



Charter Review Committee

AGENDA

**October 14, 2024 at 6:00 pm
City Hall, Conference Room 124
100 N Main Street**

Opening

Call to Order
Proper Noticing
Determination of a Quorum
Opening Comments from Assistant City Manager

1) Comments from the General Public

2) Committee Member Introductions

3) Presentations

Florida League of Cities Presentation by Lynn Tipton
Sunshine Law and Public Records Overview by City Attorney

4) Discussion Items

Overview of Charter Revision Information

5) Action Items

Appointment of Chairperson
Appointment of Vice Chairperson
Establishment of Second Meeting Date

6) Adjournment



**City of Wildwood:
City Charter Review with the Committee**
October 16, 2024

Lynn Tipton
Director
FLC University

Municipal Charters in Florida

- ▶ All charters are unique; haven't found any two identical
- ▶ 411 cities, towns and villages – all have a charter
- ▶ Goal for today: discuss charter review roles, municipal characteristics in Florida, and compare Wildwood using data collected



Charters

- Like a Constitution – broad framework
- Explains the vision, mission and structure of the municipality
- Explains how the representatives will be elected; chain of command and fiscal authority
- Details are by ordinance (law) and policies
- Short: 8 to 10 pages in length
 - Wildwood's is currently 20

Charter Review Committees

- Some are created by charter with specific appointment terms
- Some are created by ordinance, or at the request of a city council; varies widely across Florida's municipalities
 - This Committee created by Resolution
- Committee is usually tasked with a time-specific review, assisted by counsel, and to bring back any recommendations to the council
- The council may choose to place items directly on the ballot based upon recommendations of the counsel and committee
- The role of citizens in this process is crucial: representation of the public; ability to weigh issues and to understand the charter's importance as the city's governing foundation

Common Charter Elements

- ▶ Preamble
- ▶ Boundaries
- ▶ Legislative Body
- ▶ Form of Government
- ▶ Charter Officers (positions defined)
- ▶ Fiscal and Fiduciary Authorities and Responsibilities
- ▶ Amendment Process



Comparable Charter Characteristics: Legislative

- Size of Council or Commission: five (5) members is most common; some seven (7) and some (6) where mayor is non-voting
- Length of term: two- and four- year terms are fairly evenly spread across 411; smaller percentage use three-year term
- Type of election per council seat: at-large; single-member district (SMD); elected seat with at-large voting; true at-large; some councils are mix of at-large and SMD
- Selection of mayor: 3 options: elected at large; elected from within the council; rotational

Forms of Municipal Government in Florida

- ▶ **Council-weak mayor:** original form brought over from England; council shares all powers; about 85 Florida cities with populations less than 25,000
- ▶ **Council-strong mayor:** an elected executive implements council actions and administers the city; about 40 Florida cities in all populations
- ▶ **Council-Manager or Commission-Manager:** professional manager appointed by mayor & council to administer city, prepare agenda and recommend actions to council, and present a budget each year; about 280 Florida cities of all populations
- ▶ **Hybrid:** elements of the above

Charter Offices and Departments

- ▶ Some cities seek to establish a department by including it in the charter so that any changes would require referendum
- ▶ The other way to establish departments is by resolution or ordinance
- ▶ Examples can include utilities, police and fire, or a specific service unique to that municipality
- ▶ Charter positions most often include attorney, clerk and manager (if that form of government)

Wildwood Comparisons:

- Using populations from 27,161 to 39,097: With Wildwood there are 11 comparisons
- Geography: All are interior; none coastal. 0 rural; 0 urban; 9 suburban
- 9 are Council-Manager or Commission-Manager; 0 is Council-Strong Mayor; 0 Commission; 0 is Council-Weak Mayor; 0 Hybrid
- Number of elected seats: 7 with 5; 1 with 6, 1 with 7

Should also compare scope of services if any charter elements are compared more deeply

City of Wildwood: Chart of Comparisons

Municipality (County)	Population 2023	Form of Gov't	Seats/Council
Palm Springs (Palm Beach)	27,167	C-M	5
Temple Terrace (Hillsborough)	27,327	C-M	5
West Melbourne (Brevard)	29,739	C-M	7
Casselberry (Seminole)	30,061	C-M	5
Wildwood (Sumter)	30,327	C-M	5
Leesburg (Lake)	30,378	C-M	5
Cooper City (Broward)	34,878	C-M	5
Haines City (Polk)	35,285	C-M	5
Winter Springs (Seminole)	39,097	C-M	6



Key to Abbreviations:
C-M is Council-Manager

Best Practices in Charter Reviews

- Appointing representative citizens
- Holding several public forums for discussion (especially if referendum is scheduled)
- Use of website for agenda, minutes of meetings, display of current and proposed language – can help engage citizens
- If referendum is scheduled, develop “FAQ” for website
- Consider partnering with other civic organizations to help with forums, public discussions – reach out and include these groups

More Best Practices: Charter Review Committees

- Charter powers/authority granted to more than one entity
- Confusing language in elections section – usually in qualifications
- Writing too much: less is better



Charter Trends in Florida

- ▶ **Form of government:** trend since 1950s toward the council-manager and commission-manager form of government (including new incorporations)
- ▶ **Charter review time periods:** 10- to 15-year periods are widely seen



Charter Review: Questions to Consider

- From the 2021 ninth edition of the Model City Charter:
- Is the charter reflective of the city's current population?
- Is the council representative of the population, both resident and business?
- Does the charter address responsible professionalism, and do it adequately?
- Has the city provided opportunities for citizen participation in the process?
- Is the city engaged in civic education about the charter (web site, for example)?

Resources

- The Model City Charter- National Civic League
- www.ncl.org – use their questions, not language
- Charters in FL: www.municode.com/library select FL and view list of codified city charters
- FLC Research: Municipal Research tab on FLC website for Peer City information

Questions and Discussion





**Thank you for including
the Florida League of
Cities in your process!**



SIXTH EDITION

Guide for Charter Commissions



Foreword3

Chapter One: Introduction to the Charter Process.....4

Chapter Two: The Charter Review..... 11

Chapter Three: The Charter Document24

Appendix.....37

Foreword

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.

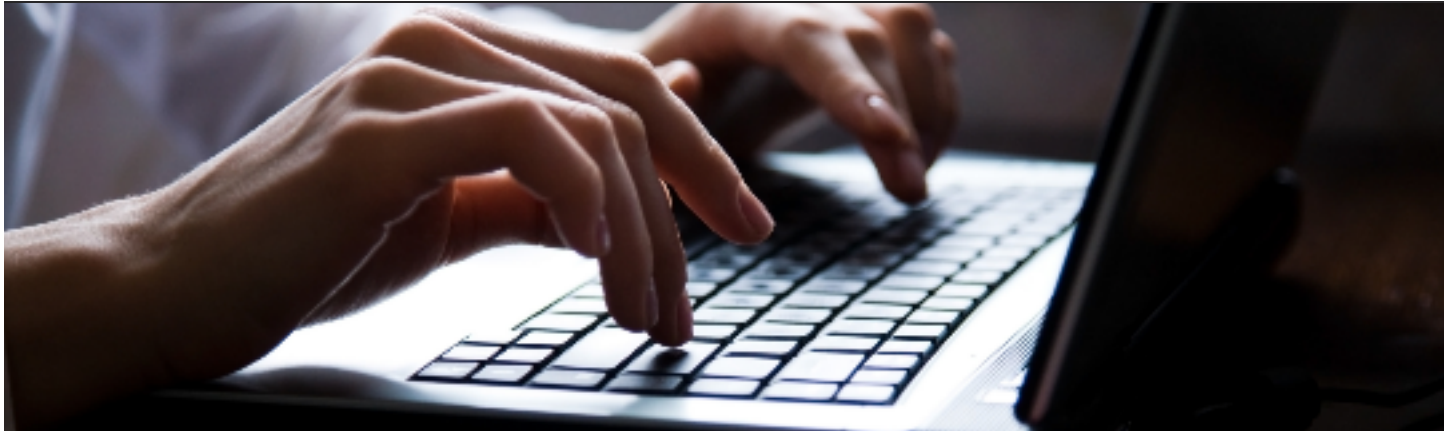
We would also offer our thanks to the reviewers of the guide. Terrell Blodgett, a former chairman of the National Civic League, and a Professor in Urban Management at the LBJ School of Public Affairs at the University of Texas at Austin, was instrumental in initiating this revision process. James Svava, 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



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



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.

