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## CHARTER REVIEW COMMITTEE IN-PERSON & ZOOM

**Monday, September 27, 2023, 6:00 PM  
Community Auditorium, 1915 Main Street**

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**Open Meeting:** All meetings of the Charter View Committee are open to the public and all persons are permitted to attend any meeting. Information on how the public may address the commission is listed below.

### Zoom Link:

<https://us06web.zoom.us/j/81671027434?pwd=lrS1d2VIGHPNh47nAV0YuMcQc2a5mG.1>

**Zoom Meeting ID:** Meeting ID: 816 7102 7434 **Passcode:** 714362

### COMMITTEE MEMBERS

Isaac Echeverria  
Elysha Johnson  
Dale Thaler  
LaAna Littlefield  
Wolanda Groombridge

Dennis Bryan  
Tammi McLaughlin  
Ashley Driscoll, City Attorney

Adolph Valfre  
Tacy Steele  
Nina Davis  
Kate MacDonald  
Joyce Phillips, Staff Liaison

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#### A. 6:00 Call to Order

**B. Public Comment:** Anyone wishing to speak on an item not on the agenda or on the agenda and not scheduled for a public hearing may be heard. Please limit comments to three (3) minutes or less. State name and address for record. All testimony is electronically recorded. **Zoom Attendees:** Please use the "Raise Hand" option. Please introduce yourself and ask your question or provide your comments.

**C. Consent Agenda:** Items under the Consent Agenda are considered routine and will be adopted with a single motion, without separate discussion. Council members who wish to remove an item from the Consent Agenda may do so prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the remaining Consent Agenda item(s).

1. Review/approve meeting minutes from September 13, 2023

#### D. Additions/Deletions

#### E. Discussion Items

1. Meeting Decorum
  - Information requests
  - Questions or comment
  - So moved

2. 9.13.23 Meeting recap
  - Language examples for the voting role of the Mayor
3. Section 8 – Role of the Mayor (continued)
  - Political Head
  - Understanding the Role of the Mayor
4. Section 9 – Council President
  - Mayor Pro Tem vs. Council President
  - Rotating position

## **F. Reports**

N/A

## **G. Future Agenda Items: Quorum**

## **H. Adjournment**

*The public can observe the meetings **LIVE** on **Zoom** or in person in the Community Auditorium.*

**ADA Notice:** *In accordance with the Americans with Disabilities Act (ADA), the City of Forest Grove will make reasonable accommodations for participation in the meeting. Requests for assistance can be made by contacting the City Recorder's Office, 503-992-3235, at least 48-hours in advance of the meeting.*



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**Charter Review Committee  
Meeting Minutes**

**September 13, 2023  
Zoom & Community Auditorium**

***Minutes are unofficial until approve by CRC.***

**1. Called to Order**

The meeting was called to order at 5:59 PM.

Present: Ashley Driscoll, City Attorney, Joyce Phillips (staff liaison), Isaac Echeverria, Elysha Johnson, Dale Thaler, LaAna Littlefield, Wolanda Groombridge, Bryan Dennis, Tammi McLaughlin, Adolph “Val” Valfre, Kate MacDonald, Tacy Steele, Nina Davis (via Zoom)

Absent: N/A

**2. Public Comment:** N/A

**3. Consent Agenda:** Items under the Consent Agenda are considered routine and will be adopted with a single motion, without separate discussion. Committee members who wish to remove an item from the Consent Agenda may do so prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the remaining Consent Agenda item(s).

1. Approve/review meeting minutes from September 13, 2023 meeting

**4. Additions/Deletions:** None.

**5. Discussion Items –**

- Meeting decorum was revisited and reviewed.
- Meeting minutes from August 30, 2023 – approved unanimously

a) **8.30.23 Meeting recap**

- Concerns about all communities of FG having a voice and equitable representation. Consider the future as the City continues to grow and expand. Also, consider the economic disparities within our community.
- Reviewed the FG Charter Review Committee Chart progress, what has successfully been addressed and decided.
- Reviewing the number of council members to add to the agenda: majority vote of committee to keep council number as is

**b) Section 7 (continued)**

- Compared Cities by Population – discussion ensued regarding a council of equals
- Reviewed council representation by quadrant and precinct graphic

**c) Section 8 – Should the Mayor vote on all questions before the Council?:**

- City Attorney Ashley Driscoll presented the focused topics for discussion:
  - o An explanation of what “political” voting of the Mayor means
  - o Defined the definition of a “strong” mayor
  - o She answered the question, “How often are votes 4/3?” Mostly Council comes to a consensus.
- Mayor Voting Role Opinion was presented by the Chair, Elysha Johnson.
  - o Vote only in case of a tie
    - The mayor’s role is to create and facilitate a collaborative council
    - Mayor can still pose questions and provide opinion
    - Fostering rich conversation allows for greater representation of varying perspectives
    - Mayor meets with many stakeholders, it’s important to be able to share their thoughts as well
  - o Vote on all questions
    - Mayor is first among equals on the council
    - Mayor needs to be part of the vote
    - Mayor being part and parcel of the process is important
    - Mayor not voting lessens authority
    - Mayor needs a chance to be “in the arena”
    - Mayor is not an observer or a facilitator
- A round table discussion occurred, reviewing each individual committee members opinions and concerns on the aforementioned voting pros and cons. Specifics were discussed from how this impacts the ability to lead, the transparency of the process, and if it impacts the collaboration of the Council.

## Mayor votes on all matters

- Mayor is an equal member of the council and has a voice in every matter
- The community is fully aware of the mayor’s position on all matters before council, which fosters transparency

- Mayor can participate in the discussion and deliberation on all matters
- The Mayor is more than a political figurehead
- No guarantee that the Mayor will avoid political controversy or be seen as more neutral to other members of the council by not voting on all terms

### Mayor votes only to break a tie

- Running the Council meetings
    - Presiding over the meetings
    - Preserving order
    - Enforcing the Council Rules
    - Determining the order of business
  - Appointing members of the Boards and Commissions
  - Serving as the political head of the City
  - Setting the agenda
- Mayor may be more effective in building consensus among the other councilors if the mayor is more neutral.
- The CRC vote outcome was in favor of Mayor voting in case of a tie (6 no/5yes)

#### d) **Next sections for review**

- Continue on Section 8
  - Role of the Mayor
    - Political figurehead
  - Role of the Council President
  - Quorum

#### e) **Meeting Schedule**

- Future meeting dates established:
  - October 11,2023
  - October 25, 2023
  - November 8, 2023
  - TBD

**6. Adjournment and Announcement of Next Meeting:** The meeting adjourned at 7:31 p.m. The next CRC meeting will be held on Wednesday, September 27, 2023, at 6:00 p.m.

Respectfully submitted,  
Joyce Phillips, Staff Liaison

# Agenda

- **Meeting Decorum**

- Information requests
- Questions or comment
- So moved

- **9.13.23 Conversation Recap**

- Language examples for the voting role of the Mayor

- **Section 8-Role of the Mayor (continued)**

- Political Head

# Defining the Role of CRC

Understanding the circumstances surrounding the charter process is important. There can be many different reasons behind the initiation of a charter commission. Many local governments have made changes to their charters since they were first adopted.

- Periodic general review can be a useful exercise. Some charters have added multiple revisions over time without a comprehensive review while other revisions resulted from earlier efforts to carefully reform the charter
- While updating and changing a charter can be beneficial, it should only be done for the right reasons within the proper context
- A charter commission carries a weighty burden in exercising its judgment to determine which features should change and which should be retained

# Defining the Role of CRC continued...

Before a decision is made on whether or not to pursue a desired change through the charter, other possibilities should be considered first. The following questions are suggested to sort out how to best address the area(s) of concern:

- Can this problem be solved by the passage of an ordinance?
- Can this problem be addressed with an administrative measure (such as amending an existing departmental or city-wide administrative policy or procedure)?
- Does the mayor or city manager already have the authority to make changes that might address this problem?
- Should a solution to this problem be sought by getting new officials in office?
- Might state legislation address this problem more effectively than a change to the local charter?

# FG Charter Review Committee

Section	Title	Yes Change	No Change	Scope of Review Potential Changes	Differences from LOC Model Charter
	Chapter III. Council				
7	Council		X	<p>Geographic representation</p> <p>Qualification of councilors</p> <p>Change of district/ward boundaries</p> <p>Term limits</p>	
8	Mayor			Role of the Mayor	
9	Council President			Role of the Council President	
12	Quorum				<p>FG charter provides the quorum stays the same in the event of vacancies</p> <p>Model charter:                      “In the event of vacancy due to resignation or other events, the quorum is reduced accordingly.”</p>

## 9.13.23 CRC Conversation Recap

- 6 to 5 vote in favor of mayor voting in case of tie
- Council vote history in relation to 2009 CRC recommendations
- Neutrality
- Shared equity among council perspectives
- How often is there a 4:3 vote
- Council should be elevated by the mayor
- Ratio of votes to be mayor vs. council member

# Forest Grove Mayor Voting Role Language

## **Language for Mayor Voting Role (Section 8)**

The Mayor presides over and facilitates Council meetings, preserves order, enforces Council rules, and determines the order of business under Council rules.

The Mayor is a voting member of Council and has no veto authority.

The Mayor, with the consent of Council, appoints boards, commissions and committees established by ordinance or resolution.

The Mayor must sign all records of Council decisions.

The Mayor serves as the political head of City government.

## **Language as it applies to Council President (Section 9)**

At its first meeting each year, the Council must elect a President from its membership. The President presides in the absence of the Mayor and acts as Mayor when Mayor is unable to perform duties.

# Mayor Voting Role Language Examples - Roseburg

## **Language for Mayor Voting Role**

The mayor shall preside at Council meetings but may not vote on matters before the Council, except in case of a tie, when they shall cast the deciding vote.

## **Language as it applies to Council President**

In functioning as mayor while the mayor is absent from the City for 30 days or physically unable to function as mayor for 30 days, the president of the Council has the legal powers, and is subject to the legal limitations of the mayor, including veto power and voting only in the event of a tie.

# Mayor Voting Role Language Examples - Hillsboro

## **Language for Mayor Voting Role**

Presides over and facilitates council meetings, preserves order, enforces council procedures, and determines the order of council business. Has no vote on council matters unless there is a tie vote.

## **Language as it applies to Council President**

The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties. The President retains the right to vote on all matters while presiding over the council but does not have authority to require the council to reconsider legislation.

# Mayor Voting Role Language Examples - Gervais

## **Language for Mayor Voting Role**

The mayor participates, presides over, and facilitates council meetings, preserves order, enforces council rules, and determines the order of business under council rules. The mayor votes only to break a tie and has no veto authority.

## **Language as it applies to Council President**

The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties. When acting as mayor, the president retains a vote but does not have an additional vote to break a tie.

# Mayor Voting Role Language Examples - McMinnville

## **Language for Mayor Voting Role**

He shall have a vote on all questions before the council in order to resolve a tie vote of the council members.

## **Language as it applies to Council President**

Whenever the mayor is unable to perform the functions of office the president shall act as mayor, preside over council deliberations, have authority to preserve order, enforce the rules of the council, determine the order of business under the rules of council, and continue to vote as a councilman.

# Vote on Language

**SECTION 8. MAYOR**

- (a) The Mayor presides over and facilitates Council meetings, preserves order, enforces Council rules, and determines the order of business under Council rules.
- (b) The Mayor is a voting member of the Council and has no veto authority.
- (c) The Mayor, with the consent of Council, appoints members of boards, commissions and committees established by ordinance or resolution.
- (d) The Mayor must sign all records of Council decisions.
- (e) The Mayor serves as the political head of the City government.

Section 8

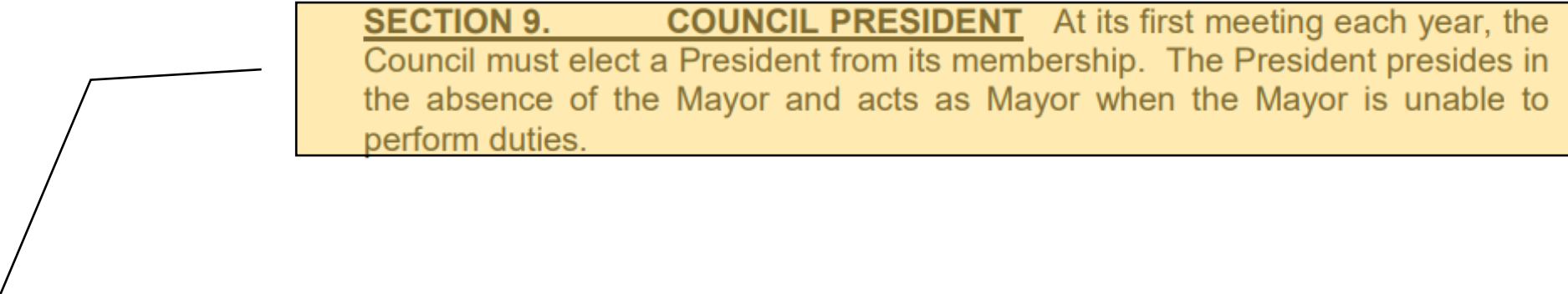
**What does it mean to be the political head; are revisions to this language needed?**

# Section 8 – Understanding the Role of the Mayor

- Policy role/Presiding Officer role
- Administrative role
- Liaison role

## Section 9

**Can equality be enhanced by modifying the role of Council President?**



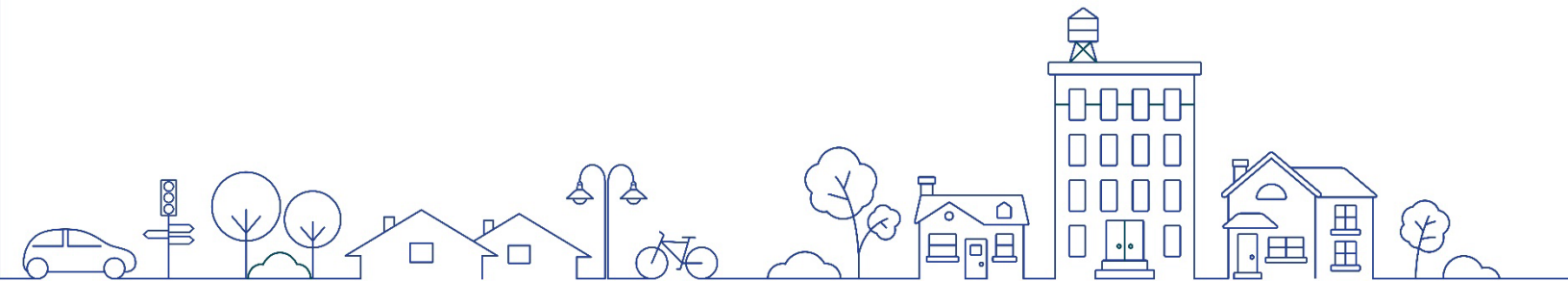
**SECTION 9. COUNCIL PRESIDENT** At its first meeting each year, the Council must elect a President from its membership. The President presides in the absence of the Mayor and acts as Mayor when the Mayor is unable to perform duties.

# Section 9

- Mayor Pro Tem vs. Council President
- Rotating position

# Oregon Municipal Handbook

## CHAPTER 3: MUNICIPAL OFFICIALS



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# Chapter 3: Municipal Officials

## Introduction

Municipal officials have many responsibilities. All officials must have a thorough knowledge of the community, its people, and its problems, as well as an understanding of their individual roles and the issues they will confront. This chapter of the Handbook will provide an overview of the common roles of municipal officials. This chapter is not intended to be a substitute for legal advice. LOC members with additional questions about their role as a municipal official are encouraged to contact their city attorney.

## Roles of Elected Council/Commission Officials

Oregon cities have councils of fewer than 10 members, although there is variation in council size – from five to nine members. Most councilor terms are four years, but a few cities have two-year terms. A few city charters provide a limit for the number of terms that one individual may serve as a councilor.

City councils and commissions usually have major responsibilities in both their policy and administrative roles. Understanding these responsibilities will increase the ability of the council, councilors, and staff to get their job done. Two primary functions of city councils are policy and administration. Councils also have limited quasi-judicial powers. Policy is the process of deciding what is to be done, while administration is the process of implementing the policy. Quasi-judicial powers allow the council to act like a court of law.

### *Policy Role*

The city council clearly has the dominant voice in policy matters, but this responsibility is shared with the city administrator, other city employees, and private citizens. The unique role of the council in the policy-making process is to serve as the decision maker within city government in resolving issues of policy. Although the administrator and city employees may be involved in policy formulation, only the council may pass an ordinance or adopt a comprehensive plan. In addition, the budget is a major vehicle for making city policy decisions – and only the council may adopt the budget.

For the council to be successful in bringing issues forward for discussion and in setting policy, each councilor must have a clear understanding of the policy process and the stages at which council intervention is most effective. The policy process may be viewed as a series of steps or phases:

- Identification of problems and needs;

- Establishment of community goals;
- Determination of objectives;
- Development and analysis of alternative means for achieving objectives;
- Establishment of priorities;
- Development of programs;
- Implementation of programs;
- Monitoring and evaluation of programs; and
- Feedback.

These steps usually do not occur as separate actions or decisions, but they may occur more or less in sequence, as in the adoption and periodic review of the comprehensive plan, a capital improvement plan, or an annual budget.

Councilors may be involved in each of these steps, but their most important contributions are likely to be in identifying needs, establishing goals and objectives, choosing among alternatives, setting priorities, and providing feedback.

#### *Administrative Role*

Once policies are established, they must be implemented through administration. Administrative actions are generally those types of decisions that are internal and relate to city operations. These decisions normally implement requirements of city ordinances and state statutes and deal with matters that are special or temporary.

There are several ways in which city councils can, and do, influence city administration. The most common actions taken by a council that affect administration are the passage of resolutions and motions, special investigations, approval of appointments, public hearings, the budget process, legislative audits, review of administrative rules, and agency reporting requirements. Resolutions are generally written and deal with matters of temporary importance. A motion is similar to a resolution, except that motions are generally not presented to the council in writing. It should be noted that motions are not limited to administrative decisions and may often be a mechanism by which a council will adopt an ordinance or other decision. Through these actions, the council exercises significant control over administration, even if the day-to-day administration of the city business is conducted separately from the council.

The extent in which the city council is involved in administration depends on the size of the city and its form of government. The council is collectively responsible for the oversight of administration in most cities<sup>1</sup>, but the roles that individual city councilors play in city administration vary considerably, depending on the size of the city and its form of government. Some small cities have no full-time employees and as a result, councilors for those cities may be deeply involved in administration. Often small cities rely upon part-time employees or contracted professional services to assist with various issues and volunteers. Somewhat larger cities have full-time employees. Even so, councilors may still perform administrative functions or oversee projects, usually through council committees. As cities grow and the complexity of their operations increase, councils often employ a city manager or a city administrator. Councils in these cities seldom retain any significant involvement in day-to-day supervision of city employees and departments, although the extent to which they may seek to exercise supervision may vary depending on the size of the city the abilities of the councilors, and language in the city’s charter.

### *Quasi-Judicial Power*

In some instances, the council will sit much like a court of law to hear a matter and make a decision that affects a person’s rights. These “quasi-judicial” decisions always involve a specific set of rules or policies that will be applied to a specific situation in which the council must make a decision. Typical quasi-judicial decisions include land use applications and appeals of licensing decisions. A person affected by a quasi-judicial decision has certain rights such as the right to be informed of the decision, a right to address the decision maker at a hearing before the decision is made, and a right to an impartial decision maker.

<sup>1</sup> The city of Beaverton’s form of government has a strong mayor. In a strong mayor form of government, it is the mayor who handles the administrative functions of the city, not the council.

## Three Forms of Government

A city’s form of government defines its internal organizational structure, relations along its electorate, its legislative body, and its executive officials, and the respective roles of each in the formal decision-making process. The form of government is often said to be less important to the quality of a city’s performance than the personal qualities and abilities of its city officials and employees. Although there are three basic forms of city government, rarely does the organization of a city adhere completely to one form.

### Council-Manager Form

Most cities with populations above 2,500 have a council-manager form of government. The council retains the decision-making authority of the city, but the charter creates an office of city manager (or administrator). The appointed city manager takes charge of the daily supervision of the city’s operations and serves at the pleasure of the council. The council sets policy and the manager carries it out.

This type of form works best when the council exercises its responsibility for policy leadership and respects the manager’s leadership role and responsibility for administration. Council-manager charters commonly include specific provisions that prohibit individual councilors from giving orders to city employees or from attempting to influence or coerce the manager with respect to appointments, purchasing, or other matters.

### *Communications between Council/Commission and Staff*

Regardless of the size of the city or its form of government, communication between the council and city staff must be made with the recognition of two facts:

- The city employee is responsible to his or her immediate supervisor and cannot take orders from an individual councilor; and
- Each councilor has authority in administrative matters only to the extent delegated by the council as a whole. This delegation is often formally contained in an ordinance or charter provision.

Misunderstandings may arise when a councilor intends to only ask for information. The employee receiving a direct request from a councilor can easily jump to erroneous conclusions or misinterpret the councilor's intent. The best way for councilors to get information about administrative matters is to make the request during a regular council meeting or to a specific manager or administrator.

