

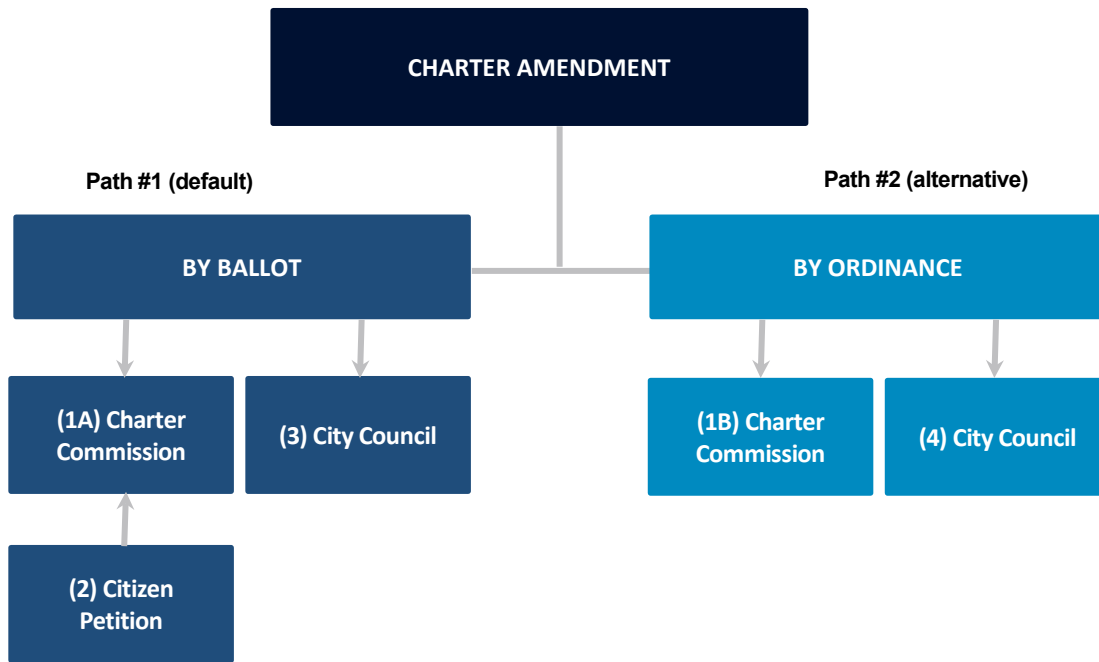
# Guide to Amending the City Charter

By Ballot or By Ordinance

The City of Minneapolis operates within the governance framework established by its home rule charter, first adopted in 1920, pursuant to Minnesota Statutes Chapter 410, and as variously amended over time and subsequently revised in the form of a plain-language version adopted in November 2013. The charter serves as the constitution of the local municipal government; legally, it is a delegation by the State of its central governing authority to be exercised at the local level. The charter defines the powers and overall structure of the municipal government, sets forth its lines of authority, and establishes the processes by which official actions and decisions are made. The State Legislature may pass special laws that supersede, contradict, or pre-empt the city charter.

There are two pathways to amend the city charter, found in Minnesota Statutes, Section 410.12:

1. **By ballot question.** An amendment enacted by vote of the electorate (see Path #1 below).
2. **By ordinance.** An amendment enacted by passage of an ordinance, requiring the unanimous affirmative vote of the entire membership of the City Council and approval by the Mayor (see Path #2 below).



As shown above, each of the two primary pathways offer options with respect to how exactly an amendment may be proposed and, ultimately, enacted. Referring to this chart above, these options include—

1. The Charter Commission itself may propose amendments any time, either as:
  - (1A) A ballot question, pursuant to the requirements set forth in [Minn. Stat. § 410.12, subd. 4](#); or
  - (1B) A referral to City Council for enactment by ordinance as set forth in [Minn. Stat. § 410.12, subd. 7](#).
2. A Citizen Petition requesting a ballot question when signed by a number of registered voters equal to at least 5 percent of the total votes cast at the last state general election pursuant to [Minn. Stat. § 410.12, subd. 2 and 3](#).
3. The City Council may refer a proposed amendment to the electorate, subject to review by the Charter Commission, as provided under [Minn. Stat. § 410.12, subd. 5](#).
4. The City Council may initiate an amendment by ordinance, with the concurrence of the Charter Commission, as provided under [Minn. Stat. § 410.12, subd. 7](#).

## ABOUT THE CHARTER COMMISSION

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If the charter is the constitution of a municipal government, the Charter Commission serves as its standing constitutional convention. In that capacity, it is rightfully understood that the Charter Commission holds the city charter in trust for the people of the City of Minneapolis. It is the body vested with authority under the Minnesota Constitution and state law to propose amendments to the charter or to consider proposals submitted by other methods pursuant to Minnesota Statutes, Section 410.12. Thus, any proposal to amend the city charter must first be addressed to the Charter Commission, which has a role to play in the process of determining whether and how an amendment is to be considered.

As provided under the Minnesota Constitution, Article XII, Section 4, and pursuant to Minnesota Statutes, Chapter 410, the Charter Commission is the body charged with oversight of the charter. In fulfillment of its duties, the Charter Commission is imbued with broad discretion. It may provide for any plan (form) of municipal government not otherwise inconsistent with the Minnesota constitution and may provide for the government's structure, distribution of powers and authority, and essential procedures; the establishment and administration of its departments; and the regulation of all local municipal functions as fully as if otherwise done by the State Legislature prior to the constitutional amendment granting local home rule powers in 1896.<sup>1</sup>

The city charter may be amended, and the procedures for enacting such amendments are primarily set forth in Minn. Stat. § 410.12. The level of discretion afforded to the Charter Commission in regard to the ways in which amendments are initiated, presented, and processed differs slightly; in particular, when an amendment is proposed by means of a citizen petition [pursuant to Minn. Stat. § 410.12, subs. 1, 2 and 3] and when an amendment is proposed by the City Council as a question to be referred to the voters [pursuant to Minn. Stat. § 410.12, subd. 5].

### **Authority with respect to Proposals via Citizen Petition**

Pursuant to Minn. Stat. § 410.12, subd. 1, the Charter Commission has a ministerial role in the processing of an amendment proposed by citizen petition. If the proposed amendment is more than 1,000 words, the petition circulated to registered voters must contain a summary of the proposed amendment approved by the Charter Commission with respect to its form and substance. Despite its authority to approve the petition summary as to form and substance, the Charter Commission does not have authority to opine on the original (underlying) amendment proposed through the petition process. The language of the statute indicates the Charter Commission “shall” submit a proposal to amend the charter if the petition is sufficient under all applicable legal requirements. Thus, the Charter Commission’s authority in this respect is limited to determining the form and substance of the summary of a petition where the proposed amendment exceeds 1,000 words.<sup>2</sup>

### **Authority with respect to Proposals via the City Council (as referenda)**

Pursuant to Minn. Stat. § 410.12, subd. 5, the Charter Commission plays a substantive role in the processing of an amendment proposed by the City Council as a question to be referred to the electorate.<sup>3</sup> Here the Charter Commission provides a check against the authority of the City Council to propose charter amendments. The statute provides that the Charter Commission is empowered to take the following actions on any amendment proposed by the City Council to be referred to the electorate:

- (1) Approve the amendment and recommend it be submitted, as proposed, as a ballot question to be decided by voters;
- (2) Reject the amendment and recommend that it not be submitted, as proposed, as a ballot question; or
- (3) Offer a substitute of its own design on the same general subject which, if agreed to by the City Council, could be submitted as a ballot question to be decided by voters.

