

## **Part F- City Property & Franchises**

### **CHARTER OF THE CITY OF CLEVELAND**

\*\*includes Recommendations from 2008 Charter Review Commission that were never placed on the ballot.

Chapter 31 Improvements and Assessments

Chapter 33 Appropriation of Property

Chapter 35 Franchises

## **Part G-Charter**

### **CHARTER OF THE CITY OF CLEVELAND**

\*\*includes Recommendations from 2008 Charter Review Commission that were never placed on the ballot.

Chapter 39 Amendments and Charter Review\*\*

## CHAPTER 31 – IMPROVEMENTS AND ASSESSMENTS

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### § 143 Local Improvements

The Council shall have power by ordinance to provide for the construction, reconstruction, repair and maintenance by contract or directly by the employment of labor, of all things in the nature of local improvements, and to provide for the payment of any part of the cost of any such improvement by levying and collecting special assessments upon abutting, adjacent and contiguous or other specially benefitted property. The amount assessed against the property specifically benefitted to pay for such local improvements shall not exceed the amount of benefits accruing to such property.

(Effective November 9, 1931)

#### § 144 Methods of Special Assessments

Special assessments upon the property deemed benefitted by a public improvement shall be by any one of the following methods:

- (a) By a percentage of the tax value of the property assessed.
- (b) In proportion to the benefits which may result from the improvement.
- (c) By the foot frontage of the property bounding or abutting upon the improvement.

(Effective November 9, 1931)

#### § 145 Preliminary Resolution

When it is deemed necessary to make a public improvement to be paid for in whole or in part by special assessment, the Council shall declare the necessity therefor, by resolution, and such resolution shall state the method of assessment, the mode of payment, and the number of annual installments. Such resolution shall be certified to the Director of Finance, who shall thereupon proceed to make an assessment report, in accordance with the method of assessment provided in the resolution, which report shall be filed with Council and shall show the lots and lands assessed, and the amount of the assessment as to each, and the number of installments not exceeding ten (10), in which such assessments shall be paid.

(Effective November 9, 1931)

#### § 146 Plans of Proposed Improvements

At the time of the passage of the resolution hereinbefore provided there shall be on file in such office as the Council may designate by ordinance in accordance with the provisions hereof, plans, specifications, estimates, and profiles of the proposed improvements, giving all information necessary; and such plans, specifications, estimates and profiles, shall be open to the inspection of all interested persons. Until such time as the Council may make the aforesaid designation the place of the said filing shall be the one in use at the time of the adoption of this section.

(Effective November 9, 1931)

#### § 147 Notices Served

Upon the filing of the assessment report, the Director of Finance shall cause written notice to be served upon the owner of each lot or parcel of land to be assessed, or otherwise affected, or upon the persons in whose names the same may be assessed for taxation upon the tax duplicate. Said notice shall be served as is provided for service of summons in civil actions; and as to all nonresidents and persons who cannot be found, publication of such notice shall be made at least once in a newspaper of general circulation in the City. Said notice shall contain a statement of the character of the proposed improvement, the fact that the assessment report has been filed with the Council, the rate of such assessment, the number of installments, and shall state a time and place when complaints and claims will be heard before the Board of Revision of Assessments.

(Effective November 9, 1931)

#### § 148 Board of Revision of Assessments

The Board of Revision of Assessments shall consist of the Director of Law, the Director of Finance, and the President of the Council. The Director of Law shall be the President of the Board, and the Director of Finance shall be the Secretary thereof. It shall meet weekly at a time and place provided by its rules, and shall hear all claims and objections as to the character of all improvements to be paid for in part or in whole by special assessments, the necessity therefor,

and the equity of the assessments as provided in the assessment report. A majority of those constituting the Board of Revision of Assessments shall have power to determine all complaints and objections submitted to it, and as to each improvement the Board shall, after such hearing, amend, equalize, and adjust the assessment report, and shall report its findings as to the necessity for the improvements and any amendment it directs in the assessments, the estimates of benefits and allowance of damages to the Council.  
(Effective November 9, 1931)

#### § 149 Claims

An owner of a lot or of land bounding and abutting upon a proposed improvement, claiming that he will sustain damage by reason of the improvement, shall present such claim to the Board of Revision of Assessments within two weeks after the service of notice or the completion of the publication hereinbefore provided. Such claim shall be in writing and shall set forth the amount of damages claimed, with a general description of the property with respect to which it is claimed the damage will accrue, and shall be filed with the Director of Finance. Any owner who fails to do so shall be deemed to have waived such damages, and shall be barred from filing a claim or receiving damages therefor. This provision shall apply to all damage which will obviously result from the improvement, but shall not deprive the owner of his right to recover damages arising, without his fault, from acts of the City or of its agents. If, subsequent to the filing of such claim, the owner sells the property, or any part thereof, the right of damages, if any, shall follow the ownership of the land without other transference of the claim. The Board of Revision of Assessments shall report to the Council all such claims for damages filed with it.  
(Effective November 9, 1931)

#### § 150 Final Assessment

Whenever the Board of Revision of Assessments shall have made its final report to the Council as to any improvement, the Council, if it determines that the improvement shall proceed, shall pass an ordinance levying the assessment as reported by the Board of Revision of Assessments and directing that the improvement proceed. In such ordinance it shall be sufficient to describe the lots and lands abutting upon the improvement and to be assessed therefor, as all the lots and lands bounding and abutting upon such improvement between and including the termini of the improvement; and in describing lands which do not abut it shall be sufficient to describe the lots by their appropriate lot numbers, and the lands by metes and bounds; and this rule of description shall apply in all proceedings in which lots and lands are to be charged with special assessments.  
(Effective November 9, 1931)

#### § 151 Special Assessments

Special assessments shall be payable by the owners of the property assessed at the time stipulated in the ordinance, and shall be a lien from the date of assessment upon the respective lots and parcels of land assessed, enforceable in the manner provided by general law.  
(Effective November 9, 1931)

#### § 152 Determination of Damages

At the time of the passage of the ordinance determining to proceed with the improvement as hereinbefore provided, the Council shall determine whether the claims for damages so filed shall be allowed and paid or shall be judicially inquired into before commencing or after the completion of the proposed improvement. If it decides that the damages shall be assessed before commencing the improvement, the Director of Law shall then make a written application to the Court of Common Pleas, or a judge thereof in vacation, or to the Probate Court, or to the Court

of Insolvency, for the summoning of a jury to determine such damage, and the judge shall direct that a jury be summoned as is provided for the appropriation of property, and fix the time and place for inquiry into, and assessment of such damages, which inquiry and assessment shall be confined to such claims.

(Effective November 9, 1931)

#### § 153 Assessment After Completion

When the Council determines to assess the damages after the completion of the improvement for which the claim for damages has been filed as hereinbefore provided, the Director of Law shall within ten (10) days after the completion of the improvement make written application as hereinbefore provided in the case of the ascertainment of damages before the improvement was made, and the same proceedings shall be had as provided in the next preceding section.

(Effective November 9, 1931)

#### § 154 Time Limit in Damage Claims

No person who claims damages arising from any cause shall commence a suit therefor against the City until he shall have filed a claim for such damages with the Director of Finance and sixty (60) days shall have elapsed thereafter. This provision shall not apply to any application for an injunction or other proceeding to which it may be necessary for such applicant to resort in case of urgent necessity.

(Effective November 9, 1931)

#### § 155 Work to be Done

When the Council shall have passed an ordinance directing that an improvement be made, to be paid for in whole or in part by special assessments, the Mayor shall through the appropriate department or office, either directly by the employment of labor or by entering into a contract therefor, as may be determined by the Council, cause the improvement to be made.

(Effective November 9, 1931)

#### § 156 Lands Unallotted or Not on Duplicate

When special assessments are levied by the percentage of tax value of the property assessed or by the foot frontage of the property bounding and abutting upon the improvement, and there are lands subject to such assessment which are not assessed for taxation, the Director of Finance shall fix, for the purpose of such assessments, the value of such lots as they stand and of such lands at such depths as the Director of Finance considers a fair average of the depth of lots in the neighborhood, so that it will be a fair average of the assessed value of other lots in the neighborhood. Where lands are not subdivided into lots, but are assessed for taxation, the Director of Finance shall fix the value and the depth in the same manner; but the above rule shall not apply in making a special assessment according to benefits.

(Effective November 9, 1931)

#### § 157 Interest on Assessment Bonds

When bonds or notes are issued in anticipation of the collection of assessments, the interest thereon shall be treated as part of the cost of the improvement of which assessments may be made.

(Effective November 9, 1931)

### § 158 Limitations on Assessments

The Council shall limit all assessments to the special benefits conferred upon the property assessed, and in no case shall there be levied on any lot or parcel of land any assessments for any or all purposes within a period of five years in excess of thirty-three and one-third percent (33-1/3%) of the actual value thereof after the improvement is made. Assessments levied for the construction of main sewers shall not exceed that sum that, in the opinion of the Council, would be required to construct an ordinary street sewer or drain of sufficient capacity to drain or sewer the lots or lands to be assessed for such improvement, nor shall any lots or lands be assessed that do not need local drainage, or which are provided therewith.

(Effective November 9, 1931)

### § 159 City's Portion of Cost

The City shall pay such part of the cost and expense of improvements for which special assessments are levied as the Council deems just, which part shall not be less than one-fiftieth (1/50) of all such cost and expense; and in addition thereto the City shall pay the cost of intersections. The Council may provide for the payment of the City's portion of all such improvements by the issuance of bonds or notes therefor and may levy taxes, in addition to all other taxes authorized by law, to pay such bonds or notes and the interest thereon.

(Effective November 9, 1931)

### § 160 Replacing Existing Improvements

The Council may provide in whole or in part the cost of replacing any existing local improvement by levying special assessments as hereinbefore provided, but any assessment for such replacement in less than fifteen years from the date of a prior assessment for the improvement to be replaced shall be limited to a sum not in excess of fifty percent of the cost of such replacement.

(Effective November 9, 1931)

### § 161 Subsequent Improvements

Every ordinance providing for an improvement to be paid for in whole or in part by special assessments shall contain an estimate of the life of the proposed improvement by the appropriate department or office under the direction of the Mayor. Any assessment thereafter made for replacing such improvement within such estimated period of life shall be limited to a sum not in excess of fifty percent (50%) of the cost of such replacement. Assessments for replacements at or after the expiration of such estimated period of life shall be subject to no limitation except as provided for assessments for original improvements.

(Effective November 9, 1931)

### § 162 Rebates and Supplementary Assessments

Upon the completion of any improvement the Director of Finance shall rebate to the then owner of the property which shall have been assessed to pay for such improvement any surplus or excess remaining unexpended for the purpose for which such assessment was made, and in the event of there being a deficit in the fund provided for the making of any such improvement the Director of Finance shall report to the Council a supplementary assessment within the limitation hereinbefore provided, which supplementary assessment shall be made by ordinance of the Council and certified for collection as is provided in the case of original assessments.

(Effective November 9, 1931)

### § 163 Sewer, Water and Other Connections

The Mayor, or Director or head of an appropriate department or office under the direction of the Mayor, shall have authority to compel the making of sewer, water, and gas and other connections whenever in view of contemplated street improvements or as a sanitary regulation, such connections should in his judgment be constructed. Written notice of such determination shall be given to the owner or each lot or parcel of land to which connections are to be made, which notice shall state the number and character of connections required. Such notice shall be served by a person, designated by the Mayor or by the director or head of an appropriate department or office under the direction of the Mayor, in the manner provided for the service of summons in civil actions. Nonresidents of the City, or persons who cannot be found, may be served by one publication of such notice in the newspaper of general circulation in the City. The notice shall state the time within which such connections shall be constructed and, if they be not constructed, within said time, the work may be done by the City and the cost thereof, together with a penalty of five percent (5%), assessed against the lots and lands for which the connections are made. Said assessments shall be certified and collected in the same manner as other assessments for street improvements.

(Effective November 9, 1931)

### § 164 Sidewalks, Curbs and Gutters

The Council may by resolution declare that certain specified sidewalks, curbs or gutters shall be constructed or repaired. Upon the passage of such resolution the Director of Finance shall cause written notice of the passage thereof to be served upon the owner, or agent of the owner, of each parcel of land abutting upon such sidewalks, curbs or gutters who may be a resident of the City, in the manner provided by law for the service of summons in civil actions. A copy of the notice, with the time and manner of service endorsed thereon, signed by the person serving it, shall be returned to the office of the Director of Finance and there filed and preserved. For the purpose of such service, if the owner of any such property be not a resident of the City, any person charged with the collection of rent or the payment of taxes upon such property, or having control thereof in any way, shall be regarded as the agent of the owner, and service upon such person shall have like force and effect as though personal service were made on the owner thereof. If it appear in any such return that the owner is a nonresident, or that neither such owner or agent could be found, one publication of a copy of the resolution in a newspaper of general circulation in the City shall be deemed sufficient notice to such owner.

(Effective November 9, 1931)

### § 165 Enforcement and Costs

If sidewalks, curbs, or gutters are not constructed or repaired within fifteen (15) days from the service of the notice provided for in the preceding section, or the completion of the publication thereof, the City may proceed through the appropriate department or office either by direct employment of labor, or by contract, to carry out the said construction or repair at the expense of the owner, as is the case of other improvements, and all such expense shall be reported by the Director of Finance to the Council. The Council shall thereupon by ordinance assess the cost and expense thereof upon the owner or owners of all the property bounding or abutting thereon, and such assessment shall be collected in the same manner as other assessments with a penalty of five percent (5%) and interest for failure to pay at the time fixed by the assessment resolution.

(Effective November 9, 1931)

### § 166 Assessment Bonds

The Council may at any time borrow money and authorize the issuance of notes or bonds therefor in anticipation of the collection of assessments, levied for the purpose of paying the cost of constructing or repairing sidewalks, curbs and gutters which are to be or have been constructed by the City, upon the failure of the owners of the property to construct or repair the same pursuant to notice as hereinbefore provided.

(Effective November 9, 1931)

### § 167 Public Improvements

Public improvements of all kinds may be made by the appropriate department, either by direct employment of the necessary labor and the purchase of the necessary supplies and materials, with separate accounting as to each improvement so made, or by contract duly let to the lowest responsible bidder after competitive bidding, either for a gross price, or upon a unit basis for the improvement, or by contract containing a guaranteed maximum and stipulating that the City shall pay within such maximum the cost of labor and materials, plus a fixed percentage of profit to the contractor. Public improvements may also be made by combining the design professional contract with the public improvement contract, in a manner similar to a design-build or engineer, procure, construct (EPC) contract, and be awarded on the basis of the best proposal, taking into consideration the engineering and design, the construction method(s), the proposed design and construction costs, the total life-cycle costs, the qualifications of the proposed design professional and the construction firm(s), and the other objectives of the project. The Council shall by ordinance determine by which of the foregoing methods any improvement shall be made. Contracts may provide a bonus per day for completion of the contract prior to a specified date, and liquidated damages to the City to be exacted in like sum for every day of delay beyond a specified date.

(Effective November 4, 2008)

### § 168 Alterations or Modifications in Contract

When in the prosecution of any work or improvement under contract it becomes necessary, in the opinion of the director of the appropriate department, to make alterations or modifications in such contracts, such alterations or modifications shall be made only when authorized by the Council upon the written recommendations of such director, countersigned by the Mayor. No such alterations shall be valid unless the price to be paid for the work or material, or both, under the altered or modified contract, shall have been agreed upon in writing and signed by the contractor and such director prior to such authorization by the Council.

(Effective November 9, 1931)

### § 169 Plat of Subdivision

A proprietor of lots or grounds within the City, who subdivides or lays them out for sale, shall cause to be made an accurate map, or plat of such subdivision, describing with certainty all grounds laid out, or granted for streets, alleys, ways, commons, or other public uses. Lots sold or intended for sale shall be numbered by progressive numbers, or described by the squares in which situated, and the precise length and width shall be given of each lot sold or intended for sale. Such map or plat shall be subscribed by the proprietor, or his agent duly authorized in writing, acknowledged before an officer authorized to take the acknowledgment of deeds, who shall certify the acknowledgment of the instrument, and recorded in the office of the County Recorder.

(Effective November 9, 1931)

#### § 170 Fee Shall Vest in City

The map or plat so recorded shall thereupon be a sufficient conveyance to vest in the City the fee of the parcel or parcels of land designated or intended for streets, alleys, ways, commons, or other public uses, to be held in the corporate name in trust to and for the uses and purposes in the instrument set forth, expressed, designated or intended.

(Effective November 9, 1931)

#### § 171 Platting Commissioner

The Council shall, by ordinance, designate the director of a department, or some other administrative officer of the City, as Platting Commissioner. The Platting Commissioner shall provide regulations governing the platting of all lands so as to require all streets and alleys to be of proper width, and to be coterminous with adjoining streets and alleys, and otherwise to conform with regulations prescribed by the City Planning Commission. Such regulations may also require that sewers and other public improvements shall be of such nature as to conform to the plan of the City and be adequate to the future needs of the City and of the newly platted territory. Whenever the Council shall deem it expedient to plat any portion of territory within the City limits, in which the necessary or convenient streets or alleys have not already been accepted by the City so as to become public streets, or when any person plats any land within the corporate limits, or within three miles thereof, the Platting Commissioner shall, if such plats are in accordance with the rules as prescribed by him, endorse his written approval thereon. No plat subdividing lands within the corporate limits, or within three miles thereof, shall be entitled to record in the Recorder's office of the County without such written approval so endorsed thereon.

(Effective November 9, 1931)

#### § 172 Effect of Platting

No streets or alleys, except those laid down on such plat and bearing the approval of the Platting Commissioner, as hereinbefore provided, shall subsequently in any way be accepted as public streets, or alleys, by the City, nor shall any public funds be expended in the repair or improvement of streets and alleys subsequently laid out and not on such plat. This restriction shall not apply to a street or alley laid out by the City, nor to streets, alleys, or public grounds laid out on a plat by or with the approval of the Platting Commissioner.

(Effective November 9, 1931)

#### § 173 Duty to Keep Streets Open, in Repair and Free from Nuisance

The Council shall provide for the care, supervision, control and improvement of public highways, streets, avenues, alleys, sidewalks, public grounds, bridges, aqueducts, and viaducts, within the City, and shall cause them to be kept open, in repair and free from nuisance.

(Effective November 9, 1931)

#### § 174 Alteration of Streets

When it deems it necessary the Council may cause any street, alley, or public highway to be opened, straightened, altered, diverted, narrowed, widened, or vacated.

(Effective November 9, 1931)

#### § 175 Dedication of Streets

No street or alley dedicated to public use by the proprietor of ground in the City shall be deemed a public street or alley, or under the care or control of the Council, unless the dedication be

accepted and confirmed by ordinance passed for such purpose, or unless the provisions hereof relating to subdivisions shall have been complied with.  
(Effective November 9, 1931)

#### § 176 Street Vacation or Change of Name

The Council in vacating any street, or part of street, or changing the name of any street may include in one ordinance the change of name or the vacation or narrowing of more than one street, avenue, or alley, but before vacating any street or part thereof, or narrowing any street, the Council shall first pass a resolution declaring its intention so to do. The Director of Finance shall cause notice of such resolution to be served in the manner that service of summons is required to be made in civil actions upon all persons whose property abuts upon the portion of the street affected by the proposed vacation or narrowing, and by publication once in one newspaper of general circulation in the City as to all the persons who cannot be personally served. Said notice shall state the time and place at which objections can be heard before the Board of Revision of Assessments. Upon the report by the Board of Revision of Assessments, approving the proposed vacation or narrowing, the Council may by ordinance declare such vacation or narrowing, and such order of the Council vacating or narrowing a street or alley which has been dedicated to public use by the proprietor, shall, to the extent to which it is vacated or narrowed, operate as a revocation of the acceptance thereof by the Council, but the right of way and easement therein of any lot owner shall not be impaired thereby.  
(Effective November 9, 1931)

## CHAPTER 33 – APPROPRIATION OF PROPERTY

§ 177 Appropriation

§ 178 Declaratory Resolution

§ 179 Notice

§ 180 Further Proceedings

### § 177 Appropriation

Property within the corporate limits of the City may be appropriated for any public or Municipal purpose, and subject only to the limitations imposed by the Constitution of the State, such appropriation shall be made as herein provided. By such appropriation the City may acquire a fee simple title or any less estate, easement or use. Appropriation of property located outside the corporate limits of the City, shall be made according to the requirements of and as provided by general law.

(Effective November 9, 1931)

### § 178 Declaratory Resolution

When it is deemed necessary to appropriate property the Council shall adopt a resolution declaring such intent, defining the purpose of the appropriation, setting forth a pertinent description of the property, and the estate or interest therein described to be appropriated.

(Effective November 9, 1931)

### § 179 Notice

Immediately upon the adoption of such resolution, for which but one reading shall be necessary, the Director of Finance shall cause written notice thereof to be given to the owner, person in possession thereof, or having an interest of record in, every piece of land sought to be appropriated, or to his authorized agent, and such notice shall be served by a person designated for the purpose, and return made in the manner provided by law for the service and return of summons in civil actions. If such owner, person, or agent, cannot be found, notice shall be given by publication once a week for three consecutive weeks in a newspaper of general circulation in the City, and the Council may thereafter pass an ordinance directing such appropriation to proceed.

(Effective November 9, 1931)

### § 180 Further Proceedings

Upon the passage of such ordinance the Director of Law shall make application to the Court of Common Pleas, or to a judge thereof in vacation, to the Probate Court, or to the Insolvency Court of Cuyahoga County, which application shall describe as correctly as possible the land or other property to be appropriated, the interest or estate therein to be taken, the object for which the land is desired, and the name of the owner of each lot or parcel thereof, and all the subsequent proceedings with regard thereto shall be in the manner provided by general law for the appropriation of property by municipal corporations in this State.

(Effective November 9, 1931)

## CHAPTER 35 – FRANCHISES

§ 181 Grants

§ 182 Renewals

§ 183 Termination Provisions

§ 184 Valuation

§ 185 Extensions

§ 186 Passage of Franchise Ordinances

§ 187 Certified Copies of Grants and Other Documents

§ 188 Grant Nonexclusive; Maximum Time Limit

§ 189 Consents

§ 190 Control and Regulation by Council

### § 181 Grants

The Council may by ordinance grant permission to any individual, company or corporation to construct and operate a public utility in the streets and public grounds of the City. It may prescribe in the ordinance the kind and quality of service or product to be furnished, the rate or rates to be charged therefore, the manner in which the streets and public grounds shall be used and occupied, and any other terms and conditions conducive to the public interest.

(Effective November 9, 1931)

### § 182 Renewals

The Council may, by ordinance, renew any grant for the construction or operation of any utility, at its expiration, upon such terms as may be conducive to the public interest.

(Effective November 9, 1931)

### § 183 Termination Provisions

All such grants and renewals thereof shall reserve to the City the right to terminate the same and to purchase all the property of the utility in the streets and highways in the City and elsewhere, as may be provided in the ordinance making the grant or renewal, used in or useful for the operation of the utility, at a price either fixed in the ordinance, or to be fixed in the manner provided by the ordinance making the grant or renewal of the grant. Nothing in such ordinance shall prevent the City from acquiring the property of any such utility by condemnation proceedings or in any other lawful mode; but all such methods of acquisition shall be alternative to the power to purchase, reserved in the grant or renewal as hereinbefore provided. Upon the acquisition by the City of the property of any utility, by purchase, condemnation or otherwise, all grants or renewals shall at once terminate.

(Effective November 9, 1931)

### § 184 Valuation

No ordinance making such grant or renewal shall be valid unless it shall expressly provide therein that the price to be paid by the City for the property that may be acquired by it from such utility, by purchase, condemnation or otherwise, shall exclude all value of such grant or renewal.

