MINNEAPOLIS CHARTER COMMISSION

PLAIN-LANGUAGE CHARTER REVISION

REPORT

To the City Council:

The Charter Commission respectfully submits the accompanying plain-language revision for the City Council's consideration. The Commission recommends that the Council amend the charter, in the form of the accompanying revision, by ordinance.[1] In the alternative, if the Council does not amend the charter by ordinance, then the Commission proposes an amendment in the form of the accompanying revision for submission to the voters at the earliest practicable date.[2]

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[1] A proposed ordinance appears below in the conclusion at pp. 21–22.

[2] A proposed summary appears below in the conclusion at p. 22.

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The Revision's Purpose and Scope: Why Revise the Charter?

Six years ago, the Charter Commission began an extensive revision of the City Charter, which has not undergone a thorough review since its adoption. The accompanying revision results from six years of work; twelve major drafts (and uncounted interim drafts); four public hearings; and input from numerous boards, citizens, and other interested persons and groups.[3]

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, in plain modern language. When Minneapolis first adopted a home-rule 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 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- written in a legalistic style that is more than a century out of date, and practically unintelligible to a nonlawyer (and exceptionally difficult even for lawyers).

Three examples illustrate these problems and need for revision: the word *doth*, the provisions governing the appointments process, and the provision about the Library Board.

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[3]For the process, please see below at pp. 14–19.

Archaic legalism: *doth*

The Charter's style was already outdated when it was first adopted. Perhaps the most glaring example is the word *doth*.

Half a millennium ago, when printed books were becoming widely available and the English language was settling into a somewhat standardized form, various dialects competed for dominance:

> Thanks to the proliferation of English dialects during the period of Norman rule, by the fifteenth century people in one part of England often could not understand people in another part. William Caxton, the first person to print a book in English, noted the sort of misunderstandings that were common in his day in the preface to *Eneydos* in 1490 in which he related the story of a group of London sailors heading down the River "Tamyse" for Holland who found themselves becalmed in Kent. Seeking food, one of them approached a farmer's wife and "axed for mete and specyally he axyd after eggys" but was met with blank looks by the wife who answered that she "coude speke no frenshe." The sailors had traveled barely fifty miles and yet their language was scarcely recognizable to another speaker of English. In Kent, eggs were *eyren* and would remain so for at least another fifty years.
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> A century later the poet George Puttenham noted that the English of London stretched not much more than sixty miles from the city. But its influence was growing all the time. The size and importance of London guaranteed that its dialect would eventually triumph, though other factors helped — such as the fact that the East Midlands dialect (its formal name) had fewer grammatical extremes than other dialects and that the East Midlands area was the seat of the two main universities, Oxford and Cambridge, whose graduates naturally tended to act as linguistic missionaries.
>
> . . . .
>
> Although East Midlands was the preeminent dialect, not all East Midlands forms triumphed. The practice in London of placing *-n* or *-en* on the end of present indicative verbs was gradually driven out by the southern practice of using *-th*, so that *loven* became *loveth*, for instance, and this in turn was eventually driven out by the northern *-s* or *-es* ending, as in the modern form *loves*. Why this northern provincialism should gradually have taken command of a basic verb form is an enduring mystery. It may simply be that the *-s* form made for smoother spoken English. In any case, by Shakespeare's time it was much more common in speech than in writing, though Shakespeare himself freely used both forms, sometimes employing *goes*, sometimes *goeth*.[4]

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[4]Bill Bryson, *The Mother Tongue: English & How It Got That Way* (New York: Avon Books, 1990), pp. 59–61.

That transition is evident in the inflection of the common verb *do*:

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

Eventually, the second-person singular lost its unique inflection, and became simply *do*; and for the third-person singular, the northern form *does* supplanted the East Midlands form *doth*. The East Midlands form survives in numerous literary and poetic references but, by the 17th century, it had disappeared from general use.[5]

So when the Minnesota Legislature in the latter 19th century enacted the statutes that would eventually find their way into Minneapolis's first charter, *doth* was already two to three centuries out of date. And when Minneapolis voters adopted their first home-rule charter in 1920, *doth* was yet another half-century out of date. But it appeared in the Charter not once, not twice, but four times. More to the point, it's still there.

