

CODIFIED ORDINANCES OF ASHVILLE

PART ONE - ADMINISTRATIVE CODE

TITLE THREE - Legislative

Chap. 121. Council.

Chap. 123. Ordinances and Resolutions.

CHAPTER 121

Council

EDITOR'S NOTE: There are no sections in Chapter 121. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Composition - see Ohio R.C. 731.01, 731.06

President pro tempore - see Ohio R.C. 731.10 et seq.,
733.25

Qualifications - see Ohio R.C. 731.02, 731.44

Vacancy - see Ohio R.C. 731.43

Meetings - see Ohio R.C. 731.44, 731.46

Rules and journal - see Ohio R.C. 731.45

Misconduct - see Ohio R.C. 733.72 et seq.

Contract interest - see GEN. OFF. 525.10

Open meetings - see Ohio R.C. 121.22

CHAPTER 123

Ordinances and Resolutions

EDITOR'S NOTE: There are no sections in Chapter 123. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Newspaper publication - see Ohio R.C. 7.12, 701.04, 731.21 et seq.

Adoption and style - see Ohio R.C. 715.03, 731.17 et seq.

Subject and amendments - see Ohio R.C. 731.19

Authentication - see Ohio R.C. 731.20

Publication in book form - see Ohio R.C. 731.23

Adopting of technical codes - see Ohio R.C. 731.231

Certification as to publication - see Ohio R.C. 731.24 et seq.

Posting - see Ohio R.C. 731.25

Initiative and referendum - see Ohio R.C. 731.28 et seq.

Emergency measures - see Ohio R.C. 731.30

As evidence - see Ohio R.C. 731.42

Chapter 731: ORGANIZATION

731.01 Members of legislative authority.

(A) Except as provided in divisions (B) and (D) of this section, the legislative power of each city shall be vested in, and exercised by, a legislative authority, composed of not fewer than seven members, four of whom shall be elected by wards and three of whom shall be elected by electors of the city at large. For the first twenty thousand inhabitants in any city, in addition to the original five thousand, there shall be two additional members of such legislative authority, elected by wards, and for every fifteen thousand inhabitants thereafter there shall be one additional member similarly elected. The total number of members of such legislative authority shall not exceed seventeen.

(B) The legislative power of a city may be vested in, and exercised by, a legislative authority composed of not fewer than five nor more than seventeen members, to be determined in the manner provided in this division, and in lieu of the number required in division (A) of this section. Under the alternative plan for the composition of the legislative authority, the number of members shall be fixed in a resolution which may be submitted to the electors for their approval or rejection by a two-thirds vote of the members of the legislative authority, or by the people through an initiative petition in accordance with section [731.28](#) of the Revised Code. Such a resolution passed by the legislative authority shall not be subject to veto by the mayor, need not be published, and shall be immediately effective for purposes of placing such issue on the ballot. The resolution shall be submitted to the electors at the next general or primary election occurring not less than seventy-five days after its passage by the legislative authority, or the certification of the text of a resolution proposed by initiative petition to the board of elections. The resolution shall specify the total number of members, the number to be elected from the city at large, and the number to be elected from wards. Members may all be elected from the city at large or all elected from wards, or some may be elected from the city at large and the remainder elected from wards, as determined by the resolution. A resolution that changes the total number of members shall specify the method by which the change in number is to take effect, but no reduction in the number of members shall terminate the term of an incumbent. When the number of members elected from wards is changed, new ward boundaries shall be determined as provided in section [731.06](#) of the Revised Code.

(C) The number of members of the legislative authority determined under an alternative plan for the composition of the legislative authority under division (B) of this section may be changed or abandoned by a resolution submitted to the electors in the same manner as provided in division (B) of this section for a resolution to institute such an alternative plan. When the alternative plan for determining the number of members of the legislative authority under division (B) of this section is abandoned, the number of members of the legislative authority shall be determined by division (A) of this section.

(D) When a city has just been incorporated from township territory pursuant to Chapter 707. of the Revised Code, the legislative authority of the city initially shall be vested in and exercised by a legislative authority composed of not fewer than seven members elected by electors of the city at large. In all subsequent elections for the city legislative authority, the members shall be elected as provided in division (A) of this section.

