

CITY OF ST. FRANCIS  
ST. FRANCIS MN  
ANOKA COUNTY

CHARTER COMMISSION AGENDA

APRIL 30, 2013

6:00 PM

1. Call to Order
2. Approve Minutes of January 24, 2013
3. Discussion on Attorney's Memorandum regarding Draft Language Changes
4. Adjournment

CITY OF ST. FRANCIS  
ST. FRANCIS, MN  
ANOKA COUNTY

CHARTER COMMISSION MINUTES

JANUARY 24, 2013

**Call to Order:** The Charter Commission meeting was called to order at 6:00 pm by Malcolm Beck.

**Roll Call:** Present were Malcolm Beck, Randy Dressen, Gary Zimmerman and Tim Brown. Rebecca Havlik was present. Also present was City Administrator Matt Hylan.

**Approve Minutes of January 25, 2012:** Motion by Brown second Dressen to approve the January 25, 2012 Charter Commission Minutes. Motion carried unanimously.

**Appointment of Chair and Vice Chair:** Dressen nominated Malcolm Beck as Chair. Nominations closed after three times of calling for nominations. Motion by Dressen second Brown to appoint Malcolm Beck as the Chair for the Charter Commission. Motion carried unanimously.

Brown nominated Randy Dressen as Vice Chair. Nominations closed after three times of calling for nominations. Motion by Brown second Beck to appoint Randy Dressen as the Vice Chair for the Charter Commission. Motion carried unanimously.

**Review Proposed Changes to the Charter:** Board discussed a couple of amendments.

- 1) **Beginning of the year appointments:** Beck stated we should clarify how and who does the appointments at the beginning of the year. There seems to be some discrepancies of who makes the appointments. A section of the City Code states the council would vote on some of the appointments versus how it has been done for a number of years with the mayor making the appointment with the city council's ratification. Consensus of the Commission was to get this resolved and agreed with the mayor making the appointments with ratification of the city council.
- 2) **Primary Elections:** Members revisited adding a primary election. The attorney's opinion was you can go back to the City Council for a vote. Dressen, Brown and Beck agreed to have it ready for the 2014 Ballot if the council votes it down again.

Motion by Dressen second Havlik to adjourn the Charter Commission meeting at 6:10 pm.

Submitted by,

Matt Hylan  
City Administrator

DARRELL A. JENSEN  
JEFFREY S. JOHNSON  
RUSSELL H. CROWDER  
JON P. ERICKSON  
THOMAS P. MALONE  
MICHAEL F. HURLEY  
DOUGLAS G. SAUTER  
HERMAN L. TALLE  
CHARLES M. SEYKORA  
DANIEL D. GANTER, JR.  
BEVERLY K. DODGE  
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ANGELA M. WOESSNER  
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TAMMY J. SCHEMMEL  
JOE M. WEARMOUTH  
SHELDON M. CLARK

OF COUNSEL  
W. JAMES VOGL, JR.

### MEMORANDUM

TO: St. Francis Charter Commission, City Administrator  
FROM: Scott Lepak, City Attorney  
RE: Draft of Language Changes previously recommended by Charter Commission  
DATED: April 25, 2013

At the 2011 and 2012 Charter Commission Meetings, the Charter Commission considered creating a primary. The Charter Commission Chair asked me to present that issue to the Charter Commission in the form of language amendments for further discussion by the 2013 Charter Commission.

In addition to this charge, I also obtained language from the City of Blaine related to write-in candidates that the Charter Commission may wish to consider. The Blaine language provides as follows:

A write-in candidate who wants their write-in votes to be counted in the general election must file a written request with the city clerk no later than seven (7) days before the general election. All write-in votes cast for candidates who have not filed a written request to have these votes counted shall be treated collectively as votes for a single candidate.

I suggest clarifying the last sentence to identify that these will not affect the ballot result.

Finally, the City Council asked the Charter Commission to consider amending the Mayor's term from two to four years.

### Primary

Chapter 5 of the City Charter would need to be amended to create a primary.

In order to meet the statutory requirements of this change, the City Council will be required to act on this language by ordinance or resolution, no later than April 15 in the year when the election is to be held. See Minnesota Statute Sec. 205.065. It is anticipated that this will be effective for the 2014 elections.

