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TO: Detroit City Council

FROM: David Whitaker, Director
Legislative Policy Division Staff

DATE: July 24, 2020

RE: **Recommended Charter Changes (Revised)**

The Legislative Policy Division established a working group at the request of your Honorable Body to look at potential revisions to the Detroit City Charter. The working group has concluded its work and the proposed revisions are attached for your consideration. One change has been made to the proposed changes. There was a miscommunication regarding the change desired by Member Spivey relative to Section 7-802 *Board of Police Commissioners*. The section has been changed to allow the Board of Police Commissioners to fill any vacancy of an elected commissioner. This may be combined with Member Sheffield's recommendation to have all elected commissioners.

The Charter Commission has accelerated its timeline and is now accepting suggestions until July 30, 2020 sooner than the original cutoff date of September 5, 2020. Therefore, prompt action is necessary to meet the deadline.

Sec. 2-105. - Definitions and Rules of Construction.

A. As used in this Charter:

1. *Agency* means, where appropriate and unless indicated otherwise, one or all of the following: any department, office, multi-member body, subdivision of the Legislative Branch of City government or other organization of City government and includes any elective officer, appointee, employee, or person acting or purporting to act in the exercise of official duties.
2. *Appoint* means being named to a position in the exempt service.
3. *Appointee* means a person holding either a compensated or uncompensated position.
4. *Appointive office* or *appointive officer* means compensated positions and appointees holding compensated positions.
5. *City* means the City of Detroit.
6. *City Clerk* means the City Clerk of the City of Detroit.
7. *City Council* means the legislative body of the City of Detroit.
8. *Confidential Information* means information obtained by a public servant by reason of his or her official position concerning the property, government or affairs of the City, or any office, department or agency thereof, not available to members of the public pursuant to the Michigan Freedom of Information Act or other applicable laws, regulations or procedures.
9. *Contractor* means a party who, or which, seeks to enter, or enters, into a contract with the City of Detroit for the delivery of goods or services, but does not mean one who seeks to enter, or enters, into a personal services contract, as defined in this section, with the City.
10. *Corrupt Conduct* means the conduct of a public servant, in carrying out his duties, that violates applicable laws or the Standards of Conduct articulated in this Charter.
- . *Debarment* means action taken by the City to exclude a person or entity from acting as contractor for a specified period of time.
11. *Director* means the administrative head of any department or agency regardless of the title of a particular director.
12. *District* or *ward* means a district drawn on a geographical basis, which constitutes a political unit from which members of the City Council, Board of Police Commissioners, and Community Advisory Councils are elected.
13. *Elective officers* means the Mayor, each member of the City Council, elected Board of Police Commissioners, and the City Clerk.
14. *Employee* means a person employed by the City of Detroit, whether on a full-time or part-time basis.
15. *Exempt service* means both compensated and uncompensated positions.

16. *Exercises significant authority* means having the ability to influence the outcome of a decision on behalf of the City of Detroit government in the course of the performance of a public servant's duties and responsibilities.
17. *Filling of vacancies* means, except as otherwise provided by this Charter, whenever a vacancy occurs in any appointive position, the vacancy shall be filled by appointment (for the unexpired term, if any) in the manner provided for the original appointment.
18. *General election in the City* (distinguished from "City general election") means a City-wide general election regardless of whether its purpose is to fill national, state, county or City offices.
19. *Hire* means being employed for a position in the classified service as defined in Section 6-417 of this Charter.
20. *Immediate family member* means a public servant's spouse, domestic partner, parent, sibling, individual who lives in the public servant's household or an individual claimed by a public servant or a public servant's spouse as a dependent under the United States Internal Revenue Code at 26 USC 1 *et seq.*
21. *Lobbying* means all communications with a public servant for the purpose of influencing legislative or executive action.
22. *Lobbyist* means with respect to lobbying City government: ~~(a) a person whose expenditures for lobbying are more than \$1,000.00 in value in any 12 month period; (b) a person whose expenditures for lobbying are more than \$250.00 in value in any 12-month period, if the amount is expended on lobbying a single public official; or (c) a registered lobbyist under applicable laws, who lobbies Detroit City government.~~
23. *Multi-Member Body* means any board, commission, or other organization of City government.
24. *Official Act* means any action, omission, decision, recommendation, practice or procedure of any agency.
25. *Personal services contract* means a contract for the retention of an individual to perform services on behalf of the City of Detroit for a fixed period and for fixed compensation.
26. *Proceedings* means, with respect to City Council, any gathering of that body for purposes of conducting the legislative affairs of the City of Detroit. It includes, but is not limited to, hearings, council meetings, committee meetings and other council related activities where the body is required to convene by law or Charter to execute its legislative function, as dictated by law, Charter or ordinance.
27. *Public servant* means the Mayor, members of City Council, City Clerk, appointive officers, any member of a board, commission or other voting body established by either branch of City government or this Charter, and any appointee, employee or individual who provides services to the City within or outside of its offices or facilities pursuant to a personal services contract.
28. *Resident(s) or residence* means, in reference to qualification for elective office, service on a multi-member body or other Charter residency requirement, a person's

