

Municipal Report

City Charter Revision

Revising a city charter may be accomplished under the Home Rule City Act (PA 279 of 1909). Originally, charter revision was important because it enabled existing cities, operating under legislative charters, to come under the new Home Rule Act and acquire the benefits of home rule status. The form of government written into the new charter was usually of secondary importance in early days. Now, however, all cities are under the Home Rule Act. Nevertheless, charter revision is still important. Many charter changes can be accomplished by charter amendment (see MML Fact Sheets on charter amendment), but those which effect a change in the form of government cannot be implemented by amendment. Such changes require charter revision.

The procedure for revising a city charter is covered in sections 15, 18, 19, 20, 22, 23, 24, and 25 of the Home Rule City Act (MCL 117.15 et seq.). (See Appendix C.) Charter revision procedure can be started either by resolution of the city legislative body (adopted by a three-fifths vote of the total membership of the body) or by the petition method as outlined in section 25 of the Home Rule City Act. Once the procedure is begun, however, subsequent steps are identical.

The election on the question of revising the charter may be held separately or simultaneously with the election of charter commissioners. It is more expensive to have two elections, so simultaneous election of charter commissioners is the generally favored practice. The Act provides that the election of the charter commissioners is (quite necessarily) void if the proposition to revise is not adopted.

Where the election on the proposition to revise is held separately, then the statute directs that the election of the charter commission is to follow within 60 days. Please note that the Home Rule City Act has not been amended to reflect the changes to Michigan's Election Law. Under the Election Consolidation Act, cities are only permitted to hold an election in May, August, and November; and additionally, March in presidential election years.

The Act requires charter commissioners to have three years' residence in the city. However, this was held unconstitutional in *Mogk v. City of Detroit*, 335 F. Supp 698, (1971). The Act further declares that all city officers and employees are ineligible to sit on the charter commission. (No such proscription applies to a charter commission elected to prepare the first charter of a new city under section 15 of the Act and township or village officers and employees in the territory which will comprise the new city may be elected to the charter commission.)

The Attorney General has opined that acceptance of office as a councilmember while serving as a charter commissioner vacates the office of commissioner (OAG 1913, p. 191). The Attorney General has also held that a sitting councilmember may run for election to the charter commission and if elected to charter commissioner must resign the council seat before taking office (OAG 7085, 2001).

The method of electing charter commissioners is unusual. First, in all cases the election must be non-partisan. Secondly, if the city charter already provides for non-partisan elections, as most Michigan charters do, then the method prescribed in the charter for electing city officers is used to elect the charter commissioners. This results in some variation in the election methods followed.

Only in those cases where no provision is made in the charter for non-partisan election of city officers, do the election provisions contained in section 18 of the Home Rule City Act come into operation.

Where no provision is found covering a particular aspect of the election of charter commissioners, either in the Act or in the city charter, then the election is to be conducted as nearly as may be possible as is provided in the General Election Law for the election of city officers.

Note: These materials and forms are designed to provide general assistance in a rather technical area. In all cases, your municipal attorney should be consulted before action is taken.

Basically, section 15 of the Home Rule City Act is intended to deal with charter commissions for new incorporations and sections 18, 19, and 20 are intended to deal primarily with revision for existing cities. In a few instances, there are some minor inconsistencies between the procedural rules for the new city charter commission (section 15) and for the charter revision commission of an existing city (section 20).

Home Rule City Act Comparison of Procedure	
New City Charter Commissions (Section 15)	Charter Revision Commissions (Section 20)
1. Take oath of office	1. Same - administered by clerk
2. May fill vacancies	2. Same
3. Five members for quorum	3. Majority of members (5)
4. To convene within 10 days after election	4. To convene second Tuesday after election
5. To frame charter in 90 days (Directory only-OAG 1914, p.70)	5. No compensation after 90 days (Doesn't require completion in 90 days - <i>Harvey v. Port Huron</i> , 225 Mich. 368)
6. Chooses its officers	6. Same
7. Fixes rules of procedure	7. Same
8. Keeps journal	8. Same
9. Record roll call vote on demand of any one member	9. Record roll call vote on demand of two members unless adopt rule for such action on demand of one
10. Publish charter in newspaper at least one time not less than 2 nor more than 4 weeks before election	10. Published as commission prescribes (section 23)
11. Publish election notice	11. By implication from section 26 the city legislative body does this
12. File charter with clerk 60 days before election (section 5)	12. Same (section 5)
13. Submit charter to governor for approval (section 22)	13. Same (section 22)
14. Meetings must be public and held in compliance with Open Meetings Act (section 15)	14. All sessions shall be public (section 20)

Charter Revision Commissions

As indicated previously, there are minor differences between a charter commission elected for an original charter of a new city and a charter revision commission. The sections of the statute applicable to the charter revision commission will be briefly reviewed.