All four appearances involve the form for an assessment roll, so what probably happened is that some Minnesota legislator, in the early years of statehood (or perhaps as early as the territorial days), copied a form prepared by a lawyer from the older states on the Eastern seaboard, who had copied a form prepared by another lawyer . . . and so forth, back to some common-law scrivener in Shakespearean England, whose words found their way into the charter of a modern American metropolis in the year 2009. But half a millennium of archaic language is long enough.

Redundant and conflicting provisions: Appointments

Next, the Charter is full of redundant or conflicting provisions. For example, if a citizen wanted to know the process for appointing a municipal officer — a department head, say — then he or she could look in the Charter,

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[5]"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.

right? Well, not really. If our citizen looked up the appointments process, the first relevant provision that she would run across appears in chapter 2:

> 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.[6]

So the City Council appoints the officers, right? Well, not so fast — the next relevant provision appears 20 sections and 3,434 words later, in chapter 3:

> 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.[7]

So the appointing power resides not in the City Council, but in the Executive Committee, right? Well, maybe. The next relevant provision also appears in chapter 3, the same chapter as the last provision (but with 18 sections and 2,507 words between them), and says that "the City Council shall have power at any time . . . 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."[8] So who appoints these "other officers" — the City Council? or the Executive Committee? It's a little unclear, since both provisions in chapter 3 cover the same topic, but cover it inconsistently. Theoretically, the most recently adopted provision prevails over any earlier provision, but the reader can't tell from the Charter which provision is more recent.

To further complicate the matter, another relevant provision appears in yet another chapter, 25 sections and 7,082 (!) words later:

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[6]Charter, ch. 2, § 2 (Council to appoint City officers).

[7]Charter, ch. 3, § 4 (Executive Committee).

[8]Charter, ch. 3, § 23 (City Council—may appoint additional officers).

> 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.[9]

This provision isn't actually inconsistent with the earlier provisions, but it is necessary for a full view of the appointments process — and it doesn't appear anywhere near the places that a casual reader would go looking for provisions about appointments.

Ideally, the Charter should transparently inform a citizen about how municipal government works. The provisions governing appointments are redundant and conflicting, and practically unintelligible without a lawyer's advice or additional study and research.

Obsolete or superseded provisions: The Library Board

Worse than redundant and conflicting provisions, though, are the provisions that simply do not reflect modern reality. For example, if a citizen wanted to know who serves on the Library Board, he or she could look in the Charter and learn that

> Said Library Board shall consist of the Mayor of the City of Minneapolis, the President of the Board of Education of the City of Minneapolis, the President of the University of the State of Minnesota, who shall respectively be ex officio members thereof, and six (6) other members, who shall be elected from time to time as herein provided, by the legal voters of the City of Minneapolis, and who shall be resident and qualified electors of said city. At the city election to be held on the second Monday in June, 1921, there shall be elected two Library Directors [Trustees] for the term of six (6) years and thereafter there shall be elected every second year, two (2) Library Directors [Trustees] for the term of six (6) years; the term of said directors [trustees] to begin on the first Monday in July of the year of their election.[10]

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[9]Charter, ch. 4, § 22 (untitled).

[10]Charter, ch. 17, § 2 (composition of Board — elections).

That provision is right there in the Charter, readily discoverable in the chapter about the Library Board, and no other provision in that chapter or elsewhere in the Charter conflicts with it. Our citizen thus discovers that the Library Board consists of the Mayor, an officer whose title look like the school-board president, the University of Minnesota president, and six members elected for six-year terms that start in July.

Of course, there is no longer a Library Board — the Minneapolis Public Library was merged into the Hennepin County Library in January 2008 as a result of legislation approved in May 2007.[11] But even before the merger, neither the Mayor, nor the school-board president, nor the University of Minnesota president really served on the Library Board — and none of them had so served for 42 years. And the members — when there were members — served terms of four years, not six. And those terms started in January, not in July.

What the Charter didn't mention was that, in 1965, a special law reconstituted the Board in substantially its pre-merger form — one trustee appointed by the Mayor, one trustee elected by the City Council, and six trustees elected by the voters.[12] Or that, in 1986, a special law changed the terms from six years to four.[13] (Or that, in 1973, a special law abolished the Board of Education and established an independent school district for Minneapolis.[14]) Or that the Library Board dissolved in 2008. Despite such major changes over 43 years, the Charter still reflects an outdated reality, a reality that hasn't been real since the early 1960s. The Charter is full of such obsolete and superseded provisions.[15]

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[11]2007 Minn. Laws ch. 121.