principal, permanent place of residence. It shall be that place at which a person habitually sleeps, keeps their personal effects, and regularly lodges. If someone has more than one (1) residence, or a residence separate from that of their spouse, the place where the person resides the greater part of the time will be considered their official residence. Any relevant judicial interpretation of these terms shall be applicable.

29. *Retain* (distinguishing legal representation other than the Corporation Counsel) means the temporary hiring of outside legal counsel.
30. *Serving and present* means, when calculating an ordinary or extraordinary majority of:
 - a. *City Council* members serving, vacant City Council seats are not included: and
 - b. *City Council* members present, neither vacant City Council seats nor those of absent members are included.
31. *Vacancy* means that the position of any elective officer or appointee is deemed vacant upon death, resignation, permanent disability or dismissal from the position in any manner authorized by law or this Charter.
32. *Voter of the City* or *City voter* means a person who has the qualifications of and is registered as an elector of the City of Detroit under state law.
33. *Willful Neglect of Duty* means the intentional failure of a public servant to perform the duties of his office.

B. *Rules of Construction.* For purposes of this Charter, the following rules of construction apply:

Including or included. Unless the contrary is expressly stated, these are not words of limitation, but mean "including but not by way of limitation" or "included but not by way of limitation."

Number and gender. The singular number includes the plural, the plural number includes the singular, and the masculine gender includes the feminine gender and the neuter.

Tense. This Charter is to be regarded as speaking in the present and continuously. For example, the phrase "as provided by law" will incorporate the provisions of law as they change from time-to-time.

Changes:

- *Provide a definition for the term debarment.*
- *Include parents and siblings in the definition of the term 'immediate family member'.*
- *Term 'lobbyist' to include only those who are registered lobbyists. This change may allow fewer persons or entities to be required to register as a lobbyist even though their activities may generally be considered lobbying.*

Sec. 2-107. - Dismissal Proceedings.

(A) *Recall of Elective City Officers.* Any of the elective City officers provided for in Section 3-107 of this Charter may be recalled by the voters of the City in the manner provided for by law.

(B) *Forfeiture of Office Held by Elective City Officers.*

1. *Grounds for Mandatory Forfeiture.* The office of an elective City officer shall be forfeited for the following:
 - a. Lacks at any time any qualifications required by law or by Section 2-101 of this Charter;
 - b. Plead to, or is convicted of, a felony while holding the office;
 - c. Engages in official misconduct;
 - d. Willful or gross neglect of duty;
 - e. Corrupt conduct in office; or
 - f. Any other misfeasance or malfeasance.
2. *Grounds for Permissive Forfeiture* The City Council may determine that the office of an elective City officer should be forfeited where the officer:
 - a. Based on a recommendation of the Board of Ethics to the City Council, is determined by a three-fourths ($\frac{3}{4}$) vote of City Council members serving to have violated the Ethics Ordinance or ethics provisions of this Charter;
 - b. Refuses to cooperate in an investigation of the Inspector General, Board of Ethics, or Ombudsperson;
 - c. Neglects or refuses to comply with the provisions of this Charter after being provided an opportunity to comply pursuant to Section 7.5-209 (Enforcement of Charter); or
 - d. Violates any provision of this Charter punishable by forfeiture.
 - e. Misdemeanor convictions that involve a breach of public trust, dishonesty, theft or fraud.
3. *Procedure.* Where the City Council determines that forfeiture under Subsections (B)(1) or (B)(2) of this section, or both, is proper, the officer shall be charged through adoption of a resolution, which provides the factual basis for each charge, by a two-thirds ($\frac{2}{3}$) vote of members serving. Upon adoption of the resolution, the City Clerk shall forward a certified copy of the resolution to the officer by registered mail.

An elective City officer charged with conduct constituting grounds for forfeiture is entitled to a public hearing before the City Council and to outside legal representation, as permitted by law, which shall be paid by the City of Detroit at rates commensurate with the hourly rate normally paid by the City. A City Council member charged with conduct constituting grounds for forfeiture may not participate in the resolution of the charge.

Notice of the hearing and the charging resolution shall be published in a daily newspaper of general circulation in the City, and by electronic posting available to the public, at least fourteen (14) days in advance of the hearing. A decision by the City Council for forfeiture of the office of an elective City officer is subject to judicial review in accordance with Michigan law.