Duties of the Local Legislative Body

Section 19 of the Home Rule City Act (MCL 117.19) provides that in the case of charter revision commissions, the city council shall fix, in advance of the election of a charter commission, the following:

- (1) Place of meeting
- (2) Compensation for commissioners
- (3) Amount of money to be allowed for expenses of the charter commission
- (4) Provide the ballots for the election of commissioners

No special procedure for carrying out these directions is prescribed. Normally, one or more resolutions would be adopted attending to these matters (See Appendix A).

Duties of the Charter Commission

Section 20 of the Home Rule City Act (MCL 117.20) prescribes rules for operation of the charter revision commission in a manner somewhat similar to that prescribed in section 15 for the charter commissions for new cities (See page 2).

Advisory Votes and Special Options

These procedural sections contain certain provisions which go to the substance of charter drafting. While the principal rules for drafting are delineated in the early sections of the Home Rule City Act which contain both mandatory and optional provisions as well as limitations on powers which can be granted cities, certain options contained in the procedural sections cannot be overlooked.

Among these are the provisions for certain advisory votes on questions which can be submitted to the electors in conjunction with the vote on the initial proposal to revise the charter (section 18). Advisory votes may be taken on the form of government (e.g. council-manager to strong mayor form or vice versa) or on retaining special powers, limitations or provisions in an existing legislative charter. The statute uses the term "advisory" in referring to this vote and no authoritative interpretation has been had as to the effect of such a vote. Also, in section 18, the power is specifically given to the charter commission to continue any power, limitation, or provision in an existing legislative charter whether or not there has been any "advisory" vote on the subject. Independent propositions or alternate provisions may be submitted along with the charter (MCL 117.23).

Election Procedures

Suggested forms for the resolution to be adopted by the city legislative body calling for an election on the question of charter revision and a petition form for initiating this procedure as an alternate to city legislative body action, are set forth as Appendices "A" and "B". The exact form of such resolutions is not specified by the statute. Some resolutions spell out the provisions for notice of last day for filing of nominating petitions, notice of last day for registration, notice of election and other provisions in some detail, while other such resolutions simply direct the city clerk to make necessary arrangements to publish necessary notices in accordance with the local charter and laws of the State of Michigan.

There are, of course, a number of requirements in the Michigan Election Law which must be given consideration in arranging for an election of this type. Prior to making such arrangements, the latest amendments to the general election law should be consulted, as changes are frequently made in such laws. The following provisions are especially pertinent:

- (1) A time must be set for the deadline for filing nominating petitions. Normally this will be established by the city charter and the charter will govern if it contains a provision on this point. If the charter does not contain any provision establishing a deadline for filing nominating petitions, then apparently

the deadline is set by analogy to sections 322, 551, and 646(a) of the general election law (MCL 168.322, 168.551, and 168.646(a)). If the charter calls for publishing notice of the last day for filing nominating petitions, then such notice must be given. If the charter does not so prescribe, then the giving of special notice is optional. But good practice suggests that it be given on the same basis as other notices (twice in a newspaper of general circulation; first publication not less than ten days prior to last day for filing).

(2) Scheduling. A special election for the submission of a proposition may be held on a regular election date. (MCL 168.635).

(3) Notice of last day for registration must be published as provided in the general election law (MCL 168.498).

(4) Notice of election. To be published in a newspaper of general circulation. A caption or brief description of the proposal or proposals along with the location where an elector can obtain the full text of the proposal or proposals shall be included in the notice. The publication shall be made not less than 7 days before the election. The statute shows form of notice (MCL 168.653(a)).