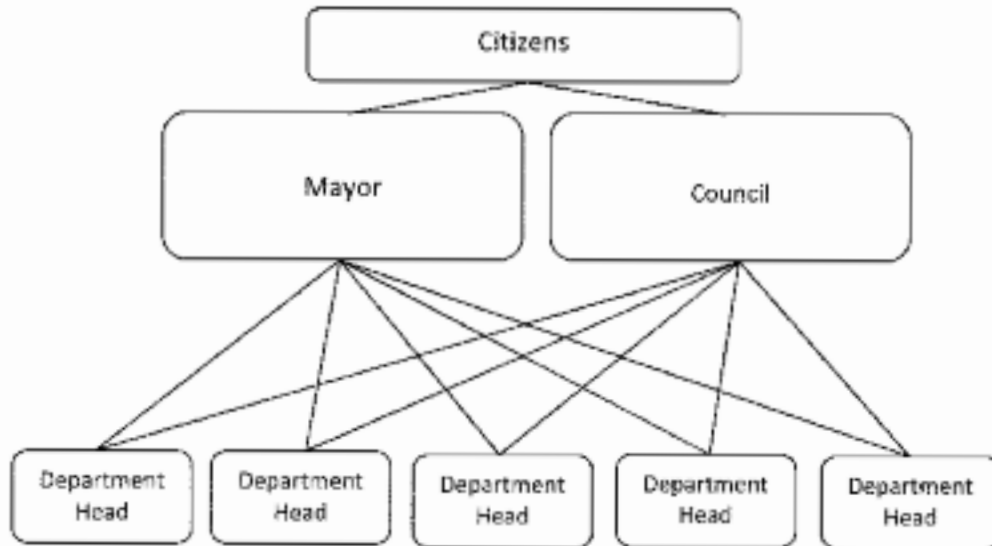
The final product of this process should be a charter built on widespread community involvement and, ultimately, widespread agreement on how the local government should function to best serve its residents. However, the charter process can result in even more. The call to action that the charter process 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.

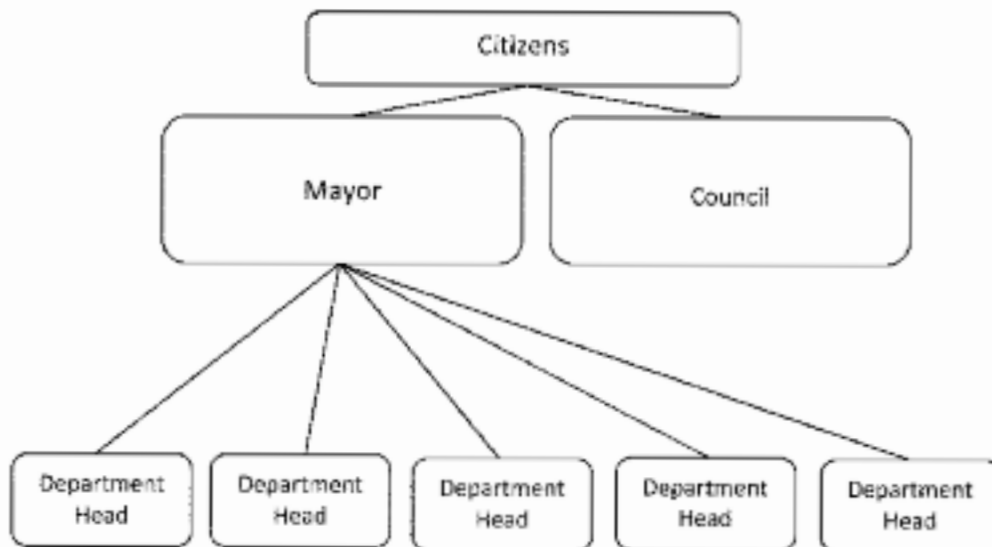
A more thorough discussion of all of these charter components is presented in the latest edition of the Model City Charter published by the National Civic League. Commission members are urged to refer to the Model City Charter for background information, further detail, and insightful commentary on all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

ARTICLE I. – ESTABLISHMENT OF MUNICIPALITY

The City of Wildwood’s municipal government existing under the name of the City of Wildwood was created by Chapter 9950 of the Special Acts of Florida of 1923 as amended and as re-created by Chapter 57-1950 of the Special Acts of Florida of 1957 as amended.

The municipal government existing under these acts was abolished by referendum on December 2, 2003, under Ordinance No. 411. Said referendum established the municipality to be called the “City of Wildwood”, in the County of Sumter, State of Florida, and created, organized, and established the City as a municipal body politic and corporate in perpetuity, under the name of “THE CITY OF WILDWOOD”. Additional changes occurred under Ordinance No. 02010-15, approved at referendum on December 7, 2010.

No lawful debts, obligations, or contracts of the said City of Wildwood as created by Chapter 57-1950 of the Special Acts of Florida of 1957 as amended or abolished by referendum on December 2, 2003, under Ordinance No. 411, as amended, were impaired or voided; but such debts and obligations passed to and were binding upon the municipality which was organized and created thereby.

Section 1-1. – Purpose.

We, the people of the City of Wildwood, Florida, desiring to avail ourselves of the right to establish a home rule charter form of government so, in accordance with the Constitution and the Laws of the State of Florida, ordain and establish this Charter and form of government for the City of Wildwood, Florida.

Section 1-2. – Body corporate and politic.

The inhabitants of the City of Wildwood, Florida, as its boundaries are established pursuant to Article I, Section 8, shall be and continue to be a body politic and corporate to be known and designated as “THE CITY OF WILDWOOD, FLORIDA”, and as such shall have perpetual succession.

Section 1-3. – Rights and liabilities in succession.

The City of Wildwood created and organized under this Charter shall succeed to, own and possess all property, real, personal or mixed, all uncollected taxes, dues, claims, judgements, decrees and choses in action, heretofore owned, possessed or held by the City of Wildwood under its former organization and shall have, exercise, and enjoy all the rights, immunities, powers, benefits, privileges, and franchises which are now possessed or held by it.

Section 1-4. – Obligations unimpaired.

No lawful debts, obligations, or contracts of the said City of Wildwood as created by Chapter 57-1950 of the Special Acts of Florida or 1957 as amended, and by the Charter adopted on December 2, 2003, as amended, shall be impaired or voided by this Charter; but such debts and obligations shall pass to and be binding upon the municipality which is hereby organized and created.

Section 1-5. – Validity of prior assessments unimpaired.

Nothing in this Charter shall be construed to impair the validity of any assessment of taxes by the City of Wildwood prior to the passage of the same or any tax sale made pursuant to any such prior assessment.

Section 1-6. – Assessments, etc., validated.

All tax sales and general and special assessments heretofore made by said City are hereby ratified and confirmed and declared to be legal and valid.

Section 1-7. – Authority continues to levy taxes and ad valorem taxes.

Neither the provisions of this Charter, nor the taking effect of the same shall in any way affect, alter, or impair the authority of the City of Wildwood to continue to levy in the same manner and to the same extent as it would be able to do were it not for the enactment of this Charter.

