefore provided.

## **§ 30 APPOINTMENTS AND REMOVALS.**

Appointments and promotions in the classified civil service of the city shall be made according to merit and fitness, to be ascertained by competitive examinations.

No officer or employee in the classified service shall be demoted or removed except for cause and after hearing, and the Council shall provide by ordinance for the enforcement of this provision and also for appeals to the Civil Service Commission from suspensions, demotions and removals by the Mayor. Except as herein otherwise provided, ordinances shall be passed to fix the powers and duties of the Civil Service Commission and to prescribe rules and regulations governing the classified civil service.

## **§ 30-A RESIDENCE REQUIREMENTS; OFFICERS AND EMPLOYEES.**

(a) Except as in this Charter otherwise provided or except as otherwise provided by a majority vote of the Council of the City of East Cleveland, every regular officer or employee of the City of East Cleveland, including members of all city boards and commissions established by the Charter or ordinances of East Cleveland, whether in the classified or unclassified service of the City of East Cleveland, appointed after the effective date of this amendment, shall, at the time of his appointment, or within six months thereafter, be or become a bona fide resident of the City of East Cleveland, and shall remain as such during his term of office or while employed by the City of East Cleveland.

(b) No person shall, in any way, falsify or misstate verbally or in writing any application, paper, document or form, which relates to his employment with the city, that he is a resident of the City of East Cleveland, when in fact he is not a bona fide resident of the City of East Cleveland. Any officer or employee of the City of East Cleveland who is found to have supplied or furnished such false or misleading information concerning his true residence or who fails to become a resident as herein required, or who, being a resident or having become a resident outside of the city, subsequently establishes a residence outside of the city, shall, after notice and hearing, according to law, be discharged from service with the city.

(c) The provisions of this section shall not apply to any officer or employee on the payroll of the City of East Cleveland on the effective date of this section.

(d) If in the event an employee did not move within the stated time, and the Mayor decides to exempt the employee, the Mayor shall provide the reasons for exemption to Council for approval. It shall be the responsibility of Council to either approve or disapprove any request for exemption. In the event that the Council determines to deny the exemption, the employee shall be discharged from service with the city, after notice and hearing, according to law.

(Added 11-5-96.)

(Editor's note: The Ohio Supreme Court in *City of Lima v. State of Ohio* (2009), 122 Ohio St. 3d 155, held that a state statute prohibiting political subdivisions from requiring employees to live within the limits of the municipality overrides local legislation imposing such requirements.)

## **§ 31 RELIEF OF POLICEMEN AND FIREMEN.**

The Council may provide by ordinance for the relief, out of the police or fire funds, of members of the police, fire and sanitary forces temporarily or permanently disabled in the discharge of duty. Nothing in this section shall impair, restrict or

repeal any provision of general law authorizing the levying of taxes to provide for firemen, police and sanitary police pension funds, and to create and perpetuate boards of trustees for the administration of such funds.

## **ELECTIONS**

### **§ 32 TIME OF HOLDING ELECTIONS.**

Regular municipal elections shall be held on the first Tuesday after the first Monday, in November in the odd numbered years. Any matter which, by the terms of the Charter, may be submitted to the electors of the city at any special election may be submitted at a regular municipal election or at any general or primary election.

(Amended 11-3-31)

### **§ 33 BALLOTS.**

The ballots used in all elections provided for in this Charter shall be paper ballots, or mechanical, or other devices for voting not inconsistent with the general election laws of the State of Ohio.

The ballots used in all elections provided for in this Charter shall be without party marks or designations. The names of all candidates for any office shall be placed upon the same ballot and the names shall be rotated in the manner provided by the laws of the State of Ohio.

The full name of all candidates shall be printed on the ballots. If two or more candidates for the same office have the same surname or surnames similar as likely to cause confusion, their residence addresses shall be printed with their names on the ballot. (Amended 11-7-00)

### **§ 33-A VOTING MACHINES.**

(Repealed 5-6-52)

### **§ 34 NOMINATION BY PETITION.**

(Repealed 5-7-85)

### **§ 34-A BALLOTING FOR ARMED FORCES.**

A member of the Armed Forces of the United States or a member of his family shall be entitled to vote in accordance with and pursuant to the procedures of the general election laws of the State of Ohio.

(Amended 11-7-00)

### **§ 35 ACCEPTANCE.**

(This section is no longer operative inasmuch as its provisions are superseded by Ordinance No. 3964, adopted June 5, 1945, pursuant to Section 34-A of this Charter. The provisions of Ordinance No. 3964 are as follows:

Any person whose name has been submitted for candidacy by any such petition shall file his acceptance of such candidacy with the election authorities not later than ninety (90) days previous to such election; otherwise, his name shall not appear upon the ballot.)

### **§ 36 ELECTIONS.**

(Editor's note: The provisions of § 36 were repealed on November 7, 2000.)

### **§ 36-A WOMEN'S SUFFRAGE.**

(Editor's note: The provisions of Section 36-A were repealed on November 7, 2000.)

### **§ 37 STATE LAW PROVISIONS.**

All elections shall be conducted and the result canvassed and certified by the election authorities prescribed by general laws, and all other matters relating to primaries and elections, not herein, or by ordinance of the Council specifically provided for shall be determined by the general election laws of the State.

(Amended 11-7-00)

## **THE INITIATIVE**

### **§ 38 PROPOSED PETITION.**

Any proposed ordinance, including any ordinance for the repeal or amendment of an ordinance then in effect, may be submitted to the Council by petition signed by at least fifteen percent of the total number of voters voting at the last regular



election of municipal officers. All petitions circulated with respect to any proposed ordinance shall be uniform in character, shall contain the proposed ordinance in full, and shall have printed or written thereon the names and addresses of at least five electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purpose hereinafter named.

Each signer of a petition shall sign his name in ink or indelible pencil and shall place on the petition, opposite his name, the date of his signature and his place of residence by street and number. The signatures to any such petition need not all be appended to one paper, but to each such paper there shall be attached an affidavit by the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant and on the date indicated.

### **§ 39 TIME OF FILING.**

All papers comprising a petition shall be assembled and filed with the Clerk of the Council as one instrument, within one hundred and twenty (120) days from the date of the first signature thereon, and when so filed, the Clerk shall submit the same to the Council at its next regular meeting and provision shall be made for public hearings upon the proposed ordinance.

### **§ 40 PETITION FOR ELECTION.**

The Council shall at once proceed to consider such petition and shall take final action thereon within thirty days from the date of submission. If the Council rejects the proposed ordinance, or passes it in a different form from that set forth in the petition, or fails to act finally upon it within the time stated, the committee of the petitioners, by written demand filed with the Clerk of the Council not later than twenty days after final action or inaction by the Council, may require that the proposed ordinance be submitted to a vote of the electors in its original form if, with or prior to such demand, a petition for such election, signed after the final action or inaction of the Council is filed with such Clerk bearing additional signature of five percent of the electors of the city, none of whom were signers of the first petition. Such Clerk shall forthwith cause notice of the filing of such demand and petition to be published in some newspaper of general circulation in the city, and shall also within five days certify to the officers having control of elections the proposed ordinance, stating whether or not a special election is demanded in the petitions, the percentage of voters who voted at the last election of municipal officers who signed the two petitions in the aggregate, and the date on which he published the notice last mentioned.

### **§ 41 TIME OF HOLDING ELECTION.**

If an election is to be held not more than three months nor less than thirty days after the publication of such notice by the Clerk, such proposed ordinance shall be submitted to a vote of the electors at such election. If no election is to be held within the time aforesaid, the election officers shall provide for submitting the proposed ordinance to the electors at a special election to be held not later than sixty days nor earlier than thirty days after the publication of such notice, if the petition for such ordinance and the petition for such election so demand, and if the signers of the two petitions amount in the aggregate to at least twenty-five percent of the total number of voters voting at the last regular election of municipal officers, otherwise the same shall be submitted at the next regular or special election. At least ten days before any such election, the Clerk of the Council shall cause such proposed ordinance to be published.

### **§ 42 BALLOTS.**

The ballots used when voting upon any such proposed ordinance shall state the title of the ordinance to be voted on and below it the two propositions, "For the Ordinance" and "Against the Ordinance." Immediately at the left of each proposition there shall be a square in which by making a cross (X) the voter may vote for or against the proposed ordinance. If a majority of the electors voting on any such proposed ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the city.

### **§ 43 DUTY OF DIRECTOR OF LAW.**

Before any petitioner proposed ordinance is submitted to Council, it may first be submitted to the Director of Law, whose duty it shall be to draft such proposed ordinance in proper legal language, and to render such other service to persons desiring to propose such ordinance as shall be necessary to make the same proper for consideration by the Council.

(Amended 11-7-00)

## **THE REFERENDUM**

### **§ 44 PETITION FOR REFERENDUM.**

No ordinance or resolution passed by the Council, unless it be an emergency measure or the annual appropriation ordinance, shall go into effect until thirty days after its final passage. If, at any time within said thirty days a petition signed by fifteen percent of the total number of voters voting at the last regular election of municipal officers be filed with the Clerk of the Council, requesting that any such ordinance or resolution be submitted to the electors of the city for their approval or rejection, it shall not become operative until the steps indicated herein have been taken. Such petition shall have stated therein the names and addresses of at least five electors as a committee to represent the petitioners.

Referendum petitions need not contain the text of the ordinance or resolution the repeal of which is sought, but shall be subject in all other respects to the requirements for petitions submitting proposed ordinances and resolutions to be Council members. Ballots used in referendum elections shall conform in all respects to those provided for in Section 42 of this Charter.

