

DETROIT CHARTER REVISION COMMISSION

PROPOSAL/ISSUE REVIEW SUMMARY

ISSUE NUMBER: GOS 47

ISSUE CATEGORY: Government Operations & Structure

SOURCE: City Council,

RELATED CHARTER SECTIONS: Sec. 2-101. (Qualifications for elective and appointive officers.)

Letter dated December 2, 2010
(Corrected Copy)

RELEVANT ORDINANCE SECTION:

RELEVANT LAW(S):

ISSUE/PROPOSAL STATEMENT: Requires elected officials be “domiciled” (replacing being a “resident”) in Detroit at time of filing for and holding office and maintained their principal place of residence in Detroit, with State identification reflecting that address. Person must have maintained that residence for a minimum of one year before filing.

Sec. 2-101. Qualifications for elective and appointive officers.

A person shall be a citizen of the United States, domiciled in the City of Detroit, and a qualified and registered voter of the City of Detroit at the time of filing for and while holding an elective office. The person shall have maintained his/her principal residence within the City of Detroit, with state issued identification reflecting such location, for at least one year before filing for election.

For any appointive city office, a person must be qualified to perform the duties of the office at the time of assuming the office and at all times while holding the office. The person’s citizenship status, residence and voter registration, shall be as required by applicable law.

RATIONALE: “The proposed language adds a one-year domicile requirement to qualify for elective office in the city. Durational residency requirements have been the subject of conflicting case law. Such a domicile requirement is intended to ensure that elected officials are bona fide residents of the City of Detroit. The one-year period was chosen because it appears to be clearly permitted under the most recent applicable case law, and longer periods may not be permissible under earlier case law. A one-year durational residency requirement was upheld against legal challenge by the federal district court in Detroit in the case of *Joseph v City of Birmingham*, 510 F Supp 1319 (ED MI 1981). Similarly, the federal appellate court upheld such a one-year requirement for city council candidates residing in a ward in *City of Akron v Bell*, 660 F2d 166 (CA 6 1981). However, previous case law had questioned the enforceability of longer term requirements of residency in *Green v McKeon*, 468 F2d 883 (CA 6 1972).

“The second paragraph regarding appointees reflects different policy considerations for different classifications of public servants. Regarding citizenship status, the current charter restricts City employment to citizens, and the proposed language would authorize the City to hire qualified legal immigrants. Regarding residency and voter registration, the proposed language is primarily intended to leave open the possibility of imposing a residence requirement for City of Detroit employees if state law changes to permit it.

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- Deleted: A person must be a citizen of the United States, a resident and a qualified and registered voter of Detroit, at the time of assuming the duties of, and while holding,
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- Deleted: However, this requirement does not preclude an appointive officer who is assigned to a work location outside the city from using a

"This section should also require that district candidates for city council be domiciled within the district to qualify to serve the district. This requirement was inadvertently excluded from city council's recommendations." – *City Council's Rationales, Letter dated December 13, 2010.*

ANALYSIS:

DISPOSITION/COMMISSION ACTION:

NOTES: