



Legislation Text

File #: 14-1074, **Version:** 3

Resolution to Place a Proposition to Amend the Ann Arbor City Charter Section Governing Eligibility for City Office on the November 4, 2014 General Election Ballot (**7 Votes Required**)

As a follow-up to the recent federal court ruling on the City Charter eligibility requirements for elective office, I am providing a proposed "Resolution to Place a Proposition to Amend the Ann Arbor City Charter Section Governing Eligibility for City Office on the November 4, 2014 General Election Ballot" for your consideration. I have requested the resolution be placed on the July 21st agenda for your review and comments, but would have no issue with postponing to the August 7th council agenda, if it's determined at Monday's meeting to be the preferred council direction. I want to give you and everyone an adequate heads-up and the needed time to evaluate this charter amendment proposal. In the interim, I also welcome your guidance, comments and suggestions. If it's the will of council to place a ballot proposal before voters to address the eligibility requirement question, the council deadline for approving a November 4th ballot proposal is August 7th - Council must approve ballot language by 8/7/14 to meet the City Clerk's 8/12 deadline to submit the proposed ballot language to the County Clerk and Attorney General. Bottom-line, no council action is required at this time, but I thought it important to provide you with sufficient time to review and receive your and public comments.

As noted in the resolution, Section 12.2 of the City Charter (Eligibility for City Office - General Qualifications) currently reads: "Except as otherwise provided in this charter, a person is eligible to hold a City office if the person has been a registered elector of the City, or of territory annexed to the City or both, and, in the case of a Council Member, a resident of the ward from which elected, for at least one year immediately preceding election or appointment. This requirement may be waived as to appointive officers by resolution concurred in by not less than seven members of the Council."

The May 20th federal court decision ruled that the City Charter voter registration and residency eligibility requirements are not enforceable. As a result, the Council must take action to either place on the ballot a re-enactment of the current Charter requirements or establish new requirements. The resolution before you is a revision of the prior 7/7/14 draft resolution that was provided you, and presents two charter amendment ballot questions to establish legally enforceable eligibility requirements for elected city offices and for paid (i.e., public employees) and unpaid appointed board and commission offices. Charter Amendment 1 proposes eligibility requirements for elected city offices as follows:

- For city council: A person is eligible to hold a City office if the person is a registered elector in the ward they intend to represent at the time they file petitions/paperwork required to place their name on the ballot.
- For Mayor: A person is eligible to hold a city office if the person is a registered elector of the City at the time they file petitions/paperwork required to place their name on the ballot.

The City Clerk can certify an individual's voter registration and, therefore, whether an individual is a

registered elector at any given point in time. Duration of residency is more difficult to confirm or validate, and, in as much as voter registration indicates one's place of residence, certifying that the candidate for elective office is a registered voter in the appropriate geographic area the candidate seeks to represent would fulfill both the residency and voter registration eligibility requirement.

As proposed Amendment 1 reduces the current one year residency requirement to a requirement that Mayoral candidates reside in the city and council candidates reside in the appropriate ward at the time they file to run for office. The voter registration/residency length of time requirement is obviously the fundamental question that is before us. Alternatively, you may prefer to legislatively re-enact the existing one year residency requirement or propose longer voter registration and residency requirements than what is offered in the council resolution that is before you. Again, my intent is to address the need to establish some legally enforceable eligibility requirements and to formally initiate the council and community conversation about the appropriate eligibility requirements. Personally, I do not think a one year ward/city residency requirement is particularly onerous (but any longer doesn't seem appropriate to me), but want to provide all of you an opportunity to weigh-in on this length of time voter registration/residency requirement question. I would be comfortable with the proposal as drafted here or up to a one year requirement.

To more clearly address the eligibility requirements stipulated in Section 12.2 for paid and unpaid appointed officers, it is recommended the City separate this question from the eligibility question for elected officers of the City. To accomplish this, the resolution before you presents a separate charter amendment ballot Q (i.e., Charter Amendment 2) to establish eligibility requirements for paid and unpaid appointive offices. Appointive offices are defined in section 12.1 of the City Charter as paid city employees (e.g., City Administrator, City Attorney, Assessor, Treasurer, Police Chief, Clerk, et. al.) and "persons appointed to other offices or to boards and commissions." As stated in the resolution, Section 2 of Act 212 of 1999 established residency requirements for public employees, and Section 2 (4) of Act 212 exempts unpaid appointed officials from the residency requirements of the Act and allows eligibility to be established pursuant to the City Charter or ordinance.

As proposed, Charter Amendment 2 establishes a residency requirement for unpaid appointed board and commission officials, consistent with the current City Charter requirement, and acknowledges that residency requirements for public employees are controlled by State law.

Sponsored by: Councilmember Lumm

Whereas, Section 12.2 of the City Charter currently reads:

Eligibility for City Office-General Qualifications

SECTION 12.2. Except as otherwise provided in this charter, a person is eligible to hold a City office if the person has been a registered elector of the City, or of territory annexed to the City or both, and, in the case of a Council Member, a resident of the ward from which elected, for at least one year immediately preceding election or appointment. This requirement may be waived as to appointive officers by resolution concurred in by not less than seven members of the Council.