4. *Hearing Rules.* In accordance with Section 2-111 of this Charter, the City Council shall promulgate rules for the Body's forfeiture hearings. Such rules shall comport with procedural due process and shall be in effect prior to any resolution charging the elective City officer. The City Council may request that Corporation Counsel retain an outside legal advisor to assist it regarding the interpretation, application and enforcement of the rules for the hearing, admissibility of evidence, objections and other legal issues arising in connection with the proceedings.

(C) Removal of City Appointees.

1. *Grounds.* A City appointee who serves at the pleasure of his or her appointing authority may be removed by the appointing authority without cause. A City appointee who is subject to removal for cause may be removed by the appointing authority for:
 - a. Lack of qualifications;
 - b. Incompetence;
 - c. Neglect of duties;
 - d. Misconduct;
 - e. Pleading to or conviction of a felony;
 - f. Violation of this Charter;
 - g. Violation of federal or state law;
 - h. Violation of any City ordinance, rule, or regulation; or
 - i. Any reason under Subsections (B)(1) and (B)(2) of this section.

In addition, where a person is appointed to a multi-member body, the appointee is subject to removal for cause for habitual non-attendance of meetings as defined in the Body's rules, or as established by review of the minutes from the Body's meetings.

2. *Procedure.* A City appointee who is removable for cause may not be removed under this subsection without an opportunity for a hearing before the appointing authority. A copy of the charges shall be furnished at least fourteen (14) days in advance of the hearing.
3. *Hearing Rules.* In accordance with Section 2-111 of this Charter, each appointing authority shall promulgate procedural rules for removal hearings. Such rules shall comport with procedural due process and shall be in effect prior to any notice or resolution charging the City appointee.

Change:

- *Include in grounds for permissible forfeiture misdemeanor convictions that involve a breach of public trust, dishonesty, theft or fraud.*

Sec. 4-102. - Meetings.

The City Council shall hold its first (1st) meeting in the first (1st) week of January after the regular City general election and, during ten (10) months of the year, shall meet every business day unless otherwise provided by resolution at such times and places as it may provide.

On at least eight (8) occasions during each calendar year, the City Council shall hold meetings in areas of the City, to be determined by the City Council. ~~Those meetings shall begin between the hours of seven (7) o'clock p.m. and eight (8) o'clock p.m.~~

Special meetings may be held at the call of the Mayor or four (4) or more City Council members and, whenever practicable, upon no less than twenty-four (24) hours' notice to each member and to the public. All business which the City Council may perform shall be conducted at a public meeting held in compliance with the Michigan Open Meetings Act, MCL 15.261 *et seq.*

Change:

- *Remove specific time requirements for City Council's evening community meetings.*

Sec. 4-111. - Confirmation Authority.

Except as otherwise provided in this Charter or as may be required by law, all Mayoral appointment of directors, as defined in section 5-103, and all positions that have directors subordinate to them, ~~the Chief of Police, Fire Commissioner, Director of Planning and Development, Director of Human Resources and Corporation Counsel,~~ is subject to approval by City Council. However, if the City Council does not disapprove the appointment within thirty (30) days after submission by the Mayor, the appointment is confirmed. Any employment contracts for positions approved under this section shall be approved by City Council.

Changes:

- *City Council to approve appointments of all department directors.*
- *City Council to approve the appointment of all positions that have department directors to reporting to them. This is to address the large number of cabinet level positions created that seem to have power over department heads.*

Sec. 5-106. - Powers and Duties of Department Directors.

Except as otherwise provided by law or this Charter, the Director of each department of the Executive Branch shall:

1. In accordance with Article 6, Chapter 4, hire, promote, supervise, discipline and remove all employees of the department.
2. Assign duties to the employees and supervise the performance of these duties.
3. Prescribe rules which are necessary for the organization and internal governance of the department. However, no rule may be inconsistent with any collective bargaining contract or any rule or policy of the Human Resources Department.
4. Prepare reasonable rules governing dealings between the department and the public. A rule becomes effective in accordance with Section 2-111.
5. Present annually in quantitatively measurable terms the department's operational performance during the past year and the objective for planned improvement in the coming year. The report shall be submitted to the Mayor and City Council not later than the date established for the Mayor to submit to the City Council a proposed annual budget for the next fiscal year. The annual report shall be presented to City Council at a public meeting.
6. Respond to any inquiry or investigation of the Inspector General, Ombudsperson, Board of Ethics, Auditor General, and City Council.

Change:

- *Require all department directors to present their annual reports before City Council. Arguably this is already done during the budget hearings.*

Sec. 5-108. - Deputy Mayor.