In contrast to the role the Charter Commission plays in the processing of a citizen petition, there are no statutory limitations on what the Charter Commission’s review of a proposal by the City Council may entail. In fact, the Charter Commission’s role in evaluating a proposal submitted by the City Council as a referendum is broad and results in a formal recommendation by that body in reply to the City Council regarding its proposed amendment. Ultimately, the statute empowers the City Council to determine whether its proposed amendment or a substitute offered by the Charter Commission is referred to voters or if no amendment is pursued; however, those actions are dependent upon and are subsequent to the recommendation by the Charter Commission.

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<sup>1</sup> Minn. Stat. §§ 410.07, 410.16, 410.18, 410.19, and 410.20

<sup>2</sup> See Op. Atty. Gen., 58c, July 5, 1968 and Op. Atty. Gen., 58-C, May 7, 1946.

<sup>3</sup> See City Attorney Memo (Bachun) dated July 27, 2020, entitled “Opinion regarding whether Charter Commission can consider the substance of charter amendments proposed by the City Council.”

## AMENDMENT BY BALLOT

Unless a question is authorized by law to be submitted to the voters, it cannot be placed on a ballot. The requirements in the enabling legislation must be met first before a ballot question may be submitted. As stated in Minn. Stat. § 205.10, subd. 5, a ballot question may not be submitted to the electorate unless all statutory requirements and deadlines are satisfied; however, failure to satisfy these statutory requirements does not prohibit the same question from being submitted at a future election, assuming these requirements can then be met.

Pursuant to Minn. Stat. § 410.12, subd. 1, any proposed charter amendment to be submitted to the electorate as a ballot question must be submitted no later than seventeen (17) weeks prior to the date of the general election. Pursuant to Minn. Stat. § 205.16, subd. 4, the City Clerk is required to give written notice to the County Auditor no less than 84 days prior to any municipal election, which notice must include the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be submitted to the electorate. This roughly equates to ten weeks before the scheduled date of any election. In addition to this statutory timeline, additional time is needed to enable the Charter Commission and/or City Council to complete their duties with respect to a proposal ballot question, which includes additional notice and publication requirements as well as timetabling of public meetings and/or hearings.

The Office of City Clerk is responsible for preparing a submission timeline for charter amendments each year.

### Distinguishing between Types of Ballot Proposals

The statutes imply a hierarchy among methods for referring a proposed amendment via ballot question, as follows: (1) a proposal by citizen petition; (2) a proposal by the Charter Commission; and (3) a proposal by the City Council.

METHOD	SUBSTANTIVE CHECK	PROCEDURAL CHECK
<b>Citizen Petition</b>	<ol style="list-style-type: none"> <li>1. City Attorney verifies the “constitutionality” of the subject matter and reports that to the City Council.</li> <li>2. City Council determines the language of the ballot question, subject to Mayoral approval [Minn. Stat. § 410.12, subd. 4].</li> </ol>	<ol style="list-style-type: none"> <li>1. Statutory timelines concerning submission of a proposed amendment as a ballot question referred to voters [Minn. Stat. § 205.10, subd. 5].</li> <li>2. Charter Commission approves the language of the petition if it exceeds 1,000 words [Minn. Stat. § 410.12, subd. 1].</li> <li>3. City Clerk validates statutory requirements for voter signatures [Minn. Stat. § 410.12, subd. 3].</li> </ol>
<b>Charter Commission</b>	<ol style="list-style-type: none"> <li>1. City Attorney verifies the “constitutionality” of the subject matter and reports that to the City Council.</li> <li>2. City Council determines the language of the ballot question, subject to Mayoral approval [Minn. Stat. § 410.12, subd. 4].</li> </ol>	Statutory timelines concerning submission of a proposed amendment as a ballot question referred to voters [Minn. Stat. § 205.10, subd. 5]. Other than concerns about statutory timelines, the Charter Commission is authorized to initiate a proposed amendment at any time [Minn. Stat. § 410.12, subd. 1].
<b>City Council</b>	<ol style="list-style-type: none"> <li>1. City Attorney verifies the “constitutionality” of the subject matter and reports that to the City Council.</li> <li>2. Proposal subject to non-binding review by the Charter Commission and its recommendation to: (1) approve, (2) reject, or (3) submit a substitute of its own design.</li> <li>3. City Council determines whether to submit: (1) its original proposal; (2) substitute offered by the Charter Commission; or (3) no proposal.</li> <li>4. City Council sets language of the ballot question [MN Stat. § 410.12, subd. 4].</li> </ol>	<ol style="list-style-type: none"> <li>1. Statutory timelines concerning submission of a proposed amendment as a ballot question referred to voters [Minn. Stat. § 205.10, subd. 5].</li> </ol>



## *Procedures for a Ballot Question initiated by the Charter Commission*

### *Option 1A from the chart on page 2*

#### **1. Generate a proposal**

The Charter Commission may itself generate proposals or entertain proposals to amend the charter from outside sources, and may consult the Mayor, City Council, City departments, or others about ideas for amendments. Once an idea is generated, regardless of the source, the Charter Commission works with the Office of City Attorney to capture the proposal in the form of a written draft. The Charter Commission may find it expedient to delegate the initial work of framing and developing the draft proposal to a small work group composed of its members, which is authorized under the Commission's rules (Rule 4).

#### **2. File the formal proposal for a charter amendment**

Under its own rules (Rule 5.1), a proposal to amend the charter must be filed with the Charter Commission at least three business days prior to the scheduled meeting at which time the proposal is to be formally introduced to meet agenda production and publication deadlines. Filing is made by submitting the proposal to the Commission Coordinator, in the Office of City Clerk. Any proposal not submitted within this timeframe may be deferred to a later meeting. Under its rules (Rule 5.2), the Charter Commission will consider a non-petition amendment proposal for submission to the electorate if submitted prior to and in time for its regular meeting in June, provided all statutory deadlines and related requirements are met. The filing must include—at minimum—a draft of the proposed amendment, approved by the City Attorney, clearly showing the proposed change(s) according to drafting standards established by the Office of City Clerk (*see* LEGISLATIVE DRAFTING MANUAL). The Commission Coordinator will include the proposed amendment as an item of new business to the agenda for the next meeting after receipt, which constitutes "notice" for such purposes as may be required. The Charter Commission's rules infer that the proposal should be submitted in the form of a resolution, which would incorporate the text of the proposed change(s) to the charter (*see* Rule 5.1 and 5.3).

#### **3. Set a public hearing**

At the next regular meeting after notice of a proposed charter amendment is filed (*see above*), the Charter Commission may take up and discuss the proposal, or it may defer or continue discussion to its next scheduled meeting thereafter (Rule 5.1). After the filing is made and notice has been given, the Charter Commission must act to set the date and time for a public hearing on the proposed amendment, as required under its rules. Such action must carry by a majority of the Commissioners present and voting at the meeting.

#### **4. Conduct a public hearing**

On the date and time set by its own action, subject to applicable noticing requirements, the Charter Commission must conduct a public hearing on the proposed charter amendment (Rule 5.1). The requirement for a public hearing may be waived by a two-thirds (2/3) affirmative vote of those Commissioners present and voting. After the public hearing is adjourned, the Charter Commission may, by a majority vote of those Commissioners present and voting, approve and adopt the proposed charter amendment (by resolution).

