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MINNEAPOLIS CHARTER COMMISSION

CHARTER REVISION

A PRESENTATION TO THE CITY COUNCIL

20 FEBRUARY 2004

9:30-11:00 A.M.

do, v.

	Singular	Plural
First person	do	do
Second person	doest	do
Third person	doth*	do

* "The orig. northern form *does* superseded *doth, doeth*, in 16–17th c. in general use; the latter being now liturgical and poetic." — Oxford English Dictionary, p. 562.

Latest recorded uses: 1819 (poetic), 1721, 1588 (Shakespeare).

The City Council of the City of Minneapolis **doth** hereby assess and levy upon and against the several lots and parcels of land below described the respective sums of money set against each lot or parcel. [Minneapolis City Charter, ch. 10, § 5]

- *Doth* appears in the Charter four times.

Background: The Charter

- Minneapolis first adopted a city charter in 1920.
- The first charter commission did not draft a charter from scratch: instead, it simply compiled the special laws then in force affecting the City, and collated them into a loosely organized document that became the first charter.
- That charter has since undergone about a hundred amendments, often by the City Council, sometimes by referendum, and has now become a highly impractical document:
 - more than 70,000 words (192 pages) long;
 - confusingly organized;
 - full of redundant or conflicting provisions, or provisions long since overridden by statute;
 - cluttered with detail better suited to ordinances; and
 - written in a legalistic style that is more than a century out of date, and practically unintelligible to a nonlawyer (and exceptionally difficult even for lawyers).

Why Revise the Charter?

- This revision's purpose is not restructuring the City government or otherwise effecting any substantive change.
- Its purpose is only
 - modernizing,
 - simplifying, and
 - uncluttering the Charter, and
 - redrafting its provisions for
 - clarity,
 - brevity, and
 - consistency.
- Two examples:
 - appointments process
 - Library Board

- Three different appointment processes?
 - “Except as in this Charter otherwise specifically provided, all other officers provided for in this Charter or deemed necessary for the proper management of the affairs of the City, shall be appointed by the City Council. The appointment of such officers shall require the affirmative vote of a majority of all members of the City Council.” [ch. 2, § 2]
 - “Notwithstanding any other provision of this Charter or special law to the contrary, the executive committee shall have the exclusive power to appoint and remove during their terms of office the Police Chief, Fire Chief, City Engineer, Commissioner of Health, City Attorney, City Assessor, City Coordinator, Civil Service Commissioner, and any officer in a department or agency who, by statute, Charter or ordinance, is appointed by the Mayor or City Council or by any public board the majority of whose members are members of the City Council.” [ch. 3, § 4]
 - “The City Council shall have power at any time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with this Chapter, and to appoint such other officers as may be necessary to carry into effect the provisions of this Chapter, and to prescribe their duties, unless herein otherwise provided for.” [ch. 3, § 23]
 - “Whenever the Mayor exercises the power of appointment or designation of persons to be members or occupants of any board, commission, department or office, and the City Council approval of such appointment or designation is required, the appointment or designation will be deemed approved if the City Council has not disapproved such an appointment or designation within a period of sixty days from and after the submission of the appointment or designation by the Mayor to the City Council.” [ch. 4, § 22]

Process

- Informal process
 - Outside readers
 - Bert Black
 - Cameron Gordon
 - Jill Kielblock
 - John A. Cairns
 - Kathleen O'Brien
 - Lee Eklund
 - Lyall Schwarzkopf
 - Sharon Sayles Belton
 - Vernon Wetternach
 - Walter H. Rockenstein II
 - Officers and boards
 - Mayor
 - City Coordinator
 - Board of Estimate & Taxation
 - Library Board
 - Park & Recreation Board
 - Civil Service Commission

- Formal process
- Drafting process

BRYAN A. GARNER

Legal Writing in Plain English
A Text with Exercises

THE UNIVERSITY OF CHICAGO PRESS
Chicago and London

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- § 3. Order your material in a logical sequence. Use chronology when presenting facts. Keep related material together. 10
- § 4. Divide the document into sections, and divide sections into smaller parts as needed. Use informative headings for the sections and subsections. 14