By a writing filed with the City Clerk, the Mayor shall designate a member of the Mayoral staff or the director of a department of the Executive Branch as the Deputy Mayor. The Chief of Police or the Fire Commissioner may not be designated as the Deputy Mayor. The Mayor may terminate the designation without cause by filing a notice of termination with the City Clerk.

During the absence or temporary disability of the Mayor, the Deputy Mayor shall be acting Mayor and shall exercise all the powers and perform all the duties of the Mayor to the full extent permitted by law, except that the Deputy Mayor may not:

1. Exercise any power of appointment to or removal from office, except in an emergency declared by a two-thirds ($\frac{2}{3}$) majority of City Council members present; or
2. Approve or veto any ordinance or resolution within the first five (5) days of the seven (7) days allowed under Section 4-117 for exercise of the Mayor's veto power.

Change:

- *Prohibit the Chief of Police or the Fire Commissioner from being designated as Deputy Mayor.*

Sec. 6-301. - ~~Finance Department.~~ Office of the Chief Financial Officer

~~The Finance Department is headed by the Finance Director.~~ The Office of the Chief Financial Officer is headed by the Chief Financial Officer.

Changes 6-301-6-306:

- *Change the head of finance from the Finance Director to the Chief Financial Officer. Qualifications, and Powers and Duties have also been added that reflects the requirements contained in the Home Rule City Act, MCL 117.4t.*

Sec. 6-3--. Qualifications

The chief financial officer shall have substantial experience with sophisticated municipal financial transactions, complex multidimensional governmental restructurings, governmental labor relations, health care benefits or pension matters, and local government management with governmental units having aggregate revenues of \$250,000,000.00 or more.

6-3--. Powers and Duties

The Chief Financial Officer shall:

1. Supervise all financial and budget activities of the city.
2. Coordinate the city's activities relating to budgets, financial plans, financial management, financial reporting, financial analysis, and compliance with the budget and financial plan of the city.
3. Certify that the city's annual budget complies with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a; and
4. Submit in writing to the mayor and City Council his or her opinion on the effect that policy or budgetary decisions made by the mayor or the City Council\ will have on the city's annual budget and its 4-year financial plan.

Sec. 6-302.- Departmental Divisions.

The ~~Finance Director~~ Chief Financial Officer shall direct and coordinate the financial activities of the accounts division, the assessments division, the treasury, and the purchasing division. The ~~Finance Director~~ Chief Financial Officer shall also secure and maintain compliance with all laws pertaining to financial controls for the protection of public funds.

Sec. 6-303. - Accounts Division.

The Accounts Division is headed by the Chief Accounting Officer. The ~~Finance Director~~ Chief Financial Officer, with the consent of the Mayor, shall appoint the Chief Accounting Officer, who serves at the pleasure of the Finance Director.

The Chief Accounting Officer shall maintain records showing the financial condition of the City and perform such other duties as provided by law, this Charter or ordinance.

Sec. 6-304. - Assessments Division.

The Assessments Division is headed by a three (3) member Board of Assessors. The term of membership on the Board is three (3) years. One (1) term expires each year. Compensation for Board members shall be established by ordinance.

The Mayor shall appoint the members of the Board and may remove a member for cause. Each member must possess the qualifications required by law for assessing officers.

Staff services required by the Division shall be provided as determined by the ~~Finance Director~~ Chief Financial Officer.

A majority of the Board may review and correct any assessment made by an employee of the Division.

Except as otherwise provided by this Charter or ordinance, the powers, duties and procedures of the Board and the Division are those provided by law.

Sec. 6-305. - Treasury Division.

The Treasury Division is headed by the Treasurer. The ~~Finance Director~~ Chief Financial Officer, with the consent of the Mayor, shall appoint the Treasurer, who serves at the pleasure of the ~~Finance Director~~ Chief Financial Officer.

The Treasurer shall:

1. Collect all moneys of the City and receive from other officers and employees all moneys of the City collected by them.
2. Have custody of all moneys, funds and securities of the City, keep accounts of them and deposit them as directed by law or ordinance.
3. Disburse all City funds in accordance with law, this Charter or ordinance.
4. Except as otherwise provided by this Charter or ordinance, have such powers and immunities for the collection of taxes as provided by law.

Sec. 6-306. - Purchasing Division.

The Purchasing Division is headed by the Purchasing Director. The ~~Finance Director~~ Chief Financial Officer, with the consent of the Mayor, shall appoint the Purchasing Director, who serves at the pleasure of the ~~Finance Director~~ Chief Financial Officer.