#### **§ 45 PROCEEDINGS THEREUNDER.**

The Clerk of the Council shall, at its next meeting, present the petition to the Council, which shall proceed to reconsider the ordinance or resolution. If, within thirty days after the filing of such petition, the ordinance or resolution be not repealed or amended as requested by said petition, the Council shall provide for submitting same to a vote of the electors, provided a majority of the Committee named in the petition to represent the petitioners shall by writing filed with the Clerk of the Council within twenty days after the expiration of the said thirty days, so required. In so doing the Council shall be governed by the provisions of Section 41 hereof respecting the time of submission and the manner of voting on ordinances proposed to the Council by petition; excepting that the question of calling a special election for such purpose shall be determined by the demand and number of signers of the petition requesting the repeal or amendment of such ordinance or resolution, which number shall be twenty-five (25) percent of the total number of voters voting at the last regular election of municipal officers; and, excepting further, that the Council may call, and fix the time for a special election for such purpose, if in its judgment the public interest will be prejudiced by delay. If when submitted to vote at such election any such ordinance or resolution be not approved by a majority of those voting thereon, it shall be deemed repealed. Such ordinance or resolution shall not be considered as repealed unless the total number of votes cast upon the ordinance or resolution shall be equal to twenty-five (25) percent of the total number of voters voting at the last regular election of municipal officers. Nothing in this section shall prevent the Council, after the passage of any ordinance or resolution, from proceeding at once to give notice or make any publication required by such ordinance or resolution.

#### **§ 46 LEGISLATION FOR IMPROVEMENTS.**

Whenever the Council is by law required to pass more than one ordinance or resolution to complete legislation necessary to make and pay for any public improvements, the provisions of Section 38 to 47 of this Charter shall apply only to the first ordinance or resolution relating thereto. Ordinances or resolutions providing for the current expenses of the city, or for street improvements petitioned for by a majority of the owners of the property benefited and to be specially assessed for the cost thereof as provided by law, and emergency ordinances or resolutions shall go into immediate effect. Such emergency ordinance or resolution must receive an affirmative vote of four members of the Council, and the reason for such necessity shall be set forth in one section of the ordinance or resolution.

(Amended 11-7-00)

#### **§ 47 INITIATED ORDINANCES SUBJECT TO REFERENDUM; CONFLICT.**

Ordinances submitted to the Council by initiative petition and passed by the Council without change, or passed in an amended form and not required to be submitted to a vote of the electors by the committee of the petitioners shall be subject to the referendum in the same manner as other ordinances. If the provisions of two or more ordinances adopted or approved at the same election conflict, the ordinance or resolution receiving the highest affirmative vote shall prevail.

### **THE RECALL**

#### **§ 48 APPLICATION.**

(Editor's note: The provisions of Section 48 were repealed on November 7, 2000.)

#### **§ 49 RECALL PROCEDURE.**

The procedure to effect the removal of any elected officer of the city shall be initiated by the filing of a petition, with the Clerk of the Council, demanding that the question of removing such officer or officers be submitted to the electors. Such petition shall be signed by the electors of the Municipality who voted in the last regular election of each municipal officer whose recall is sought, respectively, equal in number to at least twenty-five (25) percent of the total number voting at the last regular election of each such municipal officer in which his or her office is contested but all signatures to such petition need not be appended to one paper.

(Amended 11-7-00; Ord. 06-16, passed 7-19-2016)

#### **§ 50 HOW PROCURED.**

Petition papers shall be procured only from the Clerk of the Council, who shall keep a sufficient number of such blank petitions on file for distribution as herein provided. Prior to the issuance of such petition papers, an affidavit shall be made by one or more qualified electors and filed with the Clerk of Council, stating the name of the member or members of the Council, whose removal is sought. The Clerk of the Council, upon issuing any such petition papers to an elector, shall enter in a record, to be kept in his office, the name of the elector to whom issued, the date of such issuance and the number of papers issued and shall certify on each paper the name of the elector to whom issued and the date of issue. No petition paper shall be accepted as part of the petition unless it is so issued and bear such certificate and unless it be filed as provided herein.

## **§ 51 SIGNATURES, REQUIREMENTS OF.**

Each signer of a recall petition shall sign his name in ink or indelible pencil and shall place after his name his place of residence by street and number. To each such petition paper there shall be attached an affidavit of the circulator thereof, stating the number of signers to such part of the petition, and that each signature appended to the paper was made in his presence and is the genuine signature of the person whose name it purports to be.

## **§ 52 FILING.**

All papers comprising a recall petition shall be assembled and filed with the Clerk of the Council, as one instrument, within thirty days after the filing with the Clerk of the Council of the affidavit stating the name of the member or members of Council whose removal is sought.

## **§ 53 NOTICE.**

At the expiration of said period of thirty days, the Clerk of the Council shall certify upon such petition whether the signature of electors thereto amount in number to at least twenty-five (25) percent of the voters voting at the last regular municipal election of officers. If such signatures do amount to such percent, he shall at once serve notice of that fact upon the member or members of the Council designated in the petition, and also deliver to the election authorities a copy of the original petition with his certificate as to the percentage of voters voting at the last regular municipal election of officers who signed the same, and a certificate as to the date of his said notice to the member or members of the Council designated in the petition.

(Amended 11-8-77)

## **§ 54 RECALL ELECTION.**

If a member or members of the Council, or any of them, designate in the petition, file with the Clerk of the Council within five days after said notice from the Clerk of the Council, his or their written resignation, the same shall be irrevocable and the Clerk of the Council shall at once notify the election authorities of the fact and the election authorities shall forthwith order and fix a day for holding a recall election for the removal of those not resigning. Such election shall be held not less than sixty nor more than ninety days after the expiration of the period of five days last mentioned, at the same time as any other general or special election held within such period; but if no general or special election be held within such period, the election authorities shall call a special recall election.

## **§ 55 ROTARY BALLOTS.**

The ballots at such recall election shall conform to the following requirements: With respect to each person whose removal is sought, the question shall be submitted: "Shall (name of person) be removed from the office of Member of the Council by recall?" Immediately following each such question there shall be printed on the ballots the two propositions:

"For the recall of (name of person)."

"Against the recall of (name of person)."

Provided that rotating ballots, as provided in Section 33, shall be used in such recall elections, in so far as the provisions of said Section 33 are applicable thereto.

Immediately to the left of each of the propositions shall be placed a square in which the electors, by making a cross mark (X), may vote for either of such propositions.

## **§ 56 FILLING OF VACANCIES.**

In any such election, if a majority of the votes cast on the question of removal of any member of the Council are affirmative, the person whose removal is sought shall thereupon be deemed removed from office upon the certification of the official canvass of that election to the Council and the vacancy caused by such recall shall be filled by the remainder of the Council according to the provisions of Section 6 of this Charter.

If, however, an election is held for the recall of more than three members of the Council, candidates to succeed them for their unexpired terms shall be voted upon at the same election, and shall be nominated by petitions signed, dated and verified in the manner required for petitions presenting names of candidates for regular municipal elections and similar in form to such petitions, and filed with the election authorities at least thirty days prior to such recall election. But no such nominating petition shall be signed or circulated until after the time has expired for signing the copies of the petition for the recall, and any signatures thereon antedating such time shall not be counted.

## **§ 57 COUNTING THE VOTE.**

Candidates shall not be nominated to succeed any particular member of the Council; but if only one member of the Council is removed at such election, the candidate at such election receiving the highest number of votes shall be declared elected to fill the vacancy; and if more than one member of the Council is removed at such election, such candidates receiving the highest number of votes equal in number to the number of members of the Council removed shall be declared

elected to fill the vacancies; and among the successful candidates, those receiving the greater number of votes shall be declared elected for the longer terms.

#### **§ 58 EFFECT OF RESIGNATIONS.**

No proceedings for the recall of more than three members of the Council at the same election shall be defeated in whole or in part by the resignation of any or all of them, but upon the resignation of any of them the Council shall have power to fill the vacancy until a successor is elected, and the proceedings for the recall and the election of successors shall continue and have the same effect as though there had been no resignation.

#### **§ 59 MISCELLANEOUS PROVISIONS.**

Except as herein otherwise provided, no petition to recall any member of the Council shall be filed within six months after he takes office. No person removed by recall shall be eligible to be elected or appointed to the Council for a period of two years after the date of such recall. The Clerk of the Council shall preserve in his office all papers comprising or connected with a petition for a recall. The method of removal herein provided is in addition to such other methods as are, or may be, provided by general law.

### **APPROPRIATIONS**

#### **§ 60 THE ESTIMATE.**

The fiscal year of the city shall begin on the first day of January of each year. On or before the 15th day of November of each year, the Mayor shall submit to the Council an estimate of the expenditures and revenues of the city departments for the ensuing year. This estimate shall be compiled from detailed information obtained from the several departments on uniform blanks to be furnished by the Mayor and approved by the Council. The classification of the estimate of expenditures shall be as nearly uniform as possible for the main functional divisions of all departments, and shall give the following information:

- (a) A detailed estimate of the expense of conducting each department, as submitted by the department over the signature of the director thereof.
- (b) Expenditures for corresponding items for the last two fiscal years.
- (c) Expenditures for corresponding items for the current fiscal year including adjustments due to transfers between appropriations, plus an estimate of expenditures necessary to complete the current fiscal year.
- (d) Reasons for proposed increase or decrease in such items of expenditure compared with the current fiscal year.
- (e) A detailed inventory of supplies and material on hand and the value thereof at the date of the preparation of the invoice.
- (f) A separate schedule for each department showing the things necessary for the department to do during the year, and which of any desirable things it ought to do if possible.
- (g) Increase or decrease of requests compared with corresponding appropriations for the current fiscal year.
- (h) A statement for the Director of Finance of the total probable income of the city from taxes for the period covered by the Mayor's estimate.
- (i) An itemization of all anticipated revenue from services other than tax levy.
- (j) The amounts required for interest on the city's debt and for sinking funds as required by law.
- (k) The total amount of outstanding city debt with a schedule of maturities of bond issues.
- (l) Such other information as is required by the Council or that the Mayor may deem advisable to submit.
- (m) The recommendation of the Mayor as to the amounts to be appropriated with reasons thereof in such detail as the Council may direct.