### *Decision Making*

City council action is taken by vote and that action is typically referred to as a decision. A decision may be made with respect to formal documents such as ordinances, resolutions, orders, and contracts. A decision may also be made to direct city staff to take certain action or made on a question of motion before the council.

Councils adopt laws in the form of ordinances. Ideally, councils have adopted rules that help implement the ordinance process and provide for an orderly discussion. For example, charters will often require, subject to some exceptions, that an ordinance be "read" by the council at two meetings. By comparison, the council rules will state when those meetings are to occur, whether the council will get copies of the ordinance in advance, and whether the public may speak on the proposed ordinance.

## **Three Forms of Government** *continued*

### Mayor-Council Form

The mayor-council form can either have a "weak mayor" or "strong mayor" form of government. Under a weak mayor, the elected council is the basic policy making body in the city. The mayor has no formal authority outside the council, and unless, specified by charter, has no veto power over council decisions. Under a strong mayor, the mayor essentially serves as the head administrative manager of the city.

While there is no appointed city manager, the mayor may appoint an assistant to oversee the general supervision and control over appointed city officers and employees. Rather than reporting directly to the city council, as may be the case under the council-manager form of government, the mayor's assistant reports directly to the mayor.

### Commission Form

Only the City of Portland has a true commission form of government. Voters directly elect the city's major department heads who collectively function as a city council.

The city charter specifies the quorum and voting requirements for a decision. A quorum is the minimum number of councilors required to be in attendance to transact business and is usually the majority of the council.<sup>2</sup> City charters may impose different voting requirements for certain actions. For example, a city charter may require approval of two-thirds of the members for passage of ordinances with emergency clauses, or unanimous approval for a combined first and second reading of a non-emergency ordinance.

The council's authority to adopt law cannot be delegated to anyone else within city government. However, under the Oregon Constitution, the people have reserved unto themselves the power of initiative and referendum. An initiative is when the voters gather enough signatures to put a law on the ballot for a vote. A referendum is when the voters gather enough signatures to put a law that the council has already adopted on the ballot. A referendum is different from a referral. A referral is when the council elects to send a matter to the ballot for a vote, rather than exercising its authority to adopt the law.

### *Liaison Role*

Councilors serve as liaisons on local, state, or even federal boards. They may also serve on commissions or committees, such as the chamber of commerce, economic development groups, selected interest groups (such as the League of Oregon cities or National League of Cities), and civic groups. The councilor will not have the authority to commit the city to any course of action, but can make recommendations to the council regarding proposed actions. A councilor may also serve on an intergovernmental body, such as a council of governments, joint city-county board or commission, or any other entity created by intergovernmental agreement. The type of body may have its own independent policy-making and administrative authority. Appointment to these kinds of bodies is usually made by the mayor with council approval, but individual councilor appointees may receive more direction from the council to guide their actions on behalf of the city.

### **Role of Mayors**

The mayor is generally recognized as the civic leader in the eyes of the community. The mayor's authority beyond that will vary from city to city depending on the city's charter and its chosen form of government. In most cities, the mayor presides over council meetings and participates in discussions. Unlike city councilors who are elected, the mayor may be either elected by the people or appointed by the council from among its own members. Many cities have two-year terms for the mayor, even though the councilors serve for four years.

<sup>2</sup> The Oregon Supreme Court has recently held: 1) A quorum applies to any organized body, even if the body hasn't established its own quorum; and 2) the Oregon Public Meetings Laws applies to "some decision-making of a governing body that does not occur in a 'meeting'." *Tri-County Metropolitan Transportation District of Oregon v. Amalgamated Transit Union Local 757*, 362 Or 484, 412 P3d 162 (2018).

### *Policy Role*

In most cities, the elected council is the legislative and basic policy-making body of the city. The mayor is the ceremonial head of the city and is often the presiding officer of the council. The mayor calls city council meetings to order; announces the order of business as provided in the agenda; states motions; puts them to a vote; announces the result of the vote; prevents irrelevant or frivolous debate or discussion; maintains order and decorum; and otherwise enforces the council's rules and appropriate parliamentary procedures. In addition to the general policy role of a council member, in most cities, the mayor also signs all ordinances and their records of proceedings approved by the council, and in small cities, they may sign all orders to disburse funds.

### *Administrative Role*

Generally, the mayor, with consent of the council, may appoint members of commissions, boards, and committees established by ordinance or resolution. Within cities who adopt a weak mayor form of government, the mayor does not appoint administrative personnel, has no special administrative responsibility, and has no power to veto ordinances adopted by the council. However, depending on charter provisions, the mayor may appoint certain staff members, such as the city manager, city attorney, and chief of police, subject to council approval. Within cities which adopt a strong mayor form of government, the mayor is the chief executive of the city. In addition to being the ceremonial head of the city and presiding at council meetings, the mayor has the power to appoint all or most administrative personnel of the city and has the general responsibility for proper administration of city affairs.

### *Liaison Role*

As with other members of the city council, the mayor may serve as a liaison on local, state, and federal boards. Similar to other city councilor liaison roles, the mayor will not have authority to commit the city to any course of action, but may make recommendations to the rest of the council regarding proposed actions.

### **Recalls**

The Oregon Constitution provides the public with the power to recall elected officials before the expiration of their terms.<sup>3</sup> However, an elected city official may not be recalled during the first 6 months of their current term.

<sup>3</sup> Or Const, Art II, §18.

## *Process and Procedure*

The recall amendment states that every elected public officer is subject to recall by popular vote. This process is initiated by the filing of a recall petition and completed by an election. A petition to recall a public officer must contain signatures equaling at least 15% of the votes cast for governor in the officer's district during the last election. The petition must contain the reasons for the recall and must be filed with the official who accepts nominations for the position, usually the city recorder. The requisite forms needed to file a petition are published online on the Oregon Secretary of State's website.

### File Prospective Petition

First, the prospective petitioner must file a prospective recall petition form, which must be completed and signed by the chief petitioner stating in 200 words or less the reasons for recall and providing their residence address. This form must be submitted to the city's filing officer. Prior to collecting signatures in favor of recall, the chief petitioner must establish a campaign account, and file a statement of organization designating a treasurer with the secretary of state's elections division. After receiving the prospective recall petition, the elections official reviews the forms for required information; date and time stamps the prospective petitioner if the form is complete; and assigns the petition an identification number. The local elections official will either provide the chief petitioner with written notification of required corrections; or provide written approval to circulate the petition that includes the number of required signatures and the last day to submit signatures for verification.

### Gather Signatures

After the prospective petition form is approved, the chief petitioner may then gather signatures. Once the required number of signatures are gathered, the chief petitioner or an authorized agent may submit the signature sheet along with the petition submission form to the local elections official for verification. Only signature sheets from the chief petitioner or an authorized agent will be accepted. The local elections official will either reject the submitted petition sheets that do not comply with the legal requirements or coordinate with the county elections official to verify the signatures. The local elections official will provide in writing to both the chief petitioner and the elected official subject to recall the results of the signature verification; the final number of signatures determined to be valid and either the deadline to submit additional signatures or the deadline for the elected official to resign or submit a statement of justification. After a recall petition is successfully filed, the elected official has 5 days in which to resign.

### *Statement of Justification*

If the elected official subject to recall does not choose to resign, he or she may file a statement of justification form explaining, in 200 words or less, the official's course in office. The statement of justification must contain true factual information and is due within 5 days after the filing

officer determines the recall petition contains sufficient signatures. The completed statement of justification is printed on the election ballot. A recall election will be scheduled even if the public official fails to submit a statement of justification within the required deadline.

### *Recall Election*

If the public official does not resign, a special recall election is ordered to be held within 35 days. The local elections official coordinates with the county elections official to schedule and conduct the election. If the recall election is successful, the position becomes vacant. Vacancies resulting from a recall are treated the same as vacancies caused by death or resignation. Typically, city charter provisions call for such vacancies to be filled by city council appointment. If the recall election is unsuccessful, the public official remains in office.

A public official may be subjected to only one recall election during a term in office, unless the sponsors of a later recall effort are willing to pay the entire cost of the previous, unsuccessful recall election.

## **Common Appointed Officials**

### *City Manager*<sup>4</sup>

Most Oregon cities have a council-manager form of government. In this form, the city council appoints a qualified professional person as city manager or administrator to take charge of the daily supervision of city affairs. The manager or administrator serves at the pleasure of the council. In theory, the city council sets policy and the city manager carries it out. However, managers may take part in the policy-making process when they make recommendations to the council, and many city charters require them to do so. Managers also set policy when they make decision on specific matters that are not clearly covered by existing ordinances or regulations.

The position of city manager is typically set out in the city charter and includes specific provisions that prohibit individual councilors from giving orders to city employees or from attempting to influence or coerce the manager with respect to appoints, purchasing, or other matters. However, charters do not prohibit the council from discussing administrative matters with the manager in open meetings.

Many small cities have established a position of the city administrator instead of a city manager position. This is typically accomplished by ordinance rather than by charter, and occasionally a city sets up such a position merely by budgeting for it. The duties and responsibilities of city

<sup>4</sup> For additional information on recruiting a city administrator, please see the League's *Guide to Recruiting a City Administrator* (April 2019), available at: <https://www.orcities.org/application/files/7015/7904/8177/Guide-RecruitingCityAdministrator.pdf>. The guidebook includes recruitment techniques, information on interim managements, and steps in the selection process.

administrators vary. In some cities, they are indistinguishable from those of a city manager. In others, the administrator may share administrative duties with the council or its committees, including hiring and firing department heads.

### *City Attorney*<sup>5</sup>

A city may appoint an attorney to oversee the city's legal affairs. The type of employment arrangement between a city and its attorney can vary. A city may appoint in-house legal counsel in which the attorney serves as a city employee and the city is not billed separately for the attorney's services. In other instances, a city may employ the use of contract counsel in which the city retains the services of an attorney or law firm and the attorney bills the city for legal services provided. A city may also employ a contract attorney on retainer in which a flat fee is paid for basic defined services. All services provided in addition to the agreed upon basics will typically be billed to the city at an hourly rate. There may be instances where due to the type of litigation, or subject matter of a legal matter, the city may wish to employ outside counsel in addition to the regularly appointed attorney to handle complex matters.

A city attorney, regardless of the employment arrangement, may be called upon to attend all city council meetings, receive and respond to requests for advice from city council and staff, draft and review ordinances and resolutions, prepare and review contracts, and represent the city in litigation. In cities with municipal courts, the city attorney may serve as the municipal prosecutor. The city attorney's ethical obligations are to the city as a whole. The city attorney may not represent individual councilors or staff members. Regardless of the type of legal counsel the city wishes to employ, the city should keep the city attorney apprised of all issues and concerns.

### *City Recorder*

The city recorder plays a number of invaluable roles within the city. While the primary responsibility of the city recorder is to serve as the city's records custodian and elections officer, city recorders also provides routine and complex administrative support to the council, city manager, and department heads. The city recorder's roles are typically outlined in the city charter, and usually include the duty to serve as the city council clerk. Under this role, the recorder prepares meeting agendas, meeting notices, and is responsible for keeping accurate council meeting minutes. As the city's records custodian, the recorder serves as a liaison with the secretary of state's archivist to ensure that the city's records are being maintained in accordance with record retention laws. The recorder also responds to public records requests, performs record certifications, and maintains city records. As the elections officer, the recorder processes petitions, prepares required notices and forms for the city, county clerk, and the public,

<sup>5</sup> For additional information on recruiting a city attorney, please see the League's *Guide to Recruiting a City Attorney* (July 2017), available at: [https://www.orcities.org/application/files/9315/7904/8499/GuidetoRecruitingaCity\\_Atorney2-2-19.pdf](https://www.orcities.org/application/files/9315/7904/8499/GuidetoRecruitingaCity_Atorney2-2-19.pdf). The guidebook includes steps in the selection process for both a contract city attorney and an in-house city attorney.

and arranges for the placement of measures on the ballot. In the recorder's role as administrative support, the recorder may be asked to draft correspondence, coordinate events, and administer oaths of office to public officials.

### *Public Safety Officials*

As part of the city's responsibility to provide for the safety of its citizens, cities may either employ or contract for police and fire protection services.

#### Police

The role of local law enforcement officers encompasses a wide range of responsibilities. Some of the functions commonly associated with police forces are crime control and investigation, preservation of the peace, regulation of conduct other than criminal activity such as licensing and inspection, traffic supervision, community relations, and provision of general assistance to the community. Oregon cities are not legally required to provide law enforcement services, and some cities do not. When a city decides to provide police services, state and federal constitutional requirements relating to the rights of individuals become applicable.

Oregon statutes prescribe certain duties and authorities of police officers and establish general requirements such as certification standards. Police officer training is governed by state law, which requires, in part, that all newly hired police officers complete a basic course of instruction.<sup>6</sup> City police departments must send recruits to the Oregon Police Academy for their basic training. The Oregon Department of Public Safety Standards and Training requires officers to attend 16 weeks of basic instruction. Upon graduation, officers are required to participate in a structured field training program. Some city police departments also maintain their own instruction programs.

The time and resources expended on police activities varies with the size and social and economic characteristic of the city. The history of criminal activity and police practices also plays a role in the framework for police services. In some small cities, a single officer may perform few duties other than traffic and parking enforcement, with other police functions provided by the county sheriff or the state police. Many small cities receive police services under contract with the county sheriff. As an alternative, law enforcement personnel and services may be shared by several cities, or by a city and a county. In a large city, the police department may have specialized units dealing with specific police and law enforcement functions such as crime laboratories, information management systems, juvenile programs, and intelligence.

<sup>6</sup> ORS 181A.490.

Many cities have police reserves that volunteer to assist police officers in certain activities. Other cities have code enforcement officers who handle activities such as dogs, parking, nuisance abatement, weed control, or other non-criminal actions.

### Fire Protection

Most city fire departments are part of the city government structure. Small cities usually use volunteer firefighters, and medium-sized cities often use a combination of fulltime and volunteer personnel. In large cities, fire departments are staffed by fulltime professionals. Many city residents in Oregon receive their fire protection from Rural Fire Protection Districts (RFPDs). Cooperation, contractual arrangements, and various forms of unification among local government entities are common in Oregon. Mutual-aid agreements among cities and adjacent RFPDs are virtually universal. Arrangements whereby a city provides fire protection services to neighboring RFPDs under contract are also widespread. The reverse is found in several areas – RFPDs sometimes provide service to cities under contract. This arrangement has become increasingly popular with small cities that can be served by large fire districts. Also, the law permits cities to participate in merged and consolidated districts.<sup>7</sup>

The state Board on Public Safety Standards and Training adopts rules and fire personnel certification programs. In addition to personnel certification, the board recommends standards for firefighting equipment and develops criteria for exemption of local jurisdictions from state fire and life safety regulations.

<sup>7</sup> ORS 198.885 – 198.915.

# CITY COUNCIL RULES OF PROCEDURE



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## INTRODUCTION

In Oregon, many city charters, including Forest Grove, require a city council to establish rules of procedure for how council meetings will be governed, how appointments will be made and how council members are to interact with other councilors and city staff. The City Charter is the foundation for city governance; the Council Rules put it into practice.

Establishing rules of procedure for council meetings has several benefits. First, it allows for meetings to be run in an efficient and consistent manner. Second, it allows for the council and residents to debate matters of public concern in a courteous and respectful manner that lessens the likelihood of discontent and friction. Third, rules provide guidance to council members on how they are to interact and engage with councilors, city employees and members of the public. Fourth, rules of procedure ensure continuity and stability during transition years when new members of the council are elected to office.

Council rules are not exhaustive and council members should work together in good faith to identify areas in which rules are needed. City councils have a lot of discretion in determining how to conduct their business and can exercise their inherent discretion in crafting a set of rules that match their community's culture, needs and values.

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## SECTION 1 – AUTHORITY

**1.1 Authority** - The City of Forest Grove City Charter, Section 10, provides that the Council shall adopt Council Rules by resolution to govern its meetings and proceedings. The following Council Rules shall be in effect upon their adoption by the Council until they are amended or new Council Rules are adopted. These Council Rules shall be presented to all Councilmembers and within 30 days of taking office, each appointed or elected Councilor shall sign that they have reviewed and received a copy of these Council Rules. The City Recorder shall retain the signature copy.

## SECTION 2 – GENERAL RULES

**2.1 Open Meetings** – All City Council meetings will be held in accordance with the Oregon Public Meetings Law (pursuant to ORS 192). No final action by the Council shall have legal effect, unless the motion and the vote by which it is disposed of take place, at a proceeding that is open to the public.

**2.2 Quorum** – Pursuant to City Charter, Section 12, a majority of the Councilmembers shall constitute a quorum to conduct business, no less than three (3) Councilors may meet and compel attendance of absent members. If a quorum is not present, those in attendance will be recorded, and the Presiding Officer or City Recorder will adjourn the meeting.

**2.3 Vote Required** – Pursuant to City Charter, Section 13, the express approval of a majority of a quorum of the Council is necessary for any Council decision, except when the Charter or Council Rules requires approval by a majority of the Council.

**2.4 Rules of Order** – *Robert's Rules of Order Newly Revised* shall govern all Council proceedings, unless they conflict with these rules. The City Attorney or City Recorder, in the absence of the City Attorney, shall act as parliamentarian for the Council.

**2.5 Suspension of Rules** –The vote to suspend the Council Rules (including *Robert's Rules of Order Newly Revised*) requires a majority vote of those members of the Council who are present. If the motion is carried, the rules shall be suspended for that item only.

**2.6 Address by Council Members** – Any Councilmember desiring to speak to an issue shall address the Presiding Officer and upon recognition, shall confine remarks to the issue under debate. Councilmembers questioning, seeking clarification, or soliciting a recommendation from staff shall direct the concern to the City Manager. The City Manager may respond as requested or redirect the inquiry to a member of the staff.

## SECTION 3 – COUNCIL MEETINGS

### **3.1 Regular Meeting** (Pursuant to City Charter, Section 11) –

The City Council will meet in regular session on the second and fourth Mondays of each month at 7:00-9:30 p.m. in the Community Auditorium, 1915 Main Street, or at another place in the City which the Council designates. The express approval of a majority of a quorum of the Council is necessary to extend the regular session past 9:30 p.m. If such date falls on a City-recognized legal holiday, the meeting shall be held at the usual hour and place on the following day. The Council shall adopt a resolution at the first meeting of each year setting its meeting dates.

**3.2 Work Session** – The City Council may hold a work session on the first Monday or third Monday of each month at the request of the Presiding Officer at a place in the City which the Presiding Officer designates. Such sessions shall allow the Council an opportunity to review forthcoming projects of the City, determine goals for the ensuing year, receive progress reports on current programs or projects, or to hold open discussions on any City-related subject, provided that all discussions thereon shall be informal with no vote or formal action taken. In case of a joint work session, the Presiding Officer shall call the session to order and turn the session over to the appropriate facilitator. If the group has no facilitator, the Presiding Officer may act as facilitator. All work sessions shall be open to the public, however an opportunity for public testimony will only be allowed at the discretion of the Presiding Officer or by a majority vote of the Councilmembers. Other work sessions may be called at the discretion of the Mayor or at the request of four (4) members of the Council.

**3.3 Coffee-Hour Work Session** – The City Council may hold a coffee-hour work session on the first Saturday of each month at the request of the Mayor at a place in the City which the Mayor designates, provided that all discussions thereon shall be informal with no vote or formal action taken. Such sessions shall allow the public an opportunity to meet informally with the Mayor and Councilmembers to discuss issues or concerns they may have, and for the purpose of allowing Councilmembers an opportunity to meet informally with the Mayor to discuss issues or concerns they may have.

**3.4 Special Meeting** – The Mayor, upon own motion may, or at the request of four (4) members of the Council shall, by giving notice thereof to all members of the Council, call a special meeting of the Council. At least 24 hours' notice pursuant to ORS 192.640(3) shall be given for the meeting. The notice shall list the subjects anticipated to be considered at the meeting; however, this requirement shall not limit the ability to consider additional subjects pursuant to ORS 192.640(1).

**3.5 Emergency Meeting** – The Mayor, upon own motion may, and by giving notice thereof to all members of the Council, call an emergency meeting. An emergency meeting of the Council may be called on less than 24 hours' notice provided that an actual emergency exists. The minutes of the meeting must describe the emergency justifying less than 24 hours' notice pursuant to ORS 192.640(3). Attempts shall be

made to contact the media by telephone, fax, or e-mail to provide notice of the emergency meeting.

**3.6 Executive Session** – Executive sessions shall be held in accordance with ORS 192.660. Matters discussed in executive session shall be exempt from public disclosure pursuant to ORS 192.660. Executive sessions shall be closed to all persons except the City Council; persons reporting to Council on the subject of the executive session; the City Manager, unless directed otherwise by the Council; City staff persons as allowed by the City Council to attend; news media representatives, unless excluded by the Oregon Public Meetings Law (media representatives may be excluded for discussions regarding labor negotiations or if the media or representative is a party to the litigation being discussed); and other persons authorized by the City Council to attend. The term "news media representative" is interpreted by the Oregon Attorney General to include "news gathering representatives", meaning reporters of news gathering media which ordinarily report activities of the public body (39 Op. Att'y Gen. 600 (1979)). An executive session may be held during any regular meeting or any open meeting for which proper notice has been given. Pursuant to ORS 192.660(6), no final action or final decision may be taken during an executive session; however, an opinion or consensus of the Council may be gathered. All final actions or final decisions must be made in a public session.