(5) If a ballot question of a political subdivision of this state including, but not limited to, a county, city, village, township, school district, special use district, or other district is to be voted on at a regular election date or special election, the ballot wording of the ballot question shall be certified to the proper local or county clerk not later than 4 p.m. on the twelfth Tuesday before the election. If the wording is certified to a clerk other than the county clerk, the clerk shall certify the ballot wording to the county clerk at least 82 days before the election. Petitions to place a county or local ballot question on the ballot at the election shall be filed with the clerk at least 14 days before the date the ballot wording must be certified to the local clerk. (MCL 168.646(a)).

Where no provision is made in the city charter for nonpartisan election procedures, then section 18 of the Home Rule City Act governs in nominating charter commissioners. Nonpartisan petitions are to be signed by a number of qualified electors equal to not less than two percent and not more than four percent of the total vote cast for the chief executive officer (mayor). The form for the nominating petition in both cases is prescribed by the General Election Law (MCL 168.544(a), 168.544(c)).

Submission to Governor

A proposed revised charter is submitted to the governor for review. This should be done a minimum of 90 days prior to the filing deadline. The attorney general reviews it and advises the governor regarding its legality. The governor signs the charter if approved; if not, the charter is returned to the charter commission with a commentary of recommended corrections. If the governor does not approve a proposed charter, the scheduling of a vote is determined by the charter commission which generally seeks to obtain the approval of the governor.

Section 5 of the Home Rule City Act (MCL 117.5) prohibits submitting to the electors a revised charter more often than once in every two years. This section also requires that the charter be on file with the city clerk at least 60 days before the election. However, section 18 of the Home Rule City Act (MCL 117.18) as last amended in 1966, provides a somewhat more definite procedure for resubmission of a charter which supersedes section 5 to the extent that resubmission of a revised charter is involved. (Prior to 1966, it was required that a petition signed by registered electors be submitted to the city council in order to obtain a resubmission of a rejected charter.) However, with the 1966 amendment such resubmission is wholly within the control of the charter revision commission. The commission may immediately reconvene and either determine to terminate its existence or to provide for a further revision and amendments to the revised charter previously prepared. It may be resubmitted up to three times but if rejected three times or if no revised charter is adopted for three years following the adoption of the proposition to revise, then the charter revision commission terminates and ceases to exist. If the resubmitted charter contains no material changes, it is unnecessary to obtain a second approval of the governor and to file the charter with the city clerk for 60 days prior to the election, according to the opinion of the Attorney General published in a 1914 report on page 503. The election on resubmission is, however, conducted in the same manner and with like notice and proceedings as required in the first instance.

Appendix A

Resolutions Calling for Charter Revision

Model (with optional clauses)

Sample: Grand Ledge (proposal to revise and set election)

Appendix B

Petition-Initiated Charter Revision

Appendix C

Sections of Home Rule City Act Governing Procedure for Charter Revision

Appendix A

Model Resolution Declaring For Charter Revision

RESOLVED, That the city council of the City of _____ hereby declares for a revision of the charter of the City, as provided and permitted by Public Act No. 279 of the Public Acts of 1909, State of Michigan, as amended.

FURTHER RESOLVED, That the question of having a general charter revision shall be submitted to the electors of the City of adoption or rejection at a special election, to be held concurrently with the general (or municipal) election to be held on the _____ day of _____, 20____.

FURTHER RESOLVED, That at such election there shall be elected from the City at large a charter commission consisting of nine electors of the City who are not officers or employees of the City, the selection of such charter commission to be void if the proposition to revise is not adopted. The candidates for such charter commission shall be nominated and elected in the manner prescribed by the City Charter for the nomination and election of members of the City Council. (In case the City Charter provides for ward elections, the following may be added—except that the nomination and election of said charter commissioners shall be from the city at large.)

FURTHER RESOLVED, That the City Clerk shall give notice of the last day for registration and the election in the manner provided by law and said question on the revision of the charter of the city shall be submitted to the electors in the following form:

"Shall there be a general revision of the charter of the City of _____ ?

For the charter revision yes

For the charter revision no"

FURTHER RESOLVED, That the last day and hour for receiving nomination petitions for candidates for the office of charter commissioner shall be 4:00 on the _____ day of _____, 20____. And the city clerk shall make available appropriate non-partisan petition forms and give due notice to the last day and hour for filing petitions by two publications of notice thereof in a paper of general circulation within the city, the first publication to be not less than ten days prior to the last day of filing.