Section 1-8. – Corporate limits.

The corporate boundaries of the City of Wildwood shall be established by ordinance and shall remain fixed as existing on the date this Charter takes effect. The City of Wildwood shall have the power to change its boundaries in the manner prescribed by law.

Section 1-9. – Citing.

This Charter shall hereafter be referred to as the “Charter of the City of Wildwood”, a municipal corporation of Florida.

Section 1-10. – Definitions.

1. Whenever the word “Charter” is used, it shall mean this “act.”
2. Whenever in this act the word “City” is used, it shall be construed to mean the City of Wildwood, if the context shall permit such construction.
3. Whenever the term “state law” is used, it shall mean the constitution, statutes, or other general laws of the State of Florida.
4. Whenever publication or notice is required in any newspaper, it shall mean a newspaper published in the county, or one of general circulation in the county.
5. Whenever the term “Manager” is used, it shall mean “City Manager.”

ARTICLE II. – GENERAL MUNICIPAL POWERS

Section 2-1. – Territorial jurisdiction.

The jurisdiction and powers of the City shall extend over all streets, alleys, sewers, parks, and all lands within said area, whether platted or unplatted and the air above same; and to and over all waters, waterways, streams, drainage ditches, and canals; and to and over all persons, firms and corporations, property and property rights, occupations, businesses and professions, whatsoever within its boundaries.

The title to and jurisdiction over all streets, thoroughfares, parks, alleys, public lots, sewers within the City, and all other property and municipal plants of the City now owned, possessed, or operated by the City and all property of every kind and character which the City now has or may hereafter acquire within or outside the City or which may vest in it or be dedicated to it, for its use for the public use shall be vested in the City as created under this Charter.

Section 2-2. – Seal.

The official seal of the City shall bear the legend “City of Wildwood, Sumter County, Florida” (SEAL), “originally established May 16, 1889 and subsequently reestablished in 1973 or as amended by the City Commission of the City of Wildwood”.

Section 2-3. – Powers, rights, and liabilities.

The City shall have, and may exercise, all government, corporate, proprietary, police, and other powers allowed by law without limitation to enable it to conduct municipal government, perform municipal function, and render municipal services. These powers shall include, but not be limited to, any powers provided for under state law at the time of enactment of this amendment to the City of Wildwood Charter. The City may exercise any power for municipal purposes except as expressly prohibited by law.

Section 2-4. – Construction.

The powers of the City shall be construed liberally in favor of the City, limited only by the constitution, general and special law, and specific limitations in this Charter.

ARTICLE III. – CITY COMMISSION ADMINISTRATION

Section 3-1. – Form of government.

The form of government of the City, provided for under this Charter, shall be that known as the “Commissioner-Manager” form.

Section 3-2. – Composition of City Commission.

There shall be a City Commission (hereinafter described as “Commission”) with the legislative powers of the City vested therein, except as otherwise provided herein. The City Commission shall consist of a Mayor-Commissioner and four (4) members (hereinafter described as “Commission Members”) whose term of office shall be four (4) years and who shall be elected by the City electors at large. The seats on the City Commission shall be identified as seats one through five. There shall be no term limits imposed upon any Commission Member and each Commission Member shall be eligible for reelection at the end of their respective term.

Section 3-3. – Powers of the City Commission.

1. *Generally.* The City Commission shall have the legislative powers of the City, including the power to pass ordinances, adopt resolutions, and appoint such officers, boards, and commissions by resolution as is provided in this Charter and to exercise all other powers provided for by this Charter and federal, state, and local law.

2. *Exceptions.* All powers of the City, except as otherwise provided by this Charter or by state law, are hereby vested in the City Commission; and except as otherwise provided by this Charter or by state law, the City Commission may by ordinance or resolution prescribe the manner in which any powers of the City shall be exercised.

Section 3-4. – Functions and power of the Mayor-Commissioner.

The Mayor-Commissioner shall preside at meetings of the City Commission, shall retain all rights and privileges provided for members of the City Commission in this Charter, shall be recognized as head of City government for all ceremonial purposes, by the governor for purposes of military law, for service of process, execution of contracts, deeds, bonds, revenue certificates, negotiable instruments, evidence of indebtedness, or other instruments in writing to which the City shall be a party when authorized so to do by the City Commission, and as the City official designated to represent the City in all agreements with other governmental entities or certifications to other governmental entities. The Mayor-Commissioner shall have no other administrative duties except as required to carry out the responsibilities herein.

The Mayor-Commissioner shall have the right to vote upon all questions and matters before the City Commission, but there shall be no veto power vested in the Mayor-Commissioner. He or she shall vote last upon the roll call of City Commissioners.

Section 3-5. – Selection and duties of Mayor-Commissioner pro tem.

At the first regular meeting following each regular municipal election, at which meeting newly elected City Commissioners assume their duties of office, the five (5) City Commissioners shall select one of their number, exclusive of the Mayor-Commissioner, to act as Mayor-Commissioner pro tem. The Mayor-Commissioner pro tem, when selected by a majority vote of the City Commissioners voting, shall have all the powers and duties of the Mayor-Commissioner in the absence of the Mayor-Commissioner or his or her inability to act, whether by reason of his or her death, resignation, impeachment, sickness, mental or physical, or for any other reason and the City Clerk shall certify as to the absence from the City of the Mayor-Commissioner or his or her inability to act, upon demand, when the Mayor-Commissioner is absent from the City or unable to act.

Section 3-6. – Compensation and expenses.

The City Commission may determine the annual salary of Commission Members by ordinance. However, no ordinance increasing such salary shall become effective until the date of commencement of the term of Commission Members elected at the next General Election. Each Commission Member shall be entitled to reimbursement for allowable expenses in accordance with City ordinances.

Section 3-7. – Vacancies; forfeiture of office; suspension; recall; filling of vacancies.

1. *Vacancies.* A vacancy in the office of the Mayor-Commissioner or of a City Commission seat shall occur upon any of the following: upon the death of the incumbent; removal from office as authorized by law; resignation; appointment to other public office which creates dual office holding; judicially determined incompetence; or forfeiture of office as herein described.

2. *Forfeiture of office.* The City Commission shall have the power and authority to impeach or remove the Mayor-Commissioner or any member of the City Commission after due notice to said member and an opportunity to be heard in his or her defense. The Mayor-Commissioner or any other

Commission Member shall forfeit his or her office upon determination by the City Commission, acting as a body, that he or she:

- a. Lacks at any time, or fails to maintain during his or her term of office, any qualification for the office prescribed by this Charter or otherwise required by law;
- b. Is convicted of a felony, or enters a plea of guilty or nolo contendere to a crime punishable as a felony, even if adjudication of guilt has been withheld;
- c. Is convicted of a first degree misdemeanor arising directly out of his or her official conduct or duties or enters a plea of guilty or nolo contendere thereto, even if adjudication of guilt has been withheld;
- d. Is found to have committed a crime of moral turpitude or has violated any standard of conduct or code of ethics established by law for public officials and has been suspended from office by the Governor, unless subsequently reinstated as provided by law;
- e. Is absent from three consecutive regular City Commission meetings without being excused by the City Commission;
- f. Has demonstrated or shown incompetence, corruption, misconduct, malfeasance while in office; or
- g. For any other good and sufficient causes.

3. *Suspension from office.* The Mayor-Commissioner or any other Commission Member shall be suspended from office by the City Commission acting as a body upon return of an indictment or issuance of any information charging the Commission Member or Mayor-Commissioner with any crime which is punishable as a felony or with any crime arising out of his or her official conduct or duties which is punishable as a misdemeanor. Pursuant thereto:

- a. During the period of suspension, the Mayor-Commissioner or the Commission Member shall not perform any official act, duty, or function or receive any allowance, emolument, or privilege of office.