Prior to opening an executive session, the Presiding Officer shall:

- Announce the ORS Statute authorizing the executive session and state: *“Representatives of the news media and designated staff may attend Executive Sessions. Representatives of the news media are specifically directed not to report on any of the deliberations during the Executive Session, except to state the general subject of the session as previously announced. No Executive Session may be held for the purpose of taking final action or making any final decision.”*

**3.7 Adjourned and Recessed Meeting** – The City Council may adjourn or recess any meeting to a later date and time by a majority vote of the Councilmembers present. An adjourned or recessed meeting shall be scheduled no later than the next regular meeting. At least 24 hours’ notice shall be given announcing the date and time of the adjourned or recessed meeting.

**3.8 Meetings Open to the Public and Serial Communications**

- (A) All meetings of the City Council shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192. A quorum of the Council is prohibited from meeting in private to make decisions or deliberate on matters of City business that fall within the scope of the Council’s jurisdiction. This prohibition includes in-person meetings where a quorum exists as well as serial communications that may occur over e-mail, text message, social media, and through conduits such as staff.

- (B) One-on-one or small group (non-quorum) conversations or communications regarding City business are generally permitted as long as the views or thoughts of a quorum of the Council are not shared during those conversations. As a result, Councilmembers should share only their personal views on City business being discussed in one-on-one or non-quorum conversations and not discuss the views or opinions of other Councilmembers who are not involved in the discussion.
- (C) Councilmembers should avoid “*replying all*” to informational e-mails sent to the entire Council or a quorum of Councilmembers regarding City business that occur outside of a Council meeting. Although one-way information sharing on administrative items (i.e., agenda topics and meeting availability) is permissible outside of a Council meeting, Councilmembers should avoid back and forth conversations between a quorum of members via e-mail.
- (D) Councilmembers should be cognizant that a “*serial*” meeting can occur through the use of social media if a quorum of the Council engages in discussions regarding City business on a social media platform. As a result, Councilmembers should be careful not to comment or engage in a social media conversation regarding City business that other members of the Council have already participated in.

**3.9 Cancellation of Meeting** – Upon a majority vote of the Councilmembers present, a meeting may be canceled when deemed appropriate. Pursuant to City Charter, Section 11, the Council must meet at least once a month. Notice of cancellation shall be posted on the bulletin boards at City Hall, Community Auditorium and Library and shall be posted on the City’s website and distributed to Councilmembers, media representatives, and other interested parties upon written request.

**3.10 Notice of Meeting** – The City Recorder shall provide:

1. Notice of the meeting time;
2. Location of the meeting; and
3. List the subjects anticipated to be considered at the meeting; however, this requirement shall not limit the ability to consider additional subjects pursuant to ORS 192.640(1).

Notice of a meeting shall be posted at least five (5) days prior to the meeting on the bulletin boards at City Hall, Community Auditorium and Library and shall be posted on the City’s website and distributed to Councilmembers, media representatives, and other interested parties upon written request. At least 24 hours’ notice shall be given for a special meeting and an adjourned meeting. Attempts shall be made to contact the media by telephone, fax, or e-mail to provide notice of emergency meetings.

**3.11 Attendance Duty** – It is the duty of each Councilmember to attend all meetings of the Council. The City Charter, Section 31(B)(2), provides that the Councilmember’s office will be deemed vacant upon absence from the City for 30 days or from all Council meetings within a 45-day period, without Council consent. Consent will be given for good cause as follows:

1. Illness;
2. Family obligations;
3. Employment requirements;
4. Scheduled vacations; or
5. Other City-related business

**3.12 Excused/Unexcused Absence** – When a Councilmember cannot attend a meeting, the member shall notify the City Recorder, who will notify the Mayor or Presiding Officer, prior to the meeting. The Mayor or Presiding Officer will determine if the absence is considered “excused” or “unexcused”. If the absence is for good cause and there are no objections from other Councilmembers who are present, the City Recorder shall record the absence in the minutes as excused. If the Councilmembers, upon an affirmative vote of the majority of the Councilmembers present, determine the absence is not for good cause, the City Recorder shall record the absence in the minutes as unexcused. Lack of notification will constitute as an unexcused absence.

**3.13 Telephonic Attendance** – When a Councilmember is unable to physically attend any meeting, pursuant to Section 3.11, the member may attend by conference telephone with at least 24 hours’ advance notice. The City Recorder shall record in the minutes the time the member’s call was connected and the time the member’s call was disconnected.

## **SECTION 4 – THE PRESIDING OFFICER**

**4.1 Mayor** – Pursuant to City Charter, Section 8, the Mayor shall preside over and facilitate all Council meetings, preserve order, enforce Council Rules, and determine the order of business pursuant to Council Rules, Section 6. The Mayor is a voting member of the Council and has no veto authority. The Mayor, with the consent of the Council, shall appoint members of boards, commissions, and committees established by ordinance or resolution. The Mayor shall sign all records of Council decisions. The Mayor serves as the political head of the City. In the absence of the Mayor, the Council President shall act as Mayor and serve as the Presiding Officer.

**4.2 Council President** – Pursuant to City Charter, Section 9, at the first meeting each year, the Council shall elect a Council President from its membership. The Council President presides in the absence of the Mayor and acts as Mayor when the Mayor is unable to perform duties. In the absence of the Mayor and Council President at a meeting where a quorum is present, the Councilmember with the longest

continuous service shall serve as Presiding Officer pro tem until such time the meeting is adjourned.

## **SECTION 5 – DECORUM, ORDER, ETHICS AND STATEMENTS TO MEDIA AND OTHER ORGANIZATIONS**

**5.1 Presiding Officer** – The Presiding Officer shall enforce the Council Rules. In addition, the Presiding Officer has the authority to preserve decorum and shall determine all points of order, subject to the right of any councilmember to appeal to the Council. The Presiding Officer shall enforce order, prevent attacks on personalities or impugning members’ motives, and keep those in debate to the question under discussion. The Presiding Officer shall use formal procedure when necessary for effective discussion and to focus the meeting.

**5.2 Councilmembers** – Councilmembers shall preserve order and decorum during Council meetings, and shall not by conversation or other action, delay or interrupt the proceedings or refuse to obey the orders of the Presiding Officer and Council Rules. Councilmembers shall, when addressing staff, councilmembers, or members of the public, confine themselves to questions or issues that are under discussion.

Councilmembers shall not engage in personal attacks, not impugn the motives of any speaker, be courteous, not interrupt, speak in turn, not engage in side conversations, not communicate on their personal electronic devices during the meeting, and at all times, while in session or otherwise, conduct themselves in a manner appropriate to the dignity of the office. Councilmembers shall not attack the knowledge, skills, abilities, and personalities or impugn councilmembers, staff, or members’ of the public motives in Council or any city meetings. Councilmembers agree to be diplomatic about disagreement; leave disagreement at the dais and to not polarize other Councilors. In Council meetings, Councilmembers may discuss or suggest anything with the City Manager related to city business.

Councilmembers shall come prepared to the meeting and call the City Manager or designee with questions and requests prior to the meeting. Councilmembers shall use procedure appropriately and courteously. Councilmembers may request on their own accord one-on-one meetings with the Mayor.

**5.3 Staff and Public** – Members of the administrative staff, employees of the City and other persons attending Council meetings shall observe the same rules of procedure, decorum and good conduct applicable to the members of the Council.

**5.4 Removal of Any Person** – Any persons making disruptive or threatening remarks or actions during a meeting shall forthwith be barred from further audience at that meeting, unless permission to continue is granted by a majority vote of the Councilmembers present. The Presiding Officer may summon the assistance of the

police or other administrative staff to prevent further interruption by such person by any action necessary, including the removal of that individual. In case the Presiding Officer should fail to act, any Councilmember may obtain the floor and move to require enforcement of this rule; upon an affirmative vote of the majority of the Councilmembers present, the police or administrative staff shall be authorized to remove the person(s) if the Presiding Officer so directed.

**5.5 Ethics** – All Councilmembers shall review and observe the requirements of Oregon Government Ethics laws under ORS Chapter 244, which defines ethics and conflicts of interests for public officials, for example, gifts limits, use of official position for financial gain, disclosure of confidential information, and financial interest in public contracts.

**5.6 Statements to Media and Other Organizations**

- (A) Representing City. If a member of the Council, to include the mayor, appears as an authorized representative of the City before another governmental agency, the media, or an organization to give a statement on an issue, the member may only state the official position of the City, as approved by a majority of the Council.
- (B) Personal Opinions. If a member of the Council, to include the mayor, appears in their personal capacity (not as an authorized representative of the City) before another governmental agency, the media or an organization to give a statement on an issue, the member must state they are expressing their own opinion and not that of the City before giving their statement.
- (C) Use of Letterhead. Councilmembers may use City letterhead for individual letters of thank you, congratulations, and condolences without the express permission of the Council. All other use of letterhead by Councilmembers requires Council approval. Councilmembers wishing to send a letter must prepare the document in draft form and submit it to city staff for finalization and signature.

**5.7 Censure**

- (A) The Council may enforce these rules and ensure compliance with city ordinances, charter and state laws applicable to governing bodies. If a Councilmember violates these rules, city ordinances, the city charter or state laws applicable to governing bodies, the Council may take action to protect the integrity of the Council and discipline the member with a public reprimand.
- (B) The Council may investigate the actions of any Councilmember and meet in executive session under ORS 192.660(2)(b) to discuss any finding that reasonable grounds exist that a violation of these rules, city ordinance, the city charter or state laws applicable to governing bodies has occurred. Sufficient notice must be given to the affected member to afford them the opportunity to request an open hearing under ORS 192.660(2)(b).

## SECTION 6 – AGENDA AND ORDER OF BUSINESS

**6.1 Agenda Preparation** – The City Manager, or designee, shall prepare the final Council Meeting Agenda for each meeting, specifying the time, place, and purpose of the meeting and listing the subjects anticipated to be considered at the meeting. The final agenda and packet shall be delivered to the Council at least (5) days prior to the meeting. The final agenda shall be posted at least five (5) days prior to the meeting on the bulletin boards at City Hall, Community Auditorium and Library and shall be posted on the City’s website and shall be distributed to media representatives, and other interested parties upon written request. At least 24 hours’ notice shall be given for a special meeting and an adjourned meeting. Attempts shall be made to contact the media by telephone, fax, or e-mail to provide notice of emergency meetings.

**6.2 Review of Preliminary Agenda** – The City Manager shall meet with the Mayor or Presiding Officer to review all preliminary Council agendas.

**6.3 Councilmembers Scheduling Agenda Items:**

- (A) At any meeting of the Council, a Councilmember may request the Council add or delete an item from the final agenda for that night’s meeting. A majority of the Councilmembers present at the meeting must approve the request and the request must not require a staff report.
- (B) If a Councilmember wishes to propose an item for a future agenda, the Councilmember must propose the agenda item at a Council meeting and it must be approved by a majority of the Councilmembers present at the meeting before being placed on the final agenda for the next Council meeting or an agreed upon future Council meeting.

**6.4 Order of Business** – The order of business at regular meetings of the City Council shall be as follows:

- 1. **CALL TO ORDER** – The Presiding Officer shall call the meeting to order.
  - (A) **Roll Call**. The City Recorder shall call the name of each Councilor and note each Councilor’s attendance or absence in the record, under the guidelines as set forth in Section 2.2 and Section 3.12, to establish if a quorum is present to conduct business.
  - (B) **Pledge of Allegiance**. The Presiding Officer shall lead the Council and audience in the Pledge of Allegiance.
  - (C) **Proclamations and Awards**. Proclamations and awards will be read and presented by the Presiding Officer, or designee.

2. **PUBLIC COMMENT –**

(A) Time provided for anyone wishing to speak to the City Council on an item not on the agenda or on the agenda but not scheduled for a public hearing may be heard at this time. Written comments to City Council received by 3 p.m. the day of the meeting will be included in the official record of that meeting. Written comments received after that time will be included in the official record of the following meeting.

(B) Persons wishing to speak during public comment must sign the public comment sign-in sheet and list the topic upon which the person wishes to comment. The City Recorder shall post in the foyer before the start of a meeting a Public Comment sign-in sheet.

(C) Comments will be limited to two (2) minutes, unless additional time is granted by the Presiding Officer.

(D) Generally, the Presiding Officer will call speakers in the order in which they signed the sign-in sheet. Speakers shall identify themselves by their names and by their place of residence.

(E) Councilmembers may, after obtaining the floor, ask questions of speakers during public comment. Councilors shall use restraint when exercising this option and shall attempt to limit their questioning to no more than two (2) minutes per speaker.

(F) The public comment period shall not exceed thirty (30) minutes, unless a majority of councilmembers present vote to extend the time.

(G) If a member of the public wishes to speak on an item that is scheduled for a public hearing at the same meeting, the speaker shall wait until that public hearing. The procedures outlined for the public hearing will apply.

(H) Persons Sharing Common Concerns. If any group of three (3) or more persons sharing a common viewpoint on any subject wishes to address the Council during the time set aside for Public Comment, the group may select a spokesperson, which may present the views of the group to the Council to a maximum of five (5) minutes, unless additional time is granted by the Presiding Officer. The Council, in its sole discretion, may request to hear the views of additional speakers from the group. Additional support for the views of the group, in the form of petitions, letters, videotapes, etc., shall be presented to the City Recorder at the conclusion of the spokesperson's remarks.

(l) Complaints and Suggestions to the Council. When any citizen brings a complaint before or makes a suggestion to the Council, other than for items on the current meeting agenda, the Presiding Officer shall first determine whether the issue is legislative or administrative in nature and then:

(1) Legislative. If legislative, and a complaint about the letter or intent of legislative acts or suggestions for changes to such acts, and if the Council finds such complaint suggests a change to an ordinance or resolution of the City, the Council may refer the matter to the City Attorney, City Manager, or an advisory body for study and recommendation.

(2) Administrative. If administrative, and a complaint regarding administrative staff performance, administrative execution or interpretation of legislative policy, or administrative policy within the authority of the City Manager, the Presiding Officer shall refer the complaint directly to the City Manager for review if the complaint has not already been reviewed. The Council may direct the City Manager to report to the Council when the review has been completed.

**3. CONSENT AGENDA** – Items on the Consent Agenda are considered routine and will be adopted with a single motion, without separate consideration. Any Councilmember or member of the public may request to remove an item(s) from the Consent Agenda prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the Consent Agenda.

The Consent Agenda is subject to the following guidelines:

- Items of routine nature, not requiring Council discussion or direction, may be included on the Consent Agenda at the discretion of the City Manager.
- Ordinances, resolutions, orders, and other items requiring a Public Hearing shall not be included on the Consent Agenda.

**4. ADDITIONS OR DELETIONS** – Changes may be made to the final agenda at the request of the City Manager. Item(s) added to the final agenda may be placed on the agenda as Item 4. A. or prior to the City Manager's Report.

**5. PRESENTATIONS** – Time provided for community groups, boards, commissions, elected officials, and staff presentations to the Council. Each presenter is limited to ten (10) minutes to present, followed by five (5) minutes for questions and answers, unless additional time is granted by the Presiding

Officer. Presenters must submit their materials to the City Recorder at least one week prior to the regularly scheduled meeting.

**6. PUBLIC HEARINGS** – All ordinances, orders, or resolutions requiring a Public Hearing by State law or City policy will be heard. Written and oral testimony shall be heard prior to Council action pursuant to the procedures addressed in Section 8. Public Hearings will be listed on the agenda as follows:

- (1) Ordinances first;
- (2) Orders second; and
- (3) Resolutions third.

**7. A. COUNCIL COMMUNICATIONS** – Time provided for Councilmembers to present a brief summary of matters of interest to the Council and to present Boards and Commission liaison reports.

**7. B. CITY MANAGER’S REPORT** – Time provided for the City Manager to report matters of interest to the Council.

**7. C. MAYOR’S REPORT** – Time provided for the Mayor to report matters of interest to the Council.

**8. ADJOURNMENT** – Following the completion of all matters listed on the agenda, the Presiding Officer shall declare the meeting adjourned.

**6. 5 Changing Order of Business** – At any meeting of the Council, the order of the business may be changed or any part thereof suspended for such meeting upon consensus of the majority of the Councilmembers present.

**6. 6 Recess** – The Presiding Officer may recess any meeting of the Council upon consensus of the majority of the Councilmembers present. The Presiding Officer shall announce the time in which the meeting will reconvene.

**6. 7 Motion for Reconsideration** – Unless specifically governed by other provisions of the codes, ordinances, or other regulations of the City, a Councilmember who voted with the majority may move for reconsideration of an action at the same or the next following regular meeting of the Council prior to the approval of the minutes of the first meeting. A vote of reconsideration requires a majority vote of the Councilmembers present. Once a matter is reconsidered, no motion for further reconsideration shall be made without unanimous consent of the Councilmembers present.

## **SECTION 7 – RESERVED**

## **SECTION 8 – PUBLIC HEARINGS, CONFLICT OF INTEREST OR OTHER DISQUALIFICATIONS**

**8.1 Public Hearings** – Public Hearings shall be held on each matter required by State law or City policy. Quasi-judicial hearing procedures shall be conducted in accordance with ORS 197.763, *Conduct of Local Quasi-judicial Land Use Hearings, Notice Requirements, Hearing Requirements*, unless otherwise provided in the Development Code. The Presiding Officer shall preside over the hearing, announce the purpose and type of hearing and summarize the guidelines for the conduct of the hearing.

**8.2 Open Public Hearing** – The Presiding Officer shall declare the hearing open and announce the type of hearing and the guidelines for the hearing.

**8.3 Call for Abstentions** – The Presiding Officer shall call for abstentions from the Council. No Councilmember shall participate in discussion or vote on a matter in which the Councilmember has a direct personal or pecuniary interest. If a Councilmember announces an abstention, the Councilmember shall identify the reason(s) for abstaining and shall not participate in discussion or vote on the matter. Exception: If the recusal results in a lack of a quorum, Councilmember may be counted for the purpose of establishing a quorum; however, the Councilmember must abstain from voting.

**8.4 Ex-Parte Contact/Conflict of Interest/Prehearing Bias** – Such contacts and conflicts apply to quasi-judicial hearings. The Presiding Officer shall call for such contacts or conflicts from the Council. If a Councilmember discloses an ex-parte contact, the Councilmember shall disclose the nature of the contact and information obtained. If a Councilmember discloses a conflict of interest, the Council shall disclose the conflict of interest. If a Councilmember discloses a prehearing bias, the Councilmember shall reclude themselves and shall not participate in discussion or vote on the matter. No Councilmember shall participate in discussion or vote on a matter in which the Councilmember is unable to render an unbiased decision. Exception: If the recusal results in a lack of a quorum, Councilmember may be counted for the purpose of establishing a quorum; however, the Councilmember must abstain from voting.

**8.5 Challenge/Disqualification** – Any Councilmember whose participation has been challenged has the right to participate and may make statement in response to the challenge. Such challenge must be made prior to the commencement of the Public Hearing and shall be incorporated into the record of the hearing.

**8.6 Objections to Jurisdiction** – The Presiding Officer shall inquire if there are objections to the jurisdiction of the Council to hear the matter, and if such objections are received, conduct further inquiry if necessary to determine the question. The Presiding Officer shall terminate the hearing if the inquiry results in substantial evidence the Council lacks jurisdiction or the procedural requirements are not met.

**8.7 Staff Report and Recommendation** – The Presiding Officer shall call forth the City Manager or City staff to present the staff report. All staff reports to the City Council shall contain the following information:

**INTRODUCTORY HEADINGS:**

- (1) Meeting Date
- (2) Project Team
- (3) Subject and/or Report Title, and in the body of the report:
  - **ISSUE STATEMENT:**
  - **DISCUSSION AND/OR BACKGROUND:**
  - **FISCAL IMPACT (NEGATIVE OR POSITIVE):**
  - **STAFF RECOMMENDATION:**

**8.8 Testimony** – Members of the audience may present oral testimony on the matters scheduled for Public Hearing. The Presiding Officer will call forth members of the audience who have signed-in prior to the meeting to present testimony. Testimony will be limited to three (3) minutes, unless the Presiding Officer grants additional time. The Presiding Officer may further limit testimony if a speaker persists in being threatening and disorderly, or abusive, following a warning to that effect from the Presiding Officer. Upon being recognized by the Presiding Officer, any member of the Council or the City staff may ask questions of any speaker. Upon closure of the hearing, no further testimony will be allowed.