Pursuant to Minnesota Statute Sec. 205.065, subd. 4, a primary election may or may not occur depending upon the number of candidates that have filed as a candidate for the particular office at issue and thus flexibility allowing for operation at a primary or a general election is needed. That statute is attached to this memo.

Other changes to the Charter regarding when the affidavit of candidacy is required to be filed must also be modified if a primary election is adopted. Even if a primary is not adopted, the time for filing in the City Charter (at Section 5.01 subd. 2) must be amended to correspond to the change in state statute. Minnesota Statute Sec. 205.13, subd. 1a. is attached for your reference.

The changes to the existing charter in order to adopt a primary would require amending the language as follows:

Subdivision 2. Filing and Nomination. Not more than eighty-four (84) nor less than seventy (70) days ~~weeks~~ before the date of the primary election, an individual who is eligible and desires to have his name placed on the official ballot as a candidate for an office to be voted for at the primary election or general election, depending upon the number of candidates that actually file for each office, shall file his affidavit of candidacy with the City Clerk. The City Clerk shall also accept an application signed by not less than five (5) voters and filed on behalf of an eligible person whom they desire to be a candidate, if service of a copy of the application has been made on the candidate and proof of service is endorsed on the application being filed. A write-in candidate who wants their write-in votes to be counted in the general election must file a written request with the city clerk no later than seven (7) days before the general election. All write-in votes case for candidates who have not filed a written request to have these votes counted shall be treated collectively as votes for a single nonqualified candidate referenced as "other". Upon receipt of a filing fee in the amount of five dollars (\$5.00) the City Clerk shall place the name of the candidate on the official ballot without partisan designation.

...

Subdivision 3. Notice. At least two (2) weeks before the first day to file affidavits or applications of candidacy, and at least two (2) weeks prior to each primary election, general election, and special election, the City Clerk shall publish and post in the Clerk's office a notice thereof.

...

Subdivision 7. Primary Election. ~~There will be no primary election.~~ Effective for the 2014 elections and thereafter, primary elections shall be held on the same date as prescribed by the Minnesota Statutes, which establishes the statewide primary election date. The primary election shall be for the selection of two nominees for each elective office at the regular municipal election, unless two nominees or fewer file for each elective office. In the event two nominees or fewer file for an elective office, the names of such nominees shall be placed on the municipal general election ballot as the nominee for that office and no primary election shall be held for such elective office.

## Mayor's Term

The changes to the existing charter in order to adopt a four year term for Mayor would require amending the language as follows:

**Section 2.02 The Council - Composition, Qualification and Terms.** The elective officers of the City shall be a Mayor and four (4) Council persons who, together, shall compose the council. All members of the Council shall be elected at - large by and from the electors of the City. All elective officers shall take office and qualify at the time of the first regular Council meeting in the Month of January next following their election, and shall hold office until their successors have been elected and have qualified. The term of office of Mayor shall be two (2) years until the term beginning on January 5, 2015 and in subsequent terms when the term of office of Mayor shall be four (4) years. ~~And~~ the term of office of each Council person shall be four (4) years. The Council shall be the judge, as to qualification only, of the election of the Mayor and Council persons. (Reference Section 5.01)

## Process

The Charter Commission, citizens and the City Council may all propose charter amendments. The Charter Commission may recommend the City Council amend the Charter by ordinance.

The steps in having the Charter Commission proposed change go to the City Council are as follows:

Step 1. The Charter Commission makes a recommended change to the Charter by ordinance and includes the text of the proposed amendment.

Step 2. This recommendation is submitted to the City.

Step 3. Within one month of receiving the recommendation from the Charter Commission, the City must publish notice of public hearing of the proposal (which must contain the text of the proposed amendment). Minn. Stat. Sec. 410.12, subd. 7.

Step 4. The City must hold a public hearing on the proposed charter amendment at least two (2) weeks but not more than one (1) month after the notice is published.

Step 5. The City Council must vote on it within one (1) month of the public hearing. The vote must be unanimous.

Step 6. The changes are published like all other ordinances.

Step 7. Within 60 days after passage and publication, citizens may petition to submit the matter to referendum.