Optional Clauses

If the charter does not provide for non-partisan elections, the following should be substituted for the clause relative to nomination and election of charter commissioners.

The candidates for such charter commission shall be nominated by petition without reference to, or designation of, party affiliation, signed by a number of qualified electors of the city equal to not less than two percent and not more than four percent of the total vote cast for mayor at the last preceding election.

Compensation

Sometimes a provision for compensation is included in the terms of this resolution. In other cases the city council will adopt a separate resolution establishing compensation. A typical clause dealing with compensation is:

FURTHER RESOLVED, That the charter commissioners elected at this election shall be compensated at the rate of _____ (or: serve without compensation). No member shall receive compensation for more than 90 meetings and only for actual attendance. Charter commissioners shall be entitled to incur necessary expenses in connection with the work of the charter commission. The place of meeting for said charter commission shall be _____.

Advisory Vote on Change in Form of Government

FURTHER RESOLVED, That there shall also be submitted to the electors of the city at such election, for an advisory vote, the question of change in the form of government of the city in accordance with Section 18 of Act 279 of the Public Acts of 1909, as amended. The question of a change in the form of government shall be submitted to the electors in the following form:

"In the event there is a general revision of the charter of the City of _____, shall there be a change in the form of government to the _____ form of government?

Yes

No

Continuing Special Charter Provision

FURTHER RESOLVED, That there shall also be submitted to the electors of the city at such election, for an advisory vote, the question of continuing the following provision of the charter of the City of _____ in the event said charter is revised. The question of continuing such provision of such charter shall be submitted to the electors at such election in the following form:

"Shall the following provision of Act No. _____ of the Public (or local) acts of _____, State of Michigan, as amended, be continued as a part of the revision charter of the City of _____ in the event the charter of said city is revised:"

(Here set forth the provision to be retained)

Sample: Grand Ledge

A Resolution to Propose a General Revision of the City Charter

A resolution adopted by the Grand Ledge City Council, at a regular meeting held on Monday, 11 January 2016, in the Council chambers, City Hall, 310 Greenwood St. Grand Ledge, Michigan.

Whereas, the City of Grand Ledge, Michigan ("City") is a municipal corporation organized under the provisions of the Home Rule City Act, Public Act 279 of 1909, as amended, and is governed by the provisions of the Grand Ledge City Charter adopted 03 January 1963, as amended ("Charter"); and

Whereas, the current Charter was originally approved by the Governor on 26 March 1963 and adopted by the City on 01

April 1963, and has been amended on several occasions; and

Whereas, the City Council believes that as our community changes in various ways over time, the Charter needs to change with it, because an outdated Charter hinders the ability of the local government to serve the needs of our City and its residents properly; and

Whereas, the Home Rule City Act establishes the procedures to be followed for amending or revising a city charter; and

Whereas, the Home Rule City Act, Section 18 (MCL 117 .18), provides that when the legislative body of a city declares by a 3/5 vote of its members elect that there shall be a general revision of a city charter, the question of having a general revision of a city charter shall be submitted to the electors of the city for adoption or rejection at the next general or municipal election; and

Whereas, the next general election is the 02 August 2016 election; and

Whereas, the Michigan Election Law, 19 54 P A 116, codified at MCL 168.1, et seq., as amended, governs the elections within the State of Michigan, and provides the time-frame for when ballot wording for local ballot proposals must be submitted to the City Clerk and the County Clerk [Section 646a of the Michigan Election Law (MCL 168.646a)]; and

Whereas, the Michigan Secretary of State has advised the ballot wording for local ballot proposals to be voted on at the 02 August 2016 election must be certified and filed by not later than 4:00p.m. on Tuesday, 10 May 2016, with the local clerk providing the ballot wording to the County Clerk within two days; and

Whereas, the City Council has determined is in the best interests of the citizens of the City to submit to the electors of the City a proposal for a general revision of the Charter, and desires to have the issue placed on the ballot for the 02 August 2016 election;

Now, Therefore, It Is Resolved:

1. An election of the electors of the City shall be called and held at the next general election on Tuesday, 02 August 2016.

The proposition to be voted on at that election shall be stated on the ballots in substantially the form as set forth below:

GENERAL REVISION OF CITY CHARTER PROPOSAL

Shall there be a general revision of the Grand Ledge City Charter?

