

QUESTION #1: ELECTIONS

This proposal would make several amendments to the City Charter related to elections for City offices.

Ranked Choice Voting. Currently, elections for most City offices are conducted using a traditional plurality, or “first past the post,” system in which the candidate who received the most votes wins, regardless of the percentage of the vote the candidate received, including when a candidate receives less than a majority of the votes cast. In the primary elections for the three citywide offices (Mayor, Public Advocate, and Comptroller), and in special elections for Mayor, if no candidate receives at least 40% of the vote, a runoff election is held between the top two vote-getters in a separate election at a later date.

This proposed Charter amendment would institute ranked choice voting, also known as instant runoff voting, in primary and special elections for Mayor, Public Advocate, Comptroller, Borough President, and City Council Member. Voters would be able to rank in order of preference up to five candidates, including a write-in candidate. If no candidate receives a majority of first-choice votes, the candidate with the least number of first choice votes would be eliminated and the voters who chose that candidate would have their votes transferred to their selected second-choice candidate. This process would repeat until two candidates remain, and the candidate with the most votes at that point would win the election. Instituting ranked choice voting for these offices in primaries and special elections would eliminate the need for separate runoff elections at a later date. Ranked choice voting would not apply to general elections, which would remain unchanged and use the traditional plurality method of “first past the post.” Under this proposed amendment the City would be required to conduct a voter education campaign to familiarize voters with ranked choice voting.

This proposed amendment would apply to all primaries and special elections for Mayor, Public Advocate, Comptroller, Borough President, and City Council Member occurring on or after January 1, 2021.

Timing of Special Elections. Currently, when the office of the Public Advocate, Comptroller, Borough President, or City Council Member becomes vacant during a term, a nonpartisan special election is generally held approximately 45 days later to fill the office on an interim basis. When the office of the Mayor becomes vacant, a special election is generally held approximately 60 days later. The proposed Charter amendment would extend that time period to hold a special election to 80 days for each of these offices in order to give the Board of Elections more time to mail ballots to military and overseas voters.

This proposed amendment would take effect immediately.

Timing of Redistricting. City Council district boundaries are redrawn every ten years to reflect population changes shown in the most recent United States Census. This process is commonly referred to as “redistricting.” Redistricting is carried out by a Districting Commission appointed by the Mayor and the City Council and includes holding public hearings and preparing a new City Council district map. Under the current Charter, the next redistricting process begins in mid-2022 and would end in March 2023. But, New York State recently enacted a law that moved the City’s primary elections from September to June; as a result, City Council candidates will begin collecting

signatures on nominating petitions to appear on the primary election ballot before redistricting is completed. In other words, City Council candidates would need to obtain signatures from district residents, but they would not know the boundaries of their districts. The proposed amendment makes the redistricting process timeline shorter so that it concludes before the City Council candidate petitioning period begins.

This proposed amendment would take effect immediately so that it applies to the next redistricting process.

QUESTION #2: CIVILIAN COMPLAINT REVIEW BOARD

This proposal would make several amendments to the City Charter related to the Civilian Complaint Review Board (CCRB).

The CCRB investigates and resolves complaints by the public against police officers involving excessive use of force, abuse of authority, discourtesy, or the use of offensive language. In most cases, the CCRB makes discipline recommendations directly to the Police Department. In more serious cases, under an agreement with the Police Department, the CCRB prosecutes the officer directly in an administrative trial presided over by a Police Department official. In all cases, final disciplinary authority rests with the Police Commissioner.

Structure of the Civilian Complaint Review Board. Currently, the CCRB consists of 13 members appointed by the Mayor. The City Council nominates five members. The Police Commissioner nominates three. And the remaining five members are chosen solely by the Mayor. The Mayor also selects one member to serve as chair. The proposed Charter amendment would expand CCRB by adding two new members: one member appointed by the Public Advocate and one member jointly appointed by the Mayor and the Speaker of the City Council to serve as chair. Whenever the position of chair is vacant, the Mayor will appoint an interim chair from the existing board members. The amendment would also have the City Council directly appoint its members rather than just nominate them and require that vacancies be filled within 60 days.

The proposed amendment would take effect on March 31, 2020, except that the terms of the two new members would begin on July 6, 2020.