Step 8. The Charter Commission may submit any of these issues to the voters if they are not unanimously adopted by the City Council. This must be submitted at least 17 weeks before the general election. Minn. Stat. Sec. 410.12.

**410.12 AMENDMENTS.**

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**Subdivision 1. Proposals.**

The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the city. Proposed charter amendments must be submitted at least 17 weeks before the general election. Only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

**Subd. 4. Election.**

Amendments shall be submitted to the qualified voters at a general or special election and published as in the case of the original charter. The form of the ballot shall be fixed by the governing body. The statement of the question on the ballot shall be sufficient to identify the amendment clearly and to distinguish the question from every other question on the ballot at the same time. If 51 percent of the votes cast on any amendment are in favor of its adoption, copies of the amendment and certificates shall be filed, as in the case of the original charter and the amendment shall take effect in 30 days from the date of the election or at such other time as is fixed in the amendment.

# 2012 Minnesota Statutes

## 205.065 PRIMARIES.

### Subdivision 1. Establishing primary.

A municipal primary for the purpose of nominating elective officers may be held in any city on the second Tuesday in August of any year in which a municipal general election is to be held for the purpose of electing officers. The date of a municipal primary held in an odd-numbered year may be postponed for inclement weather as provided in section 205.105.

### Subd. 2. Resolution or ordinance.

The governing body of a city may, by ordinance or resolution adopted by April 15 in the year when a municipal general election is held, elect to choose nominees for municipal offices by a primary as provided in this section. The resolution or ordinance, when adopted, is effective for all ensuing municipal elections until it is revoked. The municipal clerk shall notify the secretary of state and the county auditor within 30 days after the adoption of the resolution or ordinance.

### Subd. 3.

[Repealed, 1994 c 646 s 28]

### Subd. 4. Candidates, filing.

The clerk shall place upon the primary ballot without partisan designation the names of individuals whose candidacies have been filed and for whom the proper filing fee has been paid. When not more than twice the number of individuals to be elected to a municipal office file for nomination for the office, their names shall not be placed upon the primary ballot and shall be placed on the municipal general election ballot as the nominees for that office.

### Subd. 5. Results.

(a) The municipal primary shall be conducted and the returns made in the manner provided for the state primary so far as practicable. If the primary is conducted:

(1) only within that municipality, a canvass may be conducted on either the second or third day after the primary; or

(2) in conjunction with the state primary, the canvass must be conducted on the third day after the primary, except as otherwise provided in paragraph (b).

The governing body of the municipality shall canvass the returns, and the two candidates for each office who receive the highest number of votes, or a number of candidates equal to twice the number of individuals to be elected to the office, who receive the highest number of votes, shall be the nominees for the office named. Their names shall be certified to the municipal clerk who shall place them on the municipal general election ballot without partisan designation and without payment of an additional fee.

(b) Following a municipal primary as described in paragraph (a), clause (2), a canvass may be conducted on the second day after the primary if the county auditor of each county in which the municipality is located agrees to administratively review the municipality's primary voting statistics for accuracy and completeness within a time that permits the canvass to be conducted on that day.

### Subd. 6. Recount.

A losing candidate at the municipal primary may request a recount of the votes for that nomination subject to the requirements of section 204C.36.

## 205.13 CANDIDATES, FILING.

### Subdivision 1. Affidavit of candidacy.

An individual who is eligible and desires to become a candidate for an office to be voted for at the municipal general election shall file an affidavit of candidacy with the municipal clerk. Candidates for a special election to fill a vacancy held as provided in section 412.02, subdivision 2a, must file an affidavit of candidacy for the specific office to fill the unexpired portion of the term. Subject to the approval of the county auditor, the town clerk may authorize candidates for township offices to file affidavits of candidacy with the county auditor. The affidavit shall be in substantially the same form as that in section 204B.06, subdivision 1. The municipal clerk shall also accept an application signed by not less than five voters and filed on behalf of an eligible voter in the municipality whom they desire to be a candidate, if service of a copy of the application has been made on the candidate and proof of service is endorsed on the application being filed. Upon receipt of the proper filing fee, the clerk shall place the name of the candidate on the official ballot without partisan designation.