- b. If the Mayor-Commissioner or the Commission Member is subsequently found not guilty of the charge, or if the charge is otherwise dismissed or altered so that suspension would no longer be required as provided herein, the suspension shall be lifted by the City Commission, and the Commission Member or Mayor-Commissioner shall be entitled to receive full back allowances and such other emoluments as he or she would have been entitled to had the suspension not occurred.

4. *Recall.* The qualified voters of the City shall have the power to recall and to remove from office any elected official of the City as provided by state law.

5. *Filling of vacancies.*

- a. If, for any reason other than recall, a vacancy occurs in the office of Mayor-Commissioner, the Mayor-Commissioner pro tem shall assume the position of Mayor-Commissioner. A Special Election shall be called as outlined in Section 5-5(3)(a) of Article IV

within thirty (30) days following the occurrence of such vacancy. The Special Election for Mayor-Commissioner shall be for the remainder of the unfilled term.

b. If, for any reason other than recall, a vacancy occurs in the office of any City Commission seat within the first two (2) years of a term, the office shall be filled by appointment within thirty (30) days following the occurrence of such vacancy by a majority vote of the remaining Commission Members. Such appointments shall last until the next regularly scheduled election, at which time the seat shall be declared open and an election held for the remaining two (2) years of the original term, thereby continuing the original staggering of district seats.

c. If, for any reason other than recall, a vacancy occurs in the office of any City Commission seat within the last two (2) years of a term, the office shall be filled by appointment within thirty (30) days following the occurrence of such vacancy by a majority vote of the remaining Commission Members. Such appointments shall last until the next regularly scheduled election, at which time the seat shall be declared open and an election held for the regular four-year term.

d. If a vacancy occurs as a result of a Recall Petition, such vacancy will be filled by Special Election.

e. Any person appointed to fill a vacant seat on the City Commission is required to meet all the qualifications for office.

Section 3-8. – Conduct of meetings.

1. *Rules.* The City Commission shall conduct its meetings in accordance with Roberts Rules of Order. The City Commission may adopt its own rules and procedures from time to time by resolution or ordinance.

2. *Disruptive, disorderly persons; contempt.* The City Commission shall have the power to expel any member of the audience who is disorderly while the City Commission is in session.

Section 3-9. – Regular meetings.

On the second Monday in January, at 7:00p.m., the City Commission shall meet at the usual place of holding meetings, at which time the newly elected City Commissioners shall take office. Thereafter, the City Commission shall meet regularly at least once in every month at such times and places as the City Commission may prescribe by rule or resolution.

The meetings of the City Commission shall be open to the public, and any citizen shall have access to the minutes and records thereof at all reasonable times and under the supervision of the City Clerk of his or her designee.

Section 3-10. – Manner of calling special meetings.

Special meetings may be held on the call of the Mayor-Commissioner, Mayor-Commissioner pro tem, a majority of Commission Members, or the Manager upon proper notice to each Commission Member which may be served personally, transmitted by electronic mail to the address last filed by each Commission Member with the City Clerk, or left at the Commission Member's usual place of residence or business. The regularity or validity of any proceedings, taken at any special meeting at which a

majority of members of the City Commission and the Manager is present, shall not be questioned on account of any omission or irregularity in calling such special meeting.

The public shall be properly noticed as required under state law.

Section 3-11. – Required vote for City Commission action.

The affirmative vote of three members of the City Commission shall be necessary to adopt ordinances and resolutions. The vote on all ordinances and resolutions shall be taken by yeas or nays and entered in the minutes kept by the City Clerk or his or her designee. No other action of the City Commission shall be valid or binding unless adopted by the affirmative vote of a majority of a quorum present. No Commission Member shall be excused from voting, except on matters involving the consideration of his or her own official conduct or when his or her financial interests are involved.

The majority of the City Commission must be physically present to constitute a quorum. A lesser number may adjourn from time to time and compel the attendance of absent members in such a manner and under such penalties as may be prescribed by ordinance.

Section 3-12. – Committees.

The City Commission shall provide by ordinance or resolution for such standing and ad hoc committees as they deem necessary, fixing the number of members that shall compose each respective committee, and prescribing their responsibilities and duties.

Section 3-13. – Interference with appointment of employees or City officers.

1. *Appointments and removals.* Except as otherwise provided in this Charter, neither the City Commission nor any of its members shall in any manner dictate the appointment or removal of any City officers or employees whom the Manager or his or her subordinates are empowered to appoint. However, the City Commissioner may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

2. *Interference with administration.* Except for the purpose of inquiries and investigations, the Mayor-Commissioner and the Commission Members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Mayor-Commissioner nor the Commission Members shall give orders to any such officer or employee, either publicly or privately, except as provided herein. Nothing in the foregoing is to be construed to prohibit the Mayor-Commissioner or Commission Members from closely scrutinizing, by questions directed to the Manager and personal observation, all aspects of City operations so as to obtain independent information to assist in the formulation of sound policies to be considered by the City Commission. It is the express intent of this Charter, however, that recommendations for improvement in City operations by the Mayor-Commissioner and individual Commission Members be made to and through the Manager, so that he or she may coordinate the efforts of each department to achieve the greatest possible savings through the most efficient and sound means available. Nothing in the foregoing will preclude any Commission Member from giving an order to any City officer or employee who is in the process of performing an act which is in violation of this Charter, municipal ordinance or policy, state law, or in such a manner as to endanger life or property.

3. *Holding another office.* No former Commission Member shall hold any compensated appointive City office or employment until one year after the expiration of the term for which he or she

was elected. No individual may qualify as a candidate for public office who holds another elective or appointive office, whether state, county, or municipal, the term of which or any part thereof runs concurrently with the term of office for which he or she seeks to qualify without resigning from such office not less than ten (10) days prior to the first day of qualifying for the office he or she intends to seek. Said resignation shall be effective no later than the date upon which he or she would assume office, if elected to the office to which he or she seeks to qualify, the expiration date of the term of the office which he or she presently holds, or the General Election day at which his or her successor is elected, whichever occurs earliest.

Section 3-14. – Ordinances and resolutions.

Ordinances and resolutions shall be enacted as provided by general law.

Section 3-15. – Records of ordinances and resolutions.

1. *Codification of ordinances.* The City Commission shall keep a properly indexed book to provide for the authentication and recording in full of all ordinances adopted by the City Commission, and the same shall at all times be a public record. The City Commission shall further maintain a current codification of all ordinances. Such codification shall be printed and be made available to the public.

2. *Record of resolutions.* Every resolution shall upon its final passage be kept in a properly indexed resolution book and shall be authenticated by the signature of the presiding officer and the City Clerk. The record shall be verified with the resolution passed. After any resolution has been copied into the resolution book and authenticated by the signature of the presiding officer and the City Clerk, such copy shall be the official resolution, and certified copies of same may be obtained upon request.

3. *Minutes of meetings.* The City Commission shall keep minutes of all meetings in accordance with state law.

4. *Execution of ordinances and resolutions.* All ordinances or resolutions of the City Commission shall be signed by the Mayor-Commissioner or in the Mayor-Commissioner's absence, by the Mayor-Commissioner pro tem, or in the absence of both, by the Acting Mayor-Commissioner, and attested to by the City Clerk. A copy of any ordinance or resolution therefrom, certified by the City Clerk under the seal of the City, shall be received in evidence in any court of the State of Florida.

Section 3-16. – Certified copies of official documents admissible in evidence.

Certified copies of the records, papers, and books of the City and the City officials shall be admissible in evidence in all courts when certified by the lawful custodian of same and attested by said custodian under seal of the City.

Section 3-17. – Oath of office.