(Effective November 9, 1931)

### § 185 Extensions

The Council may, by ordinance, grant to any individual, company or corporation operating a public utility, the right to extend the appliances and service of such utility. All such extensions shall become a part of the aggregate property of the utility, and shall be subject to all the

obligations and reserved rights in favor of the City applicable to the property of the utility by virtue of the ordinance providing for its construction and operation. The right to use and maintain any such extension shall expire with the original grant of the utility to which the extension was made or any renewal thereof.

(Effective November 9, 1931)

#### § 186 Passage of Franchise Ordinances

No ordinance making, amending or renewing a grant to construct or operate a public utility or to extend the appliances or service thereof, shall be adopted by the Council until adequate public hearings shall have been held on such ordinance, and until at least one week after its publication in the *City Record* in final form.

(Effective November 9, 1931)

#### § 187 Certified Copies of Grants and Other Documents

Every public utility, and every owner of a public utility grant, shall file with the City certified copies of all such grants owned or claimed, or under which any such utility is operated within the City. Certified copies of all public utility grants, and of all amendments, renewals and extensions thereof, made subsequent to the taking effect of this section shall be filed with the City by the grantee within ten days after acceptance thereof. No grant to construct or operate a public utility shall be transferable except with the approval of the Council expressed by ordinance; and certified copies of all transfers, mortgages, and other documents affecting the title or use of public utilities shall be filed with the City within ten days after their execution. The certified copies of grants and other documents required by this section to be filed with the City shall be filed and preserved as a public record in such office thereof as the Council may by ordinance provide.

(Effective November 9, 1931)

#### § 188 Grant Nonexclusive; Maximum Time Limit

No right or rights to construct, maintain, or operate any public utility in the City of Cleveland shall be exclusive; nor shall such right or rights be granted for a longer period than twenty-five years.

(Effective November 9, 1931)

#### § 189 Consents

No consent of the owner of 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 ground.

(Effective November 9, 1931)

#### § 190 Control and Regulation by Council

The Council shall at all times control the distribution of space in, over, under or across all streets or public grounds and 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.

(Effective November 9, 1931)

## Part G-Charter

# CHARTER OF THE CITY OF CLEVELAND

\*\*includes Recommendations from 2008 Charter Review Commission that were never placed on the ballot.

## Chapter 39 Amendments and Charter Review\*\*

## CHAPTER 39 – AMENDMENTS AND CHARTER REVIEW

§ 200 General Provisions

§ 200-1 Charter Review Commission

§ 201 Severability Clause

§ 202 Effective Date

### § 200 General Provisions

Proposed amendments to this Charter may be submitted to the electors of the City by a two-thirds vote of the members of Council, and upon petition signed by ten percent of the electors of the City, setting forth any such proposed amendment, prepared and filed with the Council, through its Clerk in the manner and form prescribed in this Charter for the preparation and filing with the Clerk of an initiative petition for an ordinance, such proposed amendment shall be submitted to the electors of the City by the Council. The percentage aforesaid shall be based upon the total vote cast at the last preceding general Municipal election. The ordinance providing for the submission of any such proposed amendment shall require that such proposed amendment be submitted to the electors at the next regular Municipal election if one shall occur not less than sixty days nor more than one hundred and twenty days after its passage; otherwise it shall provide for the submission of the proposed amendment at a special election to be called and held within the time aforesaid. When ten (10) days and two regular meetings of the Council have passed after the filing of a petition fulfilling the requirements of this section, then the Council shall forthwith provide the ordinance for the submission to the electors of the proposed amendment to this Charter. The Clerk of the Council shall transmit to the election authorities prescribed by general law a duly authenticated copy of such ordinance forthwith upon its passage, and not less than thirty days prior to such election the Clerk of the Council shall either mail a copy of the proposed amendment to each elector whose name appears upon the registration books of the last regular or general election held in the City or pursuant to laws passed by general assembly notice of the proposed amendments may be given by newspaper advertising. If such proposed amendment is approved by a majority of the electors voting thereon it shall become a part of the Charter of the City at the time fixed in the amendment; and if no time is fixed therein, then it shall become a part of the Charter upon its approval by the electors. Proposed amendments to this Charter may be submitted to the electors by ballot title, which shall be clear, concise statements, without argument, descriptive of the substance of such proposed amendments. If conflicting proposed amendments to this Charter shall be approved at the same election, the one receiving the highest number of affirmative votes shall be the amendment to the Charter.