Effective Date: 03-02-1992

731.02 Qualifications of members of legislative authority.

Members of the legislative authority at large shall have resided in their respective cities, and members from wards shall have resided in their respective wards, for at least one year immediately preceding their election. Each member of the legislative authority shall be an elector of the city, shall not hold any other public office, except that of notary public or member of the state militia, and shall not be interested in any contract with the city, and no such member may hold employment with said city. A member who ceases to possess any of such qualifications, or removes from the member's ward, if elected from a ward, or from the city, if elected from the city at large, shall forthwith forfeit the member's office.

The purpose of establishing a one-year residency requirement in this section is to recognize that the state has a substantial and compelling interest in encouraging qualified candidacies for election to the office of member of the legislative authority of a city by ensuring that a candidate for such office has every opportunity to become knowledgeable with and concerned about the problems and needs of the area the candidate seeks to represent. In enacting this requirement, the general assembly finds that the one-year period is reasonably related to this purpose, while leaving unimpaired a person's right to travel, to vote, and to be a candidate for public office.

Effective Date: 08-22-1995

731.03 [Effective Until 7/2/2010] Election and term of members of legislative authority.

(A) Except as otherwise provided in division (B) of this section, one member of the legislative authority of a city from each ward and such number of members thereof at large as is provided by section 731.01 of the Revised Code shall be chosen in each odd-numbered year. Members shall serve for a term of two years commencing on the first day of January next after their election.

(B) A city legislative authority may, by majority vote, adopt a resolution causing the board of elections to submit to the city electors the question of whether the terms of office of the members of the legislative authority should be changed from two to four years. The question may also ask whether the legislative authority should be authorized to establish staggered four-year terms of office among members of the legislative authority by fixing certain terms of office at two years for one term of office but then at four years thereafter. If the resolution calls for submission of the question about staggered terms, the resolution shall specify the number of members to be elected for four-year terms and the number to be elected for two-year terms at the next election for such members. The resolution shall also specify how many of those members elected to four-year terms and how many of those members elected to two-year terms shall be elected from the city at large, and how many from wards. If staggered terms of office are established, the legislative authority shall fix the length of the terms of office prior to the last day fixed by law for filing as a candidate for such office. The question shall be voted upon at the next general election occurring not less than seventy-five days after the certification of the resolution to the board of elections. If a majority of the votes cast on the question is in the affirmative, the terms of office of the members of the legislative authority shall be four years effective on the first day of January following the next regular municipal election, except as may otherwise be provided by the legislative authority to establish staggered terms of office among members of the legislative authority.

A city legislative authority whose members' terms of office are four years may, by a majority vote, adopt a resolution establishing staggered four-year terms of office among members of the legislative authority by fixing certain terms of office at two years for one term of office but then

at four years thereafter. The resolution shall specify the number of members to be elected for four-year terms and the number to be elected for two-year terms, and shall specify how many of those members elected to four-year terms and how many of those members elected to two-year terms shall be elected from the city at large, and how many from wards. If staggered terms of office are established, the legislative authority shall fix the length of the terms of office prior to the last day fixed by law for filing as a candidate for such office.

A city legislative authority whose members' terms of office are four years may, by majority vote, adopt a resolution causing the board of elections to submit to the city electors the question of whether the members' terms should be changed back from four to two years. The question shall be voted upon at the next general election occurring not less than seventy-five days after the certification of the resolution to the board of elections. If a majority of the votes cast on the question is in the affirmative, the terms of office of the members of the legislative authority shall be two years effective on the first day of January following the next regular municipal election.

Effective Date: 10-01-1987

This section is set out twice. See also § 731.03, as amended by 128th General Assembly File No. 29, HB 48, § 1, eff. 7/2/2010.

731.03 [Effective 7/2/2010] Election and term of members of legislative authority

(A) Except as otherwise provided in division (B) of this section, one member of the legislative authority of a city from each ward and such number of members thereof at large as is provided by section 731.01 of the Revised Code shall be chosen in each odd-numbered year. Members shall serve for a term of two years commencing on the first day of January next after their election.