**8.9 Attorney Representation** – Any person attending a hearing has the right to be represented by an attorney.

**8.10 Testimony – Land Use Public Hearings** – In addition to the procedures outlined above and below, during a quasi-judicial hearing, the testimony must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. The hearing will be as follows:

- 1) Staff Report
- 2) Written Communications – Staff shall facilitate distribution of any written communications to the Council prior to commencement of the hearing. The City Recorder shall record in the minutes any written communications received.
- 3) Applicant’s testimony
- 4) Proponent’s case
- 5) Opponent’s case
- 6) Neutral testimony
- 7) Rebuttal Evidence – After being recognized by the Presiding Officer, the applicant will be offered an opportunity for rebuttal.
- 8) Close Public Testimony – After the record is closed for testimony, no other testimony comments will be heard from anyone unless the City Council has a specific question.
- 9) Staff response to testimony
- 10) Questions for Staff, if any, from the City Council
- 11) Deliberation by the City Council

- 12) Motion, amendments, if any, and Decision (based on criteria)
- 13) Call for the vote

**8.11 Land Use Appeal Hearings/Procedures** – In addition to the procedures outlined above, land use appeal hearings and procedures shall be conducted pursuant to the provisions set forth in the Development Code.

**8.12 Closing of Hearing/Council Deliberation** – The Presiding Officer shall close the hearing or continue it to a date and time certain for presentation of further evidence or argument. Upon closing the hearing, the Council may deliberate on the matter immediately, or may deliberate on the matter at a later time. During deliberations, the Council may request advice from the City Manager or City staff as to the consequences and implications of the proposal or alternatives thereto based upon the facts presented during the hearing.

**8.13 Reopening of Hearing** – If it appears that substantial new factual material is necessary to reach a decision on the matter, the Council may, by majority vote, order the hearing reopened or refer the matter to the Planning Commission for further development of the record. Reopening of a hearing is subject to public notice requirements.

## **SECTION 9 – ORDINANCES (LEGISLATIVE AUTHORITY)**

**9.1 Ordinances** – Pursuant to City Charter, Section 15, Council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state “The City of Forest Grove ordains as follows:”

**9.2 Ordinance Enactment** – Pursuant to City Charter, Section 16, ordinances will be enacted as follows:

- (a) Except as authorized by subsection (b), enactment of an ordinance requires approval by a majority of the Council at two (2) meetings.
- (b) The Council may enact an ordinance at a single meeting by unanimous approval by at least five (5) members, provided the proposed ordinance is available to the public at least seven (7) days before the meeting as prescribed by Council rules.
- (c) Any substantive amendment to a proposed ordinance must be read aloud before the Council enacts the ordinance.
- (d) After the enactment of an ordinance, the vote of each member must be entered into the Council minutes.
- (e) After enactment of an ordinance and signature by the Mayor, the City Recorder must attest to the ordinance by name, title, and date of enactment.

**9.3 Ordinance Effective Date** – Pursuant to City Charter, Section 17, ordinances take effect on the 30<sup>th</sup> day after enactment, or on a later day provided in the ordinance.

An ordinance may take effect as soon as enacted or other date less than 30 days after enactment if the ordinance contains an emergency clause.

## **SECTION 10 – RESOLUTIONS (ADMINISTRATIVE AUTHORITY)**

**10.1 Resolutions** – Pursuant to City Charter, Section 18, Council will exercise its administrative authority by adopting resolutions. The adopting clause for all resolutions must state “The City of Forest Grove resolves as follows:”

**10.2 Resolution Adoption** – Pursuant to City Charter, Section 19, resolutions will be enacted as follows:

- (a) Adoption of a resolution or any other Council administrative decision requires approval by the Council at one (1) meeting.
- (b) Any substantive amendment to a resolution must be read aloud before the Council adopts the resolution.
- (c) After adoption of a resolution or other administrative decision, the vote of each member must be entered into the Council minutes.
- (d) After adoption of a resolution and signature by the Mayor, the City Recorder must attest to the resolution by name, title, and date of adoption.

**10.3 Resolution Effective Date** – Pursuant to City Charter, Section 20, resolutions and other administrative decisions take effect on the date of adoption, or on a later day provided in the resolution.

## **SECTION 11 – ORDERS (QUASI-JUDICIAL AUTHORITY)**

**11.1 Orders** – Pursuant to City Charter, Section 21, Council will exercise its quasi-judicial authority by adopting orders. The adopting clause for all orders must state “The City of Forest Grove orders as follows:”

**11.2 Order Adoption** – Pursuant to City Charter, Section 22, orders will be enacted as follows:

- (a) Adoption of an order or any other Council quasi-judicial decision requires approval by the Council at one (1) meeting.
- (b) Any substantive amendment to an order must be read aloud before the Council adopts the order.
- (c) After adoption of an order or other Council quasi-judicial decision, the vote of each member must be entered in the Council minutes.
- (d) After adoption of an order and signature by the Mayor, the City Recorder must attest to the order by name, title, and date of adoption

**11.3 Order Effective Date** – Pursuant to City Charter, Section 23, orders and other quasi-judicial decisions take effect on the date of final adoption, or on a later day provided in the order.

## **SECTION 12 – RECORD OF MEETINGS**

**12.1 Council Record of Meetings** – Pursuant to City Charter, Section 14, City Council must keep a record of its proceedings and official meetings.

**12.2 Responsibility** – The City Recorder shall be responsible for preparing, amending, retaining, and furnishing copies of all City Council minutes in accordance with State Laws.

**12.3 Content of Minutes** – Minutes of meetings of the City Council shall comply with the provisions of ORS 192.650 and contain the following:

- a) Names of all Councilmembers present or absent and City staff present;
- b) Name and address, if provided, of all persons testifying;
- c) All motions, proposals, ordinances, resolutions, orders and their disposition;
- d) Results of all votes and the vote of each Councilmember by name;
- e) Substance of any discussion on any matter;
- f) Reflect the matters discussed and views of the participants;
- g) Reference any document or exhibits discussed at the meeting;
- h) Minutes shall be available to the public within seven (7) business days after the meeting.

**12.4 Preparation of Minutes and Retention of Audio** – In addition to the requirements in Section 12.3, official minutes of the City Council shall record the substance of the meeting and be concise. Minutes will generally follow the chronological order of the agenda items to be considered during the meeting. Verbatim minutes are not required. Official proceedings of the City Council shall be audio recorded and be maintained in accordance with the Oregon Archives Law (pursuant to OAR 166).

**12.5 Executive Session Minutes** – Minutes of executive sessions shall be kept in accordance with ORS 192 in the form of audio recorded. No transcription of executive session minutes will be made unless otherwise required by State law.

**12.6 Distribution of Minutes** – Draft minutes are distributed to the City Council with the agenda on which the minutes appear as an item for approval. Minutes released to the public prior to City Council approval shall be stamped “DRAFT”. Copies of audio recording may be released and made available to the public in accordance with the Oregon Public Records Law (pursuant to ORS 192).

**12.7 Correction and Approval of Minutes** – Approval of the minutes usually takes place at the next regular meeting following the date of the minutes under approval. Generally, minutes appear under the Consent Agenda. If minor amendments are made to the minutes, a Councilmember may offer such amendment prior to the Consent Agenda being adopted. For an extensive amendment, the Council shall remove the minutes from the Consent Agenda for separate consideration. Upon an affirmative vote of the majority of the Councilmembers present, the Council may postpone approval of the minutes until the City Recorder prepares a transcript of the portion of the meeting in question. The Council is final authority as to the amendment to the minutes upon an affirmative vote of the majority of the Councilmembers present.

## SECTION 13 – PROCLAMATIONS

**13.1 Request for Proclamations** – Organizations, citizens, or Councilmembers may request proclamations that proclaim a specified date or dates to recognize the efforts of various community groups and individuals. Upon receipt, the City Recorder will notify the Mayor of the request. Upon the approval of the Mayor, the City Recorder shall prepare the proclamation for the Mayor’s signature.

**13.2 Reading of Proclamations** – At the discretion of the Mayor, a proclamation shall be read at the Council meeting and presented or mailed to the requesting organization or group.

## SECTION 14 – ADVISORY BOARDS, COMMISSIONS, AND COMMITTEES

**14.1 Advisory Boards, Commissions, and Committees** –The Council may by ordinance or resolution establish any City advisory board, commission, or committee (herein referred to as “B/C”) deemed necessary and in the best interests of the City. Pursuant to City Charter, Section 8(C), the Mayor, with the consent of the Council, appoints members of B/C’s established by ordinance or resolution.

**14.2 Purpose** – The purpose of the Advisory Boards, Commissions, and Committees is to encourage broad-based community representation and to advise City Council on public policy issues affecting Forest Grove and Council-adopted Goals and Objectives. All such Council-appointed groups are directly responsible to the Council.

**14.3 Membership Qualifications** – To be eligible for appointment, a person must be 18 years of age or older and a Forest Grove resident for the duration of the appointed term unless expressly provided for by the adopted bylaws. Student appointees must be high school grade level and residing or attending school, including home-schooled, in Forest Grove. All appointed B/C members are required to attend

training courses as assigned and approved by Council. An individual B/C member may not act in an official capacity. The Council may in its discretion at any time remove a member for any reason, including inefficiency, neglect of duty, or malfeasance in office. Voting members may not be employees of the City. B/C members serve without compensation.

**14.4 Composition** – Unless authorized by Council or required by state law, all B/C's shall consist of no more than nine (9) voting members.

**14.5 Quorum and Meetings** – Unless required by state law, a majority of the total number of voting B/C members constitutes a quorum. The B/C shall hold meetings no less than four (4) times a year, unless more frequently as established by the B/C. In January of each year, the B/C shall adopt a schedule of its meetings for the upcoming year, including meeting times and dates for holidays and canceled meetings. The staff liaison shall file the B/C meeting schedule with the City Recorder's Office and publish meeting dates/times on the City's website. In case of a meeting cancellation, the staff liaison shall post a notice at the meeting location and on the City's website prior to the meeting date/time.

**14.6 Terms of Office and Officers** – Unless required by state law, all B/C members shall be voting members and shall serve four (4) year terms. Student members shall be voting members and shall serve two (2) year terms. Terms shall be staggered evenly amongst the membership, beginning January 1 and ending December 31. The Chair and Vice Chair shall be elected by the voting members at the first regularly scheduled B/C meeting of each year. The Chair may not serve more than 48-consecutive months. Members may not serve on more than two (2) B/C's at the same time. Appointments to vacant positions shall fill out the remainder of the unexpired term.

**14.7 Registry** – The City Recorder's Office shall maintain a current roster of all B/C members, including appointment date, length of unexpired term, and contact information. A copy of the roster shall be provided to Council at least once per year or upon any substantial change in membership.

**14.8 Councilmember Liaisons** – The Mayor shall appoint a Council liaison to any B/C. Council Liaisons shall be a non-voting member. The Council Liaisons role is to collaborate between the Council and the B/C to assure each group's collective interest is accurately and effectively represented to the other. This includes actively attending and reporting to each entity at their regular scheduled meetings. Council Liaison appointments shall be reconsidered every two (2) years at the first regular Council meeting following the time at which newly-elected Councilmembers officially take office or at the discretion of the Mayor.

**14.9 Staff Liaisons** – The City Manager shall appoint a staff member as liaison to any B/C. Staff liaisons shall be non-voting and shall assist the B/C by utilizing their expertise regarding City policy and process. The staff liaison shall orient the newly-

appointed B/C members prior to the first meeting on the duties of being a member. The staff liaison shall review the agenda in consultation with the B/C chair, prepare minutes upon request of the B/C, oversee and review minutes, post minutes to the website as soon as possible after Council acceptance, prepare and distribute the B/C packet at least five (5) days prior to the meeting, post the final agenda on the bulletin board and/or at the meeting location, submit legal notices for review and copies of approved minutes to the City Recorder's Office, report to the City Recorder's Office any member who has three (3) or more unexcused absences, report any meeting date changes including cancellations, maintain official records in accordance with the City Retention Records Schedule (OAR166-200), and publicly post B/C documents on various media.

**14.10 Appointments and Reappointments** – B/C member recruitment shall begin in September and conclude by December 31<sup>st</sup> of each year. Once the assigned term of office is completed, the member is excused from the appointment, unless Council reappoints the member for another term of service. Members must apply and be interviewed after every term to continue service. Interviews will be conducted by the Council or Council Subcommittee. Applicants who fail to attend a scheduled interview may forfeit the opportunity for appointment or reappointment. Once Council conducts interviews and makes appointment recommendations, the City Recorder Office's shall notify applicants in writing of the Council's recommendation. Formal resolutions making appointments will be scheduled under the Consent Agenda at the next regular Council meeting.

**14.11 Attendance** – B/C members are expected to attend every meeting. Members shall notify the staff liaison prior to the regular meeting to report an absence. The minutes shall record the absence. The City Recorder's Office shall notify any member who has three (3) or more absences in a 12-month period that their position may be subject to vacancy. The Chair, with the consent of the B/C, may submit a recommendation to Council to deem the member's position vacant for three (3) or more absences in a twelve month period.

**14.12 Resignations and Vacancies** – A member shall submit a written resignation to the staff liaison and make every effort to allow for a 30-day notice. To fill vacancies that occur mid-term, Council shall refer to the current year interviewed applications kept on file in the City Recorder's Office.

**14.13 Agenda** – The Chair shall compose the meeting agenda in consultation with the staff liaison, specifying the time, place, and purpose of the meeting and listing the subjects anticipated to be considered. A B/C member may propose placing an item on the agenda at a regularly scheduled meeting. If approved by a majority of voting members present, the agenda item will be placed on the next regularly scheduled meeting agenda or an agreed upon future meeting agenda. The agenda shall follow a standard template provided by the City.

**14.14 Open Meetings, Written Minutes and Public Records** – All B/C meetings and hearings shall be held in compliance with Public Meetings Law (ORS Chapter 192) and subject to Public Records Law (ORS Chapter 192). A public meeting is defined as two (2) or more B/C members meeting who have been delegated authority by the B/C to advise or make recommendations to the B/C. Written minutes are required for all meetings. Written minutes may include a briefly summarized record of what took place and must include any action items, showing the attendance and vote of each member. Verbatim minutes are not required. The minutes shall follow a standard template provided by the City.

**14.15 Bylaws** – Changes to a B/C's bylaws or rules of procedures must be approved by City Council. The bylaws shall follow a standard template provided by the City.

**14.16 Annual Reporting** – The Chair shall submit an Annual Report to the City Council listing the B/C's major activities for the past year and objectives for the coming year. The Annual Reports shall be scheduled on the Council Calendar and approved in January.

**14.17 Conflicts of Interest and Ethics Law** – B/C members are considered public officials subject to the Oregon Government Ethics Law (ORS 244), which seeks to prevent a public official from receiving financial gain or avoiding a financial detriment because of their status as a public official. B/C Members are also subject to the Restrictions on Political Campaigning when acting in official capacity (ORS 260.432). Planning Commissioners are personally responsible to file an Annual Verified Statement of Economic Interest (SEI) form with the Oregon Government Ethics Commission by April 15 of each calendar year. A civil penalty may be imposed by the State for each violation of any provision of the ORS.

## **SECTION 15 – ELECTRONIC MAIL**

**15.1 Electronic Mail** – All Councilmembers shall observe the following guidelines when using an electronic method for correspondence in their elected roles:

- 1) All Council e-mail correspondence is subject to the Oregon Public Records and Meetings Laws and is subject to disclosure (pursuant to ORS 192).
- 2) E-mail may be used for correspondence, to schedule meetings, send informative messages, or request information from other members of the Council, the City Manager, or City Department Directors.
- 3) E-Mail may not be used to discuss policy issues with a quorum of the Council at one time or a quorum of a standing advisory body in any manner which would be in violation of the Oregon Public Meetings Law (pursuant to ORS 192).

## SECTION 16 – CITY COUNCIL GOAL SETTING

### **16.1 Council Goal Setting**

- 1) **Goal Setting Parameters** – The City Council shall set its goals annually. The goals shall include *Short-Term Goals and Objectives* that the Council plans on completing within the next 12 months and *Long-Term Goals and Objectives* that the Council plans to work on during their term of office and/or future goals and objectives that may take longer to complete.
- 2) **Adoption** – Council Goals and Objectives shall be adopted at a regular meeting of the City Council no later than the second regular session in March of the year.

## SECTION 17 – CITY COUNCIL TRAINING AND STIPENDS

**17.1 Council Training** – All Councilmembers are expected to attend at least one City-affiliated training seminar/conference per calendar year. The annual events that qualify are listed below:

- League of Oregon Cities Annual Conference
- League of Oregon Cities Elected Officials Training Sessions

**17.2 Mayor Training** – In addition to the above expectation, the Mayor is expected to represent the City at the annual conferences of the Oregon Mayor’s Association.

**17.3 Council Training Budget** – The Budget Committee, consisting of the Council, shall set the Council Training Budget annually at the recommendation of the City Manager.

**17.4 Reimbursement Allowance** – Reimbursement allowances for travel, meals not included with the training session, and overnight accommodations expenses may be requested for training and conferences. Training and conference registrations and accommodations requests shall be submitted to the City Manager, or designee, who will make all necessary arrangements on behalf of the requester.

**17.5 Council Stipends** – Council stipends shall be set by resolution.

## SECTION 18 – INTERACTIONS WITH STAFF AND CITY ATTORNEY

**18.1 Staff** – All members of the Council shall respect the separation between the Council's role and the City Manager's responsibility by:

- (A) Not interfering with the day-to-day administration of City business, which is the responsibility of the City Manager.
- (B) Refraining from actions that would undermine the authority of the City Manager or a Department Head.
- (C) Limiting individual inquiries and requests for information from staff to those questions that may be answered readily as part of staff's day-to-day responsibilities. Questions of a more complex nature shall be directed to the City Manager.
  - 1. Questions from individual members of the Council requiring significant time or resources (two hours or more) shall normally require approval of the Council.
  - 2. Members of the Council shall normally share any information obtained from staff with the entire Council. This section is not intended to apply to questions by members of the Council acting in their individual capacities rather than as members of the Council, nor to questions regarding conflict of interest or similar issues particular to a member of the Council.

**18.2 City Attorney** – Councilmembers may make requests to the City Attorney for advice no more than once a month, so long as the request does not require more than two hours of the attorney's time. A Councilor may make additional requests within a month or make a request that exceeds two hours with the concurrence of the majority of the Council.

## SECTION 19 – MISCELLANEOUS

**19.1 Amendments to Council Rules** – Amendments to these Council Rules shall be by made by Council resolution.

## COUNCIL RULES CODIFICATION

Codification	Amendments
Reso 2021-18	Amended 6.4.2; 6.4.5; and 6.4.9 (which was reassigned to 6.4.7); Deleted 6.4.7; 7.1; 7.3 (which resulted as Section 7 – Reserved); Added new Section 18 Interactions with Staff and City Attorney
Reso 2021-11	Amended 3.8; 5.7; 6.4.2; Deleted 7.2; 7.4
Reso 2021-09	Amended 5.1; 5.2; 5.5; 5.6
Reso 2020-104	Added new Introduction Statement; Amended 3.1
Reso 2019-20	Added new Sec 14 Advisory B/C
Reso 2017-66	Amended 6.3; 6.4.4 and 6.5
Council Rules 2009	Reso 2009-45 (Repealed 1992-03)
Council Rules 1992	Reso 1992-03 (Repealed 1990-63)
Council Rules 1990	Reso 1990-63 (Repealed 1987-30)
Council Rules 1987	Reso 1987-30 (Repealed 1919)
Council Rules 1919	Ord Book Vol 3

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SIXTH EDITION

# Guide for Charter Commissions



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# Foreword

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Imagine being a member of the Constitutional Convention in Philadelphia and having to make critical decisions that would determine the course of American politics and government for generations to come. It's not too much of an exaggeration to suggest that serving on a local charter commission is the closest thing we have to being part of a constitutional convention. In home rule cities, residents are able to draft and revise their own governing charters and make decisions about election procedures, ethical codes, legislative methods and administrative structures.

Most of us learn about the "separation of powers" approach of the framers in our civics or American history classes, but few of us are given much information about the various theories and structures of local government. The federal constitution is mute on how cities should be governed. The "city council/city manager" form of government, which a majority of cities have adopted, has a very different set of arrangements from the constitutional framework. It's not surprising that when members of the public call us for information on charters, their questions often betray a surprising lack of knowledge about how and why local government works the way it does.

When the framers met in 1787, they were working without blueprints, armed only with their knowledge of classical history and their familiarity with works of Locke and Montesquieu. Since the early 1900s, charter commissioners have had the benefit of models and research materials developed by the National Civic League. The league published its first Guide to Charter Commissions in 1945. During the years that followed, the various editions of the guide have served as the most widely used and recognized source on the complex process of reviewing and revising local charters. The last edition, issued in 1991, was one of our top selling publications.

When it came time to republish it, however, we decided enough years had passed to justify a substantial revision and redrafting. Although the old edition served as a source for this document, the Sixth Edition represents a considerable change in tone, content and structure. The chapters have been revised and reordered and the language made less formal, so the guide will be more accessible for lay users. The primary author of the new guide is Wendy Hassett, Ph.D., who worked with us on the various drafts of the new document. Wendy is a Clinical Associate Professor of Public Affairs at The University of Texas at Dallas (UTD). Before joining the faculty at UTD, she worked as an assistant city manager and has over twelve years of experience in local government.