Protected CCRB Budget. CCRB's budget is set by the Mayor and the City Council each year. Beginning in Fiscal Year 2021, the proposed Charter amendment would require that CCRB's personnel budget be high enough to support a staff size equal to 0.65% of the budgeted number of uniformed police officers, unless the Mayor determines that fiscal necessity requires a lower budget.

Deviation from Disciplinary Recommendations. Currently, if the CCRB recommends that a police officer be disciplined, the Police Commissioner must report to the CCRB on actions taken concerning that officer. But these reports do not have to include or explain the penalty imposed. For the more serious cases that are prosecuted directly by the CCRB at an administrative trial presided over by a Police Department official, the Commissioner must notify the CCRB before imposing discipline that is lower than what is recommended by the CCRB or the presiding official. These notices must explain in detail the Commissioner's reasons for deviating from the recommended discipline and are commonly referred to as "variance memoranda."

Under the proposed Charter amendment, if the CCRB recommends that a police officer be disciplined, the Police Commissioner's report to CCRB would need to describe any discipline or penalties that are imposed. Further, if the Police Commissioner deviates from what CCRB recommends (or what the Police Department official recommends after an administrative trial), then he or she must provide a detailed explanation of the reasons for the deviation. And, if the discipline imposed will be lower than what was recommended, the explanation must show how the Police Commissioner arrived at the decision and include each factor he or she considered. This explanation would have to be provided within 45 days after the discipline is imposed (except where a shorter timeframe is agreed to by the Police Commissioner and CCRB).

This proposed amendment would take effect immediately.

False Official Statements in CCRB Matters. Currently, if the CCRB has reason to believe that a police officer has made a false statement during the course of a CCRB investigation, it refers the matter to the Police Department for further investigation and possible disciplinary action and takes no further action on its own. The proposed Charter amendment would allow CCRB to investigate, hear and make findings, and recommend discipline regarding the truthfulness of any material official statement made by an officer who is the subject of a CCRB complaint if that statement was made during the course of and in relation to the CCRB's resolution of the complaint.

This proposed amendment would take effect on March 31, 2020.

Delegation of Subpoena Power. Currently, the Charter empowers the CCRB to issue subpoenas to require that witnesses give testimony or provide records to help with its investigations. These subpoenas can only be issued if a majority of CCRB's board approves. The proposed Charter amendment would allow the CCRB to authorize its Executive Director to issue these subpoenas and to seek enforcement of the subpoenas in court if need be. CCRB would be able to make or withdraw this authorization with a majority vote of its board members.

This proposed amendment would take effect on March 31, 2020.

QUESTION #3: ETHICS AND GOVERNANCE

This proposal would make several amendments to the City Charter as outlined below.

Post-Employment Appearance Ban for Elected Officials and Senior Appointed Officials. Former City employees and elected officials are generally not allowed to communicate with the agency, or in some cases the branch of government, that employed them. This ban lasts for one year following the end of their employment. This proposed Charter amendment would extend this ban to two years for elected officials, deputy mayors, agency heads, paid members of boards and commissions, and the executive director or highest ranking public servant of a board or commission.

This amendment would take effect on January 1, 2022 and would apply to public servants who leave City employment after that date.

Conflicts of Interest Board Structure. The Conflicts of Interest Board (COIB) is charged with enforcing and interpreting the ethics laws and rules applicable to public servants, including rules relating to outside employment, volunteering, gifts, political activities, misuse of position, and post-employment restrictions.

Currently, COIB has five board members, all of whom are appointed by the Mayor for six-year terms with the advice and consent of the City Council. This proposed Charter amendment would replace the two members whose terms expire on March 31, 2022 with one member appointed by the Comptroller and one member appointed by the Public Advocate. The amendment would also require that board decisions be approved by at least three members (a majority), rather than just two.

The proposed amendment would take effect immediately.

Political Activity by Members of COIB. The Charter sets standards for COIB members. They must show independence, integrity, civic commitment, and high ethical standards. They cannot hold or seek public office, be public employees, hold political party offices, or appear as a lobbyist before the City. This proposed Charter amendment would further prohibit members of COIB from participating in the campaign of any candidates for an elected City office and reduce the maximum amount of money that members can contribute in each election cycle to candidates for Mayor (to \$400), Public Advocate (to \$400), Comptroller (to \$400), Borough President (to \$320), and City Council (to \$250 each).