(B) A city legislative authority may, by majority vote, adopt a resolution causing the board of elections to submit to the city electors the question of whether the terms of office of the members of the legislative authority should be changed from two to four years. The question may also ask whether the legislative authority should be authorized to establish staggered four-year terms of office among members of the legislative authority by fixing certain terms of office at two years for one term of office but then at four years thereafter. If the resolution calls for submission of the question about staggered terms, the resolution shall specify the number of members to be elected for four-year terms and the number to be elected for two-year terms at the next election for such members. The resolution shall also specify how many of those members elected to four-year terms and how many of those members elected to two-year terms shall be elected from the city at large, and how many from wards. If staggered terms of office are established, the legislative authority shall fix the length of the terms of office prior to the last day fixed by law for filing as a candidate for such office. The question shall be voted upon at the next general election occurring not less than ninety days after the certification of the resolution to the board of elections. If a majority of the votes cast on the question is in the affirmative, the terms of office of the members of the legislative authority shall be four years effective on the first day of January following the next regular municipal election, except as may otherwise be provided by the legislative authority to establish staggered terms of office among members of the legislative authority.

A city legislative authority whose members' terms of office are four years may, by a majority vote, adopt a resolution establishing staggered four-year terms of office among members of the legislative authority by fixing certain terms of office at two years for one term of office but then at four years thereafter. The resolution shall specify the number of members to be elected for four-year terms and the number to be elected for two-year terms, and shall specify how many of those members elected to four-year terms and how many of those members elected to two-year

terms shall be elected from the city at large, and how many from wards. If staggered terms of office are established, the legislative authority shall fix the length of the terms of office prior to the last day fixed by law for filing as a candidate for such office.

A city legislative authority whose members' terms of office are four years may, by majority vote, adopt a resolution causing the board of elections to submit to the city electors the question of whether the members' terms should be changed back from four to two years. The question shall be voted upon at the next general election occurring not less than ninety days after the certification of the resolution to the board of elections. If a majority of the votes cast on the question is in the affirmative, the terms of office of the members of the legislative authority shall be two years effective on the first day of January following the next regular municipal election.

Amended by 128th General Assembly File No. 29, HB 48, § 1, eff. 7/2/2010.

Effective Date: 10-01-1987

This section is set out twice. See also § 731.03, effective until 7/2/2010.

731.04 Officers of legislative authority.

Within ten days from the commencement of their term, the members of the legislative authority of a city shall elect a president pro tempore, a clerk, and such other employees as are necessary, and fix their duties, bonds, and compensation. Such officers and employees shall serve for two years, unless the members of the legislative authority serve terms of four years pursuant to division (B) of section [731.03](#) of the Revised Code, in which case these officers and employees shall serve for four years, but may be removed at any time for cause, at a regular meeting of the legislative authority by a two-thirds vote of the members elected.

Effective Date: 07-26-1984

731.05 Powers of legislative authority.

The powers of the legislative authority of a city shall be legislative only, it shall perform no administrative duties, and it shall neither appoint nor confirm any officer or employee in the city government except those of its own body, unless otherwise provided in Title VII [7] of the Revised Code. All contracts requiring the authority of the legislative authority for their execution shall be entered into and conducted to performance by the board or officers having charge of the matters to which they relate. After the authority to make such contracts has been given and the necessary appropriation made, the legislative authority shall take no further action thereon.

Effective Date: 10-01-1953

731.07 Salaries shall not be changed during term.

The salary of any officer of a city shall not be increased or diminished during the term for which he was elected or appointed. This section does not prohibit the payment of any increased costs of continuing to provide the identical benefits provided to an officer at the commencement of his term of office.

Unless otherwise provided, all fees pertaining to any office shall be paid into the city treasury.

Effective Date: 01-09-1981

731.08 Power of legislative authority as to salaries and bonds.

Except as otherwise provided in Title VII [7] of the Revised Code, the legislative authority of a city, by ordinance or resolution, shall determine the number of officers, clerks, and employees in each department of the city government, and shall fix, by ordinance or resolution, their respective salaries and compensation, and the amount of bond to be given for each officer, clerk, or employee in each department of the government, if any is required. Such bond shall be made by such officer, clerk, or employee, with surety subject to the approval of the mayor.