Every officer of the City shall, before entering upon the duties of his or her office, take and subscribe to an oath or affirmation to be filed and kept in the office of the City Clerk. Such oath shall be in the form prescribed for state officers by the Constitution of the State.

ARTICLE IV. – ADMINISTRATIVE OFFICERS AND DEPARTMENTS

Section 4-1. – Officers.

1. *City Manager.* There shall be a City Manager ("Manager"), who shall be the administrative officer of the City. The Manager shall be responsible to the City Commission for the administration of all City affairs placed in his or her charge by or under this Charter.

2. *Police Chief.* There shall be a Police Chief who shall be designated as the chief law enforcement officer of the City and shall be responsible to the Manager. The Police Chief shall be appointed by the City Commission upon recommendation of the Manager and shall serve under the direction and supervision of the Manager. The City Commission may, at its discretion, enter into a contract with a third party for the provision of law enforcement services. Where the City Commission enters into a contract with a third party, there shall be no need for a Police Chief.

3. *Limitation.* The offices of the Manager and Police Chief shall not be combined.

4. *City Clerk.* There shall be a City Clerk appointed by the Manager subject to City Commission approval, who shall keep the minutes and shall be records custodian.

5. *City Attorney.* The City Commission may employ an attorney or attorneys from time to time, or by the year, to perform such legal services as the City Commission may authorize, designate, and pay such attorney for services rendered.

Section 4-2. – City Manager: appointment; qualifications; compensation.

The City Commission may appoint a Manager who shall be the administrative head of the City government, under the direction and supervision of the City Commission, and who shall hold office at the pleasure of the City Commission. He or she shall receive such compensation as the City Commission may set by resolution or contract. He or she shall be chosen solely on the basis of his or her executive and administrative qualifications, without regard to his or her political belief, and shall be over the age of 21 years. The City Commission shall have discretion to require that the Manager reside within the City during his or her term of office, but he or she need not be a resident of the city, county, or state at the time of his or her appointment.

Section 4-3. – Acting City Manager.

During the absence or disability of the Manager, the City Commission may by resolution designate a person with sufficient experience and training to temporarily execute and undertake the executive functions and administrative duties of the office of City Manager. The person thus designated shall have the same powers and duties as the Manager, and shall be known while so serving as "Acting City Manager."

Section 4-4. – Removal.

The Manager or Acting City Manager may be removed by the City Commission at any time. However, if removed at any time after having served six months, the Manager may be removed only by the passage of a resolution, designating such removal. The City Commission may suspend him or her from office pending such removal; such suspension may last up to 90 days unless extended by further action of the City Commission. There shall be no appeal by the Manager from the City Commission's action to remove the Manager and the action of the City Commission shall be final and conclusive. The Manager is deemed to have knowledge of this provision of the Charter at the time of his or her employment and such provision shall be construed as a part of his or her contract of employment, if not

specifically included in the contract. The City Commission may provide for additional or alternative removal provisions in any contract entered into by the City Commission and the Manager.

Section 4-5. – Manager: powers and duties.

The Manager shall:

1. Appoint, and when he or she deems it necessary for the good of the City, suspend or remove City employees, heads of department, and appointive administrative officers provided for, by, or under this Charter, except as otherwise provided by law or personnel rules adopted pursuant to this Charter. The Manager may authorize any administrative officer who is subject to his or her direction and supervision to exercise any and all necessary powers with respect to subordinates in that department head's or officer's department, office, or agency;
2. Direct and supervise the administration of all departments, offices, and agencies of the City, except as otherwise provided by this Charter or by law. With the consent of the City Commission, the Manager may serve as the head of one or more departments, offices, or agencies or may appoint one person as the head of two (2) or more such departments, offices, or agencies;
3. Attend all City Commission meetings and shall have the right to participate in the discussions of the City Commission but may not vote;
4. Ensure that all laws, ordinances, provisions of this Charter, and acts of the City Commission, subject to enforcement by him or her, or by officers subject to his or her direction and supervision, are faithfully executed;
5. Prepare and submit the annual budget and capital program for all departments of the City to the City Commission;
6. Submit to the City Commission and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
7. Make such other reports as the City Commission may require concerning the operations of City departments, offices, and agencies subject to his or her direction and supervision;
8. Keep the City Commission fully advised as to the financial condition and future needs of the City and make such recommendations to the City Commission concerning the affairs of the City as he or she deems desirable, or as directed by the City Commission;
9. Sign contracts on behalf of the City pursuant to City Commission directive, if signature by the Mayor-Commissioner is impractical under the circumstances; and
10. Perform such other duties as are specified in this Charter or may be required by the City Commission.

Section 4-6. – City Attorney: qualifications; residency; powers; duties.

The City Attorney shall be the chief legal advisor of the City. At the discretion of the City Commission, the City Attorney may either be retained in-house or be independently retained under contract.

1. *Qualifications.* The City Attorney shall be a member of the Florida Bar and in good standing with the Florida Bar.

2. *Residency.* If retained in-house, the City Attorney shall, within six (6) months of such appointment, establish and maintain residency within the corporate limits of the City. Upon request of the City Attorney, this six-month period may be extended by the City Commission for an additional six-month period. If City Attorney services are independently contracted, such attorney need not be a resident of the City.

3. *Powers and duties.* The City Attorney:

a. Shall serve as chief legal advisor to the City Commission, the City Manager, and all City departments, offices, City advisory boards, Commission-appointed committees, and agencies.

b. If in-house, the City Attorney shall have the discretion to appoint, suspend, or remove such assistant attorneys as may be required. The remainder of the staff of the office of City Attorney shall be employees of the City, appointed, suspended, or removed under the regular personnel policies and procedures of the City. If City Attorney services are contracted, the Manager may appoint, suspend, or remove any in-house assistant attorneys as may be required.

c. The City Attorney or designee is required to attend all City Commission meetings unless excused by the City Commission. Further, the City Attorney shall perform such other professional duties as may be required by law or by the City Commission in furtherance of the law. The City Attorney may represent the City in all legal proceedings.

4. The City Commission may remove the City Attorney for any reason with good cause shown, by a majority vote of its total membership, at any properly noticed regularly scheduled or special meeting.

Section 4-7. – Police Chief: powers and duties.

1. The Police Chief shall be the chief law enforcement officer of the City and shall aid in the enforcement of order in the City. He or she shall perform such duties appropriate to his or her office as may be imposed upon him or her by the law, the ordinances of the City, the direction of the Manager, or the City Commission.

2. He or she shall be head of the police department and charged with the responsibility of supervising and directing the enforcement of all state and local laws and ordinances applicable to the City, except when the City Commission has entered into a contract with a third party to provide such services.

3. The Police Chief shall perform such other duties that are specified by the Manager.

4. The Police Chief shall attend in-person or by deputy all meetings of the City Commission.

5. The City Commission shall have discretion to require that the Police Chief reside within the City during his or her term of office, but he or she need not be a resident of the city, county, or state at the time of his or her appointment.

Section 4-8. – City Clerk: powers and duties.

The City Clerk shall be head of the department of records and custodian of all official records of the City, be responsible to the City Commission for the proper administration of all affairs concerning the records of the City placed under the City Clerk’s authority under this Charter, and shall:

1. Serve as Clerk to the City Commission and recorder of all its official actions, including, but not limited to, keeping minutes of its proceedings;
2. Attest all bonds, contracts, and other instruments on behalf of the City;
3. Maintain all documents and records in the custody of the Clerk in accordance with Florida law and authenticate documents of the City where required and be custodian of the City seal; and
4. Administer oaths required or authorized under any state law, ordinance, or this Charter.

Additionally, the City Clerk may act as the Chief Financial Officer of the City. The City Clerk shall also perform such other duties as prescribed by law or by this Charter or by any ordinances of the City or by direction of the City Commission or the Manager.

Section 4-9. – Compensation of officers and employees.

