

## **Standards for Considering Proposals to Amend the City Charter**

---

During consideration of any Charter amendment proposed by the City Council or by the Charter Commission itself, the Charter Commission should consider the following standards. Other factors may be taken into consideration as well based on the substance of a specific proposed amendment.

- **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:**

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

Article XII, Section 5, of the Minnesota Constitution 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 Statute Section 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 Statute § 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”. There is otherwise 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.
12. 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.