The Mayor shall submit the estimate proper to the Council and at least three hundred copies thereof shall be printed, for distribution to citizens who may call for them. Copies of the estimate shall also be furnished to the newspapers of the city and to the two newspapers having the largest circulation in Cuyahoga County, and the public library in the City of East Cleveland.

#### **§ 61 APPROPRIATION ORDINANCE.**

Upon receipt of such estimate, the Council shall at once prepare an appropriation ordinance, in such manner as may be provided by ordinance or resolution, using the Mayor's estimate as a basis. Provision shall be made for public hearings upon the appropriation ordinance before a committee of the whole, and public notice shall be given of such hearing. The Council shall not pass the appropriation ordinance until ten days after such public hearing nor before the first Monday in January.

Section 61-A contained in Ordinance No. 3340, adopted by vote 8-9-38, no longer effective.

Section 61-B contained in Ordinance No. 3534, adopted by vote 5-14-40, no longer effective.

Section 61-C contained in Ordinance No. 3873, adopted by vote 5-9-44, no longer effective.

Section 61-C contained in Ordinance No. 4017, adopted by vote 5-7-46, no longer effective.

Section 61-D contained in Ordinance No. 4475, adopted by vote 11-7-50, no longer effective.

Section 61-E contained in Ordinance No. 5535, adopted by vote 5-5-64.

#### **§ 61-F LIMITATION ON RATE OF TAXATION.**

The aggregate amount of taxes that may be levied by the Council of the City of East Cleveland without a vote of the people on any taxable property assessed and listed for taxation according to value for all purposes of the City of East Cleveland, shall not in any one year exceed twelve and seven-tenths (12.7) mills for each one dollar (\$1.00) of assessed valuation. Of said total maximum levy, an amount shall first be annually levied sufficient to pay the interest, sinking fund and retirement charges on all notes and bonds of the city issued without the authority of the electors, and then an amount shall be levied annually sufficient to pay the costs of, and the accrued liabilities on, the Police and Firemen's Disability and Pension Funds, but not to exceed in any year six-tenths (0.6) mills per one dollar (\$1.00) of assessed valuation. Of the remaining portion of said total maximum levy, an amount not to exceed two (2.0) mills may annually be levied to provide funds for the construction, improvement or acquisition of permanent improvements as now defined in Section 133.01 of the Revised Code of Ohio, and the balance thereof not to exceed ten and one-tenth (10.1) mills may annually be levied for the purpose of paying the current operating expenses of the city. The limitations of this section shall apply only to taxes levied on property in the City of East Cleveland listed and assessed for taxation according to value and shall not be construed as limiting the power of the Council to levy, without a vote of the electors, any other taxes now or hereafter authorized by the Charter of the City of East Cleveland or the Constitution and laws of the State of Ohio.

(Amended 11-4-69)

#### **§ 62 TRANSFER OF FUNDS.**

Upon request of the Mayor, the Council may transfer any part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer of money to be made between items appropriated to the same office or department.

By the votes of three-fourths of all the members elected thereto, the Council may at any time transfer all or a portion of one fund, or a balance remaining therein, to the credit of one or more funds, whether such funds were raised by taxation or otherwise; provided, however, that transfers from funds raised by a special levy, bond issued or loan, may be made for temporary purposes only, and, when such temporary purposes have been accomplished, the amount of such temporary transfer shall be returned to the original fund from which the transfer was made.

(Amended 4-29-24)

#### **§ 63 UNENCUMBERED BALANCES.**

At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriation. Any accruing revenue of the city not appropriated as hereinbefore provided, and any balances at any time remaining after the purposes of appropriation shall have been satisfied or abandoned, may be from time to time appropriated by the Council to such uses as will not conflict with any uses from which such revenues specifically accrued. No money shall be drawn from the treasury of the city nor shall any obligation for the expenditure of money be incurred except pursuant to the appropriations made by the Council.

#### **§ 64 PAYMENT OF CLAIMS.**

No warrant for the payment of any claim shall be issued by the Director of Finance until such claim shall have been approved by the director of the department for which the indebtedness was incurred and by the Mayor. And such officers and their sureties shall be liable to the Municipality for all loss or damage sustained by the Municipality by reason of the corrupt approval of any such claim against the Municipality. Whenever any claim shall be presented to the Director of Finance, he shall have power to require evidence that the amount claimed is justly due and is in conformity to law and ordinance and for that purpose he may summon before him any officer, agent or employee of any department of the Municipality, or any other person, and examine him upon oath or affirmation relative thereto.

#### **§ 65 CERTIFICATION OF FUNDS.**

No contract, agreement or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money be issued by the Council, or be authorized by any officer of the city, unless the Mayor and Director of Finance shall first certify in writing to the Council or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure is in the treasury, to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose, which certificate shall be filed and immediately recorded. The sum so certified shall not thereafter be considered unappropriated until the city is discharged from the contract, agreement or obligation.



## **§ 66 MONEY IN THE FUNDS.**

All moneys actually in the treasury to the credit of the fund from which they are to be drawn, and all moneys applicable to the payment of the obligation or appropriation involved that are anticipated to come into the treasury before the maturity of such contract, agreement, or obligation, from taxes, assessments or license fees or from sales of services, products or by-products of any city undertaking, and moneys to be derived from lawfully authorized bonds sold and in process of delivery, for the purpose of such certificate shall be deemed in the treasury to the credit of the appropriate fund and shall be subject to such certification.

## **§ 67 FINANCIAL REPORTS.**

The Council shall have furnished them on the first day of each calendar month a monthly balance sheet showing in detail all receipts and expenditures of the city for the preceding calendar month, and the aggregate receipts and expenditures of each department shall be published by the Council in such manner as to provide full publicity. At the end of each fiscal year, the Council shall have printed an annual report in pamphlet form giving a classified statement of receipts, expenditures and liabilities of the city; a detailed comparison of such receipts and expenditures with those of the fiscal year preceding; a summary of the proceedings of the Council and a summary of the operations of the administrative departments for the previous twelve calendar months, a copy of this report shall be furnished the State Bureau of Accounting, the Public Library and any citizen of the city who may apply therefor at the office of the Director of Finance.

## **§ 68 SINKING FUNDS.**

The Sinking Fund Commission shall consist of the President of the Council and two other citizens to be appointed by the Council. The President of the Council shall be the president, and the Director of Finance shall be the secretary, of the Sinking Fund Commission. The Sinking Fund Commission shall manage and control the sinking fund in the manner provided by general law until otherwise provided by ordinance.

The Sinking Fund Commission shall invest all moneys received by them in bonds of the United States, the State of Ohio, or of any municipal corporation, school, township, or county in such State, or in notes and certificates of indebtedness of the City of East Cleveland, and shall hold in reserve only such sums as may be needed for effecting the purposes for which the sinking fund was created and is maintained.

(Amended 4-29-24)

## **IMPROVEMENTS - CONTRACTS**

### **§ 69 LIMITATION OF ASSESSMENTS.**

In levying special assessments to pay any part of the cost of any public work or improvement, the Council shall not exceed any limitation as to the amount thereof which is now prescribed by the general laws of the State applicable to municipalities. Unless for special reason which shall be stated in the ordinance levying an assessment or providing for the issue of bonds to pay any part of the cost of any such improvement to be made pursuant to contract, no such ordinance shall be passed, or assessment levied, or money borrowed, until sealed competitive bids for the labor and material have been received and the approximate cost of the improvement determined.

### **§ 70 SEWER, WATER AND GAS CONNECTIONS.**

Before paving or otherwise surfacing or resurfacing any street or alley of the city, the Council shall determine the time within which sewer, water, gas, or other connections shall be constructed, and shall give notice thereof to the persons or corporations required to make the same, and, if such persons or corporations fail to make any such connection when so required, no permission to make the same shall thereafter be granted within five years from the completion of any such street improvement, unless with the consent of four members of the Council, expressed by resolution adopted at a regular meeting of the Council, and stating the reasons therefor and the conditions under which the same shall be made. Nothing herein shall be construed to prohibit the Council from providing that such connections may be made by the city and the cost thereof assessed against the lots and lands specially benefited thereby.

### **§ 71 STREET SPRINKLING AND CLEANING SIDEWALKS.**

The Council may provide by ordinance or resolution for the sprinkling of streets or parts of streets with water, or treating the same with oil, or other dust preventive, and for removing snow and ice from the sidewalks of the city, and for assessing the cost thereof against the abutting property if not paid for by the owners of said property within the time specified in such ordinance or resolution. The Council may also provide by ordinance or resolution for the removal of noxious weeds and rubbish on property within the city and for assessing the cost of such removal against the owner of such property if not paid for by such owner within the time specified by such ordinance and resolution.

### **§ 72 CONTRACTS.**

The Mayor may make any contract or purchase supplies or material, or provide labor for any work in any department, not involving more than Two Thousand Five Hundred Dollars or the amount stipulated by State law, whichever amount is the greater. When any expenditure within any department other than the compensation of persons employed therein, exceeds

Two Thousand Five Hundred Dollars or the amount stipulated by State law, whichever amount is the greater, such expenditure shall first be authorized and directed by ordinance of the Council, and when so authorized and directed the Mayor shall make a written contract with the lowest and best bidder after advertisement for not less than two nor more than four consecutive weeks in a newspaper having a bona fide daily general circulation of 20,000 copies or more within Cuyahoga County, Ohio. All bids shall be sealed and shall be opened at twelve o'clock noon on the last day for filing the same by the Mayor at his office in the City of East Cleveland, Ohio, and be publicly read by him. Each bid shall contain the full name of every person or company interested in the same, and shall be accompanied by a sufficient bond or certified check on some solvent bank that if the bid is accepted a contract will be entered into and the performance of it properly secured. If the work bid for embraces both labor and material, they shall be separately stated with the price thereof. The Mayor shall report all the bids to the Council at its next regular meeting and shall recommend which, if any, bid shall be accepted. The Council, regardless of the recommendation of the Mayor, may reject any or all bids. No such contract shall be entered into by the Mayor until the approval thereof by the Council has been first had and obtained.