Effective Date: 10-01-1953

731.09 Members of village legislative authority - election - terms of office.

The legislative power of each village shall be vested in, and exercised by, a legislative authority, composed of six members, who shall be elected by the electors of the village at large, for terms of four years. At the municipal election held in the year 1961 two members shall be elected for terms of two years and four members shall be elected for terms of four years. Except in villages where a primary election was held in 1961 for the nomination of candidates for member of the legislative authority, the four candidates who receive the greatest number of the votes cast shall be elected for terms of four years, and the two candidates who receive the next greatest number of the votes cast shall be elected for terms of two years.

All candidates nominated prior to June 8, 1961, except by primary election, shall have their names grouped together on the election ballot regardless of whether their nominating petition or declaration of candidacy designated that they were candidates for a two-year or a four-year term.

At the municipal election in 1963 and quadrennially thereafter, two members shall be elected for terms of four years.

At the municipal election in 1965 and quadrennially thereafter, four members shall be elected for terms of four years.

Beginning with the year 1964, all members of village council shall hold office for a term of four years.

Effective Date: 01-23-1963

731.10 President pro tempore of the legislative authority - employees.

At the first meeting in January of each year, the legislative authority of a village shall immediately proceed to elect a president pro tempore from its own number, who shall serve until the first meeting in January next after his election. The legislative authority may provide such employees for the village as it determines, and such employees may be removed at any regular meeting by a majority of the members elected to such legislative authority.

When the mayor is absent from the village or is unable, for any cause, to perform his duties, the president pro tempore shall be the acting mayor, and shall have the same powers and perform the same duties as the mayor.

Effective Date: 10-01-1953

731.11 Vacancy when president pro tempore becomes mayor.

When the president pro tempore of the legislative authority of a village becomes the mayor, the vacancy thus created shall be filled as provided in section [731.43](#) of the Revised Code, and the legislative authority shall elect another president pro tempore from its own number, who shall have the same rights, powers, and duties as his predecessor.

Effective Date: 10-01-1953

731.12 Qualifications of members of village legislative authority.

Each member of the legislative authority of a village shall have resided in the village one year immediately preceding the member's election, and shall be an elector of the village. No member of the legislative authority shall hold any other public office, be interested in any contract with the village, or hold employment with said village, except that such member may be a notary public, a member of the state militia, or a volunteer fireman of said village, provided that such member shall not receive any compensation for his services as a volunteer fireman of the village in addition to his regular compensation as a member of the legislative authority. Any member who ceases to possess any of such qualifications or who removes from the village shall forfeit the member's office.

The purpose of establishing a one-year residency requirement in this section is to recognize that the state has a substantial and compelling interest in encouraging qualified candidacies for election to the office of member of the legislative authority of a village by ensuring that a candidate for such office has every opportunity to become knowledgeable with and concerned about the problems and needs of the area the candidate seeks to represent. In enacting this requirement, the general assembly finds that the one-year period is reasonably related to this purpose, while leaving unimpaired a person's right to travel, to vote, and to be a candidate for public office.

Effective Date: 08-22-1995

731.13 Compensation and bonds of village officers, clerks and employees.

The legislative authority of a village shall fix the compensation and bonds of all officers, clerks, and employees of the village except as otherwise provided by law. The legislative authority shall, in the case of elective officers, fix their compensation for the ensuing term of office at a meeting held not later than five days prior to the last day fixed by law for filing as a candidate for such office. All bonds shall be made with sureties subject to the approval of the mayor. The compensation so fixed shall not be increased or diminished during the term for which any officer is elected or appointed. This section does not prohibit the payment of any increased costs of

continuing to provide the identical benefits provided to an officer at the commencement of his term of office.