### Subd. 1a. Filing period.

In a city nominating candidates at a primary, an affidavit of candidacy for a city office voted on in November must be filed no more than 84 days nor less than 70 days before the city primary. In municipalities that do not hold a primary, an affidavit of candidacy must be filed no more than 70 days and not less than 56 days before the municipal general election held in March in any year, or a special election not held in conjunction with another election, and no more than 98 days nor less than 84 days before the municipal general election held in November of any year.

Blaine, Minnesota, Code of Ordinances &gt;&gt; PART I - CHARTER &gt;&gt; CHAPTER 4. - NOMINATIONS AND ELECTIONS &gt;&gt;

## CHAPTER 4. - NOMINATIONS AND ELECTIONS

Sec. 4.01. - General election laws to apply.Sec. 4.02. - Regular municipal elections.Sec. 4.03. - Primary elections.Sec. 4.04. - Special elections.Sec. 4.05. - Judges of election.Sec. 4.06. - Candidate for office.Sec. 4.07. - Withdrawal of candidate.Sec. 4.08. - Canvass of elections and taking of office.**Sec. 4.01. - General election laws to apply.**

Except as hereinafter provided, the general laws of the State of Minnesota pertaining to registration of voters and the conduct of primary and general elections shall apply for all municipal elections of such officers as are specified in this charter. The council shall, through ordinances duly adopted in compliance with such state laws and this charter, adopt suitable and necessary regulations for the conduct of such elections.

**Sec. 4.02. - Regular municipal elections.**

A regular municipal election shall be held on the first Tuesday after the first Monday in November of the year in which an election is to be held at such place or places as the city council may designate by resolution. At least fifteen (15) days' notice shall be given by the city clerk of the time and places holding such election, and of the offices to be elected, by posting a notice thereof in at least one (1) public place in each precinct or precincts where the election is held and by publishing a notice thereof at least once in the official newspaper of the city, but failure to give such notice shall not invalidate such election.

*(Ord No 01-1917, 11-15-2001)***Sec. 4.03. - Primary elections.**

There shall be a primary election on the date established by Minnesota state law for the selection of two (2) nominees for each elective office at the regular municipal election, unless only two (2) nominees file for each elective office. Primary municipal elections shall be held every even numbered year, if necessary.

*(Ord. No 239, 7-2-1970, Ord No 10-2208, 7-15-2010)***Sec. 4.04. - Special elections.**

The council may, by resolution, order a special election and provide all means for holding it. Published notice of a special election shall be given in the official newspaper at least two (2) weeks prior to such special election. The procedure at such election shall conform as nearly as possible to that prescribed for other municipal elections, except that there shall be no primary election prior to a special election held pursuant to section 2.05 of the charter of the City of Blaine.

*(Ord. No 98-1703, 4-2-1998)***Sec. 4.05. - Judges of election.**

The council shall at least twenty-five (25) days before each election, appoint at least three (3) qualified electors for each voting precinct to be judges of election. The council shall set compensation for the election judges.

*(Ord. No 01-1917, 11-15-2001)***Sec. 4.06. - Candidate for office.**

All candidates for office provided for by this chapter who desire to be elected to any elected office, shall file an affidavit not more than eighty-four (84) days nor less than seventy (70) days, or per Minnesota state law, prior to the primary election date, with the city clerk, paying the said officer a fee of fifty dollars (\$50.00). Such affidavit or application shall state that the candidate is a qualified voter of the City of Blaine and the name of the office for which such person is a candidate.

At the time of filing an affidavit of candidacy, a candidate may present a petition in place of the filing fee. The petition may be signed by an individual eligible to vote for the candidate. The number of signatures on the petition in place of a filing fee shall be the lesser of five hundred (500) signatures or five (5) percent of the total number of votes cast in the election ward at the preceding general election at which that office was on the ballot. The city clerk shall make available sample forms for petitions in place of filing fees.

A write-in candidate who wants their write-in votes to be counted in the general election must file a written request with the city clerk no later than seven (7) days before the general election. All write-in votes cast for candidates who have not filed a written request to have these votes counted shall be treated collectively as votes for a single candidate. necessary ballots and materials for conducting the election.