#### **5. Transmit proposed amendment to the City Council**

The Charter Commission Chair (or Vice-Chair, if necessary) formally submits the approved charter amendment, under cover letter, to the City Council by filing it with the City Clerk. The City Clerk prepares a legislative file of the subject matter, submits the proposed amendment to the Mayor and City Council, and adds the item to the agenda as an item of new business for the next regular meeting of the City Council. Under this scenario, the authority of the City Council is limited to determining the ballot language to be submitted to the electorate, assuming the subject is proper as an amendment to the City Charter.

#### **6. Refer to standing policy committee of the City Council for review**

Following its standard legislative process, the City Council, at its regular meeting, refers the matter of the proposed charter amendment to its standing policy committee with jurisdiction over charter amendments; this is traditionally the Intergovernmental Relations (IGR) Committee. Based on that referral, the City Clerk adds the matter to the agenda for the next regular meeting of the policy committee.

#### **7. Action by policy committee and its recommendation**

Consistent with the City Council's standard legislative process, the policy committee of reference receives the proposed charter amendment. The policy committee is tasked with preparing ballot language that will be submitted to the electorate, with the advice of the City Attorney, as provided under Minn. Stat. § 410.12, subd. 4. The ballot language must clearly identify the amendment and distinguish it from every other question on the ballot at the same election. Once the policy committee finalizes its recommended ballot language, it is forwarded to the full City Council for its consideration at its next regular meeting.

**8. Adopt ballot language**

When it receives the recommendation of its policy committee, the City Council acts to finalize and approve the ballot language to be submitted to the electorate. This act is made in the form of a resolution and is subject to the normal legislative process defined in the City Charter (see Charter, Section 4.4). The City Council may not refuse to submit the proposed amendment and may not change the amendment itself as long as the proposal is constitutional (that is, the question itself is proper as an amendment to the City Charter). However, the City Council does not need to submit a proposed charter amendment deemed unconstitutional or a proposed charter amendment that violates federal or state law.

**9. Action by the Mayor**

Pursuant to City Charter Section 4.4(c), the Council’s act is subject to the approval or disapproval of the Mayor. Here, the Mayor is approving (of disapproving) the ballot language adopted by the City Council, not the underlying question itself (the proposed amendment).

**A. If the act is approved by the Mayor**

If approving the act, the Mayor gives the affirmative indication and signs it, and it is returned to the City Clerk.

**B. If the act is disapproved (vetoed) by the Mayor**

If disapproving the act, the Mayor returns it to the City Clerk with the Mayor’s objections in writing. The Mayor’s veto is subject to an override by a two-thirds vote of the fixed membership of the full City Council at its next regular meeting (thus, a minimum of nine (9) votes are required to override the Mayor’s veto). If the City Council overrides the Mayor’s veto, then the act becomes effective notwithstanding the Mayor’s veto.

**C. If the act is neither approved or disapproved by the Mayor**

If the Mayor neither approves or disapproves the act, it is returned unsigned to the City Clerk and is “deemed approved” and becomes effective notwithstanding no action on the part of the Mayor.

**10. Submit question to electorate at general election, or call for special election**

The proposed amendment must be submitted as a ballot question at the next general election if held within six (6) months of the date transmitted to the City Council, pursuant to Minn. Stat. § 410.10; otherwise, the City Council must call a special election for that purpose in accordance with the uniform special election dates established pursuant to Minn. Stat. § 205.10, subd. 3a.

**11. Public notice of ballot question**

Pursuant to Minn. Stat. § 410.10, subd. 2, notice of the election must be published once each week in the two weeks prior to the election in a newspaper having a regular circulation of at least 25,000 subscribers. The published notice must contain the full text of the proposed amendment and the actual ballot language approved by the City Council.

**12. Election**

Pursuant to Minn. 410.12, subd. 4, passage of the ballot question requires the affirmative votes of at least fifty-one (51) percent of those casting a vote on the amendment, or fifty-five (55) percent if the amendment concerns the sale of intoxicating liquor or wine, as provided under Minn. Stat. § 410.121. Between the third and tenth day after the election, the City Council—in its capacity as the municipal canvassing board pursuant to Minn. Stat. § 205.185, subd. 3—must meet to canvass and to certify the results of the election.

**13. Effective date**

Assuming the required vote threshold is achieved and the proposal is adopted, the charter amendment becomes legally effective thirty (30) days after the date of the election, unless the amendment itself provides for a later effective date.

**14. File and codify adopted amendment**

The City Clerk arranges for the adopted charter amendment to be codified. The City Clerk must also file certified copies of the adopted charter amendment with the County Recorder and the Office of Secretary of State, pursuant to Minn. Stat. § 410.11.



## Procedures for a Ballot Question initiated by Citizen Petition

### Option 2 from the chart on page 2

Any group of at least five electors (registered voters) may propose an amendment, in the form of a petition, after securing the signatures of the requisite number of registered voters who support the proposal. The Charter Commission oversees this process. Voters interested in sponsoring a petition for a charter amendment are advised to seek legal guidance to ensure their efforts comply with the requirements of law. The City of Minneapolis cannot provide legal advice, guidance, or assistance to a petition committee.

#### 1. Petition by voters

Registered voters may petition for an amendment to the City Charter, pursuant to Minn. Stat. § 410.12, subd. 2 and 3. Any such petition to amend the city charter must be carried by a “committee of petitioners” consisting of at least five electors (registered voters) of the city whose names and addresses must appear on each page of the petition [Minn. Stat. § 410.12, subd. 2]. The committee of petitioners is responsible for the circulation and filing of the petition. To be valid, a petition must: (1) be uniform in character; (2) include the full text of the proposed charter amendment; and (3) be signed by a minimum number of registered voters equal to 5 percent of the total votes cast at the previous state general election in the city.

##### A. Petition language (or summary)

A petition to amend the city charter must include the full text of the proposed amendment. However, if the proposed amendment exceeds 1,000 words, then a summary providing the “substance and nature” of the proposed amendment of between 50 and 300 words may be used in lieu of the entire text; provided, that the summary must first be approved by the Charter Commission before the summary is circulated as part of any petition. If the entire text of a proposed amendment exceeds 1,000 words, then the committee of petitioners must submit both the full text of its proposed amendment together with a proposed summary to the Charter Commission for its review and approval, by filing with the Office of City Clerk. Petitioners are advised to contact the Office of City Clerk in advance to coordinate the filing date to align with the Charter Commission’s regular meeting schedule; otherwise, the Charter Commission Chair may need to call a special meeting to address the matter.

The Charter Commission has up to 10 days after filing to either approve the draft summary provided by the committee of petitioners or to provide its own summary of the proposed amendment that sufficiently provides the “substance and nature” of the proposal to be included on the petition; specifically, the summary must be sufficient to inform signers of the petition as to what change is to be achieved as a result of the amendment. The Charter Commission Chair may appoint a subcommittee, pursuant to the Charter Commission rules (Rule 4.1), to examine the petition and to prepare (or edit/refine) summary language consistent with the provisions of Minn. Stat. § 410.12, subd. 1. Within 10 days after receipt of the filing, the Charter Commission shall act by a majority of its members to approve the summary statement and shall thereafter return to the committee of petitioners the proposed amendment and the summary in its final form as approved by the Charter Commission.

The committee of petitioners must file a true and correct copy of the entire text of the proposed amendment and, if necessary, the final approved summary if the proposed amendment exceeds 1,000 words with the Office of City Clerk.