[12]*See* 1965 Minn. Laws, ch. 818.

[13]*See* 1986 Minn. Laws, ch. 433.

[14]1973 Minn. Laws, ch. 223, § 2.

[15]The Library Board's merger leaves the Charter with some anomalies. For example, before the merger, the Library Board was represented on the then-seven-member Board of Estimate & Taxation; without the Library Board's representative, the Board of Estimate & Taxation is left with only six members, even though various provisions clearly contemplate a seven-member board (such as the provisions that require a five-sevenths vote). The revision has not addressed these anomalies directly, but Charter Commission welcomes guidance from the City Council on that topic.

The Revision

The revision addresses these problems by reorganizing and rewriting the entire charter, from start to finish, while preserving intact its substance.

Uncluttering

Minneapolis's charter is 70,905 words long; printed, it runs 192 single-spaced pages. (By way of contrast, the U.S. Constitution of 1787 runs 4,543 words.) The revision is 13,712 words long — less than one-fifth the current Charter's length. The revision generally follows the style of the League of Minnesota Cities' model charter, a model of brevity at barely 13 pages, whose philosophy is that "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."[16]

"Substantive" vs. "nonsubstantive" change. The revision's stated purpose "is *not* restructuring the City government or otherwise effecting any substantive change" but rather "modernizing, simplifying, and uncluttering the Charter, and redrafting its provisions for clarity, brevity, and consistency, in plain modern language."[17] The Charter is "cluttered with detail better suited to ordinances,"[18] and the revision "demotes" many such provisions from charter to ordinance, without changing the underlying rule.

But at least arguably, such a demotion from charter to ordinance is itself a substantive change — not because the change affects the underlying rule (which it doesn't), but because the underlying rule is then subject to change by a different and less burdensome process. To amend the charter requires a unanimous vote by the City Council — 13 votes, if the Council's membership is at full complement — or a referendum; to amend an ordinance requires only a majority of the

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[16]League of Minnesota Cities, A Model Charter for Minnesota Cities (1977), Supp., p. 1. [The model charter accompanies this report as appendix H.]

[17]See above p. 2.

[18]See above p. 2.

Council's membership — seven votes. A right protected only by ordinance is less protected than a right enshrined in the Charter.

Drawing the line between the "fundamentals" that belong in the charter, and the "regulations" that belong in ordinance, is somewhat arbitrary. At one extreme is the current Charter, at 192 pages. At the opposite extreme is the League of Cities' model charter, at barely 13 pages. For Minneapolis, the happy medium probably lies somewhere between those extremes, and toward the shorter side: the revision runs 59 pages. The Commission could have drafted a much shorter revision, say a 20-page version,[19] that would have dramatically uncluttered the charter but left much more detail to ordinance. Or the Commission could have edited with a much lighter touch, and produced an 80-page or a 100-page revision, keeping much more detail in the charter itself.

The Commission took the approach that a provision was "fundamental" if it affected—

- a citizen's rights, or
- the relationship among governmental officers or bodies, particularly including (but not limited to) the independence of municipal boards.

Using that approach, the Commission's second draft in July 2003 — the first version that circulated outside the Commission — ran 40 pages.

Some participants in the charter-revision process took a broader view than the Commission about which provisions were "fundamental." The Commission consistently accepted those views. Over the next nine drafts, the Commission "demoted" practically nothing from the draft revision, but did add 19 pages back into the revision that had been slated for reclassification as ordinances. *The draft revision contains every provision that any board, citizen, or other interested person or group considered important enough that it belonged in the charter rather than in ordinance.*

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[19]See, for example, Floyd B. Olson, Report on Government Restructuring for the City of Minneapolis (draft Dec. 16, 1996), app. B, pp. 45–64. [That report accompanies this report as appendix H.]

Topical organization

On a less philosophical note, the revision reorganizes the charter in 10 articles, in a logical order, and groups related provisions together:

Art.	
I	General Provisions
II	Boundaries
III	Elections
IV	City Council
V	Boards
VI	Board of Estimate & Taxation
VII	Park & Recreation Board
VIII	Administration
IX	Officers and Other Employees
X	Finance

The revision also adds a corresponding table of contents that lets the reader find a particular provision without searching line by line through the whole document.