Yes

No

2. The City Clerk is authorized and directed to file this resolution with the respective County Clerks for the County of Eaton and the County of Clinton, not later than 4:00p.m. on Tuesday, 10 May 2016.

3. All resolutions and parts of this resolution that conflict with the provisions of this resolution are rescinded.

Motion by Willems; **Second by** Lantz;

Ayes: Lantz, Malecki, Mulder, Roberts, Smith, Sowle, Willems; **Nays:** None; **Absent:** None

Resolution #02 of 2016

I, Gregory L. Newman, Grand Ledge City Clerk, certify this is Resolution #02 of 2016, adopted by the Grand Ledge City Council at a regular meeting held on Monday, 11 January 2016; a meeting held in accordance with the Open Meetings Act, Public Act No. 267 of 1976, as amended.

Appendix B

Petition-Initiated Charter Revision

A city charter revision may also be initiated by petition. Much of the procedure will be the same as for a revision initiated by the governing body.

Initiation. Section 25 of the City Home Rule Act provides for two types of petitions, the so-called five percent petition and the 20 percent petition. An initiative petition must be signed by at least five percent of the registered electors of the city. When such petition is signed by 20 percent or more, the Act provides for certain differences with respect to election proceedings as explained under the Election Date heading in this Appendix.

Petition Form. The Act establishes certain standards for the completion of the petition, as follows:

1. The petition must be addressed to and filed with the City Clerk.
2. Each signer must inscribe after his or her signature the date of signing, and his or her street and address.
3. No signatures obtained more than one year before the filing of the petition shall be counted.
4. The petition must state what organization, if any, or, if none, what person or persons are primarily interested in and responsible for circulating the petition.
5. Each sheet of the petition must be verified by affidavit of the person who obtained the signatures.

The city clerk has the function of insuring compliance with the statutory standards. Within 45 days from the date of receipt, he/she must check the petition and determine whether the petitioners are registered electors. If the petition conforms to the requirements, the city clerk shall certify the same, report that fact to the governing body, and establish the date of election. If the petition is found not to meet the statutory requirements, the city clerk will report this to the governing body and take no further action.

Election Date. Establishment of the election date by the city clerk will vary depending on whether the petition has been initiated by a five percent petition, or 20 percent petition.

In case of a five percent petition, the proposal can be submitted *only at the next regular city or general state election* occurring not less than 90 days after the filing of the petition (MC.L. 117.25). If a charter amendment initiated by a five percent petition is submitted at a special or primary election, it has been held that the vote is void (*Attorney General v. Bay City*, 334 Mich. 514 (1952)).

Section 25 is written in terms of submitting of a charter amendment. It applies to charter revision only because of the reference to section 25 found in section 18 of the City Home Rule Act. Nevertheless, it seems likely that the rule in *Attorney General v. Bay City* would also apply to the submission of charter revision proposals.

A 20 percent petition may request that the proposed amendment be submitted at a special election. If such petition contains a request for a special election, the city clerk, within 90 days after the filing of the petition, must call a special election no less than 120 days after the filing of the petition.

Appendix C

Sections of the Home Rule City Act Governing Procedure for Charter Revision

117.15 Election of Charter Commission

Section 15. (1) At an election on the question of the intent to incorporate a new city, or to make a consolidation permitted by this act, each elector residing within its proposed territorial limits shall be entitled to vote for 9 electors, residing in the territory which it is proposed to incorporate or consolidate, as members of a charter commission, and the notices required by Section 10 shall include notice of the election of those electors. The ballot shall be prepared by the clerk of the county in which the territory is located or if located in more than 1 county, then by the clerk of the county in which the greater portion of the territory is located. The expense of the ballot preparation is to be borne by that county. If the proposed city is incorporated as provided in this act, the county shall be reimbursed by the city at the time the charter is filed. The county clerk shall prepare the ballot to be used at the election pursuant to the general election laws of the state as follows:

For city incorporation. Yes ()

For city incorporation. No ()

Of, if the proposition be to consolidate, the ballot shall be as follows:

For consolidating (naming entities) into 1 city. Yes ()

For consolidating (naming entities) into 1 city. No ()