##### B. Signatures required

Each petition to amend the city charter must be signed by a minimum number of registered voters that is equal to no less than 5 percent of the total votes cast at the previous state general election in the city, pursuant to Minn. Stat. § 410.10, subd. 1. This number is set by state statute and cannot be altered by an amendment to the city charter, *see* A.G. Op. 59a-11 (Dec. 30, 1981). Signatures must be made in ink or indelible pencil; electronic signatures are not allowed and will not be counted. “Registered voters” are defined as persons registered to vote under their current name at their current address in Minneapolis at the time of signing the petition. An address using a post office box is invalid. The Office of City Clerk calculates the minimum number of signatories required and includes this information as part of its annual submission timeline for charter amendments.

##### C. Papers assembled as single petition

###### Affidavit of the circulator

A petition may be submitted as an assembled packet of multiple papers; provided, that each separate page of any such petition shall have attached to it: (1) the full text of the proposed amendment or the approved summary thereof as approved by the Charter Commission; (2) an affidavit of the circulator of the petition and (3) the names and addresses of the committee of petitioners. In addition to the foregoing, each page of the petition, as assembled, must be uniform in construction; that is, each page should provide the same number of signatory lines

for petitioners. Each petitioner's signature must be made in ink or indelible pencil and must indicate after the signature the signer's place of residence by street and number, or other description sufficient to identify the place of residence.

Pursuant to Minn. Stat. § 410.12, subd. 2, the affidavit attached to each petition page shall be as follows:

State of .....
County of .....
..... being duly sworn, deposes and says that the affiant, and the affiant only, personally circulated the foregoing paper, that all the signatures appended thereto were made in the affiant's presence, and that the affiant believes them to be the genuine signatures of the persons whose names they purport to be.
Signed ..... (Signature of Circulator)
Subscribed and sworn to before me this ..... day of ....., .....
Notary Public (or other officer authorized to administer oaths)

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards any particular thereof shall be punishable in accordance with existing law.

## 2. File and verify petition

In all cases, a ballot question submitting a proposed amendment to the city charter must be submitted no later than seventeen (17) weeks before the date of the general election, pursuant to Minn. Stat. § 410.12, subd. 1; thus, the final date for a committee of petitioners to submit a proposed charter amendment would be early July in any year when a regular general election is scheduled to be conducted in November, aligned with the normal election cycle. To ensure sufficient time for the required filing, verification, noticing, public hearing, and approval of ballot language, the submission date for petitions is generally May 1 each year, reflected on the submission timeline published annually by the Office of City Clerk.

### A. Filing of petition proposing charter amendment

#### Transmittal to the City Council

In accordance with the Charter Commission's rules (Rule 6.2), a petition proposing an amendment to the city charter is deemed to be filed when it is received by the Office of City Clerk on behalf of the Charter Commission, as provided under Minn. Stat. § 410.12, subd. 3. Pursuant to the statute, the entire petition is to be assembled and filed as one petition.

The committee of petitioners should contact the Office of City Clerk to arrange for the filing at a date and time which accommodates the schedule of the Charter Commission. Under the Charter Commission's rules (Rule 5.1), any such proposal should be filed at least three business days prior to a regularly scheduled meeting of the Charter Commission to accommodate agenda production and publication. If there is no regular meeting scheduled within 10 days of filing, then the Charter Commission Chair must call a special meeting for the purpose of acting on the matter. Given this timeline, petitioners are advised to file proposals for charter amendments no later than the final week in April of any year when a general election is scheduled to occur in November. This provides a sufficient window for administrative processing in the months of May and June before final action would be required for a ballot question in July, prior to the general election in November, in accordance with the minimum seventeen (17) weeks prior to the date of the general election, pursuant to Minn. Stat. § 410.12, subd. 1.

At its meeting, the Charter Commission shall act by a majority vote of those commissioners in attendance, assuming a quorum, to transmit the petition to the City Council. The Charter Commission Chair (or Vice-Chair, if necessary) formally submits the petition proposing a charter amendment, under cover letter, to the City Council by filing with the Office of City Clerk. The City Clerk then prepares a legislative file of the subject matter, submits the proposed amendment to the Mayor and City Council, and adds the item to the agenda as an item of new business for the next regular meeting of the City Council.



## **B. Verification**

### **Referral to standing policy committee for review**

Upon receipt of a petition proposing to amend the city charter via referendum, the Office of City Clerk shall undertake a verification of the entire petition as required under Minn. Stat. § 410.12, subd. 3, to assure the entire review is completed within the 10-day period, which may or may not align with the Council's regular calendar. To the extent practicable, the City Clerk should report the results of the verification to the appropriate standing policy committee designated by the City Council, which may necessitate the calling of a special meeting if the regular calendar is insufficient to meet the statutory timeframe. The verification must ensure each page of the petition is properly attested and signed by the requisite number of registered voters.

Concurrently as the City Clerk undertakes the verification process, the City Council will refer the petition proposing a charter amendment to its standing policy committee with subject-matter jurisdiction; this is traditionally the Intergovernmental Relations (IGR) Committee. Based on that referral, the City Clerk adds the matter to the agenda for the next regular meeting of the policy committee. Consistent with the foregoing paragraph, the City Clerk should be prepared to report the results of the clerk's verification.

Within prescribed statutory timelines, it can take upwards of one month to review and verify an original petition, cure any defects through supplemental filings, complete subsequent verification, and complete the final certification on sufficiency of a petition; thus, an original filing made in time for the regular meeting of the Charter Commission in May would take through approximately the first part of June.

- (1) *Petition verified sufficient.* If the City Clerk finds the petition sufficient to satisfy the statutory requirements, it shall be certified as such to the City Council, through the appropriate standing policy committee so designated, if possible.
- (2) *Petition verified insufficient.* If the City Clerk finds the petition insufficient to satisfy the statutory requirements, the City Clerk shall identify the details or particulars of any defects in a certificate presented to the City Council, through the standing policy committee so designated, if possible. At the same time, the City Clerk shall notify the committee of petitioners of these findings. The committee of petitions then has an additional period of up to 10 days after the City Clerk certifies the original petition as being insufficient to satisfy the statutory requirements to cure the petition; that is, within the additional 10-day period, the committee of petitioners may file supplemental pages to address any of the identified defects certified by the City Clerk. All supplemental pages must be filed with the Office of City Clerk as with the original petition. At the end of the 10-day supplemental period, the City Clerk shall determine if the amended petition is sufficient to satisfy the statutory requirements; if so, the City Clerk shall certify the same to the City Council through the appropriate standing policy committee designated by the City Council, which may necessitate the calling of a special meeting if the regular calendar of meetings is insufficient to meet the statutory timeframe. If the amended petition remains insufficient to satisfy the statutory requirements, it is deemed to fail. The finding of any petition being insufficient does not prejudice the filing of a new petition for the same proposal.

### **3. Action by policy committee and its recommendation**

If the petition is certified sufficient to satisfy statutory requirements, and consistent with the City Council's standard legislative process, the standing policy committee of reference is tasked with preparing ballot language that will be submitted to the electorate, with the advice of the City Attorney, as provided under Minn. Stat. § 410.12, subd. 4. The ballot language must clearly identify the amendment and distinguish it from every other question on the ballot.