Numbering. The revision generally follows the style of the League of Minnesota Cities' model charter (which is similar to the Minnesota Statutes):

> **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 . . . . 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 . . . To facilitate easy reference, it is best to avoid the older practice of starting each chapter with section 1.[20]

Plain language

Finally, the revision rewrites the entire charter in language that is not only modern, but plain. The Commission adopted *Legal Writing in Plain English* by Bryan A. Garner as its style guide. The Garner guide offers 50 practices for plain-English drafting, including these suggested practices:

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[20]League of Minnesota Cities, A Model Charter for Minnesota Cities (1977), Supp., p. 1. [The model charter accompanies this report as appendix G.]

§ 31. Draft for an ordinary reader, not for a mythical judge who might someday review the document.

§ 32. Organize provisions in order of descending importance.

§ 33. Minimize definitions. If you have more than just a few, put them in a schedule at the end — not at the beginning.

§ 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.

§ 35. Delete every shall.

§ 36. Don't use provisos.

§ 37. Replace and/or wherever it appears.

§ 38. Prefer the singular over the plural.

§ 39. Prefer numerals, not words, to denote amounts. Avoid word–numeral doublets.

§ 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.[21]

Perhaps the most surprising stylistic innovation in the revision is the absence of the verb *shall*, following the style guide's exhortation to "delete every shall":[22]

> *Shall* isn't plain English. Chances are it's not a part of your everyday vocabulary, except in lighthearted questions that begin, "Shall we . . . ?"
>
> But legal drafters use *shall* incessantly. They learn it by osmosis in law school, and the lesson is fortified in law practice. Ask a drafter what *shall* means, and you'll hear that it's a mandatory word — opposed to the permissive *may*. Although this isn't a lie, it's a gross inaccuracy. And it's not a lie only because the vast majority of drafters don't know how shifty the word is.[23]

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[21]Bryan A. Garner, *Legal Writing in Plain English* (Chicago: University of Chicago Press, 2001), p. x (contents).

[22]Ibid., § 35.

[23]*Ibid.*, p. 105.

A leading legal-usage guide (by the same author) explains the problem with *shall* in more detail:

> ***Shall.*** This word runs afoul of several basic principles of good drafting. The first is that a word used repeatedly in a given context is presumed to bear the same meaning throughout. (*Shall* commonly shifts its meaning even in midsentence.) The second principle is strongly allied with the first: when a word takes on too many senses and cannot be confined to one sense in a given document, it becomes useless to the drafter. (*Shall* has as many as eight senses in drafted documents.) The third principle has been recognized in the literature on legal drafting since the mid-19th century: good drafting generally ought to be in the present tense, not the future. (*Shall* is commonly used as a future-tense modal verb.) In fact, the selfsame quality in *shall* — the fact that it is a CHAMELEON-HUED WORD — causes it to violate each of those principles.
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> How can *shall* be so slippery, one may ask, when every lawyer knows that it denotes a mandatory action? Well, perhaps every lawyer has heard that it's mandatory, but very few consistently use it in that way. And, as a result, courts in virtually every English-speaking jurisdiction have held — by necessity — that *shall* means *may* in some contexts, and vice-versa. These holding have been necessary primarily to give effect to slipshod drafting.[24]

An elegant solution is available by following an approach that assigns distinct and consistent meanings to "words of authority." Several such approaches have emerged in modern legal drafting, and the Commission has adopted one in particular, the "ABC Rule":

> Another solution is the "ABC rule," so called because, in the late 1980s, it was most strongly advocated by certain Australian, British, and Canadian drafters. The ABC rule holds that legal drafters cannot be trusted to use the words *shall* under any circumstances. Under this view, lawyers are not educable on the subject of *shall*, so the only solution is complete abstinence. As a result, the drafter must always choose a more appropriate word: *must*, *may*, *will*, *is entitled to*, or some other expression.
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> This view had much to be said for it. American lawyers and judges who try to restrict *shall* to the sense "has a duty to" find it difficult to apply the convention consistently. Indeed, few lawyers have the semantic acuity to identify correct and incorrect *shalls* even after a few hours of study. That being so, there can hardly be much hope of the profession's using *shall* consistently.
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> Small wonder, then, that the ABC rule has fast been gaining ground in the U.S. For example, the federal government's Style Subcommittee — part of the Standing Committee on Rules of Practice and Procedure — a subcommittee

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[24]Bryan A. Garner, *A Dictionary of Modern Legal Usage*, 2d ed. (Oxford: Oxford University Press, 1990), p. 939, *s.v.* "words of authority."