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- § 5. Omit needless words. 17
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- § 23. Summarize. Don't overparticularize. 62
- § 24. Introduce each paragraph with a topic sentence. 65
- § 25. Bridge between paragraphs. 67
- § 26. Vary the length of your paragraphs, but generally keep them short. 72
- § 27. Provide signposts along the way. 75
- § 28. Unclutter the text by moving citations into footnotes. 77
- § 29. Weave quotations deftly into your narrative. 83
- § 30. Be forthright in dealing with counterarguments. 85

PART THREE: PRINCIPLES MAINLY FOR LEGAL DRAFTING 89

- § 31. Draft for an ordinary reader, not for a mythical judge who might someday review the document. 91
- § 32. Organize provisions in order of descending importance. 93
- § 33. Minimize definitions. If you have more than just a few, put them in a schedule at the end—not at the beginning. 97
- § 34. Break down enumerations into parallel provisions. Put every list of subparts at the end of the sentence—never at the beginning or in the middle. 100
- § 35. Delete every *shall*. 105
- § 36. Don't use provisos. 107
- § 37. Replace *and/or* wherever it appears. 112
- § 38. Prefer the singular over the plural. 114
- § 39. Prefer numerals, not words, to denote amounts. Avoid word-numeral doublets. 115
- § 40. If you don't understand a form provision—or don't understand why it should be included in your document—try diligently to gain that understanding. If you still can't understand it, cut it. 117

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The Revision

- Topical organization
- Table of contents
- Plain English

	Charter	Revision
Pages	192	38 (19.8%)
Words	70,905	8,425 (11.9%)
Paragraphs	1,009	453
Sentences	1,552	530
Sentences per Paragraph	1.6	1.6
Words per Sentence	43.7	11.7 (+ 73%)
Characters per Word	4.7	5.0
Passive Sentences	14%	2% (+ 86%)
Reading Ease score¹	31.6	45.4 (+44%)
Grade Level score²	12.0	9.8
<i>Doth</i>	4	0

¹The "Reading Ease score" is the Flesch Reading Ease score, which "rates text on a 100-point scale; the higher the score, the easier it is to understand the document. For most standard documents, aim for a score of approximately 60 to 70."

²The "Grade Level score" is the Flesch-Kincaid Grade Level score, which "rates text on a U.S. grade-school level. For example, a score of 8.0 means that an eighth grader can understand the document. For most standard documents, aim for a score of approximately 7.0 to 8.0."

Fourth Draft

- The revision is still a moving target
 - The Charter Commission's process is incomplete
 - Special laws must still be checked
 - Some outside readers are still weighing in
- The revision is a product of volunteer effort
 - The revision process provides for significant review by professional staff and other experienced leaders
 - But that review is still incomplete
 - The process has been extremely receptive to that input
 - The process has been as open and transparent as possible
- The Commission is still seeking input informally, and will then turn to a formal process
- The Council will not be asked to act until the Commission completes its formal process
 - The formal process includes input from interested Council members and the independent boards

**MINNEAPOLIS CHARTER COMMISSION
CHARTER REVISION COMMITTEE**

**REPORT
REVISED CHARTER**

Fourth Draft
February 2004

The Charter Revision Committee has reported this draft for the Charter Commission's preliminary consideration. It has not been considered or approved by the Charter Commission.

Contents

Tab	Document
A	Revised Charter
B	Charter
C	Side-by-Side Comparison: Successor Provisions to Source Provisions
D	Side-by-Side Comparison: Source Provisions to Successor Provisions
E	Provisions Recommended for Reclassification as Ordinances
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G	Special Laws
H	League of Minnesota Cities, A Model Charter for Minnesota Cities (1977)
I	Charter-Revision Process

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a research memo for city officials

100a.5

1977

A MODEL CHARTER

for Minnesota Cities

Supplement

COMMENTS

on the Model Charter

League of Minnesota Cities

INFORMATION

SOME COMMENTS ON THE MODEL CHARTER FOR MINNESOTA CITIES

General Comments

The model charter is based on the modern drafting principles that a charter should deal only with fundamentals, leaving to the council by ordinance the authority to provide more detailed regulations as they are needed. It is, therefore, much briefer than many older charters.

