

# Founding Documents

**T**he Ohio Constitution, which will be discussed in more detail below, and the Northwest Ordinance, discussed in Chapter 1, are among the founding documents that created and still guide Ohio and its government. Others include the Declaration of Independence, the U.S. Constitution and the Bill of Rights. The Ohio and U.S. Constitutions are often characterized as living documents, meaning the citizens or their representatives can change them.

### **The Declaration of Independence**

The Declaration of Independence lays out the principles on which the United States government is founded and, some historians argue, created the American identity. Virginian Thomas Jefferson wrote the declaration based largely on other states' calls for independence, the Virginia Constitution and the Virginia Declaration of Rights, which says, "rights are the basis and foundation of government." He was also influenced by the moral and political philosophies of John Locke, Lord Kames and Algernon Sidney. Jefferson combined their ideas to write that all men are created equal; born with inalienable rights such as life, liberty and the pursuit of happiness; and that governments derive their power at the consent of the people.

The colonists were already at war with the British when the Continental Congress adopted the declaration in Philadelphia on July 4, 1776. The document summarizes abuses by King George III and the British Parliament, in which the colonists had no representatives. The declaration establishes grounds for revolution and argues that the people of the 13 United States are bound by duty to sever political ties to England and form their own government. The declaration had the practical effect of rallying support for revolution within the colonies and allowed the American colonists to officially ally themselves with the government of France and secure French assistance in the Revolutionary War. A transcript can be found here: <https://www.archives.gov/founding-docs/declaration-transcript>.

### **The U.S. Constitution**

The U. S. Constitution is the fundamental law of the nation and creates the federal government. It is actually the country's second constitution. The first, called the Articles of Confederation, was adopted Nov. 5, 1777 and ratified by all states by 1781. But the ineffectiveness of the weak central government created under the Articles spurred Congress to call a Constitutional Convention in 1787.

The Constitution adopted by delegates and later ratified by states created three branches of government — the legislative, executive and judicial — with capabilities to check one another’s powers. To address the wants of different states and political philosophies, creating the Constitution took a great amount of compromise. Large states’ desire for representation according to population led to the apportionment of seats in the House of Representatives according to the most recent census. Small states’ desire for equal representation led to the designation of two senators per state. The electoral college used to elect the president was another compromise. Despite strong anti-slave sentiment among delegates of northern states and some southern, slavery was protected in order to secure votes of slave-holding states in favor of the Constitution.

By June 1788, nine states had ratified the Constitution, but it became clear that in the remaining states the anti-federalist camp that opposed a strong central government would favor a bill of rights confirming individual and states’ rights. The promise that the bill would be forthcoming helped to eventually gain unanimous ratification by the states.

Article V of the U.S. Constitution provides the authority to amend the Constitution. To propose an amendment either two-thirds of both the U.S. House and Senate must vote for the proposal, or a constitutional convention must be called by two-thirds of the states. Three-fourths of the states must then approve the amendment before it can become law. A transcript of the Constitution can be found here: <https://www.archives.gov/founding-docs/constitution-transcript>.

## **The Bill of Rights**

The Bill of Rights are the first 10 amendments to the U.S. Constitution. The amendments place prohibitions and limits on governmental power and guarantee individual liberties such as freedoms of speech, religion and the press; the right to bear arms; protection from unreasonable search and seizure; trial by jury and more. Many of the amendments directly address the grievances made against the British government in the Declaration of Independence.

The 10th Amendment gives states and the people all powers not delegated to the federal government or prohibited by the Constitution. A transcript can be found here: <https://www.archives.gov/founding-docs/bill-of-rights-transcript>.

Since passage of the Bill of Rights, 17 amendments have been ratified, including the 13th, abolishing slavery; 15th, establishing African-American men’s right to vote; 19th, establishing women’s right to vote; 24th, abolishing poll taxes; and 26th, lowering the voting age to 18. A transcript can be found here: <https://www.archives.gov/founding-docs/amendments-11-27>.

As of May 2018, 37 states, including Ohio, had ratified the Equal Rights Amendment, which says, “Women shall have equal rights in the United States,” and prohibits sexual discrimination. If and when a 38th state ratifies the amendment,

which Congress proposed in 1972, it becomes law. It would be the first mention of women in the U.S. Constitution.

## The Ohio Constitution

The Ohio Constitution is the fundamental law of the state and creates the state government. Ohio has had two, both of which include a Bill of Rights, largely reflecting those in the U.S. Constitution, including the provision that powers not delegated to the government remain with the people of the state.

The first Ohio Constitution was adopted in 1803 and established a relatively weak government in which the legislature held the vast majority of the power. Delegates to Ohio's first Constitutional Convention gave all white males who paid taxes or worked on the state's roads the right to vote but failed by one vote to give the right to African-American males.

The Constitution gave the legislature the authority to appoint all judges and high-ranking state officials other than the governor and gave the governor no ability to veto legislation and check the General Assembly. Over the next five decades, Ohioans concluded the original Constitution had given too much power to the legislature and that some provisions in a state of now 2 million residents were impractical. The citizens also had become dissatisfied with taxation, mounting debt and gerrymandering. After failed tries, the General Assembly called a Constitutional Convention that assembled in 1850.

The new Constitution, approved by voters in 1851, gave voters the right to elect judges and other high-ranking state officials such as the attorney general and secretary of state, limited the legislature's ability to incur debt, created the office of lieutenant governor and a third layer of state courts. The Constitution didn't give the governor veto authority but expanded the office's powers.

The state held its last Constitutional Convention in 1912. Delegates chose not to rewrite the 1851 Constitution but their work resulted in 33 amendments establishing workers rights, giving the governor the line-item veto, changing the legal process to reflect the rights of the accused guaranteed by the U.S. Bill of Rights, allowing voters to directly initiate constitutional amendments or new laws or reject laws passed by the legislature and more.

The state Constitution has been amended more than 100 times since. Amendments can be made through a joint resolution first passed by three-fifths of each house of the General Assembly and then a majority of Ohio voters, or by the voter initiative process discussed on page 117. See a transcript of the Constitution and amendments at <https://www.legislature.ohio.gov/laws/ohio-constitution>. The most recent amendment, discussed on page 7 changes how Congressional districts are drawn and was approved by voters in May, 2018.