This amendment would take effect immediately and would apply to any member appointed to COIB, or who has their term extended, after that date.

M/WBE Citywide Director and Office. Pursuant to the City Charter and the Administrative Code, the City's Minority and Women-Owned Business Enterprise (M/WBE) program is charged with promoting City government contracting opportunities for minority and women-owned businesses. Under the current mayoral administration, the program is coordinated by a Citywide M/WBE Director who reports directly to the Mayor and who is supported by an Office of M/WBEs located within the Mayor's Office. But existing law does not require that this continue. The proposed Charter amendment would require that, in all future mayoral administrations, the Citywide M/WBE Director would report directly to the Mayor and be supported

by an Office of M/WBEs located within the Mayor's Office.

This proposed amendment would take effect on March 31, 2020.

Appointment of the Corporation Counsel. The City's Corporation Counsel is the attorney and counsel for the City and leads the City's Law Department. The Law Department represents the City, including all its agencies, in all civil litigation, juvenile delinquency proceedings and enforcement proceedings in Criminal Court. Among other responsibilities, Law Department attorneys draft and review City and New York State legislation, real estate leases and City contracts. The Law Department also provides legal counsel to City officials on a wide array of issues. Currently, the Corporation Counsel is appointed by the Mayor.

This proposed Charter amendment would require that the Corporation Counsel be appointed by the Mayor with the advice and consent of the City Council. The Mayor would be required to make a nomination within 60 days of either a vacancy or City Council disapproval of a nomination, and to make all reasonable efforts to fill a vacancy within 120 days.

The proposed amendment would take effect immediately and apply to any vacancy in the office of Corporation Counsel that exists upon or occurs after the amendment's approval.

QUESTION #4: CITY BUDGET

This proposal would make several amendments to the City Charter related to the City's budget and budgeting process.

The City Charter establishes a detailed process by which the Mayor and the City Council set the City's budget each year. Generally, the Mayor proposes a Preliminary Budget in January followed by an Executive Budget in April. The City Council adopts the budget in June, typically after negotiation with the Mayor, and that budget applies for the following fiscal year, which begins on July 1st.

Revenue Stabilization Fund (also referred to as a "Rainy Day" Fund). A "rainy day" fund is a fund in which excess revenues from one year are set aside for use in future years to help fill budget gaps caused, for example, by economic downturns, emergencies, or unforeseen decreases in revenue. "Rainy day" funds can provide an alternative to raising taxes and cutting services in times of fiscal necessity, but there are currently legal obstacles to creating a "rainy day" fund for the City.

One legal obstacle is that the City Charter prohibits using revenue received and saved in one year from being considered in balancing a future year's budget. The proposed Charter amendment would provide an exception to the Charter's balanced budget requirements to allow money from the "rainy day" fund, when established and funded, to be used to achieve a balanced budget in a given year. Changes to state law, which contains requirements similar to those in the City Charter, are also necessary for the City to use a "rainy day" fund. Those state law requirements presently would expire in 2033.

If the proposed Charter amendment is enacted, and if the necessary changes to state law occur, the City would then be able to use a "rainy day" fund, subject to other restrictions in state law that regulate the use of such a fund.

Protected Budgets for the Public Advocate and Borough Presidents. The budgets for the offices of the elected Public Advocate and the five elected Borough Presidents are set by the Mayor and the City Council each year. Beginning in Fiscal Year 2021, the proposed Charter amendment would set minimum budgets for the Public Advocate and Borough Presidents. Using each office's current Fiscal Year 2020 budget as a baseline, these budgets would be adjusted in future fiscal years by the lesser of the percentage change in the City's total expense budget (excluding certain components such as pension contributions) or the rate of inflation in the New York City metropolitan area, unless the Mayor makes a written determination that a lower budget is fiscally necessary in a given year.

This proposed amendment would take effect immediately so as to allow the required the minimum budgets to be in place for Fiscal Year 2021.