We would also offer our thanks to the reviewers of the guide. Terrell Blodgett, a former chairman of the National Civic League, and a Professor in Urban Management at the LBJ School of Public Affairs at the University of Texas at Austin, was instrumental in initiating this revision process. James Svava, Ph.D., a professor at the School of Public Affairs at Arizona State University and a participant in the committees to revise the 7th and 8th editions of the Model City Charter, served as primary reviewer of the document and offered key insights and feedback.

We also wish to thank an anonymous donor, the NCL Board, Council of Advisors and Board Chairs and NCL chief information officer Mike McGrath for their contributions to this project. The guide is intended to be used as a supplement to the Eight Edition of the Model City Charter, the "blueprint" for government structure used by thousands of community around the world.

Gloria Rubio-Cortés

President, National Civic League

# Chapter One

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## Introduction to the Charter Process

**Of all levels of government, local government is by far the most common point of contact for the average citizen. In fact, it is difficult to imagine any important aspect of American life that is insulated from the influence of local government. An individual may interact with federal or state agencies a handful of times in an entire lifetime, but he or she will interact with local government employees on a much more frequent basis—while speaking to a police officer, paying a water bill or greeting the people who have come to collect the garbage.**

Quite a lot is expected from local governments. They provide a vast array of services to residents, everything from public safety to utilities, recreation, education, transportation, storm water management, zoning and land use regulation and enforcement, construction permitting and inspection, and much more. And while cities, towns, villages, and counties are increasingly expected to be self-reliant in providing these services, they are also expected to execute policy mandates handed down from state and federal governments.

Local governments are also expected to adjust to changing times and expectations. For example, there was a time when there were no cities providing recycling services. However, a heightened sensitivity to environmental concerns brought that issue to the forefront. Today, recycling is a common service provided at the local level that a growing number of citizens have come to expect. Without a doubt, managing and administering the business of local government is a challenging task that requires those in leadership positions to carry out an expanding array of public services efficiently and effectively day after day.

The journey of a local government is one fraught with challenges and achievements, successes and failures, risks and rewards. One of the most interesting things about local governments is the flexibility they have in forging their own paths. Within some constraints set by state law, municipal governments create their own futures through the decisions made by citizens and local elected officials. One important way that a local government controls its own destiny is through its charter.

A charter is the foundation of a local government and functions as the municipal equivalent of a state or federal constitution, setting forth guiding principles for governance. Composed by citizens, a charter specifies the most fundamental relationships between a government and its community. It establishes the framework for how a local government operates in terms of its structure, responsibilities, functions, and processes. The way public officials are elected, the form of government, and the role citizens play in local government are just a few examples of the important choices articulated in a charter.

Because a charter is the vehicle that allows a local government to officially control its operations, many cities adopt a charter soon after formal incorporation as a municipality. And, in spite of the differences in the legal status of cities and counties, many counties also adopt charters. This is particularly the case with counties that perform functions similar to those commonly provided by municipalities.

A charter can be amended by following the process set out in its respective state constitution and sometimes in the charter itself. Although some states permit the council to make charter changes, any charter amendment proposed by a charter commission must be formally considered by the citizens in an election, or referendum, before it can be officially incorporated into the charter. Citizen approval is important because a local government's charter influences virtually every aspect of its operations, for better or for worse.

Having competent, responsive, and effective individuals filling elected and administrative positions is critical to the success of any local government. The charter plays a role in this as well. If the local government runs efficiently, effectively, and openly, it is viewed in a positive light. Capable and civic-minded citizens are much more likely to volunteer their time and talents to an organization that is well-regarded. On the other hand, good men and women are reluctant to align themselves with a struggling government guided by an ineffective or out-of-date charter. Whether those in public positions are experienced or novice, they are much better positioned to be effective in moving the community forward if the locality is working with a well-constructed charter. Clearly, the benefits of an effective local charter are far-reaching.

## Reviewing the Charter — The Big Picture

When facing a new or unfamiliar task, it is often helpful to step back and examine the "big picture." So, what brought you here? What has led your community or local government to the place where an examination of its charter is warranted? What are you trying to achieve?

Understanding the circumstances surrounding the charter process is important. There can be many different reasons behind the initiation of a charter commission. Here are a few examples:

- a law requires periodic evaluation of the charter
- a small (but growing) city becomes increasingly complex but is operating with an out-of-date charter that is simply not working any more
- residents desire a more representative body of elected officials
- a vocal group wants to change the existing form of government
- a newly-incorporated local government needs to draft its first charter
- widespread community discontent regarding a string of governmental policy or project debacles triggers an interest in making changes to the charter
- residents desire greater governmental accountability

- a newly-elected slate of public officials calls for change - including charter revisions
- poor governmental performance is linked to overly-restrictive charter provisions
- city officials realize that the charter conflicts with state law

Whatever has occurred in your local government to trigger an examination of its charter, it is critical that the reasons behind the effort be understood and carefully scrutinized. Initiating a process to change a local government charter should never be a “knee-jerk” reaction to a recent problem. If it is entered into by choice, a charter review should be undertaken only after serious consideration.

## Why Review the Charter?

Most local governments are fortunate to have charters that were written by civic-minded and well-meaning individuals who engaged in serious deliberation and thoughtful discussions as they made charter-related decisions. There are reasons behind why the charter of each community was written as it was. However, new generations come into leadership positions with new ideas. Leaders of each generation need to learn by precept and experience what the previous ones had come to accept as true through experiences of their own. And, as is so common in local governments, dissenters emerge from time to time and criticize the “outdated” charter document created in the distant past and question how it could be relevant and useful today. Reviewing the charter does not necessarily mean changing the charter if it is sound in design. In some cases, the charter review can be viewed as a routine “checkup” that may find the patient is healthy.

Many local governments have made changes to their charters since they were first adopted. Periodic general review can be a useful exercise. Some charters have added multiple revisions over time without a comprehensive review while other revisions resulted from earlier efforts to carefully reform the charter. While updating and changing a charter can be beneficial, it should only be done for the right reasons within the proper context. A charter commission carries a weighty burden in exercising its judgment to determine which features should change and which should be retained.

So, why are charter changes necessary? The easy answer is “because things change,” or “because we want to see real change in our local government.” But the easy answer is not always the right answer. Changing a charter is not a cure-all. Many local governments are able to turn things around and make sweeping organizational changes without changing their charters. Examples abound of newly-elected public officials, innovative city managers, and creative department heads making considerable positive impact on the communities they serve without modifying their respective city charters.

On the other hand, demographics, economics, and dynamics of cities, townships, and counties change over time. And, that may mean the values of the community have changed as well. For example, because of the unique characteristics of a growing number of residents living in different geographic pockets of the city, the public interest might be better served with council members elected by districts instead of at-large. Vocal representatives from the flourishing business community may join together to support the idea of adding a professional manager to the city administration.

Many consider the election of a fresh slate of public officials to be a solution to poor government performance, waste, or corruption. This kind of wholesale change certainly can and has made a difference in many local governments. However, sometimes efforts by even the most seasoned and well-intentioned elected officials can be stalled or thwarted by an overly-restrictive charter. In some cases, only after charter

revisions are in place can public officials make significant strides to improve governmental operations, processes, or policy. Things change with the passage of time, and so should charters.

The process of writing a charter or drafting charter amendments is not an easy undertaking. This is by design. A charter provides stability and consistency to a local government. The charter writing process is a major task that has long-lasting impacts - not just for the local government, but also for its residents. Therefore, broad community involvement is needed. The process requires the commitment, time, and talents of citizens and governmental staff. Ultimately, voter approval is necessary for the proposed charter or charter changes to take effect. It is not a task that should be entered into lightly.

## When to Consider Changing the Charter

Not every local government issue is a charter issue. Most problems governments face have nothing to do with the quality of the charter. Many concerns about the workings of local government can (and should) be handled other ways. There is a danger to making changes to a charter when those changes could be achieved another way. In as much as charter changes can bring about positive results, they can also produce overly cumbersome procedures, unjustifiable advantages for certain groups, and onerous restrictions on governmental leaders.

So, before a decision is made on whether or not to pursue a desired change through the charter, other possibilities should be considered first. The following questions are suggested to sort out how best to address the area(s) of concern:

- Can this problem be solved by the passage of an ordinance?
- Can this problem be addressed with an administrative measure (such as amending an existing departmental or city-wide administrative policy or procedure)?
- Does the mayor or city manager already have the authority to make changes that might address this problem?
- Should a solution to this problem be sought by getting new officials in office?
- Might state legislation address this problem more effectively than a change to the local charter?

If the answer to any of these questions is “yes,” that alternative should probably be tried first. While many problems could be solved through a charter amendment, most problems can be addressed more efficiently other ways. Furthermore, many local government services and regulations are mandated by federal or state law. In other words, altering a municipal charter cannot eliminate or change policies or requirements established at higher levels.

## What Charter Change Can and Can't Do

So what can charter change do? And, perhaps more importantly, what can it not do? Charter change CAN...

- alter a form of government so the new form is better aligned with the preferences of citizens
- restrict or increase options available to governmental leaders
- alter electoral representation
- clarify ambiguity or confusion caused by existing charter language
- redistribute powers among elected officials, appointed officials, and governing bodies as well as between city officials and citizens
- set the stage for governmental leaders to achieve desired changes
- convert elected governmental positions to appointed positions or vice versa

#### Charter change CAN'T...

- automatically increase the quality of governmental products and services
- eliminate political in-fighting and make elected officials achieve consensus (although governmental form can affect the likelihood of conflict)
- expand the scope of municipal powers in states without home rule
- jumpstart the local economy
- decrease local crime
- improve the school system
- stop a controversial public project
- change or eliminate state-mandated activities

A charter can easily become a tediously detailed document that hampers those in office as they work toward improving services, streamlining governmental functions, or reorganizing departments by severely limiting available options. While a certain level of control over governmental action is necessary and appropriate, balancing control with organizational and process flexibility and discretion should be the ultimate objective of any charter.

### ***Does Our Problem have a Charter Solution?***

Sometimes when a local government faces a difficult challenge, leaders consider conducting a charter review in an attempt to find a solution. In these cases, an objective and well-informed decision should be made that changing the charter is the best path to take. Some charters include a provision requiring a formal charter commission be appointed from time to time (every five or ten years, for example) to conduct a thorough review of the charter. In other cases, a charter review may be statutory - mandated by state law. This kind of routine examination may or may not involve an attempt to "fix" something that appears to be broken in the local government.

So, what kinds of challenges justify convening a charter commission? The following are a few issues faced by local governments that often warrant an examination of the charter.

**A Charter-Created Problem:** This kind of problem is one that originates in the charter. It, therefore, can only be addressed by a change to the charter. For example, a city with a charter that establishes a "rotating mayor" (in which the mayoral position rotates through council members every year) may determine that this system for selecting a mayor is no longer effective. Over time, it has become evident that while many competent individuals have served as mayor, recurring problems continue. It appears that the real problem has nothing to do with the actions or abilities of those who have served as mayor over the years. Instead, the problem appears to be the rotating mayor system established in the charter. To address this, the rotating

mayor system must be changed in the charter document.

**Lack of Formal Power:** Regardless of the home rule status of a state, all local governments are able to adopt a charter to establish basic principles for local governance. Local government powers cannot be assumed by adopting an ordinance, enacting state-enabling legislation, adopting a new administrative policy or procedure, or taking any other action emanating from the city council, county commission, the mayor, or the city manager. If the local government has not assumed the available state-specific powers through its charter, the city's authority will be limited unnecessarily. This challenge is faced by a recently-incorporated city functioning without a municipal charter. The city must adopt a charter that assumes all powers available to it so the city can exercise its legal authority and have formal control over all aspects of its operations.

**Form of Government:** Governmental structure matters. The way a local government is structured affects how decisions are made and how the everyday business of government is carried out. This is particularly true with the form of government. When the ideas held by citizens about how the government functions are not in line with the city's particular form of government, a local government may consider changing its structure. This kind of structural problem requires a charter solution.

A word of warning should be mentioned here. A form of government should never be changed in response to the desire, action, or inaction of a particular *person, for example a mayor or city manager*. Changing a form of government does not change a person's leadership style, personality, management approach, or preferred political strategies. For example, the current mayor in a council-manager city may argue that he or she needs more power to be an effective leader and changing to a mayor-council form will allow him or her to be more successful. This argument falls short for two reasons. First, future mayors may not be as effective as the current one. Changing a form of government is not a short-term solution. Once the form is changed to mayor-council, city government would depend heavily on the mayor's political and administrative leadership under the leadership of both effective mayors and ineffective mayors. Therefore, changing form of government should never be aimed at providing a person with more power. Second, mayors can exert substantial leadership within the council-manager form when they bring together a clear majority and set goals for the city manager. Finally, altering the city's form of government should never be used as a weapon to eliminate a person from the organization. If there is dissatisfaction with the person serving as city manager, for example, this person should be removed by the council rather than shifting from a council-manager to a mayor-council form and eliminating the position of city manager.

The question of whether change in form should be considered and, if so, which form should be chosen is a major issue in some charter reviews. A preliminary discussion of factors to consider in choosing form of government is presented as an appendix to this publication. For additional information, see *The Model City Charter* published by the National Civic League.

Once a general consensus exists that convening a charter *review commission* is the right approach or convening a commission is required by the charter, work may begin.

## The Road Ahead

Residents of a community have the right and responsibility to shape their local government. While the level and extent of citizen participation may vary, a process of actively and effectively engaging citizens should be at the heart of any charter creation or revision.

One of the first steps in changing a local government's charter is identifying a group of individuals who may be willing to serve on a charter review commission. A charter review commission is a body authorized by law and exists for the sole *purpose of drafting and ultimately* submitting to the voters either a new charter or revisions to an existing charter.

Like a constitutional convention at the state or national level, a charter review commission closely examines the government and its present charter, studies the experience of other cities or counties under their respective charters and forms of government, determines the best principles of local government to build into proposed charter changes, and then drafts a new charter, charter amendments, or a presumably improved charter. Because the commission is typically composed of community residents who are not involved in daily governmental operations, the commission, by design, is able to be objective and impartial in its evaluation.

While the individuals appointed to this commission may be chosen various ways, there are some common features of their work that are consistent across the country. For instance, there is typically a time constraint placed on the commission to complete its work, the commission encourages and solicits citizen input, and the final commission recommendations are considered by voters at the polls.

The group of individuals chosen to serve on this commission is charged with a unique and important civic-minded task. An opportunity to serve one's community in this way typically comes once in a lifetime. Furthermore, if voters approve the changes, the commission's work will have lasting impact for many years to come.

Because each local government is unique in its strengths, community dynamics, power structures, and personalities, there is not one "right" way to conduct a charter review. This Guide is designed to be used in conjunction with the latest edition of *The Model City Charter* published by the National Civic League. The *Model City Charter*, which is judiciously updated from time to time to remain current and relevant, has proven extremely useful to many local governments that have written new a new charter or amended an existing charter. This Guide is intended to complement the *Model City Charter* by providing helpful suggestions and strategies aimed at facilitating what many consider a complex and overwhelming task: the process of charter review.

# Chapter Two

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## The Charter Review

During the early 1900s, many cities faced serious challenges to effective governing. As a result, they became actively involved in charter reform. Since charter reform provides a way to redefine the basic rules of governmental operation, cities looked to their charters as a way of reducing corruption, enhancing local autonomy beyond what was granted by state governments, improving government efficiency and strengthening control over municipal finances. Over the twentieth century, more than eight cities in ten over 10,000 in population changed their form from the traditional weak mayor-council form or chose one of the new approaches as newly created cities.

Today's local governments also face challenges and often look to their charters for solutions. A well-functioning local government relies on established rules, regulations, practices, and precedent, and its charter is a large part of this. Sometimes a local "crisis" or series of public debacles bring into question some aspect of the charter. In other cases, a local government might be required to conduct a charter review every ten years, for example, to assess whether or not any changes should be considered. When a routine charter review is mandated, the review is necessary even if there is not a specific reason for a review. It is important to note that a charter review commission does not singlehandedly have the power to change the charter. Instead, this body has the ability to draft charter amendments or a new and presumably improved charter to be considered by local voters at the polls.

While a charter contains the enduring guiding principles for governmental operations, it also must be able to be adapted and changed. Although many good charters stand the test of time, they are documents crafted by flawed human beings who are unable to see into the future. Therefore, charters need to be revised and updated from time to time - in good times and in bad.

Charter review starts with the appointment of a commission made up of local residents who are tasked with methodically and objectively reviewing the existing charter and various aspects of local government operations. The scope of work assigned to charter commissions varies widely. As a result of the review, the group determines what (if any) changes should be considered for formal adoption. Because each community is different, there is not one "right" way to do this. Each charter review process will be unique to the community conducting it.

While writing or amending a charter requires the involvement of local residents, interestingly only a

handful of people have ever had any experience drafting a charter or changes to one. So, for most people involved in the process, it is their first and only experience with such a task. Without a doubt, this body is challenged with an uncommon and significant civic duty.

## Commission Membership

Opportunities for direct citizen involvement in local government often garner a healthy amount of attention. While citizen involvement in committees, advisory groups, public hearings and the like is a significant and valuable part of local government operations, membership on a charter commission offers an uncommon opportunity for public service to one's community. Participation in the charter process is citizen involvement at a higher level and with greater potential impact.

A charter commission is a body authorized by law and established for the single purpose of drafting and submitting to the voters a newly created local government charter or revisions to an existing charter. The appointment of this group of individuals, typically between 15-20 registered voters, is often governed by laws and regulations that specifically deal with charter creation and revision. For example, in some cases the commission members might be required to be appointed by the mayor. In other cases, it may be the council that appoints the members. In still other situations, these individuals are elected by the voters. In any case, this independent commission of citizens is empowered to organize its review within the assigned scope and establish its schedule in order to facilitate its study of the charter and certain aspects of the government.

Given the importance of the commission's task, the membership of the charter commission is worthy of careful consideration. Individuals chosen to serve on the commission have a special opportunity for local statesmanship. If voters ultimately approve the work of the commission, the efforts of this group will have lasting impact on the future of the community and the local government. Therefore, selection of the individuals to serve in the charter process is a crucial decision.

All participants should be eager to work hard and willing to share their talents and expertise. It is important to understand that participants bring with them unique value systems, biases, differing opinions on what "good government" is, good and bad life experiences living in different communities, and (in some cases) personal agendas. As a result, deeply-held beliefs and viewpoints set the stage for complex committee dynamics, passionate discussions, and heated debates.

At the heart of this process is the active and focused engagement of a diverse and representative group of community members. Diversity is important for several reasons. The involvement of diverse groups and perspectives will not only contribute to a better final product, but also lend credibility to the validity of the final outcome. Therefore, no group should be left out. All segments of the community should be represented and no one should be excluded based on race, creed, color, ethnicity, national origin, religion, sex, sexual orientation, gender expression, age, height, weight, disability status, veteran status, military obligations or marital status.

When the commission is composed of community residents who are not involved in day-to-day governmental operations, the commission is able to be detached, objective and impartial. The most effective charter commissions are not dominated by lawyers, scholars, and accountants, but made up of civic-minded, intelligent lay people with a common-sense approach to things. The members should a) be in touch with the perspectives present in the community; b) command respect from local residents; and c) bolster the confidence of citizens in the process and the work of the commission.

Special mention should be made about the role of local elected officials. While in many cases the mayor and/or council plays a role in the appointment of commission members, the involvement of elected officials should end at that point. The charter process functions best when it is rooted in citizen involvement rather than one influenced (intentionally or unintentionally) by political officials directly serving as members. In some cases, the commission's recommendations go back to the council, which has the authority to decide whether the proposal will go to the people for a vote or may determine the final language of proposals. Still, the commission should do its work independently and give the council and the voters its best thinking about charter change.

## Key Commission Players

**The Chairperson.** The chairperson of the commission will have a vital role to play. Because commission members are respected and intelligent individuals in their own right, it follows that they should be led by someone who is widely regarded as a person of integrity and good judgment who is politically neutral, accomplished, and widely-respected. The ability to collaborate is also valuable. This individual might be a former mayor or other well-known civic-minded individual who is level-headed and has a good sense of the work of a charter commission.

A number of real advantages come from the city council naming a chairperson and commission members simultaneously. However, if the council does not choose a chairperson, it is up to the commission to do so. Oftentimes a commission takes up the subject at its first meeting without much thought. Due to the significance of this position, the selection of the person to head the commission should not be taken lightly. The most successful charter commissions are led by a well-chosen chairperson. Unfortunately, instead of a thoughtful and deliberative decision, many times the selection of the chair is made quickly and relegated to a random selection from among those willing to be considered.

So, what makes for a good commission chair? A good chair is skilled at conducting well-run meetings. But there is much more to being a successful chair of a charter commission. A good chairperson has a sincere passion for the work of the commission and is able to translate that passion to its members. A good chair motivates commission members and speaks personal words of support and encouragement when needed. A good chairperson connects ideas, challenges opinions, helps define problems, and ultimately assists the group in reaching consensus on the issues that must be addressed.