The model charter provides for the council-manager plan of government since this form is democratic and responsive and provides for efficient management. There are included in Appendix A and B of these comments provisions and suggestions by which strong mayor and administrator plans may be substituted. Charter commissions interested in still other plans may obtain on loan from the League copies of Minnesota city charters containing these variations.

One of the principal virtues of the home rule charter mechanism is that it permits each city to tailor-make its charter to its own individual needs and desires. The model charter should be used, therefore, only as a guide. Used with these comments, it can provide charter commissions with a checklist of sample provisions and questions about policy alternatives.

Each section of the charter is commented on individually in this memorandum. Following these section-by-section comments are appendices dealing with strong mayor and administrator plans and alternative methods of electing councilmen. A list of supplementary memos available from the League is also appended.

Numbering System. Under the decimal numbering system used in this charter, each section in a particular chapter has the number of the chapter followed by a decimal system and the section number, the latter moved to the second place in the case of the first nine sections. This has the advantage not only of indicating to what chapter a section belongs but of allowing amendments to be placed more easily in their logical position in the charter. If the charter commission prefers not to use this system, it should number the sections consecutively from beginning to end. To facilitate easy reference, it is best to avoid the older practice of starting each chapter with section 1.

Section by Section Comments

Section 1. Name and boundaries. Boundaries may not be changed by charter in Minnesota. For reference some charters contain a statement of the existing boundaries of the city, but because annexations change boundaries frequently, such a statement becomes quickly out-of-date and may be misleading.

To make the existing boundaries readily available to the public, some charter commissions may wish to consider adding a provision like this one, slightly adapted from Oregon model charter: "The city clerk shall keep in his office at least two copies of this charter with amendments and in each copy he shall maintain an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection at any time during regular office hours."

Sec. 1.02. Powers of the city. Older charters relied on a long list of specific grants in vesting power in the city, but almost all charters recently adopted in this state have included only a broad general grant such as contained in this section. Such a grant is based on the theory that the city should lay claim in its charter to all powers which the home rule provision of the constitution permit the city to assume. It thus permits the city to meet new problems as they arise without the need for a charter amendment granting the specific needed power and it avoids the possibility that by inadvertent omission or ambiguity, more specific grants would be held to deny to the city power which it might have lawfully assumed. Such an omnibus clause is also included in the National Municipal League's model charter.

The all-powers grant assumes that restrictions will be made as needed in other sections dealing with particular matters and that the broad power left to the council to implement charter provisions by ordinance will permit the addition of specific restrictions as needed.

Minnesota Supreme Court decisions generally have given a liberal construction to all-powers grants in city charters. *Park v. City of Duluth*, 134 Minn. 296, 159 N.W. 627 (1916); *State ex re. Zien v. City of Duluth*, 134 Minn. 355, 159 N.W. 792 (1916), *City of Duluth v. Cervený*, 218 Minn. 551,

16 N.W. (2d) 779 (1944); sec 7 Minn. Law Rev. 306.321. The strong statement of intent found in the model charter section should be adequate to assure that the omnibus grant gives the city all municipal power that it might receive through more specific grants.

Sample charter provisions containing a fuller statement of municipal power are available to charter commissions on request.

Sec. 2.01. Form of government. Any basic form of government—a strong or weak mayor-council form, the commission plan, or the council-manager form—may be validly included in a home rule charter in Minnesota. The commission plan, which enjoyed a brief period of great popularity in the first two decades of the present century, is now largely passe; it has not been adopted in any Minnesota city since the 1914 St. Paul charter, and has now been abandoned by all but one Minnesota city. Modifications in the model charter to substitute a strong mayor-council plan for the council-manager form are included in Appendix A of these comments.

It is not essential that there be a section like this in the charter since the form is spelled out more explicitly throughout the charter, but the section may be helpful both in informing the voters and in showing the general intention of the charter commission with reference to the form of government.