(2) The county clerk shall also prepare a separate ballot and place on the ballot, without party designation, under the heading, candidates for members of the charter commission, the names of the electors having the qualifications required by this act for a member of the charter commission, who file a petition signed by 20 qualified electors residing in the territory proposed to be incorporated, asking that their names be placed on the ballot. For a consolidation, the electors of each city, township, village, or part of a township, proposed to be consolidated shall vote for and elect the number of the 9 members of the charter commission as shall be substantially in proportion to the number of registered electors of the city, village, township, or part of a township, according to the registration rolls of the last regular state, city, or village election held in the city, village, township, or part of a township, but the member to be elected in a city, village, or township shall not be less than 1. The county board of commissioners or the secretary of state shall determine and prescribe the number of members of the charter commission to be elected from each city, village, township, or part of a township in the case of a consolidation, pursuant to this subsection. The position of the names of the candidates upon the ballots shall be interchanged as provided in the general primary election law of this state. The ballot shall also bear instruction directing that not more than 9 candidates shall be voted for or, if the proposition is to consolidate, the ballot for members of the charter commission in each city, village, township or part of a township, proposed to be consolidated shall bear instructions directing that not more than the number of candidates determined by the county board of commissioners or the secretary of state to be elected in the city, village, township, or part of a township shall be voted for. On the vote being canvassed on the question of the intent to incorporate or consolidate, if the result is determined to be in favor of the intent to incorporate or consolidate, the board of canvassers shall canvass the votes cast for members of the commission, and certify the election of the 9 persons receiving the highest number of votes cast. The elected members of the commission shall take the constitutional oath of office, and may fill vacancies in their membership. Five members shall constitute a quorum.

(3) The charter commission shall convene within 10 days after election, and frame a charter for the proposed city within 90 days after the meeting. The business which the charter commission may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the

Public Acts of 1976. Notice of the time, place, and date of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The charter commission shall choose its own officers, determine the rules of its proceedings, and keep a journal. A roll call of its members on a question shall be entered on the journal at the request of any member. The commission shall provide the manner of nominating the candidates for the first elective officers provided in the proposed charter. The commission shall fix the date of the first city election and do and provide other things necessary for making the nominations and holding the election.

The election may be held at a special election or on the same date as a general election. The commission shall publish the proposed charter in 1 or more newspapers published in the proposed city, at least once, not less than 2 weeks and not more than 4 weeks preceding the election, together with a notice of the election and that on the date fixed for the election the question of adopting the proposed charter will be voted on, and that the elective officers provided for in the charter will be elected on the same date.

Notice of the election shall also be posted in at least 10 public places within the proposed city not less than 10 days before the election. The commission shall provide for 11 or more polling places for the election, and give similar notice of their location as is given of the election, and shall appoint the inspectors of the election. The results of the election shall be canvassed by the county board of canvassers.

117.18 Charter Revision Procedure

Section 18. Any city desiring to revise its charter shall do so in the following manner, unless otherwise provided by charter; when its legislative body shall by a 3/5 vote of the members elect declare for a general revision of the charter, or when an initiatory petition shall be presented therefor as provided in section 25, the question of having a general charter revision shall be submitted to the electors for adoption or rejection at the next general or municipal election, or at a special election. In case the electors shall, by a majority vote, declare in favor of such revision, a charter commission shall be elected within 60 days consisting of 9 electors of such city having a residence of at least 3 years in the municipality, or the legislative body by a 3/5 vote of the members elect or the initiatory petition may provide that the charter commission be selected at the same election at which the proposition to revise is submitted; the selection shall be void if the proposition to revise is not adopted.* No city officer or employee, whether elected or appointed, shall be eligible to a place on the commission.

In the cities where provision is made by the city charter for the non-partisan elections of city officers, the method prescribed for such elections shall apply in the election of charter commissioners. Where no such provision is made by the charter of such city, candidates shall be nominated by petition without reference to or designation of party affiliation, signed by a number of qualified electors of such city equal to not less than 2 percent and nor more than 4 percent of the total vote cast for the chief executive office, or the highest vote for any commissioner in cities having the commission form of government, of such city at the last preceding election, asking that the name of the candidate designated be placed upon the ballot. The names of all candidates so nominated shall be placed upon a separate ballot at the election designated to be held for the election of a charter commission and without their party affiliations designated; the 9 candidates having the greatest number of votes shall be declared elected; the election of the members of such commission, except as herein specified, shall be conducted as near as may be as now provided by law for the election of city officers in the respective cities of this state unless special methods shall be otherwise provided in the charter of such city.