The contract shall be between the Corporation and the bidder, and the Corporation shall pay the contract price in cash. Where a bonus is offered for completion of a contract prior to a specified date, the Corporation may exact a pro rata penalty in like sum for every day of delay beyond the specified date. Where there is reason to believe there is collusion or combination among bidders, the Mayor shall reject the bids of those concerned therein.

Whenever it becomes necessary in the opinion of the Mayor in the prosecution of any work or improvement under contract to make alterations or modifications in such contract, such alterations or modifications shall only be made by such Mayor after the same have been authorized by resolution or ordinance of the Council; but such resolution shall be of no effect until the price to be paid for the work and material, or both, under the altered or modified contract, has been agreed upon in writing and signed by the contractor and the Mayor on behalf of the corporation. And no contractor shall be allowed to recover anything for work or material, caused by an alteration or modification unless such contract is made as aforesaid; nor shall he, in any case, be allowed, or recover for such work and material, or either, more than the agreed price.

The Council may authorize, in specific cases, expenditures of the funds of the city in amounts exceeding the limit hereinabove stated, without bidding, for the acquisition of real estate, for the discharge of non-contractual claims against the city, for personal services, for the joint use of facilities or exercises of powers with other political subdivisions, for the product or services of public utilities (including those municipally operated) or in the case of urgent emergency, for the immediate protection of public property or public safety.

(Amended 11-8-77)

#### **§ 73 TIME OF MAKING CONTRACTS.**

The Council shall not authorize or enter into any contract which is not to go into full operation during the term for which all members of such Council are elected.

#### **§ 74 BIDS IN EXCESS OF ESTIMATE.**

No contract shall be awarded upon bids which as a whole, or in aggregate, if bids for parts of the work are taken, exceed the estimate for the improvement contemplated.

#### **§ 75 CONTRACTS - WHEN VOID.**

All contracts, agreements or other obligations entered into and all ordinances passed or resolutions and orders adopted contrary to the provisions of the preceding section shall be void.

### **FRANCHISES**

#### **§ 76 GRANTS LIMITED.**

No grant, or renewal thereof, to construct and operate a public utility in, on, under or above the streets and public grounds of the city shall be made by the Council to any person, persons, association, or corporation in violation of any of the limitations contained in this Charter.

#### **§ 77 PERIOD OF GRANTS.**

No such grant shall be made for a longer period than twenty-five years. No such grant shall be renewed earlier than two years prior to its expiration unless the Council shall by vote of at least four of its members first declare by ordinance its intention of considering a renewal thereof. All grants of the right to make extensions of any public utility shall be subject as far as practicable to the terms of the original grant and shall expire therewith.

#### **§ 78 ASSIGNMENT.**

No such grant shall be leased, assigned or otherwise alienated except with the express consent of the Council.

#### **§ 79 EXTENSION BY ANNEXATION.**

It shall be provided in every such grant that upon the annexation of any territory to this city the portion of any such utility

that may be located within such annexed territory and upon the streets, alleys or public grounds thereof, shall thereafter be subject to all the terms of the grant as though it were an extension made thereof.

#### **§ 80 CONSENTS.**

No consent of the owner or property abutting on any highway or public ground shall be required for the construction, extension, maintenance or operation of any public utility by original grant or renewal, unless such public utility is of such a character that its construction or operation is an additional burden upon the rights of the property owners in such highways or public grounds.

#### **§ 81 REGULATIONS.**

The Council shall at all times control the distribution of space in, over, under or across all streets or public grounds occupied by public utility fixtures. All rights granted for the construction and operation of public utilities shall be subject to the continuing right of the Council to require such reconstruction, relocation, change or discontinuance of the appliances used by the utility in the streets, alleys, avenues and highways of the city, as shall in the opinion of the Council be necessary in the public interest.

#### **§ 82 FORFEITURES.**

If any action shall be instituted or prosecuted directly or indirectly by the grantee of any such grant, or by its stockholders or creditors, to set aside or have declared void any of the terms of such grant, the whole of such grant may be thereupon forfeited and annulled at the option of the Council, to be expressed by ordinance. All such grants shall make provision for the declaration of a forfeiture by the Council for the violation by the grantee of any of the terms thereof.

#### **§ 83 PAVING AND SPRINKLING.**

The Council, by resolution, may require the owner or operator of any railway, railroad or spur track lying within the street limits to lay, maintain and renew the pavements between the rails, and the tracks, and for a distance of one foot outside of the tracks, and to remove snow and ice therefrom, and to sprinkle the roadway to a width of not more than fifty feet, and upon failure of any such owner or operator to comply with the provisions of such resolution after sixty days' notice to the person having charge or management of such railway, railroad or spur track in the city, the city may do said work directly or by contract, as in the case of other improvements, at the expense of the owner or operator of such tracks, and all such expenses shall be reported by the Mayor to the Council, and shall be charged against such owner or operator and be a lien upon all the real estate and lease hold interest of such owner or operator within the County of Cuyahoga, and such charge and cost, together with a penalty of twenty-five dollars for each and every day of failure on the part of such owner or operator to comply with the requirements of such resolution, may be collected in any court of competent jurisdiction, or the lien enforced in the manner provided by law.

#### **§ 84 ACCOUNTS AND REPORTS.**

Every person or corporation operating a public utility within the city limits, whether under a grant heretofore or hereafter obtained, shall keep and maintain at some place within the County of Cuyahoga suitable and complete books of account, showing in detail the assets, financial obligations, gross revenue, net profits and all the operations of such utility which are usually shown by a complete system of bookkeeping. Each person or corporation, operating under a city franchise, within sixty days after the end of each of its fiscal years, unless the Council shall extend the time, shall file with the Council a report for the preceding fiscal year showing the gross revenue, the net profits, expenses of repairs, betterments and additions, amount paid for salaries, amount paid for interest and discount, other expenses of operation, and such other information, if any, as the Council from time to time may prescribe. The Council may also prescribe the form for such reports.

It shall be the duty of each person or corporation to furnish the Council such supplementary or special information about its affairs as the Council may demand; and the Council, or its authorized representative, shall at any and all reasonable times have access to all the books, records, and papers of each and every person or corporation, with the privilege of making copies of same or any part thereof. The duties herein prescribed may be specifically enforced by appropriate legal proceedings; and in addition, each such person or corporation, for failure to comply with the provisions of this section, shall be liable to the City of East Cleveland, Ohio, in the sum of twenty-five dollars per day of such failure, to be recovered in a civil action in the name of the city.

#### **§ 85 GRANTS NOT INCLUDED.**

Revocable permits for laying spur tracks across or along streets, alleys or public grounds, to connect a steam or electric railroad with any property in need of switching facilities shall not be regarded as a grant within the meaning of this Charter, but may be permitted in accordance with such terms and conditions as the Council may by ordinance prescribe.

#### **§ 85-A CITY PLANNING COMMISSION.**

The Council of the City of East Cleveland shall establish and appoint a City Planning Commission consisting of five (5) members consisting of the Mayor, who shall act as Chairman, two (2) members of the Mayor's staff to be appointed by the Mayor with the approval of the Council, and two (2) citizen members who shall be appointed by the Council who shall serve



until their successors are appointed and qualified. The two citizen members shall be qualified electors of the city and shall not be employees of the city. The term of the citizen appointed members shall be for two (2) years except as to the first appointments provided for hereunder in which one of the citizen appointees shall be appointed for a term of one (1) year only. Vacancies of the City Planning Commission by citizen appointees shall be filled by the Council by appointment for the unexpired terms. The Mayor shall have the power to remove and replace start appointees with the approval of the Council. The City Engineer shall act as Secretary. The City Planning Commission shall be the platting commission, and all the powers and duties provided by law for platting commissioner or commissioners shall upon the appointment of said City Planning Commission under this Charter, be deemed transferred to such Commission. The City Planning Commission shall have the powers and duties to make plans and maps of any portion of the city.

Such plans and maps shall show the Commission's recommendations for the general location, character and extent of streets, alleys, ways, viaducts, bridges, subways, boulevards, parkways, parks, playgrounds and other public grounds, ways and open spaces; the general location of public buildings and other public property; the general location and extent of public utilities and terminal, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes; and the removal, relocation, widening, narrowing, vacating, abandonment, change of use of or extension of such public ways, grounds, open spaces, buildings, property, utilities, or terminals. The City Planning Commission shall systematically plan the relocation and development of the City of East Cleveland and shall make recommendations to the Council of the City of East Cleveland concerning the location, character and extent of a comprehensive plan for the progress and the proper development of the City of East Cleveland.

The Commission shall have the power to recommend the preservation of historical land marks and works of art, the removal, relocation and alterations of such works belonging to the Municipality and the design of any bridges, viaducts, street fixtures or public structures or appurtenances.

The power and duties of the City Planning Commission shall be to make recommendations to the Council, and the Council of the City of East Cleveland shall have full power and authority to accept, modify, change and otherwise adopt or refuse to adopt the recommendations of the City Planning Commission, and nothing herein contained shall be construed as authorizing or intending to transfer the complete control of the parks, streets, bridges, viaducts and other public property from the exclusive control of the Council of the City of East Cleveland.

(Amended 11-7-72)

#### **§ 85-B DISTRICTING OR ZONING.**

The Council of the City of East Cleveland shall by ordinance provide for the districting or zoning of the City of East Cleveland to promote the public health, safety, convenience, comfort, morals, prosperity and general welfare, including the promotion of home ownership, the protection of residence sections, the prevention of congestion, the increasing of trade and industrial efficiency, the conservation of property values, the assurance of adequate light and air, and the limitation, control and regulation of buildings in the city in accordance with a well established plan of use, height, size and area for all property and its development in the City of East Cleveland.

Districting and zoning shall include provisions to regulate, restrict and specify the locations of trades, industries, apartment houses, dwellings and other use of property, the number of square feet of lot area per family, the size of buildings or parts thereof, the location and size of side, front and rear yards, and the height of buildings; shall provide for the division of the city into use districts, height districts and area districts; shall provide for the alignment or setback of buildings and other structures; and shall provide maps showing said districts and structure alignment or setback.