The City Commission shall by resolution or contract set the compensation of the Manager, Police Chief, and City Attorney. The Manager, with the approval of the City Commission, shall fix the compensation and rate of pay of all other officers and employees of the City.

ARTICLE V. – ELECTIONS

Section 5-1. – Initiative and Referendum.

Initiative and Referendum issues shall be governed by applicable state law.

Section 5-2. – Nonpartisan elections.

All qualifications and elections for the office of City Commissioner shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any nominee or any nomination petition or ballot.

Section 5-3. – Qualifications for City Commissioners.

1. To be eligible to hold the office of City Commissioner or Mayor-Commissioner of the City or to qualify for nomination of election as such, the candidate shall be a bona fide resident of the City, the State of Florida, and a citizen of the United States of America and shall be duly qualified to vote at each respective city, state, and national election and shall be otherwise qualified as is provided in this Charter and shall hold no other public elective office. Candidates for nomination or election for the office of City Commissioner or Mayor-Commissioner shall comply with all the rules and regulations set out in this Charter as to their conduct. Any City Commissioner who shall cease to possess the qualifications required herein shall forthwith forfeit his or her office.

2. Unless the City Commission has voted to authorize the Supervisor of Elections to provide qualifying for candidates, candidates for City Commission shall qualify as candidates upon application to the City Clerk, in conformity with the state law and ordinances pursuant thereto. If the City Commission

has authorized the Supervisor of Elections to provide qualifying for candidates, the candidate shall qualify upon application to the Supervisor of Elections. Qualifications shall occur at the same time as qualification for the state general election and shall be pursuant to state law.

3. No candidate for the office of City Commissioner shall promise any money, office employment, or other thing of value to secure a nomination or election or any vote therein. A violation of this provision shall disqualify the candidate from holding the office if elected, and the person receiving the next highest number of votes, who has observed the foregoing conditions, shall be entitled to the office.

Section 5-4. – Election procedure.

All elections shall be held and conducted in accordance with the provisions of state law and changes therein and future amendments thereto except as otherwise provided by this Charter or by the present or future ordinances of the City.

Every elector shall be entitled to vote for one candidate for each City Commission seat up for election. The candidate for each seat receiving the highest number of votes cast shall be declared elected.

If necessary, the City Commission may, by ordinance, further prescribe the method and manner of holding all elections in the City and may enter into agreements with the Sumter County Supervisor of Elections. The Supervisor of Elections may conduct and oversee a city-wide election in accordance with applicable Florida Statutes.

Unless otherwise dictated by ordinance of the City Commission, elections involving multiple candidates (when two (2) or more person qualify as candidates for the office of any of the designated seats of the City commission) or single candidates (where only one person qualifies as a candidate for the office of any of the a designated seats of the City Commission) shall be handled in accordance with state law.

In the event no candidates qualify, the procedure in Section 3-7(5) of Article III will be followed.

Section 5-5. – Schedule of regular elections.

The regular City election shall be the first Tuesday after the first Monday in November of each even-numbered year. Such City elections shall be general City elections.

1. An election to fill a vacant City Commission seat, when there is more than half of the term remaining, shall be held during the next regularly scheduled election, as outlined in Section 3-7(5)(b) of Article III. Such election shall be for the remaining two (2) years of the original term.

2. An election to fill a vacant City Commission seat, when there is less than half of the term remaining, shall be filled at the next regularly scheduled election, as outlined in Section 3-7(5)(c) of Article III. Such election shall be for a four (4) year term.

3. *Schedule for special elections.*

a. A special election for a vacant position of Mayor-Commissioner shall be called within thirty (30) days and the City Commission shall, by resolution, fix the time for holding of

such election, as outlined in Section 3-7(5)(a) of Article III. Such special election for Mayor-Commissioner shall be for the remainder of the vacant term.

b. All other special municipal elections shall be held in the same manner as regular elections and the City Commission shall, by resolution, fix the time for holding of such elections.

Section 5-6. – Registration of electors.

Any person who is a resident of the City and has resided in the City for a period of ninety (90) days, who has qualified as an elector of this state, and who registers in the manner prescribed by law shall be an elector of the City.

Section 5-7. – Canvassing and qualification.

1. Unless a majority of the City Commission votes to utilize the Supervisor of Elections for qualifying of candidates and conducting the election and the county canvassing board for canvassing the election, the City Commission shall conduct the election and shall have the authority to determine the qualification of its members, subject to review by the courts.

2. If the City Commission has not authorized the county canvassing board to canvass the election, at the time that the City Commission meets to canvass the results of any election, any registered elector of the City shall be entitled to file with the City Commission an affidavit setting out the facts showing that a candidate has violated the provisions of this Charter as to the manner of his or her election, or is otherwise unqualified to hold office, and the City Commission shall take proof at such meeting and declare the results.

3. The City Commission may by ordinance authorize the Supervisor of Elections to provide for qualifying of candidates and conduct the election and for the county canvassing board to canvass the election. If the City Commission provides the Supervisor of Elections and the county canvassing board with such authority, then the Supervisor of Elections shall be responsible for the qualifying of candidates and conducting the election and the county canvassing board shall canvass the election. Once an ordinance is enacted authorizing the transfer of these responsibilities, the Supervisor of Elections and the county canvassing board shall retain this authority at all subsequent elections unless the City Commission enacts a subsequent ordinance transferring such responsibility back to the City. Any such ordinance must be enacted and provided to the Supervisor of Elections and county canvassing board at least one year prior to the next general election.

ARTICLE VI. – FINANCE AND TAXATION

Section 6-1. – Fiscal year; annual audit; quarterly reports.

The City's fiscal year shall begin on October 1st of each calendar year and end on September 30th of each calendar year. An annual audit report proposed in compliance with state law shall be provided to the City Commission after the close of the fiscal year. The Manager shall provide revenue and expenditure analysis reports at least quarterly to the City Commission.

Section 6-2. – Adoption of budget; notice; amount of millage.

The City Commission shall follow state law in setting millage rates and adopting an annual budget. The City Commission shall, by resolution, adopt a budget on or before September 30th of each

year. The City Commission shall comply with the requirements of state law for notice and public hearings related to the adoption of the annual budget.

Section 6-3. – Authority of City to levy taxes.

The City Commission shall have the power to raise such a sum of money by taxation and levy upon the taxable property in the City such a millage or tax as it shall determine to be necessary for the annual budget subject to any limitations of state law.

Section 6-4. – Property which is taxable.

All property, real and personal, in the City not expressly exempt by state law shall be subject to taxation by the City.

Section 6-5. – Budget changes.

After the adoption of the annual budget, the City Commission shall have the power to reappropriate to any municipal purpose any funds not needed for the purpose originally appropriated or to appropriate any unappropriated surplus to any municipal purpose.

Section 6-6. – Unencumbered balance to revert to fund; expenditure of money to comply with budget.

At the close of each fiscal year, the unencumbered balance of each appropriation of funds shall revert to the respective fund from which it was appropriated and shall be subject to future appropriation, except that special funds shall remain intact. No money shall be drawn from the depository of the City, nor shall any obligation for the expenditure of any money be incurred, except pursuant to the appropriation made by the City Commission.

Section 6-7. – Authority to borrow.

The City Commission shall have the authority to borrow money, contract loans, and issue bonds as defined by state law to finance the undertaking of any capital or other project for the purposes permitted by state law and this Charter.

Section 6-8. – Authority of City to issue bonds generally.