If the proposed revised charter is rejected by the electors of the city, the charter revision commission shall immediately reconvene and determine whether to take no further action, in which case it shall terminate and cease to exist, or whether to provide a revision of, or amendments to, the revised charter previously prepared by the commission. The proposed revised charter with amendments shall be resubmitted to the qualified electors of the city in the same manner and with like notice and proceedings as required in the first instance. A proposed revised charter, as originally submitted or resubmitted with amendments, shall be submitted not to exceed 3 times to the qualified electors of the city. If the charter is rejected 3 times, or if no revised charter is adopted during 3 years following the adoption of the proposition to revise, then the charter revision commission shall terminate and cease to exist. A new proposal to revise may be adopted at any time after termination of a charter revision commission.

When the question of having a general revision of the charter shall be submitted to the electors of any city, the legislative body of such city or the initiative petitions may provide for the submission with such question for an advisory vote of the question of a change in the form of government of such city, or the question of continuing any power, limitation or provision granted to such city in a charter granted or passed by the legislature for the government thereof. When such advisory vote is requested in an initiatory petition, such question shall be submitted as herein before provided. In the revision of the charter of any city, any power, limitation or provision granted to such city in any charter granted or passed by the legislature for the government of such city and contained in the charter to be revised may be included in such revised charter, and when so included, such power, limitation, or the effect of any such provision shall continue with the same force and effect as when granted or passed by the legislature in the first instance.

*Three year residency requirement declared unconstitutional. See page 1.

117.19 Duties of City Council

Section 19. The legislative body of the municipality unless it is otherwise provided, shall fix in advance of the election of a charter commission the place of its meeting, the compensation of its members, the money for the expense thereof, and if need be provide the ballots for election.

117.20 Powers and Duties of Charter Commission

Section 20. The charter commission shall convene on the second Tuesday after the election at the place designated pursuant to section 19. The city clerk shall preside at the first meeting, shall administer the oath of office to the members-elect, and shall act as clerk of the commission. The charter commission shall be the sole judge of the qualifications, elections, and returns of its members, shall choose its officers except clerk, shall determine the rules of its proceedings, and shall keep a journal. A roll call of the members on a question shall be entered on the journal at the request of 1/5 of the members or less if the commission shall so determine. The commission may fill a vacancy in its membership, and shall fix the time for the submission of the charter to the electors. A member shall not receive compensation for more than 90 meetings of the commission and only for actual attendance. A member of the commission shall not be paid for more than 1 meeting per day. A majority of the members shall constitute a quorum, and the sessions of the commission shall be public.

117.22 Role of Governor

Section 22. Every amendment to a city charter whether passed pursuant to the provisions of this act or heretofore granted or passed by the state legislature for the government of such city, before its submission to the electors, and every charter before the final adjournment of the commission, shall be transmitted to the governor of the state. If he shall approve it, he shall sign it; if not, he shall return the charter to the commission and the amendment to the legislative body of the city, with his objections thereto, which shall be spread at large on the journal of the body receiving them, and if it be an amendment proposed by the legislative body, such body shall reconsider it, and if 2/3 of the members-elect agree to pass it, it shall be submitted to the electors. If it be an amendment proposed by initiatory petition, it shall be submitted to the electors notwithstanding such objections.

117.23 Publication of Proposed Charter; Vote on Separate Proposition or Alternative Provision

Section 23. (1) A proposed city charter and each amendment to an existing city charter before submission to the electors, shall be published as the charter commission or the legislative body may prescribe. A proposed charter may be submitted to the qualified electors as an entirety in a single proposition substantially as follows:

"Shall the city charter proposed by the city charter commission be adopted?" Adoption of a proposed charter shall require a simple majority of those voting on the question.

(2) When submitting a proposed charter, separate propositions, on specific charter provisions may also be submitted to the qualified electors. In such case, all propositions shall be in such form as are approved by the attorney general as to clarity and impartiality. If the proposed charter and any of the separate propositions are adopted, the new charter shall take effect with the alternatives or additions contemplated by such separate propositions as are adopted. Adoption of a separate proposition which is an alternative

to a provision contained in the proposed charter shall require approval by a majority of those voting on the separate proposition and also a majority of those voting on the proposed charter; otherwise the adoption of a separate proposition shall require a simple majority. The ballot shall contain voting instructions and a brief explanation of the effect of each of the propositions.