### **4. Adopt ballot language**

When it receives the recommendation of its policy committee, the City Council acts to approve the language of the ballot question to be submitted to the electorate. This act is made in the form of a resolution and is subject to the normal legislative process defined in the City Charter (see Charter, Section 4.4). The City Council may not refuse to submit the proposed amendment and may not change the amendment itself as long as the proposal is constitutional. However, the City Council does not need to submit a proposed charter amendment deemed to be unconstitutional or a proposed charter amendment that violates federal or state law.

### **5. Action by the Mayor**

Pursuant to City Charter Section 4.4(c), the Council's act is subject to the approval or disapproval of the Mayor. Here, the Mayor is approving (of disapproving) the ballot language adopted by the City Council, not the underlying question itself (the proposed amendment).

#### **A. If the act is approved by the Mayor**

If approving the act, the Mayor gives the affirmative indication and signs it, and it is returned to the City Clerk.

**B. If the act is disapproved (vetoed) by the Mayor**

If disapproving the act, the Mayor returns it to the City Clerk with the Mayor’s objections in writing. The Mayor’s veto is subject to an override by a two-thirds vote of the fixed membership of the full City Council at its next regular meeting (thus, a minimum of nine (9) votes are required to override the Mayor’s veto). If the City Council overrides the Mayor’s veto, then the act becomes effective notwithstanding the Mayor’s veto.

**C. If the act is neither approved or disapproved by the Mayor**

If the Mayor neither approves or disapproves the act, it is returned unsigned to the City Clerk and is “deemed approved” and becomes effective notwithstanding no action on the part of the Mayor.

**6. Submit question to electorate at general election, or call for special election**

The proposed amendment must be submitted as a ballot question at the next general election if one is to be held within six (6) months of the date that it was transmitted by the Charter Commission to the City Council, as stipulated under Minn. Stat. § 410.10; otherwise, if there is not a general election within that six (6) month period, the City Council must call a special election for that purpose to be held in accordance with the uniform dates for special elections established pursuant to Minn. Stat. § 205.10, subd. 3a.

**7. Public notice of ballot question**

Pursuant to Minn. Stat. § 410.10, subd. 2, notice of the election must be published once each week in the two weeks prior to the election in a newspaper having a regular circulation of at least 25,000 subscribers. The published notice must contain the full text of the proposed charter amendment and the actual ballot language approved by the City Council.

**8. Election**

Pursuant to Minn. 410.12, subd. 4, passage of the ballot question requires the affirmative votes of at least fifty-one (51) percent of those casting a vote on the amendment, or fifty-five (55) percent if the amendment concerns the sale of intoxicating liquor or wine, as provided under Minn. Stat. § 410.121. Between the third and tenth day after the election, the City Council—in its capacity as the municipal canvassing board pursuant to Minn. Stat. § 205.185, subd. 3—must meet to canvass and to certify the results of the election.

**9. Effective date**

Assuming the required vote threshold is achieved and the proposal is adopted, the charter amendment becomes legally effective thirty (30) days after the date of the election, unless the amendment itself provides for a later effective date.

**10. File and codify adopted amendment**

The City Clerk arranges for the adopted charter amendment to be codified. The City Clerk must also file certified copies of the adopted charter amendment with the County Recorder and the Office of Secretary of State, pursuant to Minn. Stat. § 410.11.



## Procedures for a Ballot Question initiated by the City Council

Option 3 from the chart on page 2

The City Council may by ordinance propose an amendment to the city charter to be referred to the electorate pursuant to Minn. Stat. § 410.12, subd. 5. Any such proposed referendum must be submitted first to the Charter Commission for its review and consideration, and the Charter Commission may approve or reject the proposal, or offer a substitute proposal of its own design. Pursuant to Minn. Stat. § 410.12, subd. 1, any such proposal to amend the charter by referendum must be submitted by no later than the statutory filing date for the general election, pursuant to Minn. Stat. § 205.16, subd. 4. The statutory timeline provided under Minn. Stat. § 410.12, subd. 1, which requires such ballot measures to be submitted no later than 17 weeks prior to the date of the general election, does not apply to ballot questions initiated by the City Council.<sup>4</sup>

### 1. Generate a proposal

Like the Charter Commission, the City Council may initiate proposals to amend the charter. Once an idea is generated, the Council Member(s) authoring the proposal tasks the City Attorney with preparing a formal draft of an amendment, in the form of an ordinance, for formal introduction according to the standard legislative process.

### 2. Notice of Ordinance Introduction

#### Introduction, First Reading & Referral

When the draft is ready, and consistent with the City's standard legislative process, notice of intent to introduce the ordinance is given by the Council Member(s) authoring the proposal at a regular meeting of the City Council under the order of *Notice of Ordinance Introductions*. At the next regular meeting of the full City Council, the matter is formally introduced, given its first of two required readings under the City Charter [see City Charter, Section 4.4(b)], and referred to the standing policy committee with subject-matter jurisdiction. Traditionally, the Intergovernmental Relations Committee has been designated as having subject-matter jurisdiction over all matters pertaining to the City Charter and/or Charter Commission.

### 3. Set a public hearing

At its meeting, the standing policy committee sets the date and time of a public hearing on the proposal.

#### A. Standard process

The standard process assumes that a draft of the ordinance (proposed amendment) is ready and available to policymakers and the public at the City Council meeting when formal introduction, first reading, and referral are made—

- (1) After formal introduction, the City Council refers the draft ordinance (proposed charter amendment) to the standing policy committee having subject-matter jurisdiction;
- (2) At its next regular meeting, the standing policy committee of reference sets the date and time of the public hearing on the ordinance (proposed amendment);
- (3) At the date and time set by the committee, a public hearing is conducted on the ordinance (proposed amendment).

#### B. Typical process

It is rare for a draft ordinance to be ready for publication in time for formal introduction and referral to the standing policy committee having subject-matter jurisdiction. In the more frequent scenario where a formal draft is not yet prepared, the more typical process is—

- (1) After formal introduction, the City Council refers the *subject matter* of an ordinance (proposed charter amendment), which is not yet drafted, to the standing policy committee having subject-matter jurisdiction;
- (2) At its next regular meeting, the standing policy committee of reference refers the proposal to staff to have an ordinance drafted and returned to the committee;
- (3) Once the draft ordinance is prepared, the committee sets the date and time of the public hearing on the ordinance (proposed amendment);
- (4) At the date and time set by the committee, a public hearing is conducted on the ordinance (proposed amendment).

#### C. Expedited process

In the exceptionally rare case where a draft ordinance is prepared and available with the agenda for the meeting where formal introduction is made and first reading given, the City Council may, at that time, also act to set the date and time of a public hearing on the ordinance (proposed amendment) by the standing policy committee of reference in the next cycle. This expedited process has the effect of significantly reducing the publicity of the

<sup>4</sup> See City Attorney Memo (Bachun) dated July 21, 2020, entitled "Interpretation of 17-week requirement under Minnesota Statutes, Section 410.12, subd. 1 (2019)."

proposal, notice to the community, and the potential for engagement and participation by those who may support or oppose the ordinance. It is not a recommended process, but is available to meet extraordinary circumstances.

**4. Conduct public hearing**

On the date and time set by its own action or by action of the City Council, subject to all applicable noticing requirements, the standing policy committee of reference conducts a public hearing on the ordinance (proposed amendment).

**5. Transmit proposed amendment to City Council**

The standing policy committee transmits its recommendation on the ordinance to the full City Council for its consideration.