Nothing herein shall be construed to limit the Council in the exercise of all the powers to zone or re-district now or hereafter authorized by the Constitution or statutes of the State of Ohio.

The plan or plans providing for the control, limitations and regulations of building lines or setback building lines may be incorporated in a separate ordinance as part of the zoning plan and subject to all of the Board of Zoning Appeals provisions of this Charter.

The districting or zoning ordinance shall provide for a Board of Zoning Appeals which shall consist of the Mayor, who shall act as Chairman, the Director of Health, the Chief of the Police Department, the Chief of the Fire Department, all of whom shall serve until their successors are appointed and qualified, and a member of the Mayor's staff, other than the City Engineer, to be appointed by the Mayor, with the approval of the Council. The City Engineer shall act as Secretary. All meetings of the Board of Zoning Appeals shall be public. Public notice shall be given of hearings on any appeals from the decisions of department heads by the posting of a notice on the bulletin board in the main entrance of the City Hall for a period of at least three (3) days, together with such additional notice, if any, that the Board of Zoning Appeals shall deem necessary. The Board of Zoning Appeals shall keep minutes of its proceedings.

The Board of Zoning Appeals shall determine all matters properly presented to it and where practical difficulties and unnecessary hardships shall result from the strict compliance with or the enforcement of the provisions of the districting or zoning ordinance, the Board of Zoning Appeals shall have the power to grant variances in harmony with the general intent of the ordinance and to secure the general welfare and substantial justice in the promotion of the public health, comfort, convenience, morals, safety and general welfare of the City of East Cleveland. The Council of the City of East Cleveland shall have the power to approve, amend, modify or reverse any decision of the Board of Zoning Appeals if the Council finds that the decision of the Board of Zoning Appeals is contrary to the purpose and intent of the provisions of the districting or zoning ordinance.

The Council of the City of East Cleveland may from time to time amend, repeal or adopt any or all of the provisions of the districting or zoning ordinance, but no amendment, repeal or adoption shall be passed until the Council shall have held a public hearing thereon and shall have given at least five (5) days' notice of the time and place thereof in a newspaper of general circulation in the Municipality, and during said five (5) days the text or a copy of the text of such amendment, repeal or adoption, together with the maps or plans or copies thereof forming part of or referred to in said ordinance, measure or regulation, shall be on file with the Clerk of the Council for public examination and a copy of the text of such amendment, repeal or adoption shall be placed on the bulletin board in the main entrance of the City Hall.

(Amended 11-7-72)

## **§ 86 GENERAL PROVISIONS.**

Nothing in this Charter contained shall operate in any way, except as herein specifically stated, to limit the Council in the exercise of any of its lawful powers respecting public utilities, or to prohibit the Council from imposing in any such grant such further restrictions and provisions as it may deem to be in the public interest, provided only that the same are not inconsistent with the provisions of this Charter or the Constitution of the State.

## **MISCELLANEOUS PROVISIONS**

### **§ 87 GENERAL LAWS TO APPLY.**

All general laws of the State applicable to municipal corporations now or hereafter enacted, and which are not in conflict or inconsistent with the provisions of this Charter, or with ordinances or resolutions hereafter enacted by the Council, shall be applicable to this city and all officers and departments thereof; provided, however, that nothing contained in this Charter shall be construed as limiting the power of the Council to enact any ordinance or resolution not in conflict with the Constitution of the State or with the express provisions of this Charter.

(Amended 5-6-52)

### **§ 88 ORDINANCES CONTINUED IN FORCE.**

All ordinances and resolutions in force at time of the taking effect of this Charter, not inconsistent with its provisions, shall continue in full force and effect until amended or repealed.

### **§ 89 CONTINUANCE OF PRESENT OFFICERS.**

All persons holding office at the time this Charter goes into effect shall continue in office, and in the performance of their duties until provision shall have been otherwise made in accordance with this Charter for the performance or discontinuance of the duties of any such office. When such provision shall have been made, the term of any such officer shall expire and the office be deemed abolished. The powers which are conferred and the duties which are imposed upon any officer, commission, board or department of the city under the laws of the State, or under any city ordinance or contract in force at the time of the taking effect of this act shall, if such office, commission, board or department is abolished by this Charter, be thereafter exercised and discharged by the officer, commission, board or department upon whom are imposed corresponding functions, powers and duties by this Charter or by any ordinance or resolution of the Council thereafter enacted.

### **§ 90 CONTINUANCE OF CONTRACTS AND VESTED RIGHTS.**

All vested rights of the city shall continue to be vested in the city and shall not in any manner be affected by the adoption of this Charter; nor shall any right or liability, or pending suit or prosecution, either in behalf of or against the city, be in any manner affected by the adoption of this Charter, unless otherwise herein expressly provided to the contrary. All contracts entered into by the city or for its benefit prior to the taking effect of this Charter shall continue in full force and effect. All public work begun prior to the taking effect of this Charter shall be continued and perfected thereunder. Public improvements for which legislative steps shall have been taken, under laws in force at the time this Charter takes effect may be carried to completion in accordance with the provisions of such laws.

### **§ 91 INVESTIGATION.**

The Council, or any committee thereof, Mayor and any advisory board appointed by the Council for such purpose, shall have power at any time to cause the affairs of any department or the conduct of any officer or employee to be investigated; and for such purpose shall have power to compel the attendance of witnesses and the production of books, papers and other evidence; and for that purpose may issue subpoenas or attachments which shall be signed by the president or chairman of the body or by the officer making the investigation, and shall be served by any officer authorized by law to serve such process. The authority making such investigation shall also have power to cause the testimony to be given under oath administered by some officer authorized by general law to administer oaths; and shall also have power to punish as for contempt any person refusing to testify to any fact within his knowledge, or to produce any books, or papers under his control, relating to the matter under investigation.

### **§ 92 OATH OF OFFICE.**

Every officer of the city shall, before entering upon the duties of his office, take and subscribe an oath or affirmation, to be filed and kept in the office of the Clerk of the Council, that he will in all respects faithfully discharge the duties of his office.

### **§ 93 HOURS OF LABOR.**

Except in case of extraordinary emergencies, not to exceed eight hours shall constitute a day's work, and not to exceed forty-eight hours a week's work, for workmen engaged on any public work carried on or aided by the Municipality, whether done by contract or otherwise. The Council shall, by ordinance, provide for the enforcement of the provisions of this section.

### **§ 94 AMENDMENTS.**

Amendments to this Charter may be submitted to the electors of the city by a four-fifths vote of the Council, and shall be submitted by the Council when a petition signed by ten (10) percent of the total number of voters voting at the last regular election of municipal officers of the city, setting forth any such proposed amendment, shall have been filed in the manner and form prescribed herein for the submission of ordinances by an initiative petition. The amendment shall be submitted to the electors at the next regular municipal election if one shall occur not less than sixty (60) nor more than one hundred and twenty (120) days after its passage; otherwise, it shall provide for the submission of the amendment at a special election to be called and held within the time aforesaid. Not less than thirty (30) days prior to such election, the Clerk of the Council shall mail a copy of the proposed amendment to each elector whose name appears upon the registration or poll books of the last regular municipal or general election, or the full text of the proposed Charter amendment shall be published once a week for not less than two (2) consecutive weeks in a newspaper published in the city, or in a newspaper of general circulation if no newspaper is published therein, with the first publication being at least fifteen (15) days prior to the election at which the amendment is to be submitted to the electors, whichever method the Council shall elect. If such proposed amendment be approved by a majority of the electors voting thereon, it shall become a part of the Charter at the time fixed therein.

(Amended 11-7-72)

### **§ 94-A CHARTER REVIEW COMMISSION.**

(Repealed 5-7-85)

### **§ 95 SAVING CLAUSE.**

If any section or part of a section of this Charter is determined by a court of competent jurisdiction to be invalid, it shall not invalidate or impair the force or effect of any other section or part of a section of this Charter, except in so far as such other section or part of a section is dependent for its operation upon the section or part of a section so held invalid.

### **§ 96 WHEN CHARTER TAKES EFFECT.**

For the purpose of nominating and electing officers, holding and conducting all municipal elections, and determining and establishing the right to vote at said elections, this Charter shall take effect from the time of its approval by the electors of the city; and for all other purposes, it shall take effect on the 1st day of January, 1918.

## **ABOLISHMENT OF THE COMMISSION AND OFFICE OF CITY MANAGER**

### **§ 97 ABOLISHMENT OF CITY COMMISSION AND OFFICE OF CITY MANAGER.**

The office of City Manager and each and every office of member of the Commission, including the offices of President and Vice-President of the Commission, and the Commission itself established heretofore by Sections 3 and 8 of the Charter of the City of East Cleveland, are hereby abolished, dissolved, and divested of all power to act on behalf of or in the name of the City of East Cleveland or otherwise as heretofore invested therein by the aforesaid charter, by law, or otherwise. Presently elected members of the Commission shall be entitled to the salary established for their office for the balance of the elected term in which they are presently serving, except to the extent that any of such members are appointed or elected to other office or employment with the city and receive compensation therefor from the city, which compensation shall be a complete set-off against any compensation due under this section or otherwise for salary or compensation as a member of the Commission.

(Adopted 5-7-85)

## **THE COUNCIL**

### **§ 98 THE COUNCIL; POWERS; ELECTION AND TERM OF OFFICE.**

A. Council - Powers: The legislative power of the city, except as limited by this Charter, shall be vested in a Council consisting of five members. Commencing with the regular municipal election to be held in the year 2001, three members of Council shall, in each case, be resident of and elected from each of the three wards of the city, which currently are established and existing pursuant to the general election laws of the State of Ohio and may from time to time be changed pursuant to such laws, and two of whom shall be elected at large. When not prescribed in this Charter, or determined by Council, such powers shall be exercised in such manner as may or hereafter be provided by the general laws of the State of Ohio.