> that since 1991 has worked on all amendments to the various sets of federal court rules, adopted this approach, disallowing *shall*, in late 1992. (This came after a year of using *shall* only to impose a duty on the subject of the verb.) As a result, the rules have become sharper because the drafters are invariably forced into thinking more clearly and specifically about meaning.[25]

The ABC Rule assigns distinct and consistent meanings to the revision's "words of authority":

must	= is required to
must not	= is required not to; is disallowed from; is not permitted to
may	= has discretion to, is permitted to
may not	= is not permitted to; is disallowed from
is entitled to	= has a right to
will	= [one of the following:] a. (expresses a future contingency) b. (in an adhesion contract, expresses one's own client's obligations) c. (where the relationship is a delicate one, expresses both parties' obligations)[26]

The result is a far more readable document:

	Charter	**Revision (Comparison)**
Pages	192	59 (31%)
Words	70,905	13,712 (19%)
Words per Sentence	43.7	12.9 (30%)

[25] *Ibid.*, p. 940.

[26] *Ibid.*, p. 942.

Passive Sentences	14%	3% (21%)
Reading Ease score[27]	31.6	48.5 (153%)
Grade Level score[28]	12.0	9.6
Doth	4	0
Shall	1,848	0

The Process

The Charter Commission has considered or begun several revisions in its history,[29] but has never finished one. This revision project began in September 2002, when Commission Chair Kari Dzeidzic accepted Brian Melendez's offer to serve as the project's reporter and manage the process. The Commission originally contemplated a two-year process, wrapping up in Summer 2004.

Timeline

The Commission's original timeline for revising the Charter illustrates the process:

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[27]The "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."

[28]The "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."

[29]See, for example, Floyd B. Olson, Report on Government Restructuring for the City of Minneapolis (draft Dec. 16, 1996). [That report accompanies this report as appendix H.]

Estimated Timetable

Phase I
Preliminary Organization and Communication

1. **Organization.** Upon adoption of this report, the Commission will appoint the following committees: — 6 Aug. 2003

   (a) **Article committees.** One committee for each article in the proposed revision. Each article committee consists of two or three commissioners, with the senior commissioner as convener.

   (b) **Editing committee.** The Editing Committee consists of three to five commissioners, with the senior commissioner as convener.

2. **Outside readers.** Upon adoption of this report, the Commission will identify outside readers experienced in City government and with the Charter. The Commission Chair will write a letter, in substantially the form that accompanies this report, to each such reader inviting his or her participation in the revision process. — 6 Aug. 2003

3. **City Council.** The Commission Chair will write a letter, in substantially the form that accompanies this report, to the City Council president, notifying the Council about the revision process and inviting the Council's and each Council member's input into that process. — 13 Aug. 2003

4. **Officers and boards.** The Commission Chair will write a letter, in substantially the form that accompanies this report, to— 13 Aug. 2003

   (a) the Mayor,

   (b) the City Coordinator,

   (c) the Board of Estimate & Taxation,

   (d) the Library Board,

   (e) the Park & Recreation Board, and

   (f) the Civil Service Commission,

   notifying each officer, board, and commission about the revision process and asking that he, she, or it assign one member or employee who is knowledgeable about City government and about the Charter as a liaison to the Charter Revision Commission.