**6. Refer proposal to Charter Commission**

If the City Council chooses to continue the process, it then refers the ordinance to the Charter Commission for its review and consideration, as required under Minn. Stat. § 410.12, subd. 5. The transmittal is usually accomplished under cover letter from the City Clerk.

**7. Deliberation and action by Charter Commission**

At its next regular meeting, the Charter Commission takes up the proposed ordinance.

**A. Review timeline**

Pursuant to Minn. Stat. § 410.12, subd. 5, the Charter Commission may take up to sixty (60) days to consider the proposal, and may extend that timeline for an additional ninety (90) days, for a total of not to exceed one hundred fifty (150) days to review and consider the proposed charter amendment. If the Charter Commission needs to extend the timeline for its consideration beyond the initial 60-day period, it may do so by formal action carried on a majority vote of its members, informing the City Clerk of the ninety (90) day extension, and the City Clerk then informs the Mayor and City Council of the extended timeline to be taken by the Charter Commission to complete its consideration of the proposed charter amendment.

**B. Response**

Pursuant to the provisions of Minn. Stat. § 410.12, subd. 5, the Charter Commission may take one of three actions on any charter amendment proposed by the City Council as a referendum; these are:

- (1) Approve the proposed amendment submitted by the City Council (with no changes in the draft ordinance);
- (2) Reject the proposed amendment submitted by the City Council (with no changes in the draft ordinance); or
- (3) Submit a substitute amendment of its own design to be considered by the City Council in place of the original proposal.

The response from the Charter Commission is generally made in the form of a written report transmitted by its Chair which includes, in addition to the formal recommendation, a synopsis of the reasoning for the action by the Charter Commission and any background information that may be helpful in explaining its position. The Charter Commission submits its response to the proposed charter amendment referred by the City Council by filing its report in writing with the City Clerk before the statutory timeline has expired.

**C. Delegation of evaluation**

The Charter Commission Chair may appoint a subcommittee, pursuant to the Charter Commission's rules (Rule 4.1), to examine the proposed amendment from City Council; such subcommittee may be tasked with preparing (or editing/refining) a response from the Charter Commission, which may include the responsibility for drafting an alternate proposal to submit to the City Council, as allowed under the statute.

**D. Public hearing on proposed amendment**

Under the Charter Commission's rules (Rule 5.1), any proposal to amend the charter must be subject to a public hearing, unless the Charter Commission by a two-thirds vote of those present waive that requirement for a hearing. Because the Council's standing policy committee has already conducted a public hearing on the proposal, the Charter Commission may opt to waive this requirement, upon the required vote threshold. The Charter Commission may conduct its own public hearing on the proposal to help inform its consideration of the proposed amendment to the city charter.

**8. Action by City Council**

Upon receiving the report of the Charter Commission, the City Council, following the standard legislative process, and according to the required vote threshold, must determine what action to take, which may include:

**A. Refer its original amendment proposal to the electorate as a ballot question**

The City Council may proceed to refer to the electorate its original proposal to amend the city charter as a ballot question. In this instance, the process continues with the adoption of the specific language to be referred to the electorate in the form of a ballot question, which is accomplished through the adoption of a resolution (see subsection D below).

**B. Refer the substitute proposal offered by the Charter Commission to the electorate as a ballot question**

The City Council may proceed to refer to the electorate as a ballot question the substitute proposal to amend the city charter offered by the Charter Commission, in place of its original proposal. This action terminates further consideration of the original proposal, which is replaced entirely by the substitute from the Charter Commission. In this instance, the process then continues with the adoption of the specific language to be referred to the electorate in the form of a ballot question, which is accomplished through the adoption of a resolution (see subsection D below).

**C. Return the proposal to author, under the City Council rules, thereby expiring the proposal without prejudice.**

The City Council may return its original proposal to author, as provided under Council Rule IX., Section 7, which has the effect of terminating further consideration of the matter. However, the same or similar proposal to amend the city charter may be introduced—which initiates an entirely new process—at a later time.

**D. Adopt ballot language**

If the policy committee of reference will submit a favorable response on the proposed amendment, as described in either subsection A or B above), then the committee also needs to submit its recommended language for the question to be submitted to the electorate, as provided under Minn. Stat. § 410.12, subd. 4. The language of a ballot question is always adopted in the form of a resolution of the City Council and is subject to the normal legislative process defined in the City Charter (see Charter, Section 4.4). This parallel action may necessitate additional referrals between the City Council and its policy committee(s) before a resolution is finalized, working in conjunction with the City Attorney, and submitted for formal adoption by the full City Council.

**9. Action by the Mayor**

Pursuant to City Charter Section 4.4(c), the Council’s act is subject to the approval or disapproval of the Mayor. Here the Mayor is considering two official acts of the City Council—

- First, the ordinance that presents the proposed amendment (the substantive issue); and
- Second, the resolution that presents the language of the ballot question.

The Mayor must consider whether to approve (or disapprove) both the substantive policy question (the ordinance) as well as the ballot language (the resolution). These are separate but related official acts.

**A. If the acts are approved by the Mayor**

If approving the act(s), the Mayor gives the affirmative indication and signs it, and it is returned to the City Clerk.

**B. If the act(s) are disapproved (vetoed) by the Mayor**

If disapproving the act(s), the Mayor returns it(them) to the City Clerk with the Mayor’s objections in writing. The Mayor’s veto is subject to an override by a two-thirds vote of the fixed membership of the full City Council at its next regular meeting (thus, a minimum of nine (9) votes are required to override the Mayor’s veto). If the City Council overrides the Mayor’s veto, then the act(s) becomes effective notwithstanding the Mayor’s veto.

**C. If the act(s) are neither approved or disapproved by the Mayor**

If the Mayor neither approves or disapproves the act(s), it(them) is(are) returned unsigned to the City Clerk and is “deemed approved” and becomes effective notwithstanding no action on the part of the Mayor.

**10. Submit question to electorate at general election, or call for special election**

The proposed amendment must be submitted as a ballot question at the next general election if one is to be held within six (6) months of the date that it was transmitted by the Charter Commission to the City Council, as stipulated under Minn. Stat. § 410.10; otherwise, if there is not a general election within that six (6) month period, the City Council must call a special election for that purpose to be held in accordance with the uniform dates for special elections pursuant to Minn. Stat. § 205.10, subd. 3a.

**11. Public notice of ballot question**

Pursuant to Minn. Stat. § 410.10, subd. 2, notice of the election must be published once each week in the two weeks prior to the election in a newspaper having a regular circulation of at least 25,000 subscribers. The published notice must contain the full text of the proposed charter amendment and the actual ballot language approved by the City Council.

**12. Election**

Pursuant to Minn. 410.12, subd. 4, passage of the ballot question requires the affirmative votes of at least fifty-one (51) percent of those casting a vote on the amendment, or fifty-five (55) percent if the amendment concerns the sale of intoxicating liquor or wine, as provided under Minn. Stat. § 410.121. Between the third and tenth day after the election, the City Council—in its capacity as the municipal canvassing board pursuant to Minn. Stat. § 205.185, subd. 3—must meet to canvass and to certify the results of the election.

**13. Effective date**

Assuming the required vote threshold is achieved and the proposal is adopted, the charter amendment becomes legally effective thirty (30) days after the date of the election, unless the amendment itself provides for a later effective date.

**14. File and codify adopted amendment**

The City Clerk arranges for the adopted charter amendment to be codified. The City Clerk must also file certified copies of the adopted charter amendment with the County Recorder and the Office of Secretary of State, pursuant to Minn. Stat. § 410.11.