These qualities are found when the chairperson uses a participatory style over an autocratic one to encourage active involvement among the members. This kind of chair acts more as a facilitator than as the local expert with all the answers. The chair leads the meetings, focuses the work of the commission, and keeps the process organized and on-track. The chair does not give up his or her right to participate in shaping the decisions of the commission but participates in a fair way. For example, the chair does not use the position to give advantage to some members nor to discourage members who hold different views. Further, the fair chairperson does not forcefully express his or her views in order to discourage others from expressing their opinions.

It is a lot to ask for the chairperson to singlehandedly address the myriad of issues that may arise during commission deliberations. Ideally, the commission chair will have the ability to call upon competent advisors to assist when needed. A discussion of two such advisors follows.

A Resource Person. The intensity and scope of the work of a charter commission make it ripe for conflict. The politically-charged task for which this body is responsible can easily result in communication breakdowns and gridlock. For this reason, many chairs have found it valuable to have a substantive resource person, consultant, or other expert sit alongside the chairperson and serve as a “go-to” person when a complex or substantive question arises. This person may also make early presentations to the commission on form of government alternatives and on other key issues as they arise. This person is not a member of the commission and does not have a vote.

A resource person might be educated in public affairs, political science, or public administration with experience in charter writing, such as a university professor or a senior staff member at an institute of government. In other cases, this person may be a consultant with a favorable record of involvement with charter commissions. If a charter commission does not have the luxury of engaging a paid resource person, a “pro bono” volunteer from a university or governmental institute with charter experience may be an option to consider. Regardless, an outside resource person is often an extremely useful addition to the commission as a source of technical guidance, suggestions, and advice. The key is that this person *has had experience with charter commissions* and is willing to bring that experience to the commission.

**A Legal Expert.** Every charter commission should have access to sound legal counsel. However, it is important to note that the study of law is by no means a study of local government, politics, and public administration. And, not just any lawyer can provide the information the commission will need.

For charter writers, it is highly important to be sensitive to the state-specific legal context in which the resulting charter must operate. A legal advisor can be invaluable in helping the group avoid potential conflicts with state provisions. Sometimes specific charter provisions must be included to allow a local government to take advantage of or to escape from laws established at the state level.

City or county attorneys are of particular value to the commission because they are familiar with the existing charter, the legal problems the local government may have had with it, and the applicable state laws. Furthermore, laws that govern the county, school districts, and other units may come into play. The detailed and sometimes complex arrangements that exist among a local government and its public sector components, quasi-governmental entities, and associations underscore the value of a knowledgeable, state-specific legal advisor who can address questions that arise.

However, not all legal experts are created equal when it comes to charter commissions. If the city attorney has experience drafting charters or charter revisions, that individual may be the preferable choice to serve as the commission’s legal expert because this individual will be affordable and responsive. However, if the city attorney does not have this kind of experience, the commission needs the ability to hire outside legal counsel with state-specific experience drafting new or revised charters.

If an outside attorney is hired, the city’s full-time attorney should still be involved in the process by providing testimony to the commission and reviewing and commenting on the final draft document. After all, long after the commission has dissolved, the city attorney will be the one to defend the charter if and when it is attacked. Therefore, ongoing involvement of the city’s own legal advisor is a critical part of the process.

Finally, a commission should not refrain from claiming power or including a provision in the charter just because there is doubt about how it will stand up in court. The powers of many local governments have

been unduly limited not by the laws or courts of the state but by the timidity of the charter commission or the commission's legal counsel.

## Funding

As a conscientious public body, the commission should make every attempt to minimize its financial obligations. However, every charter commission must have some money available to cover its necessary expenses.

As often as possible, the commission should use public buildings for its meetings. It is likely that the local government will make its office staff and equipment available to the commission so that secretarial services, stationery, copying, and postage can be handled in-house. Even more technical matters such as website updates and bulk email messages may be completed by local government staff. Instead of paying outside experts for their time, local government staff members (such as the finance director, for example) should be considered because they typically prove to be informative advisors willing to share their expertise with the commission at no cost.

While visits to other communities by commission members may occasionally be desirable, junkets at public expense are not appropriate. A better alternative is to invite speakers from outside the community to speak to the group during its meetings.

No commission member should be paid a salary or honorarium. Furthermore, commission members should never assume that they will be reimbursed for expenses without first consulting the appropriate government staff member.

If a significant cost is identified and deemed necessary or appropriate, the commission should make a formal request to the local authorities for the needed funds. Only necessary expenses should be reimbursed - such as consulting fees or outside technical assistance. Accounts of all receipts and all expenditures should be carefully maintained.

## Public Outreach

The best charter is of little value if voters do not approve it. For this reason, a concerted effort to win public understanding and acceptance should begin the day the charter commission is selected and continue until the day the vote is taken on the proposed charter or amendments. This may mean a small work group is charged with this task.

Many former charter commission members would likely agree that only half of their job was charter writing. The other half was sound public outreach. Many well-written charters have been defeated at the polls due to poor public relations and a lackluster voter education program.

Positive publicity and voter education can be achieved a number of ways. The most common and long-standing approach is through public hearings. Unfortunately, public hearings are notoriously poorly attended and are considered by many to be ineffective. Fortunately, there are a number of other ways to gather public input and share information. Neighborhood-based meetings and specially designed "dialogue" sessions can be organized. At the latter, participants discuss the qualities they would like to see promoted in their government and their community rather than suggesting specific charter provisions.

Local government newsletters, speakers' bureaus (including commission members), brochures, local magazines and newspaper articles, television and radio ads, public access television channels, and updates sent via email are other ways citizens can be informed of the process and invited to participate.

The local government website should include the most up-to-date information about commission meeting times, agendas, and minutes. Also through this site, residents should be able to sign up for charter-related email alerts, press releases, and meeting reminders. Another useful idea is to make available well-written speeches, white papers, PowerPoint presentations, and talking points addressing the commission's work and related efforts. An online forum can be set up to collect views about the charter revision. In sum, extensive information about commission meetings should be easily accessible to the community, ideally published electronically and available online.

It is not unusual for the work of charter commissions to pique the attention of schools and civic groups. Such an exercise in democracy is worthy of attention and serves as an excellent real-life case study of government in action. For example, junior charter commissions may be used as a learning tool for students. Of more immediate importance is that the attention of students will often indirectly invite the attention of their parents who, of course, are part of the voting public who will be asked to support the new charter at the polls. Therefore, the commission should willingly work with schools and civic groups to plan activities or projects related to the charter commission's work.

Residents deserve the fullest opportunity to be informed and to participate in the process. To this end, charter commission members should encourage the involvement and attention of a variety of community groups. Local residents can never have too much information concerning the vital charter-related issues being discussed in commission meetings. That said, the information released to the public must be easily understood and clearly organized to avoid confusion often caused by information overload.

Public involvement has many benefits. One important benefit of an aggressive public outreach and education process is that it often results in a constructive and thorough review of the commission's work which, if considered honestly, will improve the final product. Furthermore, when residents are afforded the opportunity to offer their opinions and suggestions in an environment in which ideas and input are taken seriously, residents are more likely to support the commission's recommendations at the polls.

Therefore, it is not enough to rely on just a few avenues to effectively educate and update the citizenry on the commission's work. Publicity and education efforts must be multi-pronged. In all cases, the message should be consistent: a charter commission is active; its members are hard at work; it is considering complex and substantive issues; citizens are encouraged to get involved and offer their ideas and opinions; and once the commission has completed its work, citizens will decide in an election whether or not to adopt the proposed charter or charter amendments. In sum, the message to the broader community should be that the commission is working in good faith to make the best decisions possible about what is best for the community and its local government.

While communicating with the public is important, individual commission members should be wary of making any statements that are inconsistent with the overall public message endorsed by the whole commission. This includes taking a public stand prematurely on controversial matters which can undermine the progress of the group. When in the public eye, it is important for commission members to guard against untimely public comment on issues on which the commission might change its mind in light of further study. Oftentimes, the best answer to some questions is, "We are still studying the question."

Every local political situation is unique to a certain extent. Without a doubt, local leaders best understand local dynamics and can come up with the most effective public education strategies aimed at gaining the support of a majority of citizens. These efforts should become more intense during the final campaign. A good public outreach and voter education campaign allows the commission to keep in touch with what the public is thinking and saying about the commission's work. This is important throughout the process, but is of particular importance as the election draws near.

## The “Charge”

The task of a charter commission is to prepare and present to the voters the most straightforward, clear, and forward-looking charter it can. Many times the specific “charge” for the commission's work comes from the city council. In particular, a commission may be authorized and empowered to do the following:

1. Examine the existing local government charter.
2. Conduct a comprehensive or limited study of various aspects of the local government.
3. Examine the procedures and interrelations of the different parts of the government to determine the role the charter plays in the current state of affairs.
4. Research the experiences of other cities or counties under their respective charters and forms of government to discover better governmental arrangements and practices.
5. Determine from independent study and investigation the principles of local government that should be built into the proposed charter or proposed charter changes.
6. Draft the proposed charter or charter amendments in a clear, logical, and consistent way.
7. Conduct its affairs in such a manner as to win the respect of local residents.
8. Educate citizens about the process and the progress of the commission and encourage adoption of the charter or its amendments.

Sometimes a particular area of the charter is singled out for review. For example, a charter commission may be instructed to examine whether the mayor's term should stay the same or be lengthened, if a city administrator should be added to the mayor-council structure, or if the number of council members should be changed. Charter commissions are convened for a host of different reasons from the mundane (such as a legal requirement to do so every ten years) to the politically charged (such as in reaction to municipal scandal and corruption). Identifying the factors that serve as the impetus for charter review is extremely helpful to organizing the early work of the commission and in setting the right tone for productive meetings.

In this vein, many questions may cross the minds of commission members:

- What are the expectations for the commission?
- To whom is the commission accountable?
- Is there a crisis in local government that gives clear purpose to the commission's work? If so, how might that situation influence the commission's work? Is the crisis related to conditions that can be affected by the charter?
- Were any members of the commission “instructed” by someone (such as the mayor or council) to promote a certain position or advocate specific changes to the charter?
- Will the commission's recommendations go directly to the voters or to the city council first for review and possible revision?

Once these kinds of issues are addressed, the real work can begin. One suggestion is to hold a kick-off meeting early in the process to bring everyone together and work through any concerns such as those listed above.

## Getting Started

Holding an initial kick-off meeting with the commission and local elected officials has a dual purpose. First, it officially conveys the reasons behind creation of the commission and offers a sense of purpose. Second, it provides an opportunity to address lingering concerns or questions and to dispel any uncertainty or doubt in the minds of commission members, local residents, and the media.

A useful exercise for the commission members themselves soon after the kick-off session is to create a “shared vision of government” - a statement aimed at drawing members together towards a shared purpose, motivating them when times get tough, and giving their work meaning. This vision should not specify particular charter provisions (such as an election method or form of government), but instead should describe the qualities of the government the community would like to have in the future. This is not a simple assignment. Creating such a statement requires an examination of the values held by the community and the unique characteristics of the population. It is an exercise in finding unity in the midst of diversity.

While the individuals serving on the commission have different backgrounds, priorities, and beliefs, their shared aspirations for good government will be a unifying force. Discussing the diverse perspectives represented on the commission will be time-consuming. Supportively listening to the ideas of others requires patience. However, the tangible achievement of common ground evidenced by a written shared vision statement can be a significant early milestone.

Another idea for the early meetings of the commission is to invite one or more members of previous charter review commissions to speak to the group. These individuals may be local residents who have participated in past charter efforts or individuals from other communities that have recently gone through the process. Those with charter-writing experience will likely have some “words of wisdom” to share with the group that can prepare and inspire them to face what lies ahead.

The commission works together for only a limited period of time (generally no longer than 12 to 18 months) since there is typically a time constraint placed on the group to complete its work. Working with a strict time constraint places a premium on the efficient use of time. For this reason, many charter commissions find it helpful to establish a calendar at an early meeting. This calendar should set forth the work of the commission, meeting times, and important dates such as elections and other deadlines that are fixed and cannot be changed. It is not unusual for city councils to specify - or at least have in mind - when they want to hold the charter election. Other times there are legal restrictions on when an election may be held. For example, in Texas, cities have only two dates in a calendar year in which an election can be held. Knowing these kinds of deadlines up front is a key step to the success of any charter commission.

## The Commission at Work

The work of charter writing is not easy. The issues are complex. . While writing or amending a charter is challenging, it is not impossible. Frankly, the charter process often stirs passion and controversy. It can be messy, noisy, and complicated.

Throughout the process, some members may feel that progress is not coming fast enough. Some will want to slow the process to allow for further study or public input. Others may want to move ahead without additional public comment. Some may become frustrated. Some may become angry. The challenge for the commission is to remain focused on the work at hand in spite of these obstacles.

As uncomfortable and contentious as commission discussions may become, the best commission members stay focused on what they are asked to do. They are not afraid of what is hard, even when success is uncertain. The greater the success of the commission in writing a charter that advances the public welfare of the community, the more honor and satisfaction will come to its members.

Typically, a commission holds many meetings and public hearings. Meetings should be held in a convenient and well-known location that encourages public involvement. Meeting attendance is critical and should be required of members. Because the ongoing involvement of the membership is so important to the process, members who are not able to attend meetings consistently should be replaced. For example, it is not uncommon for members who miss three consecutive meetings to be removed and replaced.

Many charter commissions reach out to the community by holding certain meetings outside the confines of city hall or the commission chambers. One strategy to encourage participation is to hold some meetings in various public venues throughout the community - essentially moving select meetings to the "backyards" of local residents.

During meetings, the commission hears testimony from public officials, staff, representatives of community organizations, and members of the public. It receives reports on special topics, listens to experts make presentations on various issues, and debates important policy matters and discusses draft reports on special topics. Often, a city staff member or administrator serves as a non-voting liaison and provides some level of staff or clerical assistance.

It is possible and desirable for meetings to be both businesslike and informal at the same time. Meetings should be planned and organized, but not rushed. The chair should see that members stick to the business at hand while retaining an atmosphere of friendly informality. Meeting agendas are beneficial because they help focus the group's discussion. Everyone should be heard with time allowed for focused deliberation.

Upon completion of its draft, the group should come back together to review all of the proposed changes. A few meetings should be set aside for this. Additional clarification or resolution may be needed to address any charter revision recommendations that are unclear or overlapping. Arriving at the proper charter language is a key final step because no matter how good the recommendations may be, they cannot simply be compiled. Legal edits and other modifications aimed at providing continuity and harmony will be required at this point. Therefore, if a substantive resource person was involved in the charter process, soliciting his or her comments and suggestions on the draft is a worthwhile step. If the local government did not engage such a person, the commission should attempt to get "pro bono" feedback and suggestions from a university or governmental institute resource person. The city attorney should also be called upon to provide comments.

A good practice is to publish and circulate an official yet tentative charter draft and invite public scrutiny. Inviting reactions to the draft serves a number of purposes. First, it affords another opportunity for genuine feedback from citizens. Second, it informs the voters that the commission is, for the most part, done with its drafting work. Third, it allows the commission to make adjustments prior to the election which may

strengthen the charter and improve its chances of success. Fourth, it helps to clear away doubts and rumors about what is and is not contained in the recommendations. Finally, it reminds residents that the final decision lies in their hands in the upcoming election.

At the end of its work, the commission should prepare and issue a “Report to the Voters” that serves as an executive summary telling the community what principles the commission followed and explaining the main features and merits of the proposed charter or charter amendments. Circulating such a document allows the commission to share candidly with the voters what benefits are expected from the proposed charter and the rationale behind various elements. If appropriate, an organizational chart illustrating the proposed governmental structure can often be helpful. If used, this Report should be released with the draft charter serving as a guide for reporters and editors as to what the commission considers the most important features of the recommendations. It is important that the first impression of the commission’s work be an accurate impression.

### **Should We Draft a Completely New Charter or Amend the Old Charter?**

One question that commonly arises during the work of charter revision is whether to set aside the existing charter and draft a completely new charter - or simply amend the current version. The appropriate approach depends on a number of factors including the quality of the existing charter and the extent and characteristics of the contemplated changes. If the charter requires a number of fundamental changes (such as changing the form of government), it is often better to submit the changes as a clean, new draft of a complete charter.

Charters have so many interlocking provisions that it is often difficult to produce a consistent, coherent result by submitting a series of separate amendments. Many local governments have been frustrated when attempts to produce a basic change with patchwork amendments have resulted in a disjointed, confusing document. If the entire charter is re-written, it has the additional benefit of allowing the commission to “clean-up” minor defects in the original document which, while needed, did not on their own warrant the convening of a charter commission.

One of the common arguments in support of charter amendments is that changing only certain parts of the charter is likely to encounter less opposition than presenting a completely new document to the voters. When voters are considering an entirely new document, opposition to one part of the charter might jeopardize public support of an otherwise acceptable charter. Such opposition is typically focused on just one or two sections. If this is a possibility, some states allow the commission to submit the charter to the voters with alternatives on the matter(s) in question. The burden, then, is on those who advocate the alternative option. They must then convince the voting public that their alternative position is better than the one recommended by the commission. In many cases where this approach has been taken, citizens supported the charter as a whole *and* approved the choice preferred by the commission. It should be noted that when submitting a proposition with alternatives, care should be taken to make sure that the alternatives do not result in conflicting provisions.

### **Dealing with Opposition**

Opposition is often encountered with a good charter, so the commission should not be surprised or disheartened when it occurs. Strong opposition does not occur in all cases, however. Many charter reforms are strongly supported by local officials and members of civic-minded community organizations who know

from personal experience the need for improvements to the workings of the local government.

When they surface, opponents can and will come from very different places. Certain groups and individuals will be opposed to any departure from the status quo. Others will be opposed to changes because they do not go far enough. Elected officials often do not support changes to their offices, powers, duties, or salaries. It is not uncommon for leaders of political parties, influential community groups, or other factions with interests at stake to make their disapproval known.

It is important to understand the viewpoints and fears of such groups in order to win their support, or, if necessary, counteract their influence. Often the support of these individuals is lost because it is assumed they are unalterably opposed to charter change. However, sometimes a group may be won over by a meeting to discuss their concerns. Other times, a non-objectionable provision in the proposed charter could be added to allay their concerns and win their support.

While the commission should be sympathetic and open to listening to the demands and views of all local residents, it must take the high ground by appealing directly to those in opposition to support sound principles of government first and foremost. It cannot do this by appeasing each pressure group and yielding to its demands. Making weak compromises often results in an inferior document. The dignity, independence, and effectiveness of the commission will be destroyed if it gives in to the demands of special interest groups in ways harmful to the public welfare.

The important thing to remember when compromises are suggested is that the essential features of a charter must be in harmony. More than one charter has failed at the polls or (worse yet) in implementation due to compromise provisions that are incompatible with its basic pattern. If enough broad support exists for the effort and the draft document as a whole, this support will override objections to small matters that are raised.

Evidence is overwhelming that the vast majority of citizens in any community want “good government.” That is, people desire a government that can be described as ethical, effective, and efficient. A useful byproduct of discussions about good government is that often the opposition comes to the realization that, while they won’t agree with the majority on many things, common ground can be found when it comes to the underlying principles of good government.

The commission’s constant message of working for a better government coupled with a sincere interest in involving all citizens in a transparent and open process will do much to counteract the negative pressures of special interest groups that may surface in opposition to the work of the commission.

## The Election

The process for how and when the charter or charter amendments are considered by voters varies greatly by community. Upon completion of its work, the commission forwards its final recommendations to either the elected officials for their consideration or directly to the voters. Ultimately, the decision is in the hands of the local residents.

In many cases, recommendations of the charter commission are added to a scheduled upcoming election. In states that are covered by the Voting Rights Act, the Justice Department typically has to approve a charter election. In other cases, charter recommendations are a stand-alone issue and the timing of the election can

be determined by the local government. If the charter commission is able to weigh in on the timing of the election, it should carefully consider the matter in light of the political calendar, weather, holidays, and other local community dynamics in an attempt to time the election to encourage high voter turnout.

Regardless of the timing of the election, appropriate and sufficient time should be allowed between the completion of the commission's work and the election to allow for ample public comment and feedback. Voter approval of the charter recommendations will be the test of the vision, courage, statesmanship, and public outreach exercised by the commission's members.

**Conclusion**

All charter reviews are different. Most commissions enjoy substantial discretion in what they can recommend to address the areas within their purview - from sweeping changes to no changes at all. For example, following an evaluation of the government and its charter, a commission may recommend leaving the current charter basically intact. On the other hand, a group may recommend a far-reaching change such as changing the city's form of government. In the end, the best commission recommendations are those based on transparency, diversity, and widespread public involvement.

## Dos and Don'ts for Commission Members

**DO be a team player.** You should be intent on making significant improvements. So, share your thoughts and ideas and respectfully listen to the comments of others. Be wholeheartedly engaged and committed to the process while respecting the time constraints imposed on the commission.

**DO be open to finding the form of government that best fits the preferences of local residents.** If the commission is considering form of government in its deliberations, each member should put any preconceived ideas aside in order to evaluate the options objectively based on the fundamental features of each and the experiences of other cities.

**DO be willing to compromise and change your mind in light of evidence.** Let go of the belief that if you lose, I win. That said, compromising does not mean giving up your good ideas and accepting inferior ones advocated by others. Taking the easy way is not the best way. Halfway measures have little usefulness or appeal. Statesmanlike compromise is a group process of give and take in which the most practical ideas rise to the top, are blended together, and made into a workable system. The end result may not please you in all respects, but it will represent legitimate consensus and, likely, substantial improvement.