The City is authorized to issue bonds of said City of such form and denomination, bearing such rate of interest and becoming due in such time and upon such conditions as may be determined, in an amount not exceeding in the aggregate percentage of the assessed valuation of the taxable property in the City at the time of issue allowable by state law, for any purpose, such powers include, but are not limited to:

1. *Issuance of general obligation bonds.* The City shall issue general obligation bonds in conformity with state law.
2. *Issuance of revenue bonds.* The City Commission shall have the power to provide by resolution for the issuance and sale of revenue bonds and certificates in compliance with state law to provide funding for any lawful municipal purpose.
3. *Special assessments for local improvements authorized.* The City, by its City Commission, shall have power and authority to cause local improvements to be constricted, wholly or in part, at the cost of the property owners benefited thereby, by levying and collecting special assessments in a

manner consistent with state law for any such improvements as are allowable by state law or are not precluded by state law.

ARTICLE VII. – FRANCHISES AND PUBLIC UTILITIES

Section 7-1. – Authority to grant franchises; limitations.

1. The City shall have power to grant or lease the right to use the streets, highways, alleys, public grounds or buildings, and to grant franchises, to any private person, persons, firm or corporation, provided that no exclusive franchise or renewal shall ever be granted.

2. No such grant or lease or franchise or renewal thereof shall be transferable except with the express approval of the City Commission by ordinance.

3. A copy of all transfers and mortgages or other documents affecting the title to the use of the grants, renewals, leases, or franchises provided herein shall be filed with the City Clerk within ten (10) days after the execution thereof.

4. No franchise given by the City shall authorize the licensee to damage, destroy, or interfere with any trees, shrubs, or other plants on said streets, parks, and public grounds. The licensee shall secure such permission from the City Commission in the form of a resolution upon the submitted petition of the licensee. All such grants or renewals shall be made as hereinafter provided.

5. No grant or lease or renewal to the right to use the streets, highways, alleys, public grounds, or buildings of the City shall in any event be for a longer period of time than thirty (30) years.

Section 7-2. – Franchises for public utilities generally.

1. The City shall have power to grant franchises for public utilities subject to the provisions of subsection (2).

2. No ordinance granting a franchise for public utilities shall become a law or become effective in any way unless the same be passed by a vote of four-fifths of all members of the City Commission.

3. Nothing in such grant or renewal shall prevent the City from acquiring the property by condemnation proceedings or in any other lawful manner under applicable state law when deemed by the City Commission for the best interest of the City or the public.

4. The right at all times to control the appropriation or distribution of space in, over, across, or under any street, alley, public ground, waterfront, riparian property, or submerged lands, occupied by any public utility, shall remain in the City Commission. All rights granted for the construction and operation of public utilities shall be subject to the continuing right of the City Commission to require such reconstruction, relocation, change, or discontinuance of the lines, equipment, and appliances used by the utility as shall be necessary or desirable for the best interest of the City and the public welfare.

5. No consent of the owner of any property abutting the street, alley, park, public ground, or waterfront shall be necessary in order to perfect the rights granted by the franchise or any renewal, as provided in this section, but the franchise itself shall be sufficient, provided that no liability shall accrue against the City in the event such public utility is of such character that its construction or operation will cause, or work, any additional burden or detriment to the property rights of the owners of abutting property.

Section 7-3. – Terms and conditions of public utility franchises.

1. All grants, renewals, extensions, or amendments of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the following rights of the City:

a. To repeal the same by ordinance at any time for misuse, nonuse, or failure to begin construction within the time prescribed, or otherwise to comply with the terms prescribed.

b. To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest practicable standard of efficiency.

c. To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

d. To prescribe the form of the accounts and, at any time, to examine and audit the accounts and other records of any such utility. However, if a public service commission or any other authority shall be given the power by law to prescribe the form of accounts for public utilities throughout the state, the form so prescribed shall be controlling so far as they go. Nevertheless, the City Commission may prescribe more detailed forms for the utilities within its jurisdiction.

e. To impose such other regulations as may be conducive to the safety, welfare, and accommodation of the public.

2. Nothing in this Charter with reference to regulation or control of rates or service, or the extension of plant or the keeping of records and accounts, or the rendering of reports, shall apply to any public utilities, the rates or services of which are by law placed under the jurisdiction of the state public service commission or federal agency except as provided by law.

3. Every public utility franchise hereafter granted shall be subject to all the terms and conditions of this Charter, whether or not such terms are specifically mentioned in the franchise.

4. Nothing in this Charter shall operate to limit in any way, except as specifically stated, the discretion of the City Commission or the electors of the City in imposing terms and conditions in connection with any franchise grant.

Section 7-4. – Compilation of record of public utilities fixtures.

The City shall compile and maintain a public record of all public utility fixtures in the streets and other public places of the City.

Section 7-5. – Municipally-owned utilities.

The City shall have power to:

1. Purchase, hire, construct, own, maintain, operate, or lease local public utilities, including, but not limited to, buses, transportation systems, electric light, water, wastewater, stormwater, and all other manner of utilities.

2. Sell the services of such utilities to consumers both within and without the limits of the City.

3. Provide and perform all such utility services as are authorized by state and federal law.

Section 7-6. – Rates.

The City shall have authority to establish, impose, and enforce rates and charges for electricity, water, wastewater, and all other public utilities or other service or conveniences operated, rendered, or furnished by the City or by any other person. These regulations shall in no manner interfere with regulations prescribed by the state public service commission or any other state or federal governing board or commission duly organized and functioning by virtue of federal or state law.

Section 7-7. – Rules and rate as to conduits.

The City shall have authority to require the placing of all electric wires, cable, and telephone wires in conduits underground and prescribe rules and regulations for the construction and use of said conduits and to enforce compliance therewith, and in case of failure or refusal of the public utilities companies to place such cables or wires underground and comply with the rules and regulations thereof, to construct such conduits and place the cables or wires underground and maintain a lien against the franchise and property of such companies. This section shall not apply to public utilities that are regulated by the state public service commission or other federal board or agency except as provided by general law.

ARTICLE VIII. – GENERAL PROVISIONS

Section 8-1. – General provisions.

1. *Charter amendment.* This Charter may be amended in accordance with the provisions of the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, as the same may be amended from time to time, or as may otherwise be provided by state law. The form, content, and certification of any petition to amend shall be established by ordinance.

2. *Charter review: schedule; Charter Review Committee.*

a. *Schedule.* The Charter shall be reviewed at least once every ten (10) years.

b. *Charter Review Committee.* A Charter Review Committee shall be appointed. Each Commission Member shall appoint one member from the City, and the Mayor-Commissioner shall appoint one member. If any Commission Member fails to appoint a member, the Manager shall be empowered to appoint a member in his or her discretion. The City Commission shall provide support to the committee in order to help it achieve its goals. The Charter Review Committee shall be appointed at least one year before the next scheduled general election and complete its work and present any recommendations for change no later than sixty (60) days before the deadline set by the Supervisor of Elections to have a referendum placed on the ballot of the general election. The City Commission shall hold a minimum of two (2) public hearings on the proposed changes to the Charter prior to placing the proposed changes on the scheduled general election ballot. At its discretion, the City Commission may hold a special election with respect to any proposed changes in lieu of the general election.

3. *Initiative and referendum.* At least twenty-five (25) percent of the qualified electorate of the City shall have the power to petition the City Commission to propose an ordinance or to require reconsideration of an adopted ordinance, or to propose an amendment to this Charter. If the City Commission fails to adopt such ordinance or amendment so proposed, or to repeal such adopted ordinance, without any change in substance, then the City Commission shall place the proposed

ordinance or amendment, or the repeal of the adopted ordinance, on the ballot at the next general election.

Section 8-2. – General laws applicable.

All state law applicable to municipal corporations, now existing or which may hereafter be enacted, and which are not in conflict with the provisions of this Charter or the ordinances or resolutions now in force or hereafter enacted by the City Commission, shall be applicable to this City. However, nothing contained in this Charter shall be construed as limiting the power of the City Commission to enact any ordinance or resolution not in conflict with the laws or constitutions of this state and of the United States, or with the express provisions of this Charter.

