

# CHARTER REVISIONS FOR CONSIDERATION

## APRIL 8, 2020 CHARTER REVIEW MEETING

### Elections

#### Sec. 6.01. REGULAR AND PRIMARY ELECTIONS.

Regular and primary Municipal elections shall be held on the dates specified in Section 3501.01 or as otherwise provided in the Ohio Revised Code~~first Tuesday after the first Monday in November in the odd-numbered years, commencing in November 1971. Primary elections shall be on the first Tuesday after the first Monday in May in odd-numbered years, commencing in May, 1987.~~

**Comment:** R.C. Sec. 3501.01 was amended to provide that primaries in Presidential election years be held in March rather than May. Regular and primary municipal elections occur in odd numbered years while Presidential elections occur in even numbered years. However, there may be miscellaneous municipal issues on the primary ballot in even numbered years which necessitates this change.

### Eligibility for office

#### Sec. 6.05. NOMINATIONS.

Nominations for elective offices, under this Charter, shall be made only by petition, which shall be filed with the Board of Elections not less than 90 days prior to the primary election. Each candidate for Mayor shall file a petition signed by not less than 75 registered voters of the Municipality and by not more than 150 registered voters. Each candidate for member of Council-at-large shall file a petition signed by not less than 50 registered voters of municipality and by not more than 100 registered voters. Each candidate for Ward Councilman shall file a petition signed by not less than 25 registered voters of the respective ward and by not more than 50 such registered voters. Each petition shall be accompanied by the written acceptance of the nominee. The nomination of each candidate shall be made by a separate petition, but such petition may be circulated in separate parts which shall be filed, however, as one instrument. A candidate for office is not eligible to file a nominating petition with the Board of Election if he or she holds a different elective office of the Village at the time of filing said petition.

**Comment:** The eligibility change is suggested by the Administration and two corrections are also made to the existing section.

### Posting of ordinances and resolutions

#### Sec. 7.14. PUBLICATION.

All ordinances and resolutions shall be published by posting copies thereof in the Council Chamber and in five of the most public places in the Municipality, to be determined by

~~the Council lobby of the Village Hall and on the official Village website,~~ for a period of not less than fifteen days prior to the taking effect thereof, excepting emergency measures which shall take effect as hereinabove provided. The Council may provide for additional publication of an ordinance or resolution in a newspaper of general circulation within the Municipality, and in such case the effective date of such ordinance or resolution shall be as provided in this Charter.

The Clerk shall make and sign a certificate as to such posting and as to the times when and the places where such posting was done, and such certificate shall be prima-facie evidence that the copies were posted as required. Such certificate as authenticated by the Clerk shall be entered in the record of ordinances and resolutions on a blank for such purpose.

**Comment:** This provision presently tracks state law. The Clerk of Council has indicated that very few if any people review the items posted at five different locations. Posting in the lobby of Village Hall and on the website is more than sufficient and will result in a significant savings of time and effort. As a charter municipality, the Village is authorized to make this change by R.C. 701.05.

#### **Employment matters – rights to appeal**

##### ~~Sec. 8.04. HEARINGS AND APPEALS.~~

~~Any full-time employee of the Municipality shall have and enjoy such rights to a hearing of charges against him, in case of threatened removal or suspension, and to an appeal, as may be provided by the general laws of Ohio or by the Council, where it is competent for the Council to act. This section shall not be in force and effect when and after the Municipality becomes a City.~~

**Comment:** Because it is a village, Oakwood is not presently subject to laws creating a classified civil service. Except for police officers and any other employees subject to a collective bargaining agreement, Village employees are “at will” meaning they can be disciplined for any reason or no reason as long as the reason is not otherwise prohibited by law. In recent discussions with Council and the Administration concerning the employee handbook, the consensus is that the Village wants to remain an “at will” employer to the extent permitted by law. This provision conflicts with the concept of “at will” employment. Furthermore, it permits the employee to appeal any decisions by Council to the Common Pleas Court and beyond pursuant to R.C. Chapters 2505 and 2506 which can result in years of litigation and expense.

#### **Employment matters - classified service**

##### **Sec. 10.06. CIVIL SERVICE COMMISSION.**

##### **D. SERVICE CLASSIFICATION.**

Except as herein provided, the Commission shall determine the practicability of competitive examinations for any nonelective office or job classification in the service of

the Municipality. The Civil Service is hereby divided into unclassified and classified service. The unclassified service shall include:

1. All officers elected by the people;
2. Any member of a board or commission, or any head of a department, subdepartment or division thereof, including the Police and Fire Departments;
3. Secretaries, and assistants to the Mayor, and one secretary and assistants to each department or division head;
4. Any deputy of an elected or appointed officer who holds fiduciary relationship to his principal;
5. Any office or position requiring peculiar or exceptional qualifications;
6. Plumbing, heating, building, electrical, health, sanitary, zoning or sewer inspectors;
7. Temporary or provisional employees, whose employment, unless extended by the Commission, shall not exceed one hundred twenty (120) days;
8. Unskilled labor;
9. The Clerk of Council, his assistants and one secretary;
10. Two secretaries, assistants or clerks for each board or commission, if provided by Council; and
11. Part-time employees.