The Purchasing Director shall, subject to the provisions of Section 4-122:

1. Procure all property and all services of independent contractors to be paid for from appropriations made in the annual budget in accordance with Section 8-302, except that an agency may be authorized by ordinance to procure specified kinds of property and services directly.
2. Follow all procedures established by ordinance to protect the interests of the City and to assure fairness in procuring property and services. Except in cases of emergency, those procedures shall require competitive bidding for purchases and contracts which are major as defined by ordinance. However, for purposes of this requirement, the "lowest responsible bidder" may be defined by ordinance in terms of lowest overall cost to the City.
3. Sell, lease or transfer in the ordinary course of City operations all personal property of the City which has become unsuitable for public use. Dispositions of personal property which are not in the ordinary course of City operations shall be defined by ordinance and are subject to City Council control.
4. Follow procedures established by ordinance to protect the interests of the City and to assure fairness in disposing of personal property. Except in cases of emergency, those procedures shall require competitive bidding for all sales, leases and transfers which are major as defined by ordinance.

Sec. 7-802. - Board of Police Commissioners. (Sheffield's suggestion)

The Board of Police Commissioners has supervisory control and oversight of the Police Department as set forth in this Chapter. The Board of Police Commissioners is composed of eleven (11) members, seven of whom shall be elected from each non at-large district and four (4) members shall be from each at-large district. ~~Four (4) members of the Board shall be appointed by the Mayor, subject to the approval of the City Council. However, if the City Council does not disapprove an appointment within thirty (30) days, an appointment is confirmed. Appointed members shall serve a term of five (5) years, and not more than one (1) member's term expires each year. The Mayor shall not remove appointed members of the Board except for cause. Vacancies in positions held by appointed members shall be filled by the Mayor for the unexpired term, in the same manner as the initial appointment. All m~~Members of the Board must be residents of the City.

The Board shall elect a chairperson annually. A member of the Board may not serve consecutive terms as chairman, nor may an appointed person serve more than five (5) years consecutively as a member of the Board. The Board shall meet at the call of its chairperson, but shall meet at least once each week and may recess during Thanksgiving, Christmas and New Year holidays. All meetings shall be held in accordance with the Michigan Open Meetings Act. ~~No appointed member of the Board shall have been an employee or elective or appointive officer of the City within three (3) years prior to appointment or while serving as a member of the Board.~~ Unless required by state law, ~~elected~~ members shall not be entitled to salaries, retirement benefits, health benefits or other fringe benefits. ~~Appointed members, and elected members not entitled to compensation by state law,~~ but may receive by ordinance reimbursement for parking, mileage and other reasonable expenses. All appointed Commissioners serving at the time of the effective

date of this Charter shall continue in their office until their term expires or office becomes vacant.

Change:

- *Make all of the board members elected rather than some elected and some appointed.*

Sec. 7-802. - Board of Police Commissioners. (Spivey's suggestion)

The Board of Police Commissioners has supervisory control and oversight of the Police Department as set forth in this Chapter. The Board of Police Commissioners is composed of eleven (11) members, seven of whom shall be elected from each non at-large. Four (4) members of the Board shall be appointed by the Mayor, subject to the approval of the City Council. However, if the City Council does not disapprove an appointment within thirty (30) days, an appointment is confirmed. Appointed members shall serve a term of five (5) years, and not more than one (1) member's term expires each year. The Mayor shall not remove appointed members of the Board except for cause. Vacancies in positions held by appointed members shall be filled by the Mayor for the unexpired term, in the same manner as the initial appointment. All members of the Board must be residents of the City. If a vacancy occurs in positions held by an elected member, the Board of Police Commissioners shall, within sixty (60) days, fill the office for a full term.

The Board shall elect a chairperson annually. A member of the Board may not serve consecutive terms as chairman, nor may an appointed person serve more than five (5) years consecutively as a member of the Board. The Board shall meet at the call of its chairperson, but shall meet at least once each week and may recess during Thanksgiving, Christmas and New Year holidays. All meetings shall be held in accordance with the Michigan Open Meetings Act. No appointed member of the Board shall have been an employee or elective or appointive officer of the City within three (3) years prior to appointment or while serving as a member of the Board. Unless required by state law, elected members shall not be entitled to salaries, retirement benefits, health benefits or other fringe benefits. Appointed members, and elected members not entitled to compensation by state law, may receive by ordinance reimbursement for parking, mileage and other reasonable expenses. All appointed Commissioners serving at the time of the effective date of this Charter shall continue in their office until their term expires or office becomes vacant.

Change:

- *Change the appointing authority from the Mayor to the Board of Police Commissioners when filling all vacancies on the Board. This change can be incorporated with the President Pro-Tem's suggestion.*

Sec. 7-12--. – Water Rates.