Section 8-3. – Saving clause.

The provisions of this Charter are severable, and if any section, part of a section, paragraph, sentence, or clause of this Charter shall be adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of any other portion thereof, but shall be restricted and limited in its operation and effect to that specific portion hereof involved in the controversy in which such decision shall have been rendered. Upon a determination by a court of competent jurisdiction that a portion of this Charter is void, unconstitutional, or unenforceable, all remaining portions shall remain in full force and effect.

ARTICLE IX. – TRANSITION SCHEDULE

Section 9-1. – Continuation of former Charter provisions.

All provisions of the former Charter of the City of Wildwood, as amended by special law or otherwise which are not embraced herein and which are not inconsistent with this Charter, shall become ordinances of the City subject to modification or repeal in the same manner as other ordinances of the City.

Section 9-2. – Ordinances preserved.

All ordinances, resolutions, rules, and regulations lawfully passed and now in force in effect upon the adoption of this Charter, to the extent not inconsistent with it, shall remain in force until repealed or changed as provided herein.

Section 9-3. – Obligations of contracts preserved.

No debt or contract of the municipality, including bonds heretofore issued, shall be impaired or voided by the modification of this Charter.

Section 9-4. – Rights of officers and employees.

Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of adoption. Elected or appointed officers shall continue to hold their offices and discharge the duties thereof as provided for in this Charter.

Section 9-5. – Pending matters.

All rights, claims, actions, orders, contracts, and legal or administrative proceedings involving the City shall continue except as modified pursuant to the provisions of this Charter.

Section 9-6. – Schedule.

Time of taking full effect. This Charter shall be in full effect for all purposes when approved by a majority of the electors and certified by the City Commission as prescribed by state law. After this certification the first order of business of the City Commission shall be to reorganize under the provisions of this Charter.

Section 9-7. – Effective date.

This Charter shall become effective as of 12:01 a.m. on the day following the City Commission's canvass of the referendum results.

Charter Review Process Timeline

Proposed Schedule to Make the November 2026 Election Ballot

Milestone	Date
Charter Review Committee (CRC) Established	September 2024
CRC Kickoff Meeting Outlining Purpose and Process	October 2024
Kickoff Workshop with City Commission	October 2024
First Draft Changes Presented to City Manager	September 2025
Workshop with Commission to discuss proposed revisions	October 2025
CRC Recommends Final Draft to Commission	May 2026
1 st Reading of Ordinance	June 2026
Public Hearing of Ordinance	June 2026
Ordinance and Ballot Language sent to Supervisor of Elections	June 2026
Voters Consider the Revisions	November 3, 2026

RESOLUTION NO. R2024-18

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WILDWOOD, FLORIDA, ESTABLISHING A CHARTER REVIEW COMMITTEE TO REVIEW, RECOMMEND, AND SUBMIT PROPOSED AMENDMENTS AND/OR REVISIONS TO THE CITY CHARTER; PROVIDING FOR COMPOSITION OF THE CHARTER REVIEW COMMITTEE; ASSIGNING ITS DUTIES AND DURATION; PROVIDING FOR PUBLIC MEETINGS AND FOR A METHOD OF PROVIDING LEGAL AND STAFF SUPPORT FOR THE COMMITTEE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Wildwood, Florida is committed in adhering to and strictly abiding by the City Charter, as amended by Referendum on October 8, 2019; and,

WHEREAS, the City Commission recognizes the necessity of amending sections of the City Charter from time to time to take into account the changes in technology, financial inflation, changes in the law, and other factors which may facilitate the need for amendments; and,

WHEREAS, it is desirable for such advisory committee to make a study of such portions of the City Charter as shall be brought to its attention by the Commission, the City Manager, the City Attorney, or the City Clerk, as being ambiguous, unclear, or not in the best interests of the City, and to make recommendations for revisions of or amendments to the Charter as may appear necessary to assure the people of Wildwood that the Charter will be responsive to their interests and for the purpose of determining the advisability of amending any part or all of said Charter in accordance with the provisions of controlling legal authority; and,

WHEREAS, Article VIII., Section 8-1 of the City Charter provides for charter amendment and review by a Charter Review Committee.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WILDWOOD, FLORIDA, THAT:

1. The above recitals are true and correct and are incorporated herein by reference.
2. The City Commission hereby appoints a Charter Review Committee under the provisions of Article VIII., Section 8-1 of the City Charter. The Charter Review Committee shall consist of five (5) members, as well as, Commissioner Joe Elliott, as an ex-officio member, and two additional non-voting members. All members of the committee are listed on the attached Exhibit "A" and are hereby appointed by the City Commission.

3. The Charter Review Committee shall review and study the existing City Charter and possible amendments or revisions thereto and make written recommendations to the City Commission as to suggested amendments or revisions to all or part of the City Charter. The written recommendations of the Charter Review Committee shall be submitted to the City Commission no later than sixty (60) days before the deadline set by the Supervisor of Elections to have a referendum placed on the ballot of the general election. The Committee's responsibility shall be deemed completed upon submission of their recommendations.

4. The City Commission upon receipt of the findings and recommendations of the Charter Review Committee shall review same and determine whether the existing Charter should be amended or revised, in whole or in part. The City Commission may cause to be prepared such ordinance or ordinances as it may deem advisable to amend or revise the existing City Charter in the manner as provided by Article 8, Section 8-1 (2)(b) of the City Charter and Chapter 166.031, Florida Statutes. To the maximum extent practicable, the Committee shall conform the proposals of the Committee to such subjects and matters as may be brought to the attention of the Committee by the City Commission, the City Manager, City Attorney, or City Clerk.

5. The City Manager may from time to time exercise his authority to make expenditures for the Charter Review Committee in the performance of its duties as provided in this Resolution.

6. At the initial organizational meeting, the Committee shall select a Chairperson and Vice Chairperson. The Chairperson shall preside over subsequent committee meetings, and the Vice Chairperson shall assume the duties of the Chairperson in the absence of the Chairperson. Any vacancy created by the incapacity, resignation, or otherwise of a committee member shall be filled at the next regular or special meeting of the City Commission. All appointments to the Charter Review Committee shall be recorded by the City Clerk.

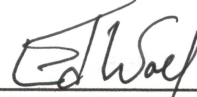
7. All meetings of the Charter Review Committee shall be noticed and open to the public. The public shall be encouraged to submit verbal and written comments to the Committee. The Committee shall have minutes of each meeting taken, which minutes shall be promptly recorded with the City Clerk, and such records shall be open to public inspection. A majority of the Committee shall constitute a quorum.

8. The City Manager, City Attorney, and City Clerk are hereby directed to support the Charter Review Committee in its organization and in considering, formulating, and making findings and recommendations.

9. This Resolution shall become effective immediately upon its passage and adoption. Upon consideration and acceptance of the findings and recommendations of the Charter Review Committee by the City Commission, the Committee shall be deemed disbanded and the Committee's existence shall terminate.

DONE AND RESOLVED this 9th day of September, 2024, by the City Commission of the City of Wildwood, Florida.

**CITY COMMISSION
CITY OF WILDWOOD, FLORIDA**



Ed Wolf, Mayor

ATTEST:



Jessica Barnes, City Clerk

City of Wildwood
2024 Charter Review Committee Members

David Fontaine
1185 Isabelle Pl, The Villages, FL 32163
716-816-9581
dfontaine4760@gmail.com

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Commissioner Joe Elliott (Ex-officio member)
5643 Fernandes Ct, Wildwood, FL 32163
757-846-1998
jelliott@wildwood-fl.gov

Student Liaison - Non-voting member
Wildwood Middle High School

Student Liaison - Non-voting member
Wildwood Middle High School