The classified service shall include:

1. Members of the Police and Fire Departments, except for the Police and Fire Chiefs;
2. All other positions and employments, not enumerated above, for which it is practicable to determine merit and fitness of applicants by competitive examinations.

**~~E. VILLAGE EMPLOYEES.~~**

~~EDITOR' NOTE: This subsection was interpreted and modified by the Cuyahoga County Court of Common Pleas.~~

~~Any person who is serving the municipality in a full time or regular part time position shall be included in classified service and shall be retained in the same or similar position. Those employees will be certified by the Commission and shall be deemed in the classified service.~~

~~Those employees in classified positions shall be entitled to hearings and appeals to the Commission under Paragraph C, and shall not be additionally entitled to hearings and appeals under Article VIII, Section [\t "\\_parent" 8.04](http://library2.amlegal.com/nxt/gateway.dll?f=jumplink$jumplink_x=Advanced$jumplink_vpc=first$jumplink_xsl=querylink.xsl$jumplink_sel=title;path;content-type;home-title;item-bookmark$jumplink_d=ohio(oakwoodvillage_oh)$jumplink_q=%5bfield%20folio-destination-name:%278.04%27%5d$jumplink_md=target-id=JD_8.04) of the Charter.~~

#### ~~I. CREDIT FOR CITIZENS.~~

~~A current resident of the Municipality shall receive an additional credit of five percent of the total grade given in the examination for original appointment in which he/she receives a passing grade, provided the resident has resided in the Municipality for a minimum of two years.~~

**Comment:** Sec. 10.06 of the Charter does not take effect until the Village attains sufficient population to be classified as a city. Nevertheless, subsection E directly conflicts with subsection D and, to an extent, with the suggested elimination of Sec. 8.04. In addition subsection I likely violates the Ohio Constitution and R.C. 9.481. While this section of the Charter is not yet in effect, the Law Department suggests that these issues be corrected before it does become effective.

### **Employment matters – Mayoral salary**

#### **Sec. 7.16. COMPENSATION OF OFFICERS AND EMPLOYEES.**

The salary or compensation of all officers, including members of boards and commissions, and employees of the Municipality, shall be fixed by ordinance [except as may otherwise be provided in this Charter with respect to the Mayor](#). The Council may, however, establish by ordinance schedules of compensation of employees, or pay ranges, to be fixed by the appointing authority in accordance with ability, fitness and seniority, within limits set forth in the Council's salary or compensation schedules.

[Except as otherwise provided in this Charter with respect to the Mayor,](#) ~~t~~The compensation of elected officers for the terms, beginning on the next succeeding first day of January following a regular Municipal election, shall be fixed at least 30 days prior to the last day for filing nominating petitions by candidates for election for such terms and shall not thereafter be changed in respect of any such terms, or any part thereof. Such compensation for the terms beginning March 1, 1969, shall be fixed by the Council prior to November 26, 1968, and shall not thereafter be changed in respect to such terms, or any part thereof.

In providing for the wages, terms and conditions of employment for all full-time employees and regular part-time employees with a minimum of two (02) years of prior service within the Village, Council shall adhere to the provisions set forth in Section

4117 of the Ohio Revised Code regarding Collective bargaining. The Village hereby waives any exemptions granted to municipalities of its type in Section 4117 of the Ohio Revised Code.

Notwithstanding any provisions of the Ohio Revised Code to the contrary, the Village of Oakwood agrees to abide by all provisions contained in Section 4117 of the Ohio Revised Code, and permit said employees:

- A. The right of form, join, or participate in any employee organization of their choosing.
- B. To bargain collectively with their public employers to determine wages, hours, terms and other conditions of employment, and to enter into collective bargaining agreements.
- C. To engage in other lawful concerted activities for the purpose of Collective Bargaining.

#### SECTION 8.05. COMPENSATION

The “Mayor’s Base Pay” shall be defined as 105% of the salary of the Chief of Police, as fixed by ordinance. Upon taking office, any person who has previously served the Village as Mayor for a minimum of two (2) years shall receive as a minimum salary the Mayor’s Base Pay unless Council shall fix a greater sum by ordinance according to the procedures set forth in Sec. 7.16 of this Charter. Upon taking office, any person who has not previously served the Village as Mayor for at least two (2) years shall receive a salary fixed at 75% of the salary of the Chief of Police. No later than sixty (60) days after the Mayor has served the Village as Mayor for a cumulative total of two (2)-years, Council shall determine by majority vote whether the Mayor shall receive 100% of the Mayor’s Base Pay. Should Council fail to vote to determine said issue within the foregoing sixty (60) day period, the Mayor’s salary shall increase to 100% of the Mayor’s Base Pay.

**Comment:** The Administration and several members of Council have requested this change on the belief that an inexperienced Mayor is not have the experience necessary to deliver the same level of service to the Village or its residents as a Mayor with greater experience. There is conflicting case law as to whether a mid-term adjustment of pay such as the one which is proposed violates the Ohio Constitution and certain provisions of the Revised Code but there is a strong argument that it is permissible.