(Effective October 8, 1971)

### § 200-1 Charter Review Commission

Not later than the first day of February in the year 2018 and of each succeeding tenth year thereafter, the Council shall provide for the selection of a Charter Review Commission and shall appropriate adequate funds for a comprehensive review of the existing Charter provisions. The Charter Review Commission shall consist of fifteen electors of the City of Cleveland appointed or elected in the manner prescribed by ordinance. Within thirty days after selection the members shall meet, choose a Chairman and Secretary, and adopt rules to govern the procedure of the Commission. The Commission may employ necessary assistants and professional services as it deems necessary, within the funds appropriated for this purpose. Not later than one year after its organization the Charter Review Commission shall report to the Council proposed amendments to the Charter as the Commission determines to be necessary or desirable and a statement of the

reasons for submitting the proposed amendments to the electors; or that no changes in the Charter are required or desired. Upon receipt of the report of the Charter Review Commission setting forth any proposed amendment or amendments to the Charter, the Council shall determine by ordinance whether the proposed amendment or amendments shall be submitted to the electors of the City of Cleveland in the manner provided and governed by the provisions of Section 200 and in conformity with Section 9 of Article XVIII, of the Ohio Constitution. (Effective May 4, 2010)

### **2008 RECOMMENDATIONS #114 to #116:**

**There are three substantive recommended amendments to existing Charter Section 200-1.**

#### **Proposed Language:**

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#### **2008 Recommendation #114: Amend Section 200-1 to shorten the time for the appointment and work of a Charter Review Commission from 20 years to 10 years.**

**Reason:** The passage of twenty years is too long a period to wait for another comprehensive examination and update of the Charter. The Commission recommends that the Charter be amended to provide for the creation of a Charter Review Commission every 10 years.

#### **2008 Recommendation #115: Amend Section 200-1 to extend the time in which the Charter Review Commission must complete its work be extended from six months to one year.**

**Reason:** It has proved very challenging for the Commission to complete its work within six months. The Commission recommends that, in the future, the Commission be a year to conduct its review.

#### **2008 Recommendation #116: Amend Section 200-1 to remove the 30-day time period during which the Council determines whether to submit amendments to the electors.**

**Reason:** There is no need for a limit on the Council to complete its review of the Charter Review Commission's recommendations.

### **§ 201 Severability Clause**

If any section or part of a section of this amendment proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section of this amendment, unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held unconstitutional or invalid.

(Effective November 9, 1931)

### **§ 202 Effective Date**

For the purpose of nominating and electing officers the provisions of this Charter shall be in effect for any regular Municipal election held not less than eighty days from and after their

approval by the electors of City. For all other purposes this Charter shall be in effect on the first Monday following the first election of officers thereunder, on which day Section 3 to 183, both inclusive, of the existing Charter of the City of Cleveland shall be deemed repealed. All members of the Council elected in accordance with the existing provisions of the Charter of the City of Cleveland shall continue to hold such office for the full term for which they were elected. If, however, the provisions of this Charter are approved at an election held in an even numbered year or at an election held in an odd numbered year on a day which is later than eighty days before the regular Municipal election of that year, the foregoing provisions in this section as to the time the provisions of this Charter shall take effect shall be held for naught and the following provisions shall apply, namely: The provisions of this Charter shall be in effect for all purposes on the first Monday following their approval by the electors of the City and Sections 3 to 183, both inclusive, of the existing Charter of the City of Cleveland shall be deemed repealed on that day, except for the purpose of nominating and electing members of Council the provisions of this Charter shall be in effect for any regular Municipal election held not less than eighty days from and after their approval by the electors of the City and except that meanwhile candidates for Council may be nominated and elected, and members of Council may be recalled and persons may be chosen to fill vacancies in Council, all in accordance with the existing provisions of the Charter of the City of Cleveland. Members of Council elected in accordance with the existing provisions of the Charter of the City of Cleveland shall continue to hold such office for the full term for which they were elected.  
(Effective November 9, 1931)