Effective Date: 01-09-1981

731.14 Contracts by legislative authority of a village - exception.

All contracts made by the legislative authority of a village shall be executed in the name of the village and signed on its behalf by the mayor and clerk. Except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section [713.23](#) or section [125.04](#) or [5513.01](#) of the Revised Code, available from a qualified nonprofit agency pursuant to sections [4115.31](#) to [4115.35](#) of the Revised Code, or required to be purchased from a qualified nonprofit agency under sections [125.60](#) to [125.6012](#) of the Revised Code, when any expenditure, other than the compensation of persons employed in the village, exceeds twenty-five thousand dollars, such contracts shall be in writing and made with the lowest and best bidder after advertising once a week for not less than two consecutive weeks in a newspaper of general circulation within the village. The legislative authority may also cause notice to be inserted in trade papers or other publications designated by it or to be distributed by electronic means, including posting the notice on the legislative authority's internet web site. If the legislative authority posts the notice on its web site, it may eliminate the second notice otherwise required to be published in a newspaper of general circulation within the village, provided that the first notice published in such newspaper meets all of the following requirements:

- (A) It is published at least two weeks before the opening of bids.
- (B) It includes a statement that the notice is posted on the legislative authority's internet web site.
- (C) It includes the internet address of the legislative authority's internet web site.
- (D) It includes instructions describing how the notice may be accessed on the legislative authority's internet web site.

The bids shall be opened and shall be publicly read by the clerk of the village or a person designated by the clerk at the time, date, and place specified in the advertisement to bidders or specifications. The time, date, and place of bid openings may be extended to a later date by the legislative authority of the village, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. This section does not apply to those villages that have provided for the appointment of a village administrator under section [735.271](#) of the Revised Code.

Effective Date: 09-26-2003; 12-20-2005; 2008 SB268 09-12-2008

731.17 Passage of ordinances and resolutions.

(A) The following procedures shall apply to the passage of ordinances and resolutions of a municipal corporation:

- (1) Each ordinance and resolution shall be read by title only, provided the legislative authority may require any reading to be in full by a majority vote of its members.

(2) Each ordinance or resolution shall be read on three different days, provided the legislative authority may dispense with this rule by a vote of at least three-fourths of its members.

(3) The vote on the passage of each ordinance or resolution shall be taken by yeas and nays and entered upon the journal.

(4) Each ordinance or resolution shall be passed, except as otherwise provided by law, by a vote of at least a majority of all the members of the legislative authority.

(B) Action by the legislative authority, not required by law to be by ordinance or resolution, may be taken by motion approved by at least a majority vote of the members present at the meeting when the action is taken.

Effective Date: 11-19-1975

731.43 Vacancy in village legislative authority.

(A)(1) Except as otherwise provided in division (A)(2) of this section, when the office of a member of the legislative authority of a village becomes vacant, the vacancy shall be filled by election by the legislative authority for the unexpired term. If the legislative authority fails within thirty days to fill such vacancy, the mayor shall fill it by appointment except that, subject to division (A)(2) of this section, when the vacancy occurs because of the operation of section [733.25](#) of the Revised Code, the successor shall hold office only for the period the president pro tempore of the legislative authority holds the office of mayor.

(2) When a vacancy occurs in the office of a member of the legislative authority of a village with a population of less than two thousand because of the operation of section [733.25](#) of the Revised Code, at the time the president pro tempore becomes mayor the president pro tempore shall decide whether the president pro tempore wishes to serve the remainder of the president pro tempore's unexpired term as a member of the legislative authority of the village when the mayor's successor is elected and qualified in accordance with that section. If the president pro tempore decides to serve the remainder of the president pro tempore's unexpired term as a member of the legislative authority, the vacancy on the legislative authority shall not be filled and the president pro tempore shall resume serving the president pro tempore's unexpired term on the legislative authority as soon as the mayor's successor is elected and qualified. If the president pro tempore decides not to resume serving the remainder of the president pro tempore's unexpired term as a member of the legislative authority as soon as the mayor's successor is elected and qualified, then the vacancy in the office of member of the legislative authority shall be filled in accordance with this section.

(B) Except as otherwise provided in this division, when the office of a member of the legislative authority of a city becomes vacant either because a member ceases to hold the office before the end of the member's term or because a member-elect fails to take office, the vacancy shall be filled for the remainder of the unexpired term by a person chosen by the residents of that city who are members of the county central committee of the political party by which the last occupant of that office or the member-elect was nominated. If the vacancy occurs in the office of a ward representative in a city where the political party which nominated the last occupant of that office is organized into a city controlling committee with more than one member from the ward where the vacancy exists, the members of the city controlling committee representing that ward shall choose the person to fill the vacancy.