Phase II
Preliminary Feedback

5. **Preliminary feedback.** Each article committee, the Editing Committee, each outside reader, and each liaison may give preliminary comments and suggestions to the Reporter. The Reporter will forward each such comment or suggestion to the appropriate article committee. Aug.–Sept. 2003

6. **Third draft.** The Reporter will produce a third draft taking into account the preliminary feedback. 22 Sept. 2003

Phase III
Formal Consideration by Commission

7. **Formal consideration.** The Commission will consider and may amend the third draft, article by article, over one or more meetings. 1 Oct. 2003

8. **Editorial review.** As the Commission works through the third draft, the Editing Committee will review the draft and the Commission's amendments for style and consistency. Oct.–Dec. 2003

9. **Fourth draft.** At the Commission's first meeting after completing the third draft, the Editing Committee will report any appropriate correction or editorial amendment. The Commission will then adopt the amended third draft as the fourth draft. — 7 Jan. 2004

Phase IV
Formal Feedback

10. **Request for comments from Council members.** The Commission will transmit the fourth draft to each Council member with a request for comments and suggestions within 45 days. — 14 Jan. 2004

11. **Request for comments from officers and boards.** The Commission will transmit the fourth draft to— — 14 Jan. 2004

    (a) the Mayor,

    (b) the City Coordinator,

    (c) the Board of Estimate & Taxation,

    (d) the Library Board president,

    (e) the Park & Recreation Board president, and

    (f) the Civil Service Commission,

    with a request for comments and suggestions within 45 days.

12. **Legal review.** The Commission will transmit the fourth draft to the City Attorney with a request for comments and suggestions within 45 days. — 14 Jan. 2004

13. **Feedback due.** The Reporter will collate the feedback, organize it in order according to each provision in the revision to which it relates, and report it to the Commission. The Commission will then schedule a public hearing. — 2 Mar. 2004

14. **Report and commentary.** The Reporter will submit a draft report and commentary. — 16 Mar. 2004

Phase V
Public Hearings

15.	**Public hearings.** The Commission will hold one or more public hearings where it will consider the formal feedback and other public input, and may amend the fourth draft.	Apr.–June 2004
16.	**Fifth draft.** At a public hearing, the Commission will adopt the amended fourth draft as the fifth draft.	2 June 2004
17.	**Final editing.** The Editing Committee will edit and finalize the fifth draft and the accompanying report and commentary.	16 June 2004
18.	**Final hearing.** The Commission will hold a final public hearing at which it considers the Editing Committee's report and adopts the proposed revision in final form.	7 July 2004

Phase VI
Transmittal

19.	**Transmittal.** The Commission will transmit the proposed revision to the City Council for its consideration.	14 July 2004
20.	**Council process.** The Commission will support the City Council as requested as the Council considers the proposed revision.	

The process ended up taking more than four years longer than contemplated, mostly so that the Commission could consider input from as broad a universe as possible, hold additional public hearings, and reach an accommodation with as many interested constituencies as possible. Through that process, the Commission regularly consulted—

- each Council member;
- the Mayor;
- the City Coordinator;
- the Board of Estimate & Taxation;
- the Library Board;
- the Park & Recreation Board;

- the Civil Service Commission;
- the City Attorney;
- each other interested officer, board, or department; and
- the public, via the website and other appropriate means.

The Commission also held four public hearings, two in 2005 and two in 2006.

Outside readers

The Commission also consulted several volunteer "outside readers" — readers experienced in City government and with the Charter. For two years, these readers reviewed and commented on the revision's multiple drafts:

- 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

The Commission is grateful to these readers for their comments and constructive criticism throughout the process.

Future amendments?

While the revision's stated purpose "is *not* restructuring the City government or otherwise effecting any substantive change,"[30] the revision will hopefully turn the charter into a more accommodating document for anyone who is contemplating restructuring or other substantive change — especially since the revision groups related provisions together, and an amendment will thus involve only a single provision or a few adjacent provisions, rather than a crazy quilt of provisions scattered willy-nilly across the document.

But with respect to restructuring or other substantive change, the Commission for the time being takes no view, and leaves those questions for another day. The revision's only purpose is "modernizing, simplifying, and uncluttering the Charter, and redrafting its provisions for clarity, brevity, and consistency, in plain modern language."

Acknowledgments

Many hands contributed to this revision — not only commissioners, but elected officers, boards, departments, citizens, and other interested persons and groups. But a few individuals went above and beyond the call of duty in supporting the project. The Charter Commission gratefully acknowledges their contributions:

- **Jack A. Qvale**, executive secretary of the Board of Estimate & Taxation, who advised the Commission about the City's taxing and budgeting processes, and translated the Charter's various taxing powers into consistent, modern terms.