Revenue Estimate. The City Charter currently requires the Mayor to submit to the City Council an estimate of the anticipated revenues in the next fiscal year from sources other than property taxes by June 5th, a date after which certain consequences occur under the City Charter if the budget has not yet been adopted. In practice, however, the Mayor usually submits the estimate at about the time when the budget is adopted, which often occurs later than June 5th. The non-

property tax revenue estimate is significant in part because the Charter requires the City Council to set property tax rates sufficient to balance the budget (in effect, sufficient to fund the difference between the non-property tax revenue estimate and the budgeted expense spending) immediately upon adoption of the budget.

The proposed Charter amendment, which would take effect immediately, would require the Mayor to submit the non-property tax revenue estimate to the City Council when the Mayor submits the executive budget in April. The Mayor could update this estimate up until May 25th. After May 25th, the Mayor could only update the estimate further if the Mayor made a written determination of fiscal necessity.

This proposed amendment would take effect immediately so as to allow for this procedure to be in place for Fiscal Year 2021.

Budget Modification Timing. After the City’s budget is adopted, it can be modified during the fiscal year. In many cases, if the Mayor wants to update the budget to reflect changes to spending or revenue or to transfer money allocated for one agency or program to another, the Mayor must either – depending on the nature of the proposed changes to the budget – seek the approval of the City Council or notify the Council to provide it with an opportunity to disapprove the proposed changes. This process is commonly referred to as seeking a “budget modification.”

In addition to preparing the City budget, the Mayor also prepares a financial plan that contains information about current fiscal year spending and revenue receipts and frequently includes information about new programs or budget cuts. The City Charter requires financial plan updates to be published at least quarterly during the fiscal year.

The proposed Charter amendment would require that, beginning in Fiscal Year 2021, when the Mayor submits a financial plan update that contains a change to revenue or spending that would require the Mayor to seek a budget modification, the necessary budget modification must be submitted to the City Council within 30 days after the financial plan update.

QUESTION #5: LAND USE

This proposal would make two amendments to the Charter's ULURP provisions.

The City Charter establishes a Uniform Land Use Review Procedure (ULURP), which specifies a timeframe and sequence for public review and approval of land use applications by different government actors – Community Boards, Borough Presidents, the City Planning Commission (CPC), and, ultimately, the City Council. A wide variety of land use actions are subject to ULURP, including designation of zoning districts to allow different densities and uses in an area; the purchase, sale, or lease of property by the City, such as purchasing land to build a sanitation garage; and special permits to permit projects that vary from strict conformance with the City's Zoning Resolution.

ULURP Pre-Certification Notice Period. ULURP begins when an applicant (which can be a private actor, such as a developer, or a City agency) formally files its application with the Department of City Planning (DCP) and DCP certifies that the application is complete.

This proposed Charter amendment would require DCP to send a detailed project summary to the affected Community Board, Borough President and Borough Board before DCP certifies that the project application(s) is complete and commences the ULURP public review period. The required project summary would have to be transmitted to the affected Community Board, Borough President and Borough Board no later than 30 days before the application is certified, and published by DCP on its website within five days thereafter. The application(s) as certified by DCP would have to be substantially consistent with the project summary that is transmitted by DCP and published on its website.

This proposed amendment would take effect on August 31, 2020.

Additional ULURP Review Time for Community Boards. As part of ULURP, once a Community Board receives an application that DCP has certified as complete, it has 60 days to notify the public, hold a public hearing, and submit its written recommendations to the City Planning Commission (CPC) and the affected Borough President. The Charter requires that Community Boards conduct at least one public hearing each month, except that such hearings are generally not required in July and August. Some community boards are unable to hold the required ULURP hearing during the summer months, making it difficult or not possible for them to make their recommendations to the CPC and Borough President.

The proposed Charter amendment would provide additional time to a Community Board during the ULURP process to review, hold a public hearing and issue its recommendation for those applications certified between June 1 and July 15 of the calendar year. Specifically, the proposed amendment provides that Community Boards would have 90 days (instead of 60 days) to review ULURP applications that are certified in June and 75 days (instead of 60 days) to review ULURP applications that are certified between July 1 and July 15.

This proposed amendment would take effect immediately.