## AMENDMENT BY ORDINANCE

Options 1B and 4 from the chart on page 2

Pursuant to Minn. Stat. § 410.12, subd. 7, the city charter may be amended by ordinance, which is an alternative intended to address administrative changes, often referred to as “housekeeping amendments” because they are most frequently non-controversial and address highly technical issues addressing with the internal operations of the City government. Because this method of amendment bypasses the electorate, there are additional conditions required; these include—

- An affirmative recommendation by the Charter Commission that the proposed charter amendment is appropriate to be made by ordinance, rather than submitting the matter to voters;
- The affirmative vote of the entire fixed membership of the City Council and the approval of the Mayor; and
- A sixty (60) day protest period following enactment, followed by the usual thirty (30) day effective date period that is the same for amendments made by referendum.

The effect of this statutory protest period means any amendment by ordinance could be subject to a referendum; thus, both the subject matter and timing for any such amendments proposed by ordinance should be carefully considered and, in every case, must be aligned with the potential timing for a regular and/or special election, should a protest petition be filed and found to be sufficient pursuant to the statute (subd. 7).

A proposed amendment to be enacted by ordinance may be initiated by either the Charter Commission or the City Council; in either case, the statutory timelines and processing details begin when the Charter Commission submits its recommendation on the proposal to the City Council. This is often referred to as “starting the clock,” and the overall timeline and specific deadlines are closely monitored by the Office of City Clerk. The consultation and collaborative efforts between the Charter Commission and the City Council which may take place prior to the submission of a formal recommendation by the Charter Commission are not addressed here, as they do not fall under the statutory framework for considering amendments to the city charter. Those interactions would, however, remain subject to applicable laws, such as the Minnesota Government Data Practices Act (Chapter 13), the Minnesota Open Meeting Law (Chapter 13D), the adopted procedural rules of both bodies, and any applicable City policies and procedures, for example. Questions or concerns about these matters should be referred to the Office of City Clerk and/or Office of City Attorney.

### 1. Generate a proposal

Regardless of the source for the proposed amendment, once the idea is developed, it is the customary practice for either the Charter Commission or the City Council (whichever body is taking the lead in the initiative) to develop the details in the form of a draft ordinance, which is prepared by the Office of City Attorney. Here again, if the Charter Commission is taking the lead, it is often expedient to delegate the initial work of framing and developing the proposal to a small work group of its members, which is authorized under the Commission’s rules (Rule 4).

### 2. Notice of Ordinance Introduction

#### Introduction, First Reading & Referral

When a draft ordinance containing the details of the proposed amendment is ready, and consistent with the City’s standard legislative process, notice of intent to introduce the ordinance is given by the Council Member(s) authoring the proposal. This notice is given at a regular meeting of the City Council under the order of *Notice of Ordinance Introductions*. At the next regular meeting of the full City Council, the matter is formally introduced, given its first of two required readings under the City Charter [see City Charter, Section 4.4(b)], and referred to the standing policy committee with subject-matter jurisdiction. Traditionally, the City Council has designated the Intergovernmental Relations Committee as having subject-matter jurisdiction over all matters pertaining to the City Charter and/or Charter Commission.

### 3. Setting the date of a public hearing

#### Submission to the Charter Commission

At its meeting, the committee of reference sets a date and time for the conduct of a public hearing on the proposed charter amendment. This public hearing should be deliberately timed to occur *after* the Charter Commission has considered and returned its recommendation on the proposal (*see below*). When the matter is received by the committee of reference, the matter is referred to staff where it remains pending until the Charter Commission completes its review and submits its recommendation. Thus, at the same time this reference is made to the standing policy committee having subject-matter jurisdiction, the City Council also refers the proposal to the Charter Commission for its consideration. This dual-track sequencing helps to expedite the overall process and corresponding timelines.

#### **4. Recommendation by the Charter Commission**

Under its rules (Rule 5.1), a proposal to amend the charter must be filed with the Charter Commission Coordinator (in the Office of City Clerk); this filing should occur at least three business days prior to the scheduled meeting at which time the proposal is to be formally introduced to meet agenda production and publication deadlines. Any proposal not submitted within this timeframe may be deferred to a later meeting. Once the idea for a charter amendment has been prepared as a formal draft (*see above*), it must be submitted to the Charter Commission according to this filing procedure. The Charter Commission Coordinator will include the proposed amendment as an item of new business to the agenda for the next meeting after receipt, which constitutes “notice” for such purposes as may be required.

The Charter Commission Rules do not require a public hearing on a proposed amendment by ordinance; however, if the Charter Commission chooses, it may set and conduct a public hearing on the proposal. The statute requires that the Charter Commission submit its favorable recommendation on any proposal to amend the city charter by enactment of an ordinance. The Charter Commission’s recommendation is generally made in the form of a written report transmitted by its Chair which includes, in addition to the formal recommendation, a synopsis of the reasoning for the action by the Charter Commission and any background information that may be helpful in explaining its position. The Charter Commission submits its recommendation to the City Council by filing its report in writing with the City Clerk.

***NOTE: The statutory “time clock” begins when the Charter Commission files its report (recommendation) with the City Clerk. Final action on the proposed amendment must be taken no later than a total of three (3) months of that date; thus, this sequencing between the City Council and the Charter Commission must be carefully coordinated.***

#### **5. Transmit proposed amendment to the City Council**

The Charter Commission Chair (or Vice-Chair, if necessary) formally submits the Commission’s recommendation on the proposed charter amendment, under cover letter, to the City Council by filing it with the City Clerk, which starts the statutory clock for when final action must be taken (*see above*). The City Clerk submits the Charter Commission’s recommendation to the Mayor and City Council, and adds the item to the existing legislative file which has already been referred to the standing policy committee having subject-matter jurisdiction. Notice of the date and time of a public hearing on the proposed ordinance must be published within one (1) month of receiving the Charter Commission’s recommendation.

#### **6. Conduct public hearing**

On the date set by its own action, the standing policy committee of reference (traditionally the Intergovernmental Relations Committee) conducts a public hearing on the proposed charter amendment. Because the matter had already been referred to it, the policy committee acts to set the date and time of the hearing within the timeframe allowed by state law. Under the statute, this public hearing must be conducted at least two (2) weeks and not more than one (1) month after the notice of the public hearing is published. After the public is adjourned, the committee formulates a recommendation to submit to the full City Council on the ordinance.

#### **7. Transmit proposed amendment to the City Council**

The standing policy committee of reference transmits its recommendation on the ordinance to the full City Council for its consideration. Under the statutory timeline, the City Council must vote on the proposed charter amendment ordinance within one month of the public hearing.

#### **8. Action by City Council**

##### **Unanimous affirmative vote of the entire fixed membership required**

Upon receiving the recommendation of its standing committee, the City Council, following the standard legislative process, and according to the required vote threshold, must take final action to take on the ordinance (proposed charter amendment). Because an amendment enacted by ordinance bypasses the electorate, passage requires the affirmative vote of the entire fixed membership of the City Council; that is, thirteen (13) affirmative votes are needed to enact the amendment by ordinance.

#### **9. Action by the Mayor**

Pursuant to City Charter Section 4.4(c), the Council’s official act must be submitted for consideration by the Mayor and is subject to the Mayor’s approval or veto. Again, because this method of amendment bypasses the electorate, the Mayor may either approve and sign the ordinance or veto it and return it to the City Clerk with the Mayor’s objections in writing.