(C) Not less than five nor more than forty-five days after a vacancy occurs, the specified members of the city or county committee shall meet to make an appointment to fill the vacancy.

At least four days before the date of such meeting the chairperson or secretary of the city or county committee shall notify each committee member eligible to vote on filling the vacancy by first class mail of the date, time, and place of the meeting and its purpose. A majority of all eligible committee members constitutes a quorum, and a majority of the quorum is required to make the appointment. If election to the office so vacated took place at a nonpartisan election, or if the office was occupied by, or was to be occupied by a person not nominated at a primary election, or if the appointment was not made by the committee members in accordance with this section, the vacancy shall be filled in the same manner as a vacancy in the legislative authority of a village, as provided in this section.

Effective Date: 03-17-1998

731.44 Judge of election and qualification of members - quorum and special meetings.

The legislative authority of a municipal corporation shall be the judge of the election and qualification of its members. A majority of all the members elected shall be a quorum, but a less number may adjourn from day to day and compel attendance of absent members in such manner and under such penalties as are prescribed by ordinance. The legislative authority shall provide rules for the manner of calling special meetings.

Effective Date: 10-01-1953

731.45 Rules - journal - expulsion of members.

The legislative authority of a municipal corporation shall determine its own rules and keep a journal of its proceedings. It may punish or expel any member for disorderly conduct or violation of its rules, and declare his seat vacant for absence without valid excuse, where such absence has continued for two months. No expulsion shall take place without the concurrence of two thirds of all the members elected, and until the delinquent member has been notified of the charge against him and has had an opportunity to be heard.

Effective Date: 10-01-1953

731.46 Meetings of legislative authority.

The legislative authority of a municipal corporation shall not be required to hold more than one regular meeting in each week. The meetings may be held at such time and place as is prescribed by ordinance and shall, at all times, be open to the public. The mayor, or any three members of the legislative authority may call special meetings upon at least twelve hours' notice to each member, served personally or left at his usual place of residence.

Effective Date: 10-17-1955

731.47 General powers.

The legislative authority shall have the management and control of the finances and property of the municipal corporation, except as otherwise provided.

Effective Date: 10-01-1953

731.48 Contract restrictions.

The legislative authority of a municipal corporation shall not enter into any contract which is not to go into full operation during the term for which all the members of such legislative authority are elected.

Effective Date: 10-01-1953

731.49 Failure to take oath or give bond.

The legislative authority of a municipal corporation may declare vacant the office of any person elected or appointed to such office who, within ten days after he has been notified of his appointment or election, or obligation to give a new or additional bond, fails to take the required official oath or to give any bond required of him.

Effective Date: 10-01-1953

731.50 Notice when new bond required.

When the legislative authority of a municipal corporation declares by resolution that an officer shall give a new bond, written notice shall be served by its clerk upon the officer designated, and a copy of the notice, with a statement of the time and place of service, shall be recorded in the proceedings of the legislative authority.

If the officer fails to give such new bond, with sureties, to the satisfaction of the mayor, within ten days after such service, the legislative authority shall declare the office vacant, and the vacancy shall be filled in the manner provided in Title VII [7] of the Revised Code.

When the new bond is accepted or the legislative authority declares the office vacant, the sureties in the original bond shall cease to be liable for the acts of such officer done thereafter, but shall continue to be liable for his acts then already done.

Effective Date: 10-01-1953

731.56 Investment of city funds.

The legislative authority of a municipal corporation may, by ordinance, provide that whenever there are moneys in the treasury of such municipal corporation which will not be required to be used by such municipal corporation for a period of six months or more, such moneys may be invested in obligations of such municipal corporation, obligations made eligible for the deposit or investment of interim moneys of subdivisions of the state under section [135.14](#) of the Revised Code, bonds of this state, and bonds of any municipal corporation, county, township, or other political subdivision of this state, as to which there is no default of principal, interest, or coupons. Such investments shall not be made at a price in excess of the current market value of such bonds or other interest-bearing obligations. Such bonds or other interest-bearing obligations may be liquidated or sold for cash and for a sum not less than their current market price, in the manner prescribed in sections [731.57](#) to [731.59](#) of the Revised Code.

Effective Date: 03-05-1987