

Charter Amendment—HRC Legislative Body Resolution

Introduction

Home rule cities can amend their charters in accordance with procedures found in the Home Rule City Act. MCL 117.21-117.25. The amendment process may be used to change details in the charter. It is not permissible to change the form of government by charter amendment (e.g. providing for a council-manager system in place of a mayor-council form). Examples of changes that can be made by amendment are: increasing or decreasing the number of councilmembers, changing the clerk or treasurer position from elected to appointed, setting the purchasing limit that can be spent before the municipality is required to establish a bid process, and establishing pension plans.

Any proposed amendment must be confined to one subject. If a subject embraces more than one related proposition, each proposition must be separately stated to afford electors the opportunity to vote for or against each proposition (MCL 117.21).

Proposal

Charter amendments may be proposed in one of two ways, either by resolution of 3/5 of the members of the city's governing body (MCL 117.21) or by initiatory petition (MCL 117.21, 117.25).

Publication

The proposed charter amendment must be published in full with existing charter provisions which would be altered or abrogated by the amendment (MCL 117.21). The manner of publication shall be as prescribed by the city governing body (MCL 117.23). The publication requirement may be met by setting forth the amendment and the existing sections altered or abrogated in:

- the resolution proposing the amendment, if proceedings are published; or
- the election notice; or
- a separate publication.

Submission to the Governor

All proposed charter amendments must be submitted to the Governor for approval. This should be done immediately after the council resolution to submit the amendment to a vote of the electors is adopted. The amendment is approved by the Governor if it is found to be legally unobjectionable.

Statement of Purpose

The Act requires that a statement of the purpose of the proposed charter amendment be prepared to consist of a true and impartial statement of the purpose in not more than 100 words, including the short title or caption, in such language as shall create no prejudice for or against such amendment. The statement is prepared for printing on the ballot. However, the Act requires that the text of the statement be submitted to the Attorney General for approval as complying with the Act. It is necessary that it be submitted for such approval as early as conveniently possible. (This latter requirement is not to be confused with the requirement for submission of the proposed amendment to the Governor).

Frequently the "statement of purpose" is framed as a question and in this form is submitted directly to the electors. This has been held to be a valid method (*Thompson v Dearborn*, 348 Mich 23)

Election Procedure

(a) Election Date. The amendment can be submitted either at a special or regular city election or general state election to be held not earlier than 60 days after adoption of the council resolution to submit the amendment to a vote of the electors (MCL 117.21).

(b) Election Notice. If the proposed amendment is to be submitted at a regular or general election, notice of the proposition to be voted on will be added to the regular election notice, by including a caption or brief description of the proposal(s) along with the location where an elector can obtain the full text (MCL 168.653a). The publication of the election notice must be at least 7 days before election day, while the publication of the notice of last day of registration must be at least 7 days before the last day for receiving registrations. (See Appendix C for suggested election notice form).

(c) Form of Ballot. The form of ballot customarily is established by the resolution of the governing body calling for the election on the proposal to amend the charter. If the section of the charter to be amended is reasonably short, the ballot will usually set forth the section in its amended form in full. Occasionally in such cases both the section in its existing form and in its proposed amendment form will be set forth on the ballot.

However, it is required only that the statement of purpose appear on the ballot (MCL 117.21), and the statement of purpose may be in the form of the question itself. If it is not, then the question can be framed with reference to the statement of purpose somewhat like this:

“Shall Section_____of the city charter be amended to provide_____, as explained above?”

A short title or caption may be used on the ballot for quick identification; however, together with the statement of purpose it must not exceed 100-words.

The proposed charter amendment in full shall be posted in a conspicuous place in each polling place (MCL 117.21).

Filing

If the amendment is approved by the electors, two printed copies must be filed within 30 days after the election with the Secretary of State and two copies with the county clerk, together with a statement certified by the city clerk of the vote for and against the amendment. Upon such filing, the amendment becomes effective unless a different date for taking effect is set forth in the amendment (MCL117.24).

Resubmission

A proposed charter amendment defeated in an election may not be resubmitted to the electors for a period of two years (MCL 117.21).

