

..Title

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**)

..Memorandum

As a follow-up to the recent federal court ruling on the City Charter eligibility requirements for elective office, I am providing a draft “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 7th agenda for your review and comments, but would have no issue with postponing to the July 21st or 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.”

As you understand, because the May 20th federal court decision ruled that the City Charter voter registration and residency eligibility requirements are not enforceable, the Council must take action to either re-enact the current Charter requirements or establish new requirements by voter referendum. The resolution before you presents a charter amendment ballot Q to establish legally enforceable eligibility requirements, and proposes the following:

- 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, the amendment 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.

The proposed amended charter language also addresses the residency requirement for appointive offices. Appointive offices are defined in section 12.1 of the City Charter, and, as Section 12.2 currently reads, the registered elector and residency requirement for appointive offices, "may be waived... by resolution concurred in by not less than seven members of the Council." State law now supersedes this Charter requirement and therefore the proposed Charter amendment removes the language that pertains to this requirement.

..Staff

Sponsored by: Councilmember Lumm

..Body

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; and

Whereas, It is necessary to establish valid and enforceable eligibility requirements for elective officers;

RESOLVED That the following amended charter provision be placed on the ballot and submitted to the voters at the next general city election:

Eligibility for City Office-General Qualifications

SECTION 12.2. Except as otherwise provided in this charter, a person is eligible to hold an elected City office if the person is a registered elector of the City, and, in the case of a Council Member, a registered elector of the ward from which elected, on the date of filing of that person's nominating petition for election or are nominated by a party caucus. 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. An appointive officer to a board or commission established pursuant to law, this charter, or ordinance must be a registered elector of this City, unless this requirement is waived 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 amendment to the Attorney General and the Governor of Michigan and shall perform all other acts required by the law for holding the election;

RESOLVED, That the proposed Charter amendment shall appear on the ballot in the following form, which includes the statement of purpose:

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

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

Yes

No

STATEMENT OF PURPOSE

The proposed amendment to Section 12.2 would impose on a person desiring to qualify as a candidate for elective City office the requirement of being a registered voter of the City, and in the case of a Council position a resident of the ward to be represented on date they file their candidacy with the City Clerk, or are nominated by a party caucus or are appointed to a vacancy in an elected office by Council. The amendment also clarifies the requirement for board and commission appointed offices.