**SPECIAL NOTE:** Because of the statutory requirement that an amendment by ordinance must be enacted with the unanimous vote of the entire membership of the City Council *and* the approval of the Mayor, there is no provision which would enable the City Council to override a Mayoral veto in this situation. Thus, if the Mayor vetoes the ordinance, the measure fails and the proposed amendment dies. Similarly, the Mayor may not allow the ordinance to



become effective without taking affirmative action (“deemed approve”), because the statute clearly anticipates an affirmative action by the Mayor towards the enactment of the ordinance; that is, by statute, passage of the ordinance requires the unanimous affirmative vote of the entire membership of the City Council and the approval of the Mayor (the statutory presumption is that the Council and Mayor both take formal action).

**10. Publication**

**Protest period**

If the ordinance is enacted, it must be published in the City’s legal newspaper, consistent with the City’s standard legislative process. The date of publication begins a sixty (60) day protest period during which time a petition requesting a referendum on the ordinance may be filed with the Office of City Clerk. To be valid, the petition must be signed by at least five (5) percent of the registered voters in the city or 2,000 registered voters, whichever is less. If the petition is found to be sufficient, then the ordinance does not become effective and is subject to a referendum where it may be approved by the voters (similar to amendments by ballot).

**11. Effective date**

Assuming the required vote threshold is achieved and the amendment enacted, and no protest petition is filed or, if filed, is insufficient, then the ordinance is passed and becomes legally effective thirty (30) days after the termination of the sixty (60) day protest period, for a total of ninety (90) days after publication, unless the ordinance itself provides for a later effective date.

**12. File and codify adopted amendment**

The City Clerk arranges for the adopted charter amendment to be codified. The City Clerk must also file certified copies of the adopted charter amendment with the County Recorder and the Office of Secretary of State, pursuant to Minn. Stat. § 410.11.

## STANDARDS FOR CONSIDERING A PROPOSAL

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At its regular meeting on October 7, 2020, the Charter Commission adopted a set of standards that are intended to guide its consideration of amendment proposals initiated either by the City Council or the Charter Commission itself. These standards are not exclusive or intended to be restrictive; rather, they provide a consistent frame to consider proposals to amend the City Charter. Other factors may be taken into consideration as well based on the substance of any specific amendment proposal. *[Note: These standards do not apply to amendment proposals initiated by citizen petition.]*

### STANDARDS TO CONSIDER PROPOSED CHARTER AMENDMENTS

- **First, is the amendment germane to the charter?**
- **Second, is the amendment well considered?**
- **Third, is the amendment clear and specific?**
- **Fourth, does the proposed amendment interfere with or take away any rights of the voters?**
- **Fifth, is the proposed amendment consistent with state law?**
- **Finally, is the proposed amendment necessary to accomplish its intended objective?**

### Notes and Comments on the Standards:

1. The role of the Charter Commission is laid out in Minnesota Constitution Article XII and defined by Minnesota Statutes, Chapter 410.

Minnesota Constitution art. XII § 5 provides:

The legislature shall provide by law for charter commissions. Notwithstanding any other constitutional limitations the legislature may require that commission members be freeholders, provide for their appointment by judges of the district court, and permit any member to hold any other elective or appointive office other than judicial. Home rule charter amendments may be proposed by a charter commission or by a petition of five percent of the voters of the local government unit as determined by law and shall not become effective until approved by the voters by the majority required by law. Amendments may be proposed and adopted in any other manner provided by law. A local government unit may repeal its home rule charter and adopt a statutory form of government or a new charter upon the same majority vote as is required by law for the adoption of a charter in the first instance.

Minnesota Statutes § 410.12, subd. 5, provides in relevant part:

The council of any city having a home rule charter may propose charter amendments to the voters by ordinance. Any ordinance proposing such an amendment shall be submitted to the charter commission. Within 60 days thereafter, the charter commission shall review the proposed amendment but before the expiration of such period the commission may extend the time for review for an additional 90 days by filing with the city clerk its resolution determining that an additional time for review is needed. After reviewing the proposed amendment, the charter commission shall approve or reject the proposed amendment or suggest a substitute amendment. ...Nothing in this subdivision precludes the charter commission from proposing charter amendments in the manner provided by subdivision 1.

2. Note that these standards are, for the most part, not relevant to proposed amendments submitted by petition. For amendments submitted by petition, the duties of the Charter Commission are limited to (i) receiving and transmitting the proposed amendment in accordance with the Statute, and (ii) review of any amendment summary submitted by the petitioner in accordance with Minnesota Statutes § 410.12, subd. 1.
3. Charter Commissioners are appointed by judges, not elected, as mandated by the state constitution. Charter commissioners are appointed by judges to preserve their independence; their job is to forward amendments that are appropriate, reject those that are not and, in the case of amendments proposed by the Council, request more time when more time is needed to make that determination.

4. The real question is: What constitutes an appropriate amendment? The statute provides only that, “the charter commission shall review the proposed amendment.” Otherwise, there is neither statutory nor case law guidance on the scope of review. The plain language of the statute, however, makes it clear that review can and should be substantive, both because the Charter Commission may request a ninety-day extension for review and because, in contrast, proposals for amendments by petition are subject to only very limited and specific review.
5. The standards as articulated are consistent with those recommended for drafting state law. (See, *Minnesota Revisor’s Manual*, 2013 Edition, Published by The Office of the Revisor of Statutes, St. Paul, MN.) Section 2.1 of the manual enumerates “General Drafting Principles,” including “Understand the Problem,” “Identify Possible Constitutional Issues,” and “Preserve the Legal Fabric,” among other recommendations.
6. Consideration of the first standard, whether the proposed amendment is germane to the Charter, might include whether it is overall appropriate to the Charter as a whole, whether it is a proper subject for the Charter, and does it have the durability to stand the test of time and avoid clutter of current policy disputes. Sometimes amendments are proposed that really are an ordinance in disguise.
7. Consideration of the second standard, whether the proposed amendment is well considered – “fully baked” -- might include whether the requested change was explored thoughtfully, based on evidence, done transparently, and proposed after significant community engagement, as appropriate under the circumstances, by the proponent(s). In addition, the Commission should consider whether it represents good public policy and whether it might unduly limit necessary action in the future.
8. The third standard inquires whether the amendment is clear and specific. Among the considerations are whether the text is plain and straightforward and whether it avoids containing too much detail. Voters should have the benefit of an actual plan and not the promise of one.
9. The fourth standard ensures that the proposed amendment will not interfere with or take away the rights of the voters. This standard may be read together with the third standard, that the proposed amendment should be sufficiently clear to ensure that the voters are informed as to the consequences of their votes. In addition, in some cases, the timing might be important and whether the delay of an amendment will cause any harm.
10. The fifth standard requires that the proposed amendment must be consistent with state law. The Charter Commission has neither the authority nor the discretion to approve an amendment that does or might violate state law or the state Constitution, nor is it the proper role of the Commission, itself, to seek change in state law.
11. Finally, is the proposed amendment necessary to accomplish its intended objective? The goal of the amendment, which should solve the problem being addressed, should be defined and the determination made that the amendment language is designed to accomplish such goal.

Additions to these proposed general standards could also be applicable on a case-by-case basis. It may be that a proposed amendment may raise additional issues unique to it. In such cases, the Charter Commission is not precluded from other considerations germane to its review or to waive a standard for good cause.