B. Council - Election and Term of Office: The terms of all members elected to Council shall be for four years, starting January 1, 2002, following their election, and they shall serve until their successors are chosen and qualified; provided, however, that Council members elected in the year 2001 to an at large membership by receiving the second highest number of votes and to a ward membership by receiving the third highest number of votes in their respective categories (in cases of a tie in the respective categories, there shall be a special election in the year 2002 for the sole purpose of determining which members of the respective categories shall serve four-year terms) shall be elected for a two-year term expiring in the year 2003 and the two Council members elected in 2003 and their successors shall thereafter serve for four-year terms. The candidates for election to the vacancies in the office of Council member receiving the highest number of votes at such regular elections shall be declared elected.

(Amended 11-7-00)

#### **§ 99 QUALIFICATION OF MEMBERS.**

Each member of the Council, for at least one year immediately prior to his or her election shall have been, and during the term of office shall continue to be, a resident of the City of East Cleveland, Ohio, and shall have the qualifications of an elector therein. No person shall be a member of Council who holds any employment with the City of East Cleveland, the East Cleveland Board of Education, or other incompatible public employment or holds other public office except that of notary public or member of the State Militia.

Any member becoming guilty of gross misconduct or malfeasance in office, being convicted of a crime involving moral turpitude while in office, or ceasing to possess the qualifications herein provided, shall thereby forfeit his office.

The Council shall be judge of the election and qualifications of its own members. It may expel any member for gross misconduct, or malfeasance in, or disqualification for office or for conviction of a crime involving moral turpitude while in office; provided, however, that such expulsion shall not take place without the concurrence of four members nor until the delinquent member shall have been notified of the charge against him and given an opportunity to be heard.

(Amended 5-3-88)

#### **§ 100 VACANCY.**

When the office of a member of Council shall become vacant, the vacancy shall be filled by election for the unexpired term by a majority vote of all the remaining members of the Council. If the Council fails within 30 days to fill such a vacancy, the President of Council shall fill it by appointment.

(Adopted 5-7-85)

#### **§ 101 SALARY.**

Each member of the Council, except the President, shall receive a salary of Four Thousand Five Hundred Dollars (\$4,500.00) per year and the President of the Council shall receive a salary of Six Thousand Dollars (\$6,000.00) per year, payable in equal monthly installments.

(Adopted 5-7-85)

#### **§ 102 ORGANIZATION OF COUNCIL.**

At 7:30 p.m. on the 2nd day of January, following a regular municipal election, or if such date be a Sunday, on the day following, the incoming Council members as well as Council members continuing in office shall meet at a mutually agreed upon place by the Mayor and the Council as the legislative body of the City of East Cleveland. The Mayor, or Mayor's designee, shall call this meeting and shall preside as temporary chairperson only until all Council members have been sworn in and the President of Council has been elected. The first official business meeting of the incoming Council shall be within five (5) business days after the commencement of their term. The President of Council, in addition to the Council's obligations, rights, and duties as a Councilperson at large, shall preside at all meetings and shall perform such duties as may be imposed upon him or her by the Council. In the absence of both the President and Vice President of the Council, the senior-most member of Council shall be chairperson of the meeting, provided a quorum is present. The Council shall also choose or appoint a Clerk and such other officers and employees of the sitting Council as it deems necessary, to serve at the pleasure and during the term of the sitting Council. The Clerk shall keep the records of the Council and perform such other duties as may be required by this Charter or the Council but within the scope of the Council's daily business.

(Amended 11-7-00)

#### **§ 103 TIME OF MEETINGS; PUBLIC MEETINGS; EXCEPTIONS.**

(a) The Council shall meet at such times as may be prescribed by ordinance or resolution, except that it shall meet regularly only during the months from September through June, inclusive, not less than once each two weeks. The President, any two members of the Council, or the Mayor, may call special meetings of the Council, upon at least twelve hours' written notice to each member, served personally or left at his or her usual place of residence.

(b) All meetings of the public bodies of the city and of the Council, whether regular or special, shall be open and public,

except for the purposes and as permitted by the law of Ohio.

(c) Any citizen may have access to the minutes and records of the Council at all reasonable times.

(d) The Council shall determine its own rules and order of business and shall keep a journal of its proceedings.

(e) This section shall be liberally construed to require public officials to take official action and to Conduct all deliberations upon official business only in open meetings, except for the purposes and as provided by the law of Ohio as provided within this Charter.

(Amended 11-6-90)

#### **§ 104 PENALTY FOR ABSENCE.**

Absence from five consecutive regular meetings shall operate to vacate the seat of a member unless the absence is excused by the Council by resolution setting forth such excuse and entered upon the journal.

(Adopted 5-7-85)

#### **§ 105 LEGISLATIVE PROCEDURE.**

A majority of all the members elected to the Council shall constitute a quorum, but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The Council shall legislatively act only by ordinance or resolution. The affirmative vote of at least three members shall be necessary to adopt any ordinance or resolution; and the vote upon the passage of all ordinances and resolutions shall be taken by "yeas" and "nays" and entered upon the journal.

(Adopted 5-7-85)

#### **§ 106 ORDINANCE ENACTMENT.**

Each proposed ordinance or resolution shall be introduced in written or printed form and shall not contain more than one subject, which shall be clearly stated in the title. General appropriation ordinances may, however, contain the various subjects and accounts for which moneys are to be appropriated. The enacting clause of all ordinances passed by the Council shall be: "Be it ordained by the Council of the City of East Cleveland, Ohio". The enacting clause of all ordinances submitted to popular election by the initiative shall be: "Be it ordained by the people of the City of East Cleveland, Ohio."

No ordinance, unless it be an emergency measure, shall be passed until it has been read at two regular meetings not less than two weeks apart, or the requirement of such reading has been dispensed with by the vote of at least four members of the Council. No ordinance or resolution or section thereof shall be revised or amended, unless the new ordinance or resolution contain the entire ordinance or resolution or section so revised or amended.

No resolution declaring it necessary to proceed with any public improvement shall be adopted until complete drawings, specifications, profiles and estimates have been submitted to the Council and approved by it; and the same, or a copy thereof, shall thereafter remain on file in the office of the Mayor, subject to inspection by the public.

(Adopted 5-7-85)

#### **§ 107 EMERGENCY MEASURES.**

All ordinances and resolutions passed by the Council shall be in effect on and after the thirtieth day from the date of their passage except that the Council may, by the vote of four members, pass emergency measures to take effect at the time indicated therein, subject to the veto power of the Mayor.

An emergency measure is an ordinance or resolution providing for the immediate preservation of the public peace, property, health or safety, in which the emergency is set forth and defined in a preamble thereto. Ordinances appropriating money may be passed as emergency measures. No measure making a grant, renewal or extension of a lease for one or more years or franchise or other special privilege, or regulating the rate to be charged for its service by any public utility, shall ever be passed as an emergency measure.

(Adopted 5-7-85)

#### **§ 108 RECORD AND PUBLICATION.**

Every ordinance or resolution upon its final passage shall be recorded in a journal kept for that purpose, and shall be authenticated by the signatures of the President and the Clerk of Council.

Every ordinance or resolution of a general or permanent nature shall be published once within ten (10) business days after its final passage in the manner hereafter provided. City planning or any other municipal codes or regulations or the general codification of city ordinances or amendments of such codes, regulations or codifications shall be published within ten (10) business days after the passage by a notice containing in general terms only the purpose, the date of the passage, and the effective date of such ordinance and resolutions.



Further, copies of such ordinances and resolutions shall be on file with the Clerk of Council for public examination and placed on the bulletin board in the main entrance of City Hall for at least fourteen (14) days.

The Council shall, however, before issuing bonds to pay for any public improvement, publish a notice headed, "Notice of Bond Issue for Public Improvement", describing said improvement in general terms and setting forth the time within which assessments of property specially benefited may be paid in cash, and the period of maturity and the rate of interest of said bonds for that portion of the assessment not so paid in cash.

(Amended 11-7-00)

#### **§ 109 PRICE AND MODE OF PUBLICATION.**

All the above mentioned publications, as well as all other newspaper publications made by the city, except as hereinafter provided, shall be published where legally permissible but once and in one newspaper of general circulation in the city, printed in the English language, to be designated by the Council. Before designating the newspaper to carry such publications, the Council shall request all such newspapers to submit sealed bids for such publishing, together with their published rate card for commercial advertising, and a sworn statement of their bona fide net paid circulation within the City of East Cleveland, and in making such designation the Council shall take into consideration both the rate and circulation of the newspaper, and the city shall thereupon enter into a contract with the newspaper so designated for such period of time, not exceeding three years, as the Commission shall determine.

All such publications shall be set solid in the regular reading type of the newspaper so designated, but not larger than eight-point type and nine-point body, with an eighteen point headline specifying the nature of the publication; provided that by order of the Council special notices or advertising may be set in larger type than above specified, and notice of the sale of bonds may be published in not to exceed two newspapers. The newspaper carrying any or all of such publications shall be paid for the quantity of space used at a rate no higher than it charges for the same space for commercial display advertising. Whenever it may appear to the Council that the rates offered by such newspapers are unfair, such other means of securing due publicity may be employed, in lieu of newspaper advertising, as the Council may by resolution determine.

(Adopted 5-7-85)

#### **§ 110 SALARIES AND BONDS.**

The Council shall fix by ordinance, the salary, rate, or amount of compensation of all officers and employees of the city, except as otherwise provided in this Charter. The Council may establish minimum employment qualifications not otherwise in conflict with general State Law for any officer or employee, except for the Mayor and the members of Council and as is otherwise provided in the Charter or required by law and may require any officer or employee to give a bond for the faithful performance of his duty in such an amount as it may determine and it may provide that the premium thereof shall be paid by the city. The Council shall establish and require that the Finance Director give a bond for the faithful performance of his or her duties, in such amount as determined appropriate by Council and shall provide that the premium thereof shall be paid by the city.