The City Council shall approve all water and sewage rates charged by the Department.

Change:

- *This is a new section, it affirms the City Council’s authority to approve water rates for DWSD.*

Sec. 7.5-104. - Employees.

~~In accordance with Article 6, Chapter 4, the Auditor General may hire, promote, discipline and remove employees of the agency, assign duties to the employees, and supervise the performance of those duties.~~

The Auditor General may hire, promote, discipline and remove employees of the agency, assign duties to the employees and supervise the performance of those duties. The staff of the office may include persons who are both subject to, and exempt from, Article 6, Chapter 4 of this Charter.

Change:

- *This would allow the Office of the Auditor General to have a combination of employee, appointees and civil service, classifications in the same manner as the other independent agencies.*

Sec. 7.5-105. - Powers and Duties.

The Auditor General shall:

1. Make audits of the financial transactions, performance and operations of City agencies based on an annual risk-based audit plan prepared by the Auditor General, or as otherwise directed by the City Council. Audits shall focus on high risk agencies and/or processes identified in the annual risk-based audit plan. The Auditor General shall make an annual financial analysis of all agencies not selected for audit in the current year. The Auditor General shall have access to all financial records, human resource records, and other records of City agencies necessary to perform his/her functions. Records shall include, but not limited to, all paper records and digital and electronic records. Make a full report to the City Council of each individual audit and file a copy with the Mayor.
2. As soon as possible after the close of each fiscal year, make a report of the financial position of the City. The report shall be a public record.
3. Investigate the administration and operation of any City agency and report findings and recommendations to the City. The Auditor General may request and shall be given necessary assistance and information by each agency. The Auditor General may subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, enter and inspect premises within the control of any agency during regular business hours. To enforce a subpoena or order for

production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the Auditor General shall apply to the appropriate court.

4. From time to time make reports to City agencies of irregularities of practice and erroneous accounting methods with recommendations for improving the accounting procedures and systems of the agencies.

Recommendations which are not put into effect by the agency shall be reviewed by the Finance Director, who shall advise the Auditor General and the City Council of action being taken with respect to the recommendations.

5. Upon request of the Budget Director, make available to the Budget Director all information useful in the preparation of the capital agenda or annual budget.
6. Settle all disputed claims in favor of or against the City to the extent and in the manner provided by ordinance. All appeals from determinations made by the Auditor General shall be brought in the court provided by law. However, no proceedings may be brought upon a claim within the jurisdiction of the Auditor General until the claim is rejected by the Auditor General or until six (6) months have elapsed from the time of filing the claim with the Auditor General.
7. The Office of the Auditor General shall not be denied independent legal counsel.

Changes:

- *Clarify that all forms of records should be made available during audits, i.e. paper records, and digital and electronic records.*
- *Affirm the fact that Auditor General shall not be denied independent legal counsel.*

Sec. 7.5-1--. - Conflict of Interest; Special Counsel.

Where there exists a conflict of interest between the Auditor General and another branch of City government, the Auditor General has the authority to retain an attorney licensed to practice law in Michigan who shall represent the Auditor General in legal proceedings. Such attorney shall not represent the City as a municipal corporation in any legal proceeding.

Change:

- *This new section, it mirrors the conflict of interest provision for the Inspector General. Affirms the right of the Auditor General to receive legal representation in cases of conflicts of interest with another branch of government.*

Sec. 7.5-1--. - Funding.

The City shall annually appropriate funds sufficient to enable the Office of Auditor General to perform its duties. Funding shall be in accordance with Section 8-214 (Proportional Funding for Oversight Agencies.)

Change:

- *This is a new section, it mirrors a similar provision for the Inspector General. This requires the City to fund the Auditor General's Office so that it can perform its duties.*

~~Sec. 7.5-208. -- Intra-Government Dispute Resolution.~~

~~In all disputes between branches or units of City government, before any branch or unit can institute legal proceedings, they shall have first requested and obtained from Corporation Counsel a legal opinion which details which party's position is consistent with the current state of the law. Corporation Counsel shall then instruct the branch or unit whose legal position is inconsistent with the current state of the law to retain legal assistance and representation from an outside law firm or outside attorney if they intend to institute legal proceedings.~~