*(Ord. No. 253, 1-21-1971; Ord. No. 750, 3-18-1982; Ord. No. 88-1098, 11-3-1988; Ord. No. 97-1685, 11-20-1997; Ord. No. 10-2208, 7-15-2010; Ord. No. 12-2239, 3-15-2012)*

**Sec. 4.07. - Withdrawal of candidate.** 

Any person whose name has been presented in the manner provided for in the foregoing section as a candidate, may, not later than 5 o'clock p.m. of the second (2nd) day after the last day for filing or at such other time established by Minnesota state law, cause such person's name to be withdrawn from nomination by filing with the city clerk a request to do so in writing. No name so withdrawn shall be printed upon the ballot.

*(Ord. No. 10-2208, 7-15-2010)*

**Sec. 4.08. - Canvass of elections and taking of office.** 

The council must meet and canvass the election returns on the third (3rd) calendar day after any primary election and between the third (3rd) and tenth (10th) day after any general (regular) or special election, and shall make full declaration of the results as soon as possible and file a statement thereof with the city clerk, and said statement shall be made a part of the minutes. This statement shall include: (a) the total number of good ballots; (b) the total number of spoiled or defective ballots; (c) the vote of each candidate, with a declaration of those who are elected; (d) a true copy of the ballots used; (e) the names of the judges and clerks of election; (f) such other information as may seem pertinent. The city clerk shall forthwith notify all persons elected of the fact of their election. The persons elected shall take office at the time provided in section 2.03.

*(Ord. No. 10-2208, 7-15-2010)*

Minn. Stat. § 410.11.

The officials elected and appointed under the newly adopted charter may then take control of the city's records, money, and property at any time specified by the charter. The charter may provide that until an election of officers occurs, the officers under the old charter will continue to function. When the new charter becomes fully operational, the re-organized city corporation is in all respects the legal successor of the corporation organized under the old charter or state law. Existing, consistent ordinances and contracts continue until the council changes them or they expire by their terms.

## 6. Rejected charters

If less than 51 percent of those voting on the question do not vote in favor of the proposed charter:

Minn. Stat. § 410.10, subd. 4.

- The charter commission may choose to modify its proposed charter and re-submit the charter for election.

Minn. Stat. § 410.05, subd. 5(a)(1).

- The charter commission may choose to disband by a three-fourths vote of its members.

Minn. Stat. § 410.05, subd. 5(a)(2).

- The city voters may disband the charter commission through a petition and referendum process.

Minn. Stat. § 410.05, subd. 5(b).

When a charter commission disbands itself or is discharged by the city voters, another commission may not be formed sooner than one year from the date of discharge.

## C. Amendments

Minn. Stat. § 410.12, subd. 1a.

Charter cities will find it necessary to update or otherwise modify their charter to reflect current needs and expectations. Amendments must originate through one of the several ways that are provided in statute:

### 1. Amendment by proposal

#### a. Charter commission

Minn. Stat. § 410.12, subd. 1.

A charter commission *may* propose amendments to the charter at any time.

#### b. Citizen petition

Minn. Stat. § 410.12, subs. 1-3.  
A.G. Op. 59a-11 (Dec. 30, 1981).

A charter commission *must* propose amendments upon receiving a petition signed by a number of *registered* voters equal to 5 percent of the total votes cast at the previous state general election in the city. This percentage cannot be changed by the charter itself.

Minn. Stat. § 410.12, subd. 1.

All petitions circulated must be uniform in character. The petition must state the proposed amendment to the charter in full. However, if the proposed amendment is larger than 1,000 words, a true and correct copy must be filed with the city clerk, and the petition will contain a summary (between 50 and 300 words) setting forth the “substance and nature” of the proposed amendment. When a summary is used, that *summary* (along with a copy of the proposed amendment) must be first submitted to the charter commission for its approval as to form and substance. The commission has 10 days to return the summary with any modifications necessary to fairly comply with these requirements.

Minn. Stat. 204B.071.  
Minnesota Secretary of State -  
Petitions.

The secretary of state is required to develop rules governing the manner in which petitions required for any election in this state are circulated, signed, filed, and inspected. The secretary of state shall provide samples of petition forms for use by election officials. Once received, the commission must submit the petition to popular vote.

**c. Process and procedure**

Minn. Stat. § 410.12, subd. 1, 4.

*Davies v. City of Minneapolis*,  
316 N.W.2d 498 (Minn. 1981).  
*Haumant v. Griffin*, 699  
N.W.2d 774 (Minn. Ct. App.  
2005).