APPENDIX A

CHECKLIST

PROCEDURE FOR CHARTER AMENDMENT

PROPOSED BY GOVERNING BODY

MCL Reference

- MCL 117.21 1. A resolution proposing the amendment and setting the date for election is adopted. requires a 3/5 vote of the members of the governing body.
- MCL 117.22 2. City clerk sends copy of the proposed amendment to the Governor for approval.
- MCL 117.21 3. City clerk sends copy of the “statement of purpose” of the proposed amendment to the Attorney General.
- MCL 117.21 4. City clerk publishes proposed amendment in full with charter sections altered or abrogated, as directed by governing body. (This can be fulfilled in the Resolution, the notice of last day of registration, the election notice, or a separate publication.)
- MCL 168.498 5. City clerk publishes notices of last day for registration (at least seven days before the last day for receiving registrations). The notice shall include a caption or brief description of the ballot proposal, along with the location where the full text can be obtained.
- MCL 168.653a 6. City clerk publishes the election notice (at least seven days before the election). The notice shall include a caption or brief description of the proposal along with the location where the full text can be obtained.
- MCL 117.21 7. Election day (at least 60 days after adoption of resolution).
- MCL 117.24 8. City clerk will file two copies of the approved amendment with the Secretary of State and two copies with the county clerk (within 30 days after election day).

APPENDIX B
SUGGESTED RESOLUTION FORM

BE IT RESOLVED, by the city council of the city of _____, Michigan as follows:

1. By a 3/5 vote of its members-elect, pursuant to the authority granted by Public Act 279 of 1909, as amended, proposes [that section _____ of the charter of the city of _____ shall be amended to read as follows:] or [that a new section _____ be added to the charter of the city of _____, to read as follows:]

[Insert the section in the proposed form.]

Provisions of existing section _____ of the charter of the city of _____ to be altered or abrogated by such proposal, if adopted, now read as follows:

[Insert the section altered or abrogated in full.]

2. The purpose of the proposed amendment shall be designated on the ballot as follows:

[Insert the purpose of the amendment and a brief title or caption, in not more than 100 words.]

3. The city clerk shall transmit a copy of the proposed amendment to the Governor of the State of Michigan for approval, and transmit a copy of the foregoing statement of purpose of such proposed amendment to the Attorney General of the State of Michigan for approval, as required by law.

4. The proposed charter amendment shall be submitted to the qualified electors of this city at an election to be held in _____ on _____, and the city clerk is directed to give notice of the election and notice of registration in the manner prescribed by law.

5. The proposed amendment shall be submitted to the electors in the following format:

PROPOSED AMENDMENT TO SECTION _____ of the CHARTER OF THE CITY OF _____ TO _____.

A city charter amendment proposed by the city council to amend section _____ of the charter by _____

[Insert statement of purpose as set forth in paragraph 2, above]

“Shall section _____ of the charter of the city of _____ be amended to _____?”

[Here insert the brief title, as above, or, if the amendment is short and not too complex, it may be desirable to insert the proposed amended section in full.]

[YES] [NO]

6. The proposed amendment shall be published in full together with the existing charter provision altered or abrogated by the amendment [as part of the notice of election] or [once in _____ newspaper not less than _____ days prior to the election.]

(Note: This section may be omitted altogether if the resolution will be printed in full as part of the minutes of the meeting at which adopted.)

7. The canvass and determination of the votes of said question shall be made in accordance with the laws of the State of Michigan and the charter of the city of _____.

APPENDIX C
SUGGESTED FORM FOR ELECTION NOTICE

ELECTION NOTICE

To the qualified electors of the city of _____,

Notice is hereby given that a _____ election

(indicate whether regular, special, or primary)

will be held in _____, on _____(date),

from 7 a.m. to 8 p.m. for the purpose of voting on the following proposals:

(list all proposals to be submitted to voters)

Proposal No. 1

[Insert caption of proposal, if any, as it will appear on ballot.]

[Insert statement of purpose as submitted to and approved by Attorney General] so as to read as follows:

[Insert section of charter in its proposed amended form.]*

Provisions of existing charter to be altered by such proposal, if adopted, now reads as follows:

[Insert the section or sections abrogated or altered in full.]*

List of polling place locations _____

(clerk)

[Insert the section or sections abrogated or altered in full.]*

List of polling place locations _____

(clerk)

* If proposed charter amendment together with existing charter provisions which would be altered or abrogated have been published in full with the published proceedings of the meeting at which the resolution was adopted or in a separate publication, these portions of the election notice may be omitted.