(Adopted 5-7-85)

#### **§ 111 GENERAL DISQUALIFICATIONS.**

No member of the Council, the Mayor, or any other officer or employee of the city, shall be directly or indirectly interested in any contract, job, work or service with or for the city; nor in the profits or emoluments thereof; nor in the expenditure of any money on the part of the city; and any contract with the city in which any officer or employee is, or becomes interested, may be declared void by the Council.

No member of the Council, the Mayor, or other officer or employee of the city shall knowingly accept any gift, frank, free ticket pass, reduced price or reduced rate of service from any person, firm, or corporation operating a public utility or engaged in business of a public nature within the city; or from any person known to him to have or to be endeavoring to secure, a contract with the city. The provisions of this section shall not apply to the transportation of policemen or firemen in uniform or wearing their official badges, when the same is provided for by ordinance.

(Adopted 5-7-85)

### **THE MAYOR**

#### **§ 112 MAYOR; QUALIFICATIONS AND TERM OF OFFICE.**

A. Qualifications: The Mayor shall have been, for at least two (2) consecutive years immediately prior to his or her election or appointment, a resident and qualified elector of the City of East Cleveland. During his or her term, the Mayor shall remain a resident and qualified elector of the city and shall carry out his duties on a full-time basis.

B. Term of Office: The term of the Mayor shall be for four (4) years beginning January 1 next following his or her election, and he or she shall hold office until his or her successor is elected and qualified.

(Amended 11-7-00)

## **§ 113 POWERS OF THE MAYOR.**

A. General Powers and Duties: The Mayor shall be the chief executive officer of the city, responsible for carrying out and fulfilling the intent and purpose of any and all legislation duly passed by the Council. The Mayor shall supervise the administration of all the affairs of the city and the conduct and administration of all departments and divisions thereof, except the Council and as otherwise provided by this Charter, and the Mayor shall have all such powers as are conferred upon Mayors by the laws of the State of Ohio.

The Mayor shall be the chief conservator of the peace within the city and shall see that all laws, resolutions, and ordinances are enforced therein.

The Mayor shall at all times keep the Council fully advised of the financial conditions and needs of the city and shall recommend to the Council such measures as he or she may deem necessary or expedient for the safety and welfare of the city and shall submit to the Council the estimate provided for in Section 60 of the Charter. During the month of February of each year, the Mayor shall prepare and present to Council a state of the city report summarizing the accomplishments of the preceding year together with proposed programs for succeeding years.

The Mayor shall be the official and ceremonial head of the city.

The Mayor shall perform such other duties as may be prescribed by this Charter or required of him or her by Council.

B. Mayor's Appointing Powers: The Mayor shall appoint all officers and employees of the city, except members, officers, and employees of the Council and judges and their assistants. All persons appointed by the Mayor, except those whose terms are fixed by this Charter or by law, may be promoted, demoted, transferred, or removed by the Mayor subject, however, to the Civil Service provisions of this Charter, when applicable. The foregoing appointive powers of the Mayor may be delegated by him or her to the directors of any department or to the heads of divisions. Such power of removal shall be exercised over a member of a board or commission after complaint and hearing, only for neglect of duty, incapacity, incompetency, or malfeasance in office.

C. Mayor's Contracting Powers: The Mayor shall be the contracting officer of the city and shall award and execute all contracts on behalf of the city, except that is otherwise provided in the Charter and except that Council may also authorize contracts. When awarding contracts, the Mayor shall follow the procedures established pursuant to Section 72 of this Charter, with respect to competitive bidding and other matters.

D. Mayor's Right in Council: The Mayor shall be entitled to a seat in, but not on, the Council, and, along with the Finance Director, Law Director, and such other department heads as directed by the Mayor, shall attend or be represented at all meetings of Council. The Mayor have the right to recommend ordinances, resolutions, and motions and the right to participate in the discussion of all matters coming before Council, but shall not vote in Council. At the request of the Mayor, the heads of the respective departments shall be given an opportunity to participate in the deliberations of Council on the legislation pertaining to their department, but shall have no vote.

E. Mayor's Veto Powers: Every ordinance and resolution passed by the Council shall be signed by its President or Vice President and shall be presented forthwith to the Mayor by the Clerk. If the Mayor approves such ordinance or resolution, he or she shall sign and return it. But if the Mayor does not approve it, he or she shall return it with a statement of his or her objections to the Council who shall enter the Mayor's objections in its journal. The Council may then reconsider the vote on the passage of such legislation not later than at its next regular meeting. If upon reconsideration, it is approved by four-fifths (4/5) of the members of Council, it shall become effective. If any ordinance or resolution shall not be returned by the Mayor within seven days after it was presented to him or her, it shall become effective in the same manner as if the Mayor had signed it on the last day of the seven-day period. The Mayor may approve or disapprove the whole of any item or part of any ordinance or resolution appropriating money, and the whole item or part so disapproved shall be void unless repassed by the Council in the manner herein prescribed.

(Amended 11-7-00)

## **§ 114 VACANCY.**

During the time when the Mayor is absent from the city, or is otherwise not accessible, or is temporarily unable for any cause to perform his or her duties, the order of succession as Acting Mayor shall be as follows: Director of Finance, Director of Law, and the Director of Public Service. In the case of death, resignation, removal or long-term absence of the Mayor, the order of succession as Mayor shall be as follows: President of Council, Vice President of Council and ranking Council member based upon aggregate years of service or, in the event of equal years of service, aggregate votes received during all successful elections, except in the event that a vacancy occurs in the office of Mayor and there exists a Mayor-elect who has not yet assumed such office, then, in that event, the person so elected to the office of Mayor shall become Mayor for the unexpired term and for the full term for which such person was elected. The successor shall serve as Mayor until the successor for the remainder of the unexpired term is elected at the first regular municipal election, if such election is held more than 120 days after the vacancy shall have occurred. Otherwise, he or she shall serve for the unexpired term.

(Amended 11-7-00)

## **NOMINATIONS AND ELECTIONS**

### **§ 115 NOMINATION AND ELECTION PROCEDURES.**

Candidates for the office of Mayor or member of Council shall be nominated only by petition. No primary election shall be held for the election of Council members, but a partisan primary election shall be held for the election of the Mayor. No nomination except as prescribed by this section shall be effective. The name of any elector of the city shall be printed as a candidate on the regular municipal election ballot, in the case of candidates for Council, or on the primary election ballot, in the case of candidates for Mayor, if there is filed with the election authorities as prescribed by general law a petition in accordance with the following provisions:

- (a) Such petition shall state the name and place of residence of each person whose name is presented for a place upon the ballot, and that he or she is a qualified candidate for the office sought.
- (b) Such petition shall be signed by electors of the city equal in number to not less than two percent (2%) of the total number of voters voting at the last regular municipal election.
- (c) Such petition shall contain a provision that each signer thereof thereby pledges to support and vote for the candidate whose name is presented on said ballot, and that each signer shall subscribe to a number of petitions for each office no greater than the total number of positions for that office to be filled by said election. Each such elector signing a petition shall add to the elector's signature the elector's place of residence with street and number and the date of signing. All signatures shall be made with ink or indelible pencil.
- (d) The signatures of all petitioners need not be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof, stating the number of signers thereto, that each person signed in the circulator's presence on the date stated therein, and that the circulator believes in good faith that the signature is that of the person whose name it appears to be. Signatures shall be collected on said petitions not earlier than one hundred and ten (110) days prior to the date of the holding of said regular municipal election, in the case of candidates for Council, or said primary election in the case of candidates for Mayor.
- (e) All nominating papers comprising a petition shall be assembled and filed with the election authorities as one instrument not less than ninety (90) days prior to the date of holding of said regular municipal election, in the case of candidates for Council, or the date of said primary election, in the case of candidates for Mayor.
- (f) Each petition shall name a committee of three authorized electors to represent the signers of such petition. If the elector nominated by such petition shall, for any reason, cease to be a candidate, a majority of such committee shall select an elector to fill such vacancy and shall thereupon make and file with the election authorities prescribed by law a certificate, setting forth the name of the new nominee, the office for which nominated, the name of the person for whom the new nominee is to be substituted and such other information as is required to be given in an original petition for nomination. The certificate so made shall be executed, acknowledged and sworn to by the majority of the committee in the manner prescribed for the original petition for nomination, and shall be filed with the election authorities prescribed by general law at least seventy-six (76) days before the date of election and shall have the same force and effect as an original petition for nominations: and the new nominee shall file his or her acceptance of such candidacy with the election authorities along with said certificate, otherwise his or her name shall not appear on the ballot.
- (g) In the case of candidates for Council, a non-partisan election of Council shall be held on the date of each regular municipal election. The five candidates each receiving the most votes cast shall be deemed the winners of the election, and shall be entitled to assume their offices pursuant to Sections 36 and 98.
- (h) The primary election for the office of Mayor shall be held on the second (2nd) Tuesday of September. The two candidates each receiving the most votes cast in the primary election shall proceed to a runoff election to be held on the date of the first regular municipal election following the primary election. The person receiving the most votes cast in said regular municipal election shall be declared the winner of said election, and shall be entitled to assume the Mayor's office pursuant to § 112.
- (i) All primary or regular municipal election ballots shall be in conformity with the provisions contained in Section 83.

(Amended 6-6-89, 11-6-90; 11-5-96; 11-5-02; Ord. 53-12, 7-31-2012; Ord. 05-16, passed 7-19-2016)

## **§ 116 FIRST ELECTION; RECALL.**

If there are at least 120 days and not more than 130 days prior to the November general election upon the effective date of this provision, the election of the first members of Council and the Mayor shall be held on such date. Otherwise, the Acting Mayor is hereby empowered to set a date for such election which is not more than 130 nor less than 120 days from the effective date of this provision. The Mayor and Council members shall be subject to removal by recall by the procedures established in Section 40 through 59, inclusive of this Charter.