The amendment goes to the city clerk, who notifies the council. The council then provides for the election under the same rules that apply to a new charter. The council may not refuse to submit or change the amendment as long as it is constitutional. A city council does not need to submit an unconstitutional charter amendment or an amendment that violates state or federal law to the voters. When an amendment to a charter is proposed by the charter commission or petitioned for by the voters of the city, the proposed amendment must be submitted at least 17 weeks before the general election.

**2. Amendment by ordinance**

**a. City council**

Minn. Stat. § 410.12, subd. 5.

The city council may propose an amendment by ordinance. The council submits the ordinance proposing an amendment to the commission, which has 60 days for review (which may be extended by the commission an additional 90 days by filing a resolution determining that additional time is necessary with the city clerk). After the review period, the commission returns the amendment or its own substitute amendment to the council. The council then submits to the voters *either* the amendment it originally proposed or the commission’s substitute amendment.

**b. Charter commission**

Minn. Stat. § 410.12, subd. 7.

The charter commission may recommend the council amend the charter by ordinance. Within one month of receiving a recommendation to amend the charter by ordinance, the city must publish notice of a public hearing of the proposal (which must also contain the text of the proposed amendment).

Minn. Stat. § 410.12, subd. 7.

The city must hold the public hearing on the proposed charter amendment at least two weeks but not more than one month after the notice is published. Within one month of the public hearing, the city council must vote on the proposed charter amendment ordinance. The vote must be unanimous, including approval by the mayor if the mayor has veto power. The ordinance proposing the amendment is subject to the same publication requirements as other ordinances. The ordinance becomes effective 90 days after passage and publication, unless a later date is provided in the ordinance.

Minn. Stat. § 410.12, subd. 7.

Within 60 days after passage and publication, a petition signed by registered voters equal in number to at least 5 percent of the registered voters in the city or 2,000, whichever is less, may be submitted to force a referendum on the amendment. If voters file a proper petition, the city must handle the amendment like any other charter amendment, except the council may submit the ordinance at a general or special election that occurs within 60 days after filing the petition, or it may reconsider its action in adopting the ordinance.

### **c. Cities of the fourth class**

Minn. Stat. § 410.12, subd. 6.

In cities with a population of less than 10,000, the council may propose amendments by ordinance without submitting them to the charter commission. Four-fifths of the councilmembers must vote for the ordinance. Two weeks published notice is necessary before the vote. The council must then submit the ordinance to the voters like any other amendment.

## **3. Elections**

Minn. Stat. § 410.10. Minn. Stat. § 410.12, subd. 4. Minn. Stat. § 410.121.

See Section IV-B – *Election*.

The election concerning proposed amendments and the arrangement of the ballot are substantially the same as in the case of the adoption of a new charter. An amendment needs the favorable vote of 51 percent of those voting on the question.

## **4. Notice**

Minn. Stat. § 410.12. Minn. Stat. § 410.11.

Amendments, like charters, need the clerk's certification. Copies must be filed in the offices of the secretary of state and county recorder, as well as in the clerk's office. Amendments take effect either at the end of 30 days after the election, or at some other time if the amendment so specifies. The law also allows for alternative proposals.

LMC Charter Assistance Program.

The League of Minnesota Cities Charter Assistance Program would appreciate a copy in order to keep the LMC charter collection up to date. State and local libraries and the Minnesota Historical Society are also suggested recipients. A city may also want to consider posting charter amendments to its website to keep the online charter up to date.

## **D. New or revised charters**

Any city having a home rule charter may adopt a new or revised charter in the same manner as an original charter. If a new or completely revised charter is to go to the voters, the preparation of the ballot and other procedures are substantially the same as for the original charter.

# 2012 Minnesota Statutes

## 410.12 AMENDMENTS.

Subdivision 1. **Proposals.** The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the city. Proposed charter amendments must be submitted at least 17 weeks before the general election. Only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

Subd. 1a. **Alternative methods of charter amendment.** A home rule charter may be amended only by following one of the alternative methods of amendment provided in subdivisions 1 to 7.

Subd. 2. **Petitions.** The signatures to such petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. A petition must contain each petitioner's signature in ink or indelible pencil and must indicate after the signature the place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors of the city, and on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

State  
of )  
) ss.  
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.

