

Outline of Procedure for Revision of Village Charters Under the Home Rule Village Act

A digest of sections 11, 14, 15, 16, 18, 19, and 20 of
Act 278 of 1909 – The Home Rule Village Act –

MCL 78.II, 78.14, 78.15, 78.16, 78.18, 78.19 and 78.20;

MSA 5.1521, 5.1524, 5.1530

Any Village desiring to revise its charter shall do so in the following manner (unless the village charter provides otherwise):

MCL 78.14 MSA 5.1524

1. The question of having a general charter revision shall be submitted to the electors for adoption or rejection at the next municipal election or at a special election in either of the following two ways.
 - (a) By the legislative body of the village when it shall be a 2/3 vote of the members-elect, declare for a general revision of the charter, or
 - (b) By an initiatory petition (addressed to and filed with the village clerk) signed by qualified electors equal to at least 20 percent of the total vote cast for president at the last preceding election, and verified by the person or persons who obtained such signatures.

MCL 78.14 MSA 5.1524

2. In case the elector shall by a majority vote, declare in favor of such revision, a charter commission shall be elected.

Note: Law is not clear whether charter commissioners can be elected at the same election at which revision is voted on, but this is commonly done following the procedure in the City Home Rule Act (Section 18 of Act 279 of 1909, MCL 117.18; MSA 5.2097)

MCL 78.15 MSA 5.15225

3. The legislative body of the village shall fix in advance of the election of a charter commission, the manner of nominating and electing the same, the place of its meeting, the compensation, if any, of its members, the money for the expense thereof, and provide the ballots for election. (Subject to the following required provisions):

MCL 78.14 MSA 5.1525

Charter Commission shall consist of five (5) electors who are freeholders having a residence of at least two (2) years in the municipality. (A three-year residence requirement for city charter commissioners was held unconstitutional in *Mogk v City of Detroit*, 335 F. Supp. 698, by a three-judge Federal District court (1971). The two-year residency requirement may be subject to legal challenge.)

Charter Commission shall be elected at large on a non-partisan ballot and the five (5) candidates having the greatest number of votes shall be elected.

MCL 78.11 MSA 5.1521

4. The commissioners elected shall convene within ten (10) days after the election and take the constitutional oath of office and frame a charter for the village within sixty (60) days thereafter.

MCL 78.11 MSA 5.1521

5. The Commission's powers and duties include:
 - (a) to fill vacancies in its membership.
 - (b) to choose its own officers, determine the rules of its own proceedings, and to keep a journal.
 - (c) to enter a roll call of its members in the journal on any question at the request of any member.

MCL 78.1(a) MSA 5.1511(1)

- (d) to conduct its business at a public meeting held in compliance with the Open Meetings Act.
- (e) to make commission records available to public in compliance with the Freedom of Information Act.

MCL 78.19 MSA 5.1529

(f) to publish the proposed charter.

MCL 78.18 MSA 5.1528

6. After the Charter Commission has completed its proposed charter, and before its submission to a vote of the electors, it shall be presented to the Governor of the State. If he approves it, he shall sign it; if not, he shall return the charter to the commission with his objections (and any information or recommendation he may see fit to submit) which shall be spread at large on the journal of the charter commission which shall reconsider it; and on such consideration, if two-thirds (2/3) of the members agree to pass it, it shall be submitted to the voters.

MCL 78.19, 78.11 MSA 5.1529, 5.1521

7. Every charter, before submission to the electors shall be published in one (1) or more newspapers published in said village if one is published therein, and if not, then in some newspaper published in the same or an adjoining county and circulated in said village, at least once, not less than two (2) weeks and not more than four (4) weeks preceding said election, together with a notice of said election, and that on the date fixed therefore the question of adopting such proposed charter will be voted on. Notice of such election shall also be posted in at least ten (10) public places within the village not less than two (2) weeks prior to such election.

MCL 78.26(a) MSA 5.1536

- (a) The proposed charter shall be filed with the village clerk ninety (90) days before the election.

MCL 78.20 MSA 5.1530

8. If the revised charter is approved, two (2) printed copies with the vote for and against, duly certified by the village clerk, shall, within thirty (30) days after date of election, be filed with the Secretary of State, and a like number (2) with the county clerk, and shall thereupon become law.

MCL 78.26 MSA 5.1536

9. A village does not have the power to submit a revision of charter to electors more often than once every two (2) years, nor unless it shall be filed with the village clerk ninety (90) days before the election.

NOTE: A village with an existing home rule charter may have other provision in its charter which govern the procedure for charter revision. For an area which seeks to incorporate as a new village under the Home Rule Village Act, the charter commission has other powers and duties as provided by MCL 78.11; MSA 5.1521.