~~In cases of disputes between the branches of government, prior to filing a lawsuit or taking other legal action, the highest public official from the disputing branches of government shall first meet to resolve the matter. In the case of the Executive Branch the highest public official shall be the Mayor or designee; in the case of the Legislative Branch it shall be the Council President or designee; and in case of the Office of the City Clerk it shall be the City Clerk or designee. The parties shall engage in facilitation of the matter over a period of fourteen (14) business days, or more as agreed to by the parties, before taking legal action. The facilitation shall be conducted by a facilitator, mutually agreed to by the parties. Nothing in this section shall preclude a branch or unit of government from seeking a temporary restraining order, injunction or other emergency legal action based on irreparable harm, but this section shall be complied with if the court rules that no irreparable harm exists, in which case the facilitation period shall be twenty eight (28) business days from the date of the court's decision, or longer as agreed to by the parties~~

Change:

- *This provision should be stricken from the Charter. It has proven to not really function in a manner that allows the other branches of government to properly assert its rights when there is conflict with the Administration. It only serves to suppress the rights of any entity that opposes the Administration by giving the Law Department control over access to special counsel and over the process to by which the right to counsel may be exercised. Additionally, although the Law Department strives to be an independent agency, there still seems to be no effective way for the Department to oppose the will of the Mayor which interferes with impartial role that it plays here.*

Sec. 7.5-302. - Appointment, Removal, Term of Office and Vacancy.

The Inspector General shall be appointed by the majority of City Council members serving. The Inspector General may be removed for cause by a two-thirds ($\frac{2}{3}$) vote of City Council members serving and shall be appointed for a term of ~~six (6)~~ ten (10) years.

If a vacancy occurs in the Office of Inspector General, the City Council shall, within sixty (60) days, fill the office for a full term.

Change:

- *Changes the term of the appointment to 10 years, aligning it with the other independent agencies and inspector general offices nationwide.*

Sec. 7.5-309. - Employees.

The Office of Inspector General shall include an Inspector General and such deputies, assistants and other employees as deemed necessary by the Inspector General. The Office of Inspector General staff shall include, at a minimum, attorneys, investigators, and auditors who ~~are certified public accountants~~ have been certified as a fraud examiner, an internal auditor, an inspector general auditor or a government auditing professional. The Inspector General may hire, promote, discipline and remove employees of the office, assign duties to the employees and supervise the performance of those duties. The staff of the office may include persons who are both subject to, and exempt from, Article 6, Chapter 4, of this Charter.

Change:

- *CPAs tend to have more experience and training as financial advisors, focusing on things like financial statements, tax preparation and financial planning. The certifications above have specialized training that deal with the type of audits conducted by auditors in an inspector general's office.*

Sec. 8-214. - Proportional Funding for Oversight Agencies.

The City Council shall establish a proportional \method to fund oversight agencies to insure the proper oversight of Executive and Legislative Branches of government. City Council shall arrive at an equitable proportional method to fund oversight agencies in local government. City Council shall prepare and adopt a proportional funding system within ninety (90) days of the effective date of this Charter.

The proportional funding system shall be enacted ~~include a formula to distribute funds to each of the agencies contained in this section and any other agencies added~~ by ordinance. The distribution of funds to each of the agencies shall be based on a percentage of the City's overall general fund budget. The percentage shall be no less than the agency's average percentage of the

general fund City budget for the 3 years prior to the enactment of the ordinance. In the case of the Auditor General, the cost of the auditing contract for the City's Comprehensive Annual Financial Report shall not be consider in the computation. Prior to the enactment of the ordinance, City Council shall meet with the oversight agencies to ensure the funding percentage is sufficient for each agency to carry out their Charter-mandated duties, and make changes to the funding percentage as necessary. Once enacted, each oversight agency's funding percentage will be applied to the overall City budget, showing minimum funding allocated to each agency. This does not preclude the oversight agencies from requesting additional funds as necessary through the normal City budget process. internal cost allocation plan shall determine the amount of funds to be appropriated to each agency for oversight functions. The proportional funding system shall be enacted by ordinance. The ordinance shall contain this mandate to establish a proportional method of funding for oversight agencies, the list of agencies included in this section and other agencies determined by City Council.

The oversight agencies referred to in this section shall include the Office of the Inspector General, Auditor General, Ombudsperson, and Board of Ethics.

Change:

- *Implementation of this provision has not occurred because there was no specificity to drive its use. This ensures baseline funding for the oversight agencies' budgets.*

Sec. 9-103. - Powers, Duties and Limitations.

City Council shall, by ordinance, prescribe uniform procedures, for the exercise of the powers and duties for all Community Advisory Councils. Included in those powers and duties shall be the provision that a community council may require that the City Council representative receive prior consultation from the Community Advisory Council on all issues which relate exclusively to that district.

Community Advisory Councils ~~shall~~ may receive ~~no~~ appropriations from City funds, ~~but~~ and may accept donations or grants in accordance with state, federal or local law.