Sec. 2.02. Boards and commissions. This section also states one of the major principles of the council-manager plan that all power is vested in the city council and that this power should not be diluted by the establishment of independent boards with administrative powers over particular functions. Health and library boards are specifically mentioned since these are provided for every city by statute; presumably by charter the city may determine to handle these functions through the council instead. Many council-manager cities in the state have so provided. A similar provision is included in the council-manager plan sections of the code relating to non-home rule cities.

While a few cities with administrative utility commissions have retained them when adopting council-manager charters, it is more consistent with that plan to convert such a commission into an advisory one. The utility function is an important one that involves, in a city with a municipal gas or electric system, a significant part of the city's budget, property, and personnel. To divorce

this enterprise from the control of the council and manager seriously curtails the power to direct, coordinate, and set comprehensive policy. Few cities consider a utility commission where the only municipal utilities are water and sewer system.

Sec. 2.03. Council composition and election. The size of the council should be adjusted to the size and needs of the city; smaller cities may prefer a five-man council (the size provided by law for statutory cities and in over half the charter cities) while larger cities may wish to increase the size beyond the suggested seven. About a quarter of Minnesota's home rule cities have seven members; only about three have as many as 11.

Many councils serve for two-year terms. Fixing the councilmen's term at that length requires either a shift to annual elections or abandonment of the principle of overlapping terms. If all members are elected at the same time, the chances that winning candidates will receive only a plurality of the votes are substantially increased. One method of meeting this problem, often discussed but seldom used, is the so-called "alley" or "place" system (the plan used for electing judges) under which each council seat is separate from the others for purposes of filings and election. See Appendix C. If the city already has four-year overlapping terms, the exception in the second sentence may be omitted.

While a two-year term for mayor is more common in Minnesota among charter cities and is the general pattern among statutory cities, the trend is toward longer terms for both mayors and councilmen. A few cities with a complete four-year term pattern elect all councilmen and the mayor once every four years. To avoid the possibility of too drastic a turnover at any election, the model follows the more common overlapping term pattern.

The model provides for electing all councilmen at large. There are disadvantages to both the at-large and district or ward systems; the smaller the city the more the advantages on balance favor the at-large system. A League memorandum on the comparative advantages of the two systems is available to charter commissions on request.

Alternate provisions for a ward system and for a combination at large-ward system are included in the Appendix C.

Sec. 2.04. Incompatible offices. This prohibition is not required by law but the substance is included in many charters. The National Muni-

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Park & Recreation Board Powers

(1)	The Board establishes, governs, administers, and maintains— (A) the parks, parkways, and recreational opportunities in and adjacent to the City . . . for which purpose it may act on the City’s behalf and enjoys all the City’s lawful powers, including eminent domain and power over public ways that pass through, over, or adjacent to property that it owns or governs. . . . [8.2(a)(1)]
(2)	The Board establishes, governs, administers, and maintains . . . (B) each body of water in the park system, including any body of water whose shore it owns [8.2(a)(1) & (B)]
(3)	The Board is a body corporate and politic and, in the exercise of its general functions and powers, may . . . (2) make contracts, . . . (5) sue and be sued [8.2(b)]
(4)	<p>Employment. Each board may employ—(1) an appropriate staff, for which purpose it may hire and discipline or discharge any employee (subject to the Civil Service Commission’s rules, in the case of an employee in the unclassified service) [5.4(b)]</p> <p>Park police. The Mayor must appoint as many police officers for the parks and parkways as the Board requests. The Board must pay for such police out of the park & recreation fund, may regulate and direct them, and may discipline or discharge them (subject to the Civil Service Commission’s rules).</p> <p>Compensation. The Board may provide for the commissioners’ compensation. [8.2(f)]</p> <p>Compensation. The Board may provide for its employees’ compensation. [8.2(g)(1)]</p>
(5)	The Board establishes, governs, administers, and maintains— (A) the parks, parkways, and recreational opportunities in and adjacent to the City The Board may likewise design, develop, or improve any property under its control or acquired for its purposes. [8.2(a)(1)]