117.24 Effective Date of Newly Adopted Charter

Section 24. If the charter, or any amendment thereto, whether of cities incorporated under the provisions of this act, or under an existing charter of the city heretofore granted or passed by the legislature for the government of the city, be approved, then 2 printed copies thereof, with the vote for and against duly certified by the city clerk shall, within 30 days after the vote is taken, be filed with the secretary of state, and a like number with the county clerk of the county in which such city is located and shall thereupon become law, unless a different date for the taking effect of such charter or charter amendment, or any part thereof, is specifically set forth therein.

117.25 Charter Revision by Citizen Initiative

Section 25. (1) An initiatory petition authorized by this act shall be addressed to and filed with the city clerk. The petition shall state what body or organization, if any, or if no body or organization, then what persons are primarily interested in and responsible for the circulation of the petition and the securing of the amendment. Each sheet of the petition shall be verified by the affidavit of the person who obtained the signatures to the petition. The petition shall be signed by at least 5 percent of the qualified and registered electors of the municipality. Each signer of the petition shall also write, immediately after his or her signature, the date of signing and his or her street address. A signature obtained more than 1 year before the filing of the petition with the city clerk shall not be counted. The petition is subject to the requirements of section 25a.

(2) Any person who shall willfully affix another's signature, or subscribe and swear to a verification false in any material particular is guilty of perjury; and any person who shall take the oath of another to the petition not knowing him or her to be the identical person he or she represents himself or herself to be or knowing that the petition or any part thereof is false or fraudulent in any material particular, or who shall falsely represent that the proposed amendment is proposed by parties other than the true sponsors, is guilty of a felony and shall be liable to the same punishment as provided for perjury.

(3) Upon receipt of the petition, the city clerk shall canvass it to ascertain if it has been signed by the requisite number of registered electors. For the purpose of determining the validity of the petition, the city clerk may cause any doubtful signatures to be checked against the registration records of the city. Within 45 days from the date of the filing of the petition, the city clerk shall certify the sufficiency or insufficiency thereof. If the petition contains the requisite number of signatures of registered electors, the clerk shall cause the proposed amendment to be submitted to the electors of the city at the next regular municipal or general state election held in the city which shall occur not less than 90 days following the filing of the petition.

(4) If the petition contains the signatures of 20 percent or more of the persons residing in and registered to vote in the city as of the date when they signed it, and the petition requests submission of the proposal at a special election, the city clerk, within 90 days after the date of the filing of the petition, shall call a special election to be held on the next regular election date that is not less than 120 days after the petition was filed. Other proposals, whether initiated by a 5 percent petition or proposed by the legislative body within the times within this act provided, may be submitted at that election. A proposal submitted to the electors by the initiative and receiving an affirmative majority of the votes cast on the proposal shall not be held unconstitutional, invalid, or void on account of the insufficiency of the petition by which the proposal was submitted.

(5) Except as provided by subsection (6), any proposal adopted by the electors that contemplates increased expenditure of funds by the municipality shall become effective only at the beginning of that fiscal year of the municipality commencing not earlier than 60 days following the election at which the proposal was approved by the electors.

(6) If a proposal that increases the city's ad valorem property tax limitation applies, by its terms, for a specific year or period commencing before the date the proposal would otherwise take effect under

subsection (5), the proposal shall be effective both from the date it is approved by the electors and retroactively for the year or period specified in the proposal. Notwithstanding a charter provision to the contrary, if a proposal is approved by the electors and given effect under this subsection after the city has levied its ad valorem property tax levy for the fiscal year and if the adopted proposal authorizes the levy of a millage rate for the fiscal year during which the proposal was approved in excess of the rate the city was authorized to levy before adoption of the proposal, the city may levy an additional tax. The additional tax shall be collected either by a supplementary billing by the city or at the same time and in the same manner the county's ad valorem property tax levy is collected.

(7) Any person aggrieved by any action, or failure of action, of the city clerk may bring an action against the clerk in the circuit court for writ of mandamus or for other appropriate relief.