**DO keep in mind that the voters are the final decisionmakers on whether to accept or reject the proposed changes.** Be willing to play a part in educating the electorate and publicizing the work of the commission. An informed citizenry will make the best decision on election day. So, welcome the involvement of many people in the discussion. Be sensitive and responsive to what you hear from them. Know that ongoing community support for the work of the commission keeps naysayers in check and ultimately leads to good results when the votes are counted.

**DO be cautious of making premature public statements on charter-related matters.**

**DON'T refuse to support a good idea for improvement to the charter because you feel it is not good enough.** The "perfectionist" - the person who insists on perfection or nothing - will likely be at best a distraction and at worst a serious roadblock impeding the important work at hand.

**DON'T use commission membership as a springboard for your future political career.** You were chosen to be involved to serve the citizens, not your ambitions. Any attempt to use your involvement as a stepping stone toward a career in politics will not be lost on other members of the commission who will likely discount your opinions as political posturing. Commit to putting the public welfare ahead of your own career aspirations. Focus your attention on the work of the commission. If your work on the commission triggers in you a genuine desire to seek political office or if a citizen movement drafts you for office, so be it. In either case, you will get more respect as a political candidate when you make that decision made after your involvement on the commission rather than before.

**DON'T try to solve all the ills that might plague the local government by pushing for overly restrictive prohibitions in the charter.** Power is always subject to possible abuse in the hands of the wrong people. The challenge is to establish a system that will enable local residents to hold their public officials responsible for the way they use power. There is no gain in setting up a new government and then hamstringing it by denying it the flexibility and power essential to any effective government.

**DON'T allow the commission to surrender sound principles of good government to the stubborn opposition.**

# Chapter Three



The most practical way of keeping a charter to moderate bulk is to restrain the tendency common among charter commissions of trying to solve all municipal problems right in the charter. This is not the proper function of a charter, which is rather to establish a framework within which the city government, representing the people, can solve its problems as they arise.

— Thomas H. Reed, *Revising a City Charter*

## The Charter Document

### What Qualities Make a Good Charter?

A charter is not only used by attorneys. It is used by a cross-section of the community - elected officials, government employees, and everyday citizens. Therefore, the language used and writing style employed should be user-friendly and easily understood by an average citizen.

The better a charter is, the easier it will be for public leaders and officials to operate a proactive and successful local government. A good charter functions as a harmonizing, integrating, and controlling document. Therefore, the qualities of a good charter are worthy of consideration. Good local government charters are (1) straightforward; (2) consistent; (3) thorough, but not exhaustive; (4) flexible; and (5) focused on the fundamentals.

**1. Straightforward.** Simple and straightforward language facilitates comprehension. A good charter is easily understood by laymen as well as lawyers. The reality is that elected officials, government professionals, community leaders, and average citizens - none of which are legal experts - will be the main users because *they* are the ones that will implement the charter and refer to it when a question arises. Good charters are understood without a law dictionary. That said, including certain clauses or phrases that have been accepted by the courts as having a precise meaning may be necessary to ensure the charter will hold up in

the courts. Furthermore, much care should be taken in choosing the “right” words. The choice between words such as “shall” and “may” is an example of how exact wording is very important.

**2. Consistent.** Consistency throughout a charter is important on many levels. The writing style, verbiage, and content should be considered when looking at consistency. Comparable provisions should be handled similarly. Charter provisions of substance that do not harmonize with each other may lead to disunity, unhealthy bickering, and government paralysis. Inconsistencies not only breed confusion for the local government, but also can trigger future litigation.

In addition, a charter should be free of any internal structural contradictions or inconsistencies. For this reason, once a basic form of government is chosen, the charter commission should be wary of adding elements of other forms or eliminating features inherent to the chosen form. For example, the structure of the council-manager form can be completely undermined by provisions that permit the mayor to wield administrative powers exercised in the strong mayor form. While adopting widely accepted variations within a form can be workable, caution must be taken to avoid creating a system that is essentially at war with itself.

**3. Thorough, but not Exhaustive.** A good charter is comprehensive in terms of addressing all the necessities to facilitate an effective government. However, it should not attempt to be exhaustive by addressing every possible future scenario. There is a fine line in which the goal should be to include all necessary and essential components in a thorough, yet concise manner. Details should be avoided as much as possible. However, brevity at the expense of clarity can lead to confusion and litigation. A good rule of thumb is to express the intended meaning with the fewest and best words, whether it takes ten or one hundred. Generally, better charters are shorter charters. That said, the length is somewhat an outgrowth of state law and what broad areas need to be included. Detailed procedures should be established in administrative codes which are more easily updated and changed.

**4. Flexible.** Desires of citizens change over time. State and federal mandates on local governments are on the upswing. Residents demand new and expanded services. “Doing more with less” is a mantra often heard in local government. Those who make management and administration decisions are challenged every day to do just that. Officials must often use creativity and innovation to come up with new ways of doing things in order to free up time and resources to take on new programs or services. Providing local government leaders the flexibility to make changes is critical.

Good charters leave far more discretion to local government officials than charters of the distant past. Simply put, a charter should confer upon the elected officials and administrative staff broad powers to implement it and to promote the community’s welfare. In the interest of local self-government, the charter must free the hands of decision-makers rather than tying them.

**5. Focused on the Fundamentals.** Good charters set forth general principles rather than legislative details. A charter’s focus can be limited to the fundamentals when it is supplemented by an administrative (or municipal) code that addresses the details of the local government’s administration and procedures. An administrative code is simply a collection of ordinances that sets forth the particulars of how the broad statements in the charter will be implemented on a daily basis. When procedural details are handled in the code or elsewhere (such as a policy and procedures handbook, for example), the charter can focus exclusively on the most fundamental provisions aimed at protecting the citizens, the form of government, and the relationships between the elected officials and the administration.

## Essential Components of a Charter

Local governments were not created by U.S. Constitution. Local governments are, in fact, creatures of the states. Therefore, they are regulated by the states and have only the powers and functions given to them by their respective state constitutions and legislatures. So, to discuss local governments in general terms is virtually impossible due to the different legal and political contexts represented by different states across the country.

However, an important court decision that is widely accepted as governing relationships between cities and states is known as “Dillon’s Rule.” Iowa Supreme Court Chief Justice John Forrest Dillon’s view was that because cities are creations of the state, they have only the powers *specifically given to them* by the state constitution or legislature or included in a state-approved charter. If there is ever a question or “gray area” regarding the power of a local government to do something, the answer is always “no.” In other words, if it is unclear whether or not a local government has the authority to take some action, the authority has not been granted. Chief Justice Dillon’s viewpoint had significant impact on cities in the late 1800s because other courts and legislatures embraced the same perspective.

Because a growing number of local governments wanted more flexibility and discretion in decisions about issues that impacted them, a movement to counteract Dillon’s Rule emerged. The concept of “home rule” supports the rights of cities to govern themselves. Supporters of home rule defend the right of municipalities to manage their own affairs without state interference or involvement.

Today, most states have provisions in their state constitutions or other legal instruments that allow some form of municipal home rule, allowing citizens to exercise expansive decision making powers through their municipalities. Local governments that operate under home rule have broad powers that include control over things *that the state legislatures have not specifically granted and those things not specifically prohibited*. Essentially, home rule frees a local government in many ways to take actions that those without home rule are not able to take. For this reason, many cities adopt home rule charters. It is important to note that the degree of home rule afforded local governments varies greatly by state and is often limited to specific classes of cities and counties, for example.

Unfortunately, not all states have home rule. Local governments in these states still operate with restricted powers. To a large degree, the power of cities located in states without home rule is limited to the specific powers granted to them by their state legislatures. For example, a city located in a non-home rule state that encounters a situation in which a certain authority has not been specifically granted by the state is required to get special legislation passed at the state level before it can take that action. On the other hand, cities with home rule are freed from the necessity of running to the state legislature every time the public welfare requires something new to be done or an old function to be performed in a new way.

A city in a home rule state should boldly include in its charter broad discretion over the scope of services it provides in order to take full advantage of the power available under the home rule provisions of its respective state. Doing so will provide the opportunity to undertake new policies or new methods to address issues that are not currently anticipated. Is there any real danger in this approach? The answer is no. In spite of broad powers that a far-reaching home rule charter might afford a municipality, there are several safeguards that will keep a city from venturing too far into uncharted territory:

1. Most city councils are highly conservative about undertaking new services or enacting novel or inappropriate regulations that may put the reputation of the city at risk.
2. Typically, city budget dollars are tight. Risky ventures that may impact the city coffers too severely are generally derailed before they get too far.
3. Periodic elections, vocal residents, citizen surveys, governmental audits, and watchdog groups keep municipal decision makers mindful of the consequences of their actions.
4. Regardless of charter provisions, legal restrictions still exist to limit some municipal activities and powers. Limits have set by the state constitution, state legislature, and the courts. The U.S. Constitution prevents any city, as an agent of the state, from depriving any person of life, liberty, or property without due process. The court system exists to test any possible abuse.

Because particular laws and circumstances vary from place to place, the essential components of a charter will be discussed in general terms. Detailed and sometimes complex arrangements exist among a local government and its public sector components, quasi-governmental entities, and associations. Setting local peculiarities aside, the essential provisions found in most charters can be organized into a few specific categories: powers of the city; city council; city manager (if applicable); departments, offices, and agencies; financial management; elections; general provisions; charter amendment; transition and severability.

**1. Powers of the City.** A starting point for many local government charters is to address and define the scope of powers of the local government. Within the context of specific state law, a local government should claim all powers it may legally exercise through its charter. Again, a city in a home rule state should include a statement that allows for broad discretion in order to take full advantage of the power available under home rule provisions set forth at the state level.

When writing a new charter or making revisions to an existing one, commission members need to remember that the rules established by charters do not exist in a vacuum in organizing, empowering, and regulating local governments. There is a “hierarchy of laws,” so to speak. And while a charter which establishes various legal regulations is a part of that hierarchy, so are other laws. The federal constitution, federal laws, federal administrative regulations, state constitutions, state laws are also a part of this legal context. For example, general state legislation and special legislation take precedence over charter provisions in regulating the activities of a local government. Even a city that operates under constitutional home rule may have no power to change some of the statutory provisions of law that bind it.

**2. City Council.** A challenge for every local government is to attract able, talented, and willing elected leaders that represent the community well. The charter plays a role in this. Because there is not a special formula to make sure this will happen, local communities are left to come up with their own solutions. Many argue that concentrating council authority in a small, representative governing body is desirable because smaller legislative bodies are more effective than large councils. In addition, every member is essential in a smaller council and can be closely monitored by citizens and the media.

This charter section discusses various details regarding elected officials, including the mayor and city clerk. The goal is to prescribe a way for elected officials to be chosen that allows for fair representation and fits with local values. Specifically, the charter should address issues of residency requirements and whether or

not public officials are to be elected by district or at-large. Other issues such as powers and duties, eligibility, terms of office (number of years, staggered vs. concurrent), term limits, compensation (salary), prohibitions, vacancies, and ordinances are also included here.

*City council members.* Regardless of form of government, the council is the decision making body that sets the direction of the local government through local policies. The expansive power of council members includes control over the local government's finances (budgets, revenues, expenditures, and borrowing), property, priorities, goals, and legislation. These individuals are elected by the citizens to represent them and be accountable to them. Much is expected of a city council member. Serving one's community in this way is a high calling.

Every charter establishes the process for selecting council members. Specifically stating how public officials are elected is essential. Alternate approaches are discussed later in this chapter. The unique characteristics of each local government's population come into play here. Representation is key. The charter should allow for the election of a council that is truly representative of the entire community. While no specific design can guarantee effective, impartial, and equitable elected representation, the charter sets the stage for this to happen.

*Mayor.* A community's history, traditions, preferences, and experiences factor into the decision of how to handle the selection of the mayor. The way the mayor is elected impacts the dynamics among all local elected officials and the overall effectiveness of the mayor's office, among other things. Therefore, careful consideration should be given to this procedure set forth in the charter. Two commonly used methods in council-manager cities are when (1) the council chooses a mayor from among its membership; and (2) the mayor is elected at-large. (All voters directly elect the mayor.) Both are workable alternatives, although the second is now the predominant practice. A mayor elected at-large increases the likelihood of effective mayoral leadership. Candidates for at-large mayoral positions have the opportunity to discuss citywide issues, and the broad base of community support needed to win the office provides the winner with a mandate for action.

**3. City Manager.** For those cities operating under the council-manager form of government, the Model City Charter recommends a section addressing the appointment, qualifications, compensation, removal, and powers and duties of the city manager. It is important to note that deviation from the tried and true ways of successfully operating a council-manager city should be avoided. If basic standards and protections of council-manager government are laid aside, the form can be seriously undermined setting up the city for failure.

If a CAO is a part of a mayor-council city, a section in the charter should be designated to address this person's appointment, qualifications, compensation, removal, and powers and duties. As a source of professional advice, the CAO may function as a unifying force between the mayor and council. As stated earlier, the National Civic League in its latest *Model City Charter* recommends the CAO be either jointly selected by the mayor and the council or nominated by the mayor and approved by the council. This method encourages the CAO to be responsive to both the mayor and the council since both were involved in the hiring decision.

**4. Departments, Offices, and Agencies.** Every local government requires administrative departments to provide basic public services to its residents. Departments of a typical city include finance, human resources, parks and recreation, public works, library, water, sanitation, and public safety. These departments are responsible for conducting the business of the city and providing public services day after day.

How these departments are organized and how they function in the administrative hierarchy differs across the country - and even over time within a single community. Administrative shifts and reorganizations occur for a host of different reasons including taking advantage of organizational efficiencies, department head strengths, and personnel changes. Departmental reorganizations can vastly improve the inner workings of a local government saving the government and taxpayers money and improving customer service.

While most local government charters address governmental administration and departments to some extent, a charter should not identify a list of specific departments. Instead, it should simply state that the governing body may establish any office, department, or agency it deems necessary to carry out the functions of the local government. Consequently, the city council could approve changes such as combining or eliminating departments without changing the charter. While simple and general language is suggested, the latest edition of the Model City Charter recommends special attention be paid in the charter to the critical areas of personnel, law, planning, and financial management.

A charter commission should resist temptations to specify lines of accountability, add layers of complexity, or build in any extraneous features of supposed "safeguards." An example would be an independently elected department head. These additions are pitfalls for both efficiency and popular control. Instead, administrative departments should report to either the city manager (in the council-manager form) or the mayor (in the mayor-council form). In this way, the charter does not insulate any governmental function from popular control. The mayor is responsible to the voters for the administration's actions and is held accountable at the next election. The manager is responsible at all times to city residents through their council members who have the ability to dismiss the manager at will. These are essential features of each form of government. If the charter builds in any deviation from them, such as council confirmation of appointments made by the city manager or specified tenure for the manager, it will certainly reduce the chances of satisfactory operation of the government administration and weaken accountability. This means there is no room in either form of government for independently elected administrative personnel. Independent election of such officers undermines administrative responsibility and adds to the burden on and confusion of voters.

Furthermore, departments should not be headed by or responsible to boards or commissions. Boards and commissions, more or less autonomous and more or less independent of city government, are found in municipalities across the country. While citizen boards and commissions play valuable advisory roles for local governments, they should not play a role in actual administration, supervision, or policy execution. Departmental functions should be under the responsibility of a single individual (department head) who is held responsible and is accountable to the manager or mayor. Possible exceptions include the city clerk and judge who are typically appointed by the council.

So, where is the appropriate place for details of the organizational departments and functions to be enumerated? The answer is in the administrative (or municipal) code. And, the charter should mandate the city council to adopt one. An administrative code, adopted and amended by the council, governs the activities of the administration and sets forth the organization of the departments. Placing the administrative details in the code rather than in the charter allows for modifications without the burdensome and time consuming process of amending the charter.

The administrative code is, of course, subordinate to the charter. Specifically, subjects that should be detailed in the code rather than in the charter include the following: administrative/departmental organiza-

tion; accounting, expenditures, payroll; auditing; purchasing; bonding and borrowing procedures; franchises; eminent domain; special assessments; licensing and license revocation; nuisance abatement and planning and zoning.

It should be noted that flexibility is crucial to build into the administrative code as well so that it is easily maintained. The code, and the charter for that matter, should be silent on internal departmental workings allowing the manager or mayor latitude to make changes administratively without being hindered by council-mandated requirements or restrictions.

In sum, local government leaders *should* have the ability to make necessary or desirable changes to the administrative side of the organization. A good deal of leeway allows for quick responses to changing requirements and environmental factors. A charter that addresses administration in a simple and straightforward way and incorporates an appropriate level of flexibility sets the stage for an effective, efficient, and responsive government administration.

**5. Financial Management.** A well-run financial system is a critical component of a well-run local government. Because strong financial guidelines help to ensure the fiscal health of a local government, this section of the charter focuses exclusively on the finance function of the local government, particularly the budget. Flexibility and sound budgetary practices should be emphasized. Topics addressed in this section include fiscal year, budget submission, budget message, budgetary council action, appropriation and revenue ordinances, budget amendments, budgetary administration and oversight, the capital program, independent auditing, and public availability of budget-related records. In an era of public sector financial scandals and problems, charter writers should pay particular attention to this section. Clearly articulating sound fiscal practices in the charter is a key step along the path of financial health. The requirements set forth in this section of the charter, such as the independent audit, serve as a robust layer of protection for the finances of any local government.

**6. Elections.** A goal of every charter should be to establish democratic control so the local government is responsive to the will of the people. State election laws typically apply to municipalities, leaving local governments little if any control in these matters. However, there are a few important areas still under the control of local governments.

This section of the charter outlines various facets of the election process including election methods; when elections are held; partisan vs. nonpartisan elections; council districts and adjusting those districts; and initiative, referendum, and recall.

*Election methods.* The two common ways to elect council members are by **district** or **at-large**. A **mixed system** is one in which district and at-large elections are combined in some way.

**District:** District elections require a city to be divided in a number of geographical areas or districts. Each council member is chosen by the residents of a different district of the city. Candidate residency in the district is typically required. District elections have noteworthy benefits:

- They allow a minority group, particularly one living in a specific geographic area, to have a fair chance of being represented on the council.

- A council member elected by residents of a particular geographic area likely feels beholden to those living in the district. This often translates into a heightened sensitivity by the elected official to the concerns of those living in his or her district.
- Running a district campaign is less expensive than running a city-wide campaign. Therefore, district elections reduce the financial barrier for those seeking office as compared to running city-wide. As a result, the diversity and number of candidates could be strengthened with district elections.

On the other hand, governing bodies made up of individuals elected by district can have a difficult time agreeing on community-wide goals since council members are predisposed to focus on the problems of their district rather than the priorities of the city as a whole.

**At-Large:** In at-large elections, all candidates are placed on a ballot to be considered by all voters. Candidates in at-large elections occasionally run for specified seats on the council. Those candidates with the highest number of votes are elected to office. Public officials elected at-large represent the entire community. The at-large election system has noteworthy benefits as well.

- Unlike those elected by district, council members elected at-large theoretically are able to objectively view the priorities of the community as a whole and make impartial decisions based on the needs of all residents rather than on the priorities and desires of just one limited geographic area.
- If all council members are elected at-large, they all ideally embrace a holistic view of the community leading to a more unified and objective viewpoint as compared to a council composed of individuals elected from different districts with very different priorities.
- Residents can voice their concerns to any of a number of council members rather than just one. This is because residents are represented by all council members.

One possible negative effect of at-large elections is that it can dilute the ethnic or racial minority vote making it difficult for these groups to elect a representative to the council. Furthermore, at-large elections could result in the election of a number of council members who live in the same area of the city. This can raise questions regarding the fair distribution of public resources and the governing body's sensitivity to geographic areas where no elected officials reside. To address this particular concern, an outgrowth of the at-large system is the inclusion of a district residency requirement. In this scenario, council members are elected at-large, but not more than one council member can live in each district.

**Mixed System:** Some cities have chosen to use a mixed system in which some council members are elected by district and some are elected at-large. Since the Justice Department approved this hybrid as a system that complies with the Voting Rights Act, it has gained popularity. Supporters of this system argue that it combines the best attributes of both district and at-large systems. For example, it facilitates a city-wide perspective offered by at-large elections while incorporating the "personal connection" between local government and voters promoted by

geographically-based district elections. Problems can arise here as well when council members elected at-large believe their seats are superior to district council seats. To help combat this, all council seats should have the same duties and terms of office.

It is important to note that courts have had a lot to say in this matter. The one man-one vote court decisions and the passage of the federal Voting Rights Act have heightened both awareness of and concern about how local elections are structured. Across the country, many municipalities have been forced by the Justice Department to abandon at-large elections and replace them with district elections to increase the chance that representatives from minority groups serve on city councils.