A particular Community Advisory Council shall be dissolved only by a petition signed by the same number of qualified voters residing in the Community Advisory Council district required above, and an ordinance adopted after public hearing by City Council with public notice to the Community Advisory Council district in question.

Each Community Advisory Council shall hold public meetings not less than four (4) times each year. The meetings will be held within the respective districts and will be held in donated facilities with an attempt to provide as broad of a geographical distribution for the meetings as possible. The meetings shall be held in accordance with the Michigan Open Meetings Act and the Community Advisory Councils shall comply with the Michigan Freedom of Information Act.

The powers and duties of each Community Advisory Council shall include:

1. Communicating to City Council the concerns of groups, agencies, businesses and residents within its districts with respect to the delivery of programs and services.

2. Assisting groups, agencies, businesses and residents in community problem solving by meeting with groups to:
 - a. Clarify issues; and
 - b. Demonstrate proper procedural approaches to accessing City government.
3. Disseminating information to groups, agencies, businesses and residents on social and physical plans for the districts areas.
4. Providing advice to community representatives and City Council on major issues within the council district which may include:
 - a. Housing development;
 - b. Commercial blight;
 - c. Safety and security;
 - d. Economic and community development;
 - e. Employment opportunities;
 - f. Code enforcement; and
 - g. Other concerns impacting social, economic, cultural and environmental conditions within the district.
5. Familiarizing themselves with the City Charter, with the objective of assisting the community in understanding the intent and relevance of Charter provisions.
6. Familiarizing themselves with the Master Plan for the City of Detroit in relationship to the City generally and the land area within their district generally.
7. Meeting annually with the Mayor and annually with City Council to discuss the challenges confronting the district and the resources required to advance the interest and support the viability of the district.

Change:

- *This allows the Community Advisory Councils to received funding for their activities. Under the current Charter, no appropriations are allowed.*

Sec. 9-403. - Revision Question.

The question of whether there shall be a general revision of the City Charter shall be submitted to the voters of the City of Detroit at the gubernatorial primary of 2040 ~~2018~~, and at every fourth (4th) gubernatorial primary thereafter and may be submitted at other times in the manner provided by law. A primary election shall be held for the offices of Charter Revision Commissioners at the same election and shall be void if the proposition to revise is not adopted. If the proposition to revise is adopted, Charter Revision Commissioners shall be elected at the ensuing general election for governor.

Change:

- *Changes the next charter revision question to the gubernatorial election of 2040.*

Sec. 9-405. - Elimination of Redundancy in Government.

Every effort shall be made by City elective officers, employees, and branches and units of government to reduce duplication of efforts and increase and maintain efficiency in the operations of City government. ~~Within one hundred eighty (180) days of the effective date of this Charter, the Executive and Legislative Branches, and City Clerk shall conduct a comprehensive evaluation of its programs, services, activities, policies and operations to identify and eliminate any redundancy. Thereafter, the evaluations~~ Evaluations shall be made within the first quarter of the year following the regular City general election. Each evaluation shall result in a compiled report of the City of Detroit entitled "Report on Elimination of Redundancy," which, at a minimum, outlines the efforts and means taken to identify redundancy, makes findings on redundancy and details methods implemented to eliminate, reduce or avoid redundancy. The report shall be published and presented to City Council and the Auditor General in April of the year of its completion.

As much as practicable attempts shall be made to realign service delivery systems and eliminate operational duplication and inefficiency, which may include cooperative agreements with other government entities as allowed by law.

Change:

- *Removes the initial comprehensive evaluation of the redundancy as it has already occurred.*

Sec. 9-701. - Risk Management Council.

The Risk Management Council is an advisory body to the Mayor comprised of persons in the following positions or their deputy directors:

1. A chairperson, appointed by the Mayor, who shall be an appropriately qualified Mayoral cabinet-level official, which may not be any person identified in this section;
2. The Corporation Counsel;
3. The Chief of Police;
4. The Finance Director;
5. The Human Resources Director;
6. The Auditor General;
7. A City Council designee who is a City employee, other than a member of City Council;
8. The Inspector General; ~~and~~
9. The Transportation Director; ; and
10. Ombudsperson.

Changes:

- *Allows the deputy directors to serve on the Risk Management Council in the Director's stead.*
- *Adds the Ombudsperson to the Risk Management Council.*

BY COUNCIL MEMBER _____:

**RESOLUTION AUTHORIZING THE LEGISLATIVE POLICY DIVISION
TO FORWARD RECOMMENDED CHARTER CHANGES TO
THE DETROIT CHARTER REVISION COMMISSION**

RESOLVED, That the Detroit City Council authorizes the Legislative Policy Division to forward proposed recommendations of Charter revisions to the Detroit Charter Revision Commission for consideration.

July 27, 2020