(Adopted 5-7-85)

## **AUDITING PROCEDURE**

### **§ 117 AUDITING PROCEDURES.**

The Mayor is hereby authorized and directed to secure audits from the Auditor of the State of Ohio or certified public accountant or examiners approved by the Auditor of the State of Ohio as follows:

- (a) An audit at the end of each fiscal year of all the books of the city including an audit of all the accounts of all officers and departments;



- (b) An audit upon the death, resignation, removal, or expiration of the term of any officer; and
- (c) Any audit as otherwise requested by ordinance of the Council.

The form of accounts and reports to be rendered by each officer and department and the form and method of keeping accounts by all officers and departments shall be as prescribed by the Finance Director subject to the powers and duties of the Bureau of Inspection and supervision of public offices of the State of Ohio. The form of audit shall be as prescribed by the rules and regulations of the Auditor of the State of Ohio and may include such additional information as requested by ordinance adopted by Council and agreed to by the Auditor of the State of Ohio.

If the person authorized to conduct the audit under the circumstances hereinabove stated, finds any indebtedness by any officer or employee or other person to the municipal corporation, such auditor shall immediately give notice thereof to the Council and Director of Law of the city and the Director of Law shall thereupon proceed forthwith to collect the indebtedness.

(Adopted 5-7-85)

## **MISCELLANEOUS PROVISIONS**

### **§ 118 CHARTER REVIEW COMMISSION.**

Within one month after January 1, 1986, and within one month after taking office from the regular general election to be held each eighth year thereafter, the Mayor shall appoint a commission of nine (9) qualified electors of the City of East Cleveland to be known as the Charter Review Commission. Such Charter Review Commission shall review and recommend to the Council of the city any alterations, revisions and amendments to this Charter as in its judgment seems desirable. The Council shall submit to the electors any such proposed alterations, revisions, or amendments to the Charter, in the manner provided in Section 94 of the Charter.

(Adopted 5-7-85)

### **§ 119 ACTING MAYOR AND COUNCIL; ORDINANCES CONTINUED IN FORCE.**

Upon the effective date of this Amendment and pending election and qualification, to maintain the city pending the first election, the present Law Director shall be the Acting Mayor of the City of East Cleveland, the present elected members of the City Commission shall each be acting members of Council, and the appointment and employment of the present City Manager and Finance Director and all other officers or employees of the city shall remain in full force and effect subject to the terms and conditions of the Charter, ordinances, resolutions and law from and after the effective date of this Charter Amendment. All resolutions and ordinances of the city in force at the effective date of this Charter Amendment shall remain in full force and effective until amended or repealed. The Acting Mayor shall have the power to delegate or assign any powers, offices or duties of the office of Mayor to the City Manager pending election of the first Mayor at which time the office of City Manager shall be abolished.

(Adopted 5-7-85)

### **§ 120 REPEALED SECTIONS.**

Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 34, and 94A of the Charter of the City of East Cleveland are hereby repealed. All other Sections of the East Cleveland Charter in effect prior to the effective date of this Amendment are hereby repealed as of the effective date of this Charter Amendment only to the extent that they are in conflict with the provisions of other sections of the Charter adopted herewith or are otherwise rendered inapplicable thereby.

(Adopted 5-7-85)

### **§ 121 SAVINGS CLAUSE.**

If any section or part of a section adopted on the effective date of this provision is determined by a Court of competent jurisdiction to be invalid, it shall not invalidate or impair the force or effect of any other section or part of a section of this Charter, except and insofar as such other section or part of a section is dependent for its operation upon a section or part of a section so held invalid.

(Adopted 5-7-85)

### **§ 122 EFFECTIVE DATE OF AMENDMENTS.**

For all purposes, Sections 97 through 122, inclusive, shall take effect and be in force from and after the time of its approval by the electors of the city, as of the date of the certification of the abstract of said election and adoption to the Secretary of State by the Board of Elections as provided by law.

(Adopted 5-7-85)

### **§ 123 EFFECTIVE DATE OF AMENDMENTS.**

For all purposes, Sections 112 and 115 shall take effect and be in force from and after the time of their approval by the

electors of the city, as of the date of the certification of the abstract of said election and adoption to the Secretary of State by the Board of Elections as provided by law.

(Added 6-6-89)

## **APPENDIX A: REPEALED CHARTER SECTIONS**

Editor's note: The Charter amendments enacted on May 7, 1985, repealed a number of sections in the Charter to which reference must still be made. Set forth below are five such sections which are referred to in Sections 97 and 113.

### **§ 3 POWERS.**

All powers of the city, except such as are vested in the Board of Education, and in the Municipal Court, and except as otherwise provided by this Charter or by the Constitution of the State, are hereby vested in a Commission to consist of five members elected at large; and, except as otherwise prescribed by this Charter or by the Constitution of the State, the Commission shall by ordinance prescribe the manner in which any power of the city shall be exercised.

### **§ 8 PRESIDENT.**

The Commission shall at the time of organizing and every two years thereafter elect one of its members as President and another as Vice-President.

The President shall preside at all meetings of the Commission and shall have a voice and vote in its proceedings, but no veto. Except as the same are otherwise disposed of or provided for herein, he shall exercise all the powers and discharge all the duties imposed upon Mayors of municipalities by the general laws of the State which are not inconsistent with the provisions of this Charter. He may use the title of Mayor where necessities occasioned by general law so require; but nothing herein provided shall be construed as conferring upon him the administrative functions herein conferred upon other officers or the judicial functions of a mayor under the general laws of the State.

The President of the Commission shall be recognized as the official head of the city by the courts; by the Governor for the purpose of military law; and for all ceremonial purposes. During times of great public danger or emergency, he may, unless and until otherwise provided by the Commission, take command of the police, fire and health forces and govern the city by proclamation, and he shall himself be the judge of what constitutes such public danger and emergency. The powers and duties of the President shall be such as are conferred upon him by the Charter, together with such others as are conferred by the Commission in pursuance of the provisions of this Charter.

If the President be temporarily absent from the city, or becomes temporarily disabled from any cause, his duties shall be performed during such absence or disability by the Vice-President. During the temporary absence or disability of both President and Vice-President the other members of the Commission shall select one of their number to perform the duties of President. In case of a vacancy in either of said offices the Commission shall elect from its membership a successor for the unexpired term.

### **§ 9 APPOINTEES.**

The Commission shall appoint the City Manager and the Director of Finance. The Director of Finance, until otherwise provided by ordinance of the Commission, shall be ex-officio Clerk of the Commission, and shall keep its records and perform all other duties required by this Charter and by the Commission. The Commission may also appoint and employ such other officers and employees of its body as it deems necessary. All appointees of the Commission shall hold office at the pleasure of the Commission.

The Commission shall create and establish all other offices and positions which it may deem necessary in connection with the administration of the city's affairs, and which are not otherwise herein provided for.

### **§ 19 APPOINTMENT.**

There shall be a City Manager who shall be the chief administrative officer of the city. He shall be chosen initially for a two-year term by the Commission by vote of majority of all members thereof and may be so chosen and appointed to subsequent two-year terms. He need not be a resident of the city at the time of his appointment but shall reside therein during his tenure of office. He shall be removable from office at any time by vote of a majority of the members of the Commission; provided, however, that after he has held office for two years of his first term, during any subsequent consecutive term which shall be for a two-year period, he may be removed only after written charges and a public hearing on the same before the Commission, but during such hearing the Commission may suspend him from office.

(Amended 11-8-77)

### **§ 20 POWERS AND DUTIES.**

The City Manager shall be responsible to the Commission for the proper administration of all affairs of the city and the enforcement of the laws and ordinances, except as herein otherwise provided, and to that end he shall have authority to appoint and remove all other administrative officers and employees, except the Director of Finance. He shall attend all meetings of the Commission and its committees with the right to participate in their discussions, but he shall have no vote. He shall prepare and submit to the Commission the annual budget after receiving estimates made by the directors of the

departments, and shall perform such other duties as may be prescribed by this Charter and the ordinances and resolutions of the Commission.

AFFIDAVIT OF SANDRA MORGAN

State of Ohio                     )  
   ) ss:  
 County of Cuyahoga         )

I, Sandra Morgan., after having been first duly sworn and cautioned, do hereby depose and say:

1. I am more than eighteen years old and capable of testifying truthfully.
2. I am the Mayor-elect of East Cleveland. I was elected on November 4, 2025 to a four-year term as mayor and I will officially take office on January 1, 2026.
3. I was also the Interim Mayor of East Cleveland from February 28, 2025 until July 17, 2025. I was appointed as Interim Mayor by Cuyahoga County Probate Court Judge Anthony Russo after then-Mayor Brandon King was suspended from office after he was indicted on public corruption charges.
4. On July 17, 2025, then-City Council President Lateek Shabazz was appointed to be mayor by the Ohio Eighth District Court of Appeals after Brandon King was convicted of public corruption charges and the Court of Appeals determined that the East Cleveland Charter called for the City Council President to become mayor based on the Charter's line of succession requirements. Mayor Shabazz is the current mayor and will remain in office until I take over on January 1, 2025.
5. On January 1, 2025, there will also be three new City Council-members on a five-person Council.
6. I have reviewed the Response to the Petition for Receivership being filed by the current Shabazz administration and I agree with the arguments being made in the Response.
7. I am in favor of a receiver to help the City work its way out of fiscal emergency and I welcome the state-funded resources the receiver will be able to bring to helping the City solve its long-standing financial problems.
8. However, the receivership must be narrowly-tailored and balanced to accomplish both the goal of fiscal responsibility and the protection of the rights of the residents of East Cleveland and their duly-elected officials pursuant to the East Cleveland Charter.

9. The receivership must be collaborative, with the Mayor and City Council having a strong voice in the decisions made by the receiver.

10. If the receiver works with me and the City Council, the receivership will achieve its goals of helping the City resolve its financial problems while not violating the East Cleveland Charter and other principles of representative government.

11. However, if the receiver imposes his or her will on the City without meaningful participation by the City, then the City must assert its rights and defend its Charter as appropriate.

FURTHER AFFIANT SAYETH NAUGHT.

  
SANDRA MORGAN

SWORN TO and subscribed in my presence on this 3 day of December, 2025.

  
NOTARY PUBLIC