- **Brian Rice**, attorney for the Park & Recreation Board, who helped the Commission navigate (and sometimes untangle) the myriad special laws and the rich history that underlie the Park Board and other independent boards. While zealously representing his client, and aggressively reviewing the Commission's work, Mr. Rice's contributions steadily improved the revision from draft to draft.

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[30]See above p. 2.

- **Deborah J. Banish**, Operations Support Services Manager for the Minneapolis Public Library, who monitored the project for the Library Board.

- **James Michels**, attorney for the Board of Business Agents, who helped the Commission navigate the Charter's provisions relating to civil service.

- The Commission's staff, including **Jan E. Belsaas**, **Jan D. Hrncir**, **Julie M. Bartell**, and **Peggy Y. Menshek**.

- The Commission's legal counsel: **Joseph M. LaBat**, **Burt T. Osborne**, **Mary Al Balber**, and **Lisa Needham**.

- The commissioners whose service ended while the plain-language project was underway: **Joseph M. Bester**, **Karen Collier**, **Karen Dziedzic**, **Donald Fraser**, **Richard H. Leitschuh**, **Mark A. Masica**, **Pete Rhodes**, **Gary Thaden**, **James Theurer**, and **Sue Ponsford**.

Conclusion

The Charter Commission respectfully submits the accompanying revision for the City Council's consideration. The Commission recommends that the Council amend the charter, in the form of the accompanying revision, by the following or a substantially similar ordinance:

CHARTER REVISION

The City Council of the City of Minneapolis do ordain as follows:

§ 1. **Charter revision.** The Council receives and approves the Charter Commission's report dated March 2009, recommending that the Council amend the City Charter in the form of the proposed revision. The Charter is amended in the form of the proposed revision, which is annexed to and forms an integral part of this ordinance for all purposes. The revision restates and supersedes the current Charter as this ordinance provides.

§ 2. **Former provisions saved as ordinances.** To the extent that they are not incorporated in the revised charter:

(a) the provisions of the current Charter's article 16 remain in force as ordinances of the Park & Recreation Board, subject to amendment by that Board in the same manner as its other ordinances; and

(b) all other provisions of the current Charter remain in force as ordinances, subject to amendment by the City Council in the same manner as its other regulations.

This section 2 is subject to section 3.

§ 3. **Repealed provisions.** Notwithstanding section 2, the provisions from the current Charter that appear in the Charter Commission's report in appendix D, which are struck out in that appendix, are repealed and do not remain in force.

§ 4. **Citation; codification.** Upon the revision's effective date, any provision of the current Charter that remains in force as an ordinance or regulation may be cited as "2009 Charter, chapter _, section _." The City Attorney will advise the City Council with a view toward codifying and integrating those ordinances and regulations into the Minneapolis Code of Ordinances.

§ 5. **Effective date.** This ordinance takes effect on January 1, 2010.

In the alternative, if the Council does not amend the charter by ordinance, then the Commission proposes an amendment in the form of the accompanying revision for submission to the voters at the earliest practicable date, and accordingly proposes the following summary (300 words):

The Minneapolis Charter Commission proposes that the Minneapolis City Charter be amended in the form of a thorough revision. 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, in plain modern language. When 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 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).

The proposed revision reorganizes and rewrites the entire charter, from start to finish, while preserving intact its substance. The revision reorganizes the charter in eight articles, and groups related provisions together. The revision uses plain English.

The revision also reclassifies many provisions from charter to ordinance, without changing the underlying rules. The revision retains a provision in the charter if it affects (1) a citizen's rights, or (2) the relationship among governmental officers or bodies, particularly including (but not limited to) the independence of municipal boards. After four public hearings, the revision contains every provision that any board, citizen, or other interested person or

group considered important enough that it belonged in the charter rather than in ordinance.

Respectfully submitted,

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JOHN KLASSEN,
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ANDREA RUBENSTEIN,
IAN STADE,
AARON STREET,
BRIAN MELENDEZ, *reporter*,[31]
BARRY CLEGG, *secretary*,
BARRY LAZARUS, *vice-chair*, and
JIM BERNSTEIN, *chair*,

Minneapolis Charter Commission.

March 2009.

[31]Mr. Melendez served as reporter throughout the revision project, and as a commissioner until March 2006.