*Timing of Elections.* If allowed by state election laws, the timing of local elections should be established in the charter. When a local election is held has certain implications. For example, if a local election occurs at the same time as a state and national election, voter turnout is generally high leading to more widespread participation by the electorate in local races. When elections are held at a time separate from state and national elections, local issues and candidates are the main focus and can be considered separately and apart from the broader political context. Both alternatives have positive and negative impacts. The National Civic League does not take a stand on either option. Legal advice, local preferences, and community dynamics should dictate the proper approach prescribed in the charter.

*Nonpartisan vs. Partisan Elections.* Political parties so prevalent and significant at the federal and state levels have little significance at the local level. It is unfortunate when local elections are decided solely on the basis of political party affiliation because of the limited importance of parties in municipal governance and because of the seed of division it plants before a single vote is cast on the council. Party primaries that nominate candidates from each party typically favor candidates who appeal to the most loyal "base" of voters within each party grouping. Primary voters are less likely to select moderates in each party and very unlikely to choose independents who are not affiliated with either party.

While nonpartisan elections do not eliminate the involvement or influence of political parties in local races, it can minimize the emphasis on politics by shifting the focus from Democrat vs. Republican to that of local issues. When deciding among candidates on a ballot without party labels, voters typically elect a mix of Democrats, Republicans, and Independents who must all work together on the council. For very practical reasons, national party strife should be put aside at the local level to focus on the concerns of the community.

The National Civic League supports nonpartisan elections as evidenced in the latest edition of the *Model City Charter*, and it is not alone. A number of states have formally recognized the benefits of this approach and have passed legislation requiring nonpartisan elections at the municipal level. Elections that use ballots without party designation help place local politics on its own and free local governments from domination by national, state, or county party organizations. Local governments that willingly choose this approach recognize that it is an important part of genuine home rule.

*Council Districts.* If the election of local officials is based on the existence of districts, the establishment of districts and process for re-districting is included in the charter. This section holds particular significance for political representation since re-drawing district boundaries is generally required after each U.S. Census based on population changes. The process, timing, and method (by districting commission or city council) are included in this section - not the actual district boundaries.

*Initiative, Referendum, and Recall.* If permitted by the state, these three procedures of direct democratic control over government give citizens a degree of confidence in their ultimate control of the city. Therefore, a charter should not dictate a severely high threshold for signatures required to initiate these measures. The commission should be sensitive to setting the required number of signatures at a reasonable level. If the charter sets an impossible standard, it will render these measures worthless. While they can be considered a “last ditch effort” to push an action through the legislative system, initiative and referendum are viable alternatives that should be available to residents and included in a charter if legally possible. If the local government is well-managed, responsive, ethical, efficient, and effective, use of these measures is kept to a minimum. Recall gives voters a chance to remove an elected official from office who is not meeting his or her responsibilities. The permissible grounds for recall, however, should be limited to misconduct or failure to perform the duties of the office, not disagreement with a decision the council member has made.

**7. General Provisions.** Good government is rooted in public trust. To a large degree, this requires government, as far as possible, to be responsive, open, and transparent. In today’s information age, transparency takes on a much different meaning than it did decades ago. Citizens have a high expectation for timely and accurate information to be available 24-7. Local governments should be proactive in making information available through all avenues possible. This moves beyond passing out copies of budget numbers at public meetings and issuing press releases on project updates. Citizens want and expect easy electronic access to considerable amounts of substantive public information.

The National Civic League’s *Model City Charter* includes a section titled “general provisions” which covers conflicts of interest, ethics, basic prohibitions, and campaign finance. A charter that emphasizes transparency and openness in these areas encourages public trust in local government and those working in it. Again in these matters, the charter should present the process for dealing with these issues in light of specific state laws or, alternatively, mandate that a process be adopted by the governing body via ordinance.

**8. Charter Amendment.** A charter should stand the test of time. However, from time to time charter revisions are necessary. While amending a charter should be possible, it should not be too easy. This helps ensure that successful charter amendments are both appropriate and necessary. For states that allow cities to adopt their own procedures for charter amendment, this section sets forth that procedure. Included here are regulations for the proposal of the amendment(s) and the subsequent election when voters approve or disapprove the proposed changes. Some charters include a provision here that requires a review of the charter every five or ten years, for example. Many cities have found the practice of mandated charter reviews to be a useful exercise. Any charter changes should, of course, require popular approval at a referendum.

**9. Transition and Severability.** Many charters do not address the possibility of a governmental transition from one form of government to another. However, charters that speak to this issue can be extremely helpful to those leading such a change by protecting a city from litigation, avoiding general uncertainty and confusion, and clarifying general city-related questions. While care should be taken to tailor this section to state law, the *Model City Charter* offers recommendations on how to handle existing employees, departments, and agencies; how to address pending legal and administrative matters; and the schedule for various upcoming meetings, deadlines, and elections.

## Conclusion

One of the most interesting things about local government charters is that each one is a distinct reflection of its community. Because a charter is the document that allows citizens to determine their own structure of government within state-prescribed legal limits, a charter is, in many ways, a manifestation of a particular community's values. Each charter is built on a specific set of political and administrative choices that are determined by the values held by local residents.

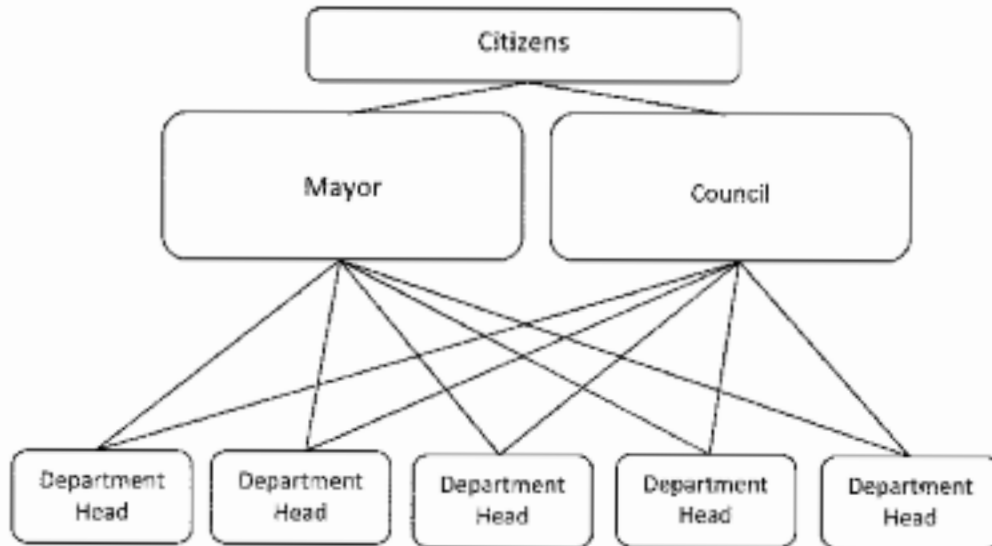
The final product of this process should be a charter built on widespread community involvement and, ultimately, widespread agreement on how the local government should function to best serve its residents. However, the charter process can result in even more. The call to action that the charter process requires can awaken a community's sensitivity to the importance and responsibility of civic involvement. If conducted successfully, the charter review process can result in a rebirth of widespread civic-mindedness - a quality that unfortunately is rarely seen in communities in a tangible way.

In the end, it is the community's values that build, alter, or reaffirm the foundation of its local government. In vibrant communities, citizens continually seek out new ways to improve how they govern themselves guided by the constitutional principles incorporated in their city charter. Ongoing refinement of the charter as a tool for effective governance is what the charter review process is all about.

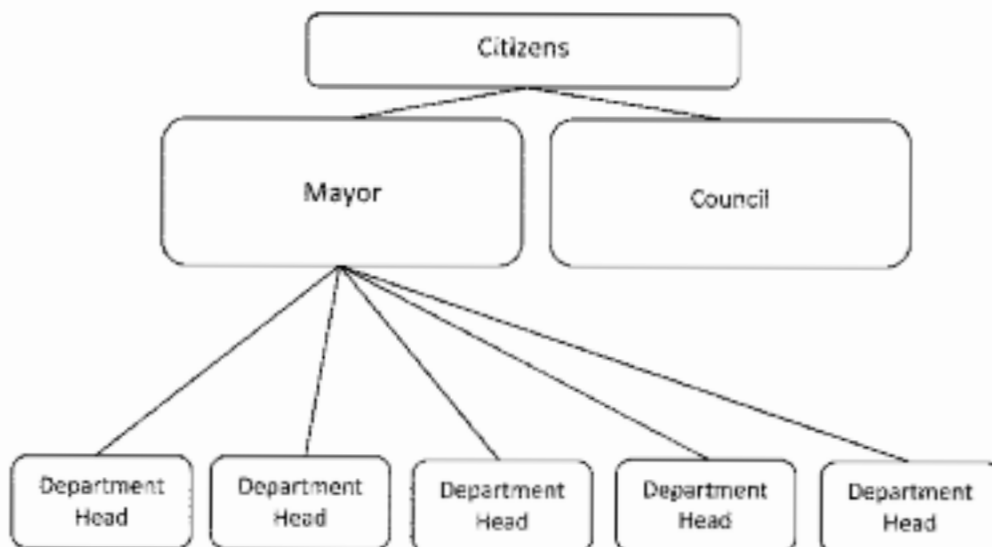
**A more thorough discussion of all of these charter components is presented in the latest edition of the Model City Charter published by the National Civic League. Commission members are urged to refer to the Model City Charter for background information, further detail, and insightful commentary on all aspects of charter revision discussed here.**

**Figure 1**  
**Forms of Government**

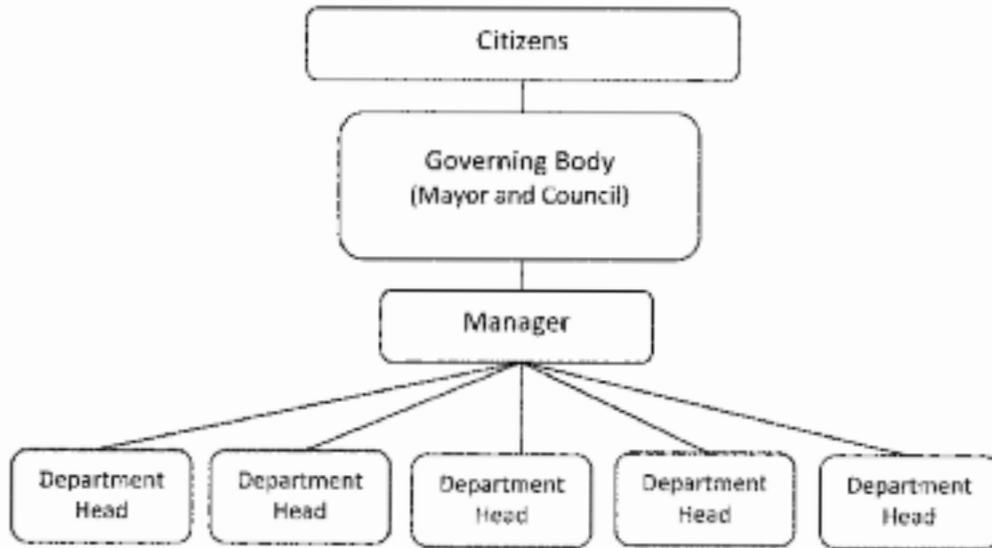
**Mayor-Council**



**Strong Mayor-Council**



## Council-Manager



# Appendix

## Which Form of Local Government is Right for Us?

A charter specifies a form of government. Because of its significance, a local government's form of government arguably influences every facet of its operation. Therefore, it is one of the most fundamental issues to address in the early work of a charter commission. Oftentimes, form of government is not on the table for discussion. However, for many cities, the underlying form of government is fair game. It is certainly a matter of discussion for a newly-formed city writing its first charter.

It is hard to exaggerate the significance of a city's underlying form of government. A city's form of government is the constitutional and legal basis for assigning authority and functions to government officials and creates its overall framework. Form shapes the nature of official roles and channels interactions into likely patterns of relationships, i.e., who talks to whom, who gives instructions to whom, and how are those instructions interpreted and acted on by the recipient. The United States is unique in having widespread use of two forms of government based on different constitutional principles. The essential differentiating characteristic is whether power is divided between the mayor and the council as in mayor-council governments, or resides in the council as in council-manager governments.

A city's decision about governmental form should be made only after a thorough and thoughtful examination of the different forms, the governmental characteristics represented by each, and the qualities local citizens would like to see in their government. This single decision will arguably influence more facets of government than any other. If the community is discussing form of government as a part of the charter review process, it might be helpful to step back and ask why form of government is on the table. As mentioned earlier, governmental form is a critical and necessary question for a city establishing its first charter. In other cases, a city in the midst of charter reform may consider moving away from its current form of government. To begin the discussion of the latter case, the following questions may be useful:

- What is the specific catalyst or impetus for desiring a change in the form of government?
- How will the proposed change in structure, function, and powers impact governmental leadership, management, operations, processes, and services - both positively and negatively?

Interestingly, while form of government is one of the most profound decisions a community can make about its local government, it is also one of the most commonly misunderstood. How a particular form of government plays out in everyday governmental operations is often not understood by many citizens. This lack of understanding poses a challenge when attempting to engage citizens in a meaningful discussion on the topic. At times, misunderstandings and misperceptions regarding the different forms of local government undermine constructive dialogue. Informal opposing groups advocating one form over the other can spark potentially uncomfortable and passionate debates. For this reason, conversations surrounding form of government should be handled delicately. For those commissions discussing form, a useful starting point is the presentation of an unbiased, fact-based, educational overview of the different forms.

## Different Forms of Municipal Government

Today, most cities operate under either the "mayor-council" form or "council-manager" form of government. The mayor-council form is modeled after the structure of the national government with checks and balances similar to those found in the U.S. Constitution. Like the constitution, little attention is given to the administrative responsibilities of the government. The council-manager form emerged as a proposal for reform in the early twentieth century. It was designed to focus on sound democratic governance determined by a unified mayor and council with professional advice provided by a professional

city manager accountable to the council. The manager is responsible for advising the council, implementing council decisions, and acting as steward of municipal resources. The National Civic League, established in 1894 to facilitate more honest and efficient local governments, has been a strong advocate of the council-manager form since its second Model City Charter adopted in 1915. Although this form departs from the divided powers principle in the national and state governments in the United States, the governing board-appointed executive model is the predominant structure in school districts and other special districts, hospitals, and nonprofit organizations.

Since it emerged, the council-manager plan has grown in popularity and is now the most widely used local government form in the United States in cities over 10,000. The council-manager form is also seen internationally in Canada, Australia, and other countries. Part of its appeal is its simplicity and its strong emphasis on democratic governance and professionalism. The International City/County Management Association (ICMA) reports that in 2010, there are more than 3,500 city governments in the U.S. operating under the council-manager form.

### **Mayor–Council**

Within the mayor-council form, there are variations in the division of power and authority. (See Figure 1) In both categories discussed here, the primary executive role is assigned to the mayor and the primary legislative (policymaking) role is assigned to the council but other officials may be involved as well depending on the exact features of the form.

The traditional mayor-council pattern is based on both separate and shared responsibility between the mayor, council, and other officials. It is often called the “weak mayor-council” form. Details differ but the top charts in Figure 1 illustrate two common examples. In addition to the division of policymaking and administrative roles between the mayor and council, a department head may report to a separate commission or a department head may be directly elected. Because of the fragmentation of authority under this form, arriving at consensus on a particular policy and achieving coordination can be difficult.

Many mayor-council cities have eliminated the features that produce fragmentation of authority, but assign overlapping and offsetting authority to the mayor and council. As in the U.S. Constitution, the mayor may have authority to appoint top administrators, but job candidates are subject to confirmation by the city council. The mayor typically has executive power for the local government's day-to-day management and operations, prepares and administers the budget, and carries out policies. The mayor typically has the authority to veto legislation passed by the council but subject to override by a supermajority in the council.

The strong mayor-council pattern emerged as a reform to weak mayor-council structures with highly fragmented authority and centralized more powers in the mayor's office. It is illustrated in the lower organizational chart in Figure 1.

Not only is the mayor the chief executive officer but also enjoys a high degree of independence. For example, the strong mayor has executive power to hire and fire department heads and city staff and to appoint members to city advisory boards. The mayor typically has greater latitude to act without council approval, for example, the authority to sign larger contracts. Information and analysis conducted by the city staff goes to the mayor who decides what

information will be shared with the council and the public.

Under this pattern, the city council is responsible for policymaking by way of resolutions and ordinances. Council members have no administrative power. The council has a broad oversight role but may have more difficulty getting information from administrative departments whose heads are the mayor's appointees. The mayor possesses the authority to veto actions of the city council. Although the council has authority to override the mayor's veto, the majority may not be able to assemble the super-majority that is required, for example, two thirds of the members rather than half plus one of the members. Stalemate between the mayor and council results when the mayor can block a council majority but the council does not have the extra votes to override the veto.

Those who champion the strong mayor-council pattern desire a strong independent political leader who also serves as the chief executive with centralized authority and limited checks on that authority. It is hoped that, from electoral support, the mayor can successfully enact programs and policies that are supported by and in the best interest of the citizens. Supporters argue that political responsiveness and political control will result in governmental actions that are supported by a majority of the community. On the other hand, the concentration of political and administrative power in one office may contribute to the misuse of authority, a diminished role of the council, the dismissal of professional information and advice or a lack of transparency.

The addition of a "chief administrative officer" (CAO) to the mayor-council form has become increasingly popular with mayor-council cities. The National Civic League recommends the addition of a CAO to all types of mayor-council governments. While the responsibilities of a CAO can vary widely, this individual is hired to handle some degree of the administration of the local government. How the CAO is appointed matters. The latest model city charter recommends a professional CAO who is either jointly selected by the mayor and the council or nominated by the mayor and approved by the council. This method encourages the CAO to be responsive to both the mayor and the council since both were involved in the hiring decision.

### **Council-Manager**

The council-manager form of government emerged as a result of local government scandals and corruption in the late 19th century and early 20th century. In an effort to find an alternative to the mayor-council form, government reformers advocated the council-manager form in hopes that it would be a more business-like approach to local government. Consequently, the structure of this form mirrors that of a corporation. The citizen-voters serve as shareholders who elect a city council to fill the role of a board of directors. The mayor serves as the chair of the board. They, in turn, hire a professional manager (similar to a corporate CEO) to implement the policies established by the council. This trained, professional, nonpartisan manager serves as the chief executive, has authority to manage all aspects of local government operations, and is continually accountable to the elected officials. (See Figure 1) If the manager is not performing to the satisfaction of the elected officials, the manager can be removed at any time. In sum, the city council fills the policymaking role and an appointed city manager is responsible to the council for policy advice and the executive functions.

Under this form, all local government powers rest with the governing body of elected officials, which includes the mayor. Since the mayor is a part of the city council, he or she usually does not have veto power. The mayor's contributions are based on the dual role as leader of the community and leader of the council. Effective mayors develop a shared vision for the city supported by the council and facilitate cooperation within the council and between the council and the manager. The mayor does not play a direct role in the administration of any aspect of city administration. The city manager provides information and recommendations to the entire council in public sessions that assure complete transparency. In addition, the manager is accountable to the council as a whole to provide information on city government performance to the council's oversight function.

While the governing body can issue instructions to the manager, elected officials are not allowed to go around the manager and issue a directive to any staff member under the authority of the manager. In this way, lines of accountability are clear. The city manager is singlehandedly responsible for all aspects of municipal operations including hiring and firing department heads (with the exception of the city clerk and often the municipal judge) and preparing and administering the municipal budget. The governing body holds the manager responsible for making sure their goals are being pursued and that the business of the local government is carried out efficiently and professionally. In addition, the city manager typically advises the council on various matters impacting the city. The city manager is a "controlled executive" chosen by the council to meet the distinct needs of the city, evaluated by the council on a regular basis, and can be removed at any time.

The city council in a council-manager city, serving as the city's governing board, provides a much different kind of political leadership than that found in mayor-council governments. In council-manager governments, the city council and mayor focus all energy and attention on the "big picture" by setting goals, monitoring progress toward those goals, and overseeing governmental operations. Supporters of this form value its tendencies toward politically-neutral policy recommendations that emphasize a long-term and communitywide perspective, effectiveness of policy implementation and service delivery, efficiency, clear lines of accountability, and a professional approach to city management.

Those who wish to alter either form's basic features should be cautioned. While a local government should adopt a form of government that fits its unique community, it is a mistake to think that one community is so "different" that it should tinker with the form and move away from the well-tested principles that have proven effective over years of experience in local communities of all shapes and sizes. Under both plans, variations are seen in at-large vs. district elections and partisan vs. nonpartisan elections, for example. However, ignoring fundamental aspects of either form of government can easily undermine the central principles of organization and official responsibilities essential for success.

Without question, the consequences of choosing one form of government over another should be carefully considered by charter commission members. Because there are so many excellent resources available that provide details about the plans as well as their advantages and disadvantages, the discussion offered here should be considered only a starting point or a "refresher" regarding the different forms of government.

## Suggested Readings

Note: This abbreviated list of suggested readings represents just a sample of the resources available that address the topics covered in this *Guide*.

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**1889 York Street Denver, CO 80206**

**Phone: 303-571-4343**

**Website: [www.ncl.org](http://www.ncl.org)**

**Email: [ncl@ncl.org](mailto:ncl@ncl.org)**