Subd. 3. **May be assembled as one petition.** All petition papers for a proposed amendment shall be assembled and filed with the charter commission as one instrument. Within ten days after such petition is transmitted to the city council, the city clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of voters. The city clerk shall declare any petition paper entirely invalid which is not attested by the circulator thereof as required in this section. Upon completing an examination of the petition, the city clerk shall certify the result of the examination to the council. If the city clerk shall certify that the petition is insufficient the city clerk shall set forth in a certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of the findings. A petition may be amended at any time within ten days after the making of a certificate of insufficiency by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall within five days after such amendment is filed, make examination of the amended petition, and if the certificate shall show the petition still to be insufficient, the city clerk shall file it in the city clerk's office and notify the committee of the petitioners of the findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Subd. 4. **Election.** Amendments shall be submitted to the qualified voters at a general or special election and published as in the case of the original charter. The form of the ballot shall be fixed by the governing body. The statement of the question on the ballot shall be sufficient to identify the amendment clearly and to distinguish the question from every other question on the ballot at the same time. If 51 percent of the votes cast on any amendment are in favor of its adoption, copies of the amendment and certificates shall be filed, as in the case of the original charter and the amendment shall take effect in 30 days from the date of the election or at such other time as is fixed in the amendment.

Subd. 5. **Amendments proposed by council.** 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. The commission shall promptly notify the council of the action taken. On notification of the charter commission's action, the council may submit to the people, in the same manner as provided in subdivision 4, the amendment originally proposed by it or the substitute amendment proposed by the charter commission. The amendment shall become effective only when approved by the voters as provided in subdivision 4. If so approved it shall be filed in the same manner as other amendments. Nothing in this subdivision precludes the charter commission from proposing charter amendments in the manner provided by subdivision 1.

**Subd. 6. Amendments, cities of the fourth class.** The council of a city of the fourth class having a home rule charter may propose charter amendments by ordinance without submission to the charter commission. Such ordinance, if enacted, shall be adopted by at least a four-fifths vote of all its members after a public hearing upon two weeks' published notice containing the text of the proposed amendment and shall be approved by the mayor and published as in the case of other ordinances. The council shall submit the proposed amendment to the people in the manner provided in subdivision 4, but not sooner than three months after the passage of the ordinance. The amendment becomes effective only when approved by the voters as provided in subdivision 4. If so approved, it shall be filed in the same manner as other amendments.

**Subd. 7. Amendment by ordinance.** Upon recommendation of the charter commission the city council may enact a charter amendment by ordinance. Within one month of receiving a recommendation to amend the charter by ordinance, the city must publish notice of a public hearing on the proposal and the notice must contain the text of the proposed amendment. The city council must hold the public hearing on the proposed charter amendment at least two weeks but not more than one month after the notice is published. Within one month of the public hearing, the city council must vote on the proposed charter amendment ordinance. The ordinance is enacted if it receives an affirmative vote of all members of the city council and is approved by the mayor and published as in the case of other ordinances. An ordinance amending a city charter shall not become effective until 90 days after passage and publication or at such later date as is fixed in the ordinance. Within 60 days after passage and publication of such an ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. The petition must be signed by registered voters equal in number to at least five percent of the registered voters in the city or 2,000, whichever is less. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by the voters as in the case of charter amendments submitted by the charter commission, the council, or by petition of the voters, except that the council may submit the ordinance at any general or special election held at least 60 days after submission of the petition, or it may reconsider its action in adopting the ordinance. As far as practicable the requirements of subdivisions 1 to 3 apply to petitions submitted under this section, to an ordinance amending a charter, and to the filing of such ordinance when approved by the voters.

**History:** (1286) RL s 756; 1907 c 199 s 1; 1911 c 343 s 1; 1939 c 292 s 1; 1943 c 227 s 1; 1949 c 122 s 1; 1959 c 305 s 3,4; 1961 c 608 s 5,6; 1969 c 1027 s 3; 1973 c 503 s 1-4; 1986 c 444; 1998 c 254 art 1 s 107; 1999 c 132 s 42; 2005 c 93 s 1; 2008 c 331 s 7; 2010 c 184 s 43