Whereas, The City's durational residency and registered voter eligibility requirements for elective officers have been determined invalid and unenforceable by decisions of the United States District Court;

Whereas, Section 2 of Act 212 of 1999 (the "Act") establishes residency requirements for public employees, including those employees identified in Section 12.1 of the Ann Arbor City Charter;

Whereas, Section 2(4) of the Act specifically exempts unpaid appointed officials from the residency requirements of the Act and allows eligibility to be established pursuant to charter or ordinance; and

Whereas, It is necessary to establish valid and enforceable eligibility requirements for elective and paid and unpaid appointed officers of the City;

RESOLVED, That it is proposed to amend Section 12.2 of the City Charter by modifying the first sentence of Section 12.2 and inserting a new sentence immediately after it and separating the two sentences as a separate subsection from the remainder of the paragraph, to read as follows:

Except as otherwise provided in this charter, a person is eligible to hold **an elected** City office if the person **on the date of filing of that person's nominating petition for election** has been **is (i)** a registered elector of the City, ~~or of territory annexed to the City or both,~~ and **(ii)** in the case of a Council Member, a **resident registered elector** of the ward from which elected., ~~for at least one year immediately preceding election or appointment.~~ **To be eligible for appointment to fill a vacancy in an elected office, a person must be a registered elector of the City, and, in the case of a Council Member, of the ward, on the date of appointment.**

and that the proposed amendment above shall be placed on the ballot in the following form and submitted to the voters at the next general city election:

CHARTER AMENDMENT 1
ANN ARBOR CITY CHARTER AMENDMENT ESTABLISHING
ELIGIBILITY REQUIREMENTS FOR ELECTED CITY OFFICES

Shall Section 12.2 of the Charter be amended to require a person seeking elective City office on the date they file their nominating petition with the City Clerk, or on the date of appointment to fill a vacancy, be a registered elector of the City, and in the case of a Council member the ward they are seeking to represent?

Yes No

RESOLVED, That it is proposed to amend Section 12. 2 of the City Charter by modifying the second sentence of Section 12.2 and inserting a new sentence immediately before it and separating the two sentences as a separate subsection from the remainder of the paragraph, to read as follows:

Residency eligibility requirements for paid appointed officers shall be in accordance with State law. An unpaid appointive officer to a board or commission established pursuant to law, this charter, or ordinance shall be eligible for appointment if he/she is a registered elector of this City, unless ~~This requirement may be~~ **is** waived as to ~~appointive officers by~~ a resolution concurred in by not less than seven members of the Council.

and that the proposed amendment above shall be placed on the ballot in the following form and submitted to the voters at the next general city election:

CHARTER AMENDMENT 2
ANN ARBOR CITY CHARTER AMENDMENT ESTABLISHING
ELIGIBILITY REQUIREMENTS FOR PAID AND UNPAID APPOINTED CITY OFFICES

Shall Section 12.2 of the Charter be amended to acknowledge State law residency requirements for paid appointed officials and require a person nominated for a board or commission unpaid appointed office to be a registered elector of the City on the date of appointment unless waived by resolution of Council?

Yes No

STATEMENT OF PURPOSE

The proposed amendment acknowledges residency requirements for paid appointed officials (i.e. public employees) are subject to State law and establishes a residency requirement for unpaid appointed City board and commission officials while retaining the existing authority of City Council to waive this requirement by a vote of Council.

RESOLVED, That if Charter Amendment 1 is adopted by the voters but Charter Amendment 2 is not adopted that Section 12.2 shall read as follows:

Eligibility for City Office-General Qualifications

SECTION 12.2.

(a) Except as otherwise provided in this charter, a person is eligible to hold an elected City office if the person on the date of filing of that person's nominating petition for election has been is (i) a registered elector of the City, or of territory annexed to the City or both, and, (ii) in the case of a Council Member, a resident registered elector of the ward from which elected, for at least one year immediately preceding election or appointment. To be eligible for appointment to fill a vacancy in an elected office, a person must be a registered elector of the City, and, in the case of a Council Member, of the ward, on the date of appointment.

(b) This requirement may be waived as to appointive officers by resolution concurred in by not less than seven members of the Council.

RESOLVED, That if Charter Amendment 2 is adopted by the voters but Charter Amendment 1 is not adopted that Section 12. 2 shall read as follows:

SECTION 12.2.

(a) Except as otherwise provided in this charter, a person is eligible to hold a City office if the person has been a registered elector of the City, or of territory annexed to the City or both, and, in the case of a Council Member, a resident of the ward from which elected, for at least one year immediately preceding election or appointment.

(b) Residency eligibility requirements for paid appointed officers shall be in accordance with State law. An unpaid appointive officer to a board or commission established pursuant to law, this charter, or ordinance shall be eligible for appointment if he/she is a registered elector of this City, unless This requirement may be is waived as to appointive officers by a resolution concurred in by not less than seven members of the Council.

RESOLVED, That if Charter Amendment 1 and 2 are adopted by the voters that Section 12.2 shall read as follows:

Eligibility for City Office-General Qualifications

SECTION 12.2.

(a) Except as otherwise provided in this charter, a person is eligible to hold an **elected** City office if the person **on the date of filing of that person's nominating petition for election** has been **is (i)** a registered elector of the City, or of territory annexed to the City or both, and **(ii)** in the case of a Council Member, a **resident registered elector** of the ward from which elected, ~~for at least one year immediately preceding election or appointment.~~ **To be eligible for appointment to fill a vacancy in an elected office, a person must be a registered elector of the City, and, in the case of a Council Member, of the ward, on the date of appointment.**

(b) **Residency eligibility requirements for paid appointed officers shall be in accordance with State law. An unpaid appointive officer to a board or commission established pursuant to law, this charter, or ordinance shall be eligible for appointment if he/she is a registered elector of this City, unless** This requirement may be is waived as to appointive officers by a resolution concurred in by not less than seven members of the Council.

RESOLVED, That November 4, 2014, be designated as the day for holding an election on the proposed Charter amendment;

RESOLVED, That the Clerk shall transmit a copy of the proposed amendments to the Attorney General and the Governor of Michigan and shall perform all other acts required by the law for holding the election.

Sponsored by: Councilmember Lumm

As approved by Ann Arbor City Council on July 21, 2014