(6)	<p>The Board is a body corporate and politic and, in the exercise of its general functions and powers, may . . . buy and sell property [8.2(b)]</p> <p>Realty. The Board may dedicate, buy, lease, or name or rename realty with at least six affirmative votes. The Board may issue a mortgage that evidences its indebtedness for any such realty. The Board may sell realty only if it has abandoned the realty, and the district court approves the sale. [8.2(e)]</p>
(7)	<p>The Board is a body corporate and politic and, in the exercise of its general functions and powers, may . . . buy and sell property [8.2(b)]</p> <p>(2) Parks and parkways. The Park & Recreation Board may levy a special assessment that partly or wholly defrays the cost of condemning realty for a park or parkway, or of any improvement in or along a park or parkway, against the property fronting or benefited by the park, parkway, or improvement. The City Council may levy an assessment with respect to an improvement in or along a park or parkway only after a request by the Park & Recreation Board.</p> <p>(3) Services. The . . . Park & Recreation Board may . . . likewise assess the cost of municipal services to any street, sidewalk, or other property against the property benefited. [11.6(c)]</p>
(8)	<p>Borrowing power. A board's borrowing power includes the power of issuing bonds, taking out loans, and otherwise incurring debt, to which the City pledges its full faith and credit. Any such power is subject to section 11.4. [5.6(b)]</p> <p>The Board, with at least six affirmative votes, may borrow an amount on which the annual interest does not exceed \$35,000, for up to 50 years, with the debt secured by the parks and parkways. [8.5]</p>

(9)	<p>Subject to article XI's provisions:</p> <p>(a) Park & recreation fund. The Board may annually tax up to 0.10415 percent of the total value of the property in the City.</p> <p>(b) Park museum fund. The Board may annually tax up to 0.0125 percent of the total value of the property in the City for the benefit of a park, museum, gallery, or school of arts and crafts.</p> <p>(c) Tree fund. The Board may annually tax up to 0.02753 percent of the total value of the property in the City for taking care of shade and ornamental trees and shrubbery in the streets. [8.6]</p>
(10)	<p>The Board establishes, governs, administers, and maintains— (A) the parks, parkways, and recreational opportunities in and adjacent to the City; . . . and (C) any gallery or museum in the park system [8.2(a)]</p> <p>The Board is a body corporate and politic and, in the exercise of its general functions and powers, may . . . (4) accept and administer, invest, or otherwise dispose of gifts [8.2(b)]</p>
(11)	<p>The Board . . . enjoys all the City's lawful powers, including . . . power over public ways that pass through, over, or adjacent to property that it owns or governs. [8.1(a)]</p>
(12)	<p>The Board . . . enjoys all the City's lawful powers, including . . . power over public ways that pass through, over, or adjacent to property that it owns or governs. [8.1(a)]</p>
(13)	<p>The Board . . . enjoys all the City's lawful powers, including . . . power over public ways that pass through, over, or adjacent to property that it owns or governs. [8.1(a)]</p>
(14)	<p>The Board establishes, governs, administers, and maintains . . . (B) each body of water in the park system, including any body of water whose shore it owns [8.1(a) & (B)]</p>
(15)	<p>Ordinances. The Board may enact any necessary or prudent ordinance within this article VIII's purposes. An ordinance may provide for a fine, imprisonment, other penalty, or any combination of such penalties for its violation. [8.2(c)]</p>
(16)	<p>Ordinances. The Board may enact any necessary or prudent ordinance within this article VIII's purposes. An ordinance may provide for a fine, imprisonment, other penalty, or any combination of such penalties for its violation. [8.2(c)]</p>

(17)	Park police. The Mayor must appoint as many police officers for the parks and parkways as the Board requests. The Board must pay for such police out of the park & recreation fund, may regulate and direct them, and may discipline or discharge them (subject to the Civil Service Commission's rules). [8.2(d)]
(18)	The Board . . . enjoys all the City's lawful powers, including . . . power over public ways that pass through, over, or adjacent to property that it owns or governs. [8.1(a)]
(19)	
(20)	Tree fund. The Board may annually tax up to 0.02753 percent of the total value of the property in the City for taking care of shade and ornamental trees and shrubbery in the streets. [8.6(c)]
(21)	Ordinances. The Board may enact any necessary or prudent ordinance within this article VIII's purposes. An ordinance may provide for a fine, imprisonment, other penalty, or any combination of such penalties for its violation. [8.2(c)]