

Charter Amendment Procedures for



Maryland Municipalities

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INTRODUCTION

A municipal charter determines the basic structure of a municipality. Together with various provisions of Maryland State law, a municipal charter also outlines the basic powers that a municipal corporation may exercise. It is often said that a municipal charter is analogous to the constitution of a state or a nation.

Just as state and federal constitutions are dynamic documents, municipal charters require revisions from time to time. Charter provisions become archaic with the passage of time. The impacts of court decisions and the enactment of state and federal laws dictate the need for change. The needs and desires of municipal officials and the communities they serve change with the passage of time. The Local Government Article of the *Annotated Code of Maryland* sets out the manner in which incorporated cities and towns may amend their charters to adapt to these and other changing circumstances.

The Maryland Municipal League prepared this handbook to provide basic guidance to municipal officials on procedures for amending their charters. Included for your information are a brief overview of the process, a flow chart to visually illustrate the charter amendment process and the sections of Maryland law that address how charter amendments must be conducted.

League staff members are available to answer any questions that you may have relating to charter amendments. Given the complexities involved and the importance of charter amendments, the League recommends that you use legal counsel when preparing and approving amendments to your municipal charter.

CHARTER AMENDMENT PROCEDURES

A charter amendment may be initiated by formal action of the governing body of a municipality through the passage of a resolution. Alternatively, the qualified voters of a municipality may initiate a charter amendment by gathering the signatures of at least 20 percent of the qualified voters in the municipality. The following text synthesizes the two processes.

Initiation by Elected Municipal Officials

Charter Resolution

The elected governing body of a municipality must first pass a resolution to effect a charter change in the same fashion that they would normally approve a formal resolution. The resolution must contain the exact wording of the proposed amendment or amendments. Each amendment must address a single subject and appear in a format set out in law to describe new language to be added to the charter and existing language to be deleted from the charter.

Notifying the Public

Municipal government officials must post an exact copy of the charter amendment resolution at the city or town hall or some other public place for at least 40 days after passage of the resolution. The law further requires the municipality to publish a “fair summary” of the proposed amendment not less than four times at weekly intervals in a newspaper of general circulation in the community.

Effective Date

Unless an approved charter amendment is petitioned to referendum, an amendment becomes effective 50 days after a municipal governing body passes a charter amendment resolution. The effective date is delayed if a petition for referendum is received by the municipality on or before the fortieth day after initial passage of the charter amendment resolution.

Petition to Referendum

Municipal residents may seek to nullify a charter amendment that has been approved by a municipal governing body by petitioning the amendment to referendum. The signatures of 20 percent of the qualified voters of the affected municipality are needed to bring the amendment to a referendum election. If a petition is presented to the municipal governing body and it has the requisite signatures and meets the legal requirements for form, the governing body must pass a resolution to provide for a referendum on the question of whether the charter amendment should be approved. The referendum may occur at the next general election of the affected municipality or a special election may be called. In the event of a special election, it must occur between 40 and 60 days after the referendum resolution is approved.

Initiation by Municipal Residents

Petition to Referendum

The residents of an incorporated city or town may initiate an amendment to a municipal charter by gathering the signatures of at least 20 percent of qualified municipal voters on a petition in the same fashion that a charter amendment approved by a municipal governing body may be petitioned to referendum. The petition must contain the exact wording of the proposed charter amendment. Each amendment must address a single subject and appear in a format set out in law to detail new language to be added to the charter and existing language to be deleted from the charter.

Again, if the petition has the requisite signatures and meets the legal requirements for form, the municipal governing body must within 60 days approve a resolution calling for a referendum election on whether the proposed charter amendment should be approved. Just as in the case of a referendum on a proposed charter amendment approved by the elected municipal governing body, the referendum may occur at the next general election of the affected municipality or at a special election. In the event of a special election, the election must occur between 40 and 60 days after the referendum resolution is approved.

As an alternative to calling for a charter amendment referendum upon receipt of a qualified referendum initiative petition, the affected municipal governing body may pass a resolution adopting the amendment proposed by the petition. The governing body may then proceed to address the amendment in the same fashion as it would if the governing body itself had initiated the proposed amendment.

Referendum

Notifying the Public

Municipal government officials must post an exact copy of a proposed charter amendment at the city or town hall or some other public place for at least four weeks immediately before a charter amendment referendum is held. The law further requires the affected municipality to publish notice of the referendum with a “fair summary” of the proposed amendment not less than four times at weekly intervals immediately before a charter amendment referendum is held. The published notice must appear in a newspaper of general circulation in the community. Lastly, the law requires that, on the day of the referendum election, officials must post an exact copy of the proposed amendment at all municipal sites where voting on the referendum will occur.

Conducting the Referendum Election

The referendum election on the question of endorsing a proposed charter amendment should generally be conducted in the same fashion in which a normal municipal election is conducted. Election officials must tally the referendum results immediately following the close of voting and certify the election results to the mayor or chief executive officer of the affected municipality.

If the voters approve the proposed charter amendment, the mayor or chief executive officer must publicly proclaim the results within 10 days of receiving certification of the election results. The charter amendment then becomes effective 30 days after the proclamation is issued.

If the voters reject the proposed charter amendment, the mayor or chief executive officer in a similar fashion must proclaim that result. The proclamation must also state that the proposed charter amendment is null and void and of no effect.

Document Registration

The Local Government Article of the *Annotated Code of Maryland* requires that specified documentation of a municipal charter amendment that is approved be provided to the Maryland Department of Legislative Services within 10 days of the amendment's effective date. At one time a charter amendment did not become effective until it was registered with the Department. Legislation enacted by the General Assembly several years ago removed the impact of this documentation on the effectiveness of a charter amendment. However, the requirement to send the documentation to the Department of Legislative Services remains.

Code of Maryland
Local Government Article
Title 4, Subtitle
Municipal Charter Amendment

§4-301. Charter Amendment Generally

A municipality shall act in accordance with this subtitle in exercising the powers to amend its municipal charter that are granted under Article XI-E of the Maryland Constitution.

§4-302. Means of Initiation

An amendment to a municipal charter may be initiated by:

- (1) the legislative body of the municipality as provided in § 4-304 of this subtitle; or
- (2) a petition of the qualified voters of the municipality as provided in § 4-305 of this subtitle.

§4-303. Amendment Form and Format

(a) In conformity with the requirement imposed on the General Assembly under Article III, § 29 of the Maryland Constitution:

(1) a resolution or petition to amend a municipal charter shall contain the exact text of the proposed charter amendment, prepared so that each provision is shown as the provision would read when amended or enacted;

(2) except as provided in subsection (e)(2) of this section, a provision of a municipal charter may not be amended by reference to its title or citation only; and

(3) a municipal charter amendment shall:

- (i) embrace one subject only; and
- (ii) describe the subject in its title.

(b) A proposed amendment shall identify the provision to be amended by citing the code or other publication or amendment in which the most recent text of the provision appears.

(c) Proposed amendments shall be in a consecutively numbered series.

(d) A proposed amendment shall provide specifically for the repeal of a provision of the municipal charter that is inconsistent with the amended provision.

(e) (1) In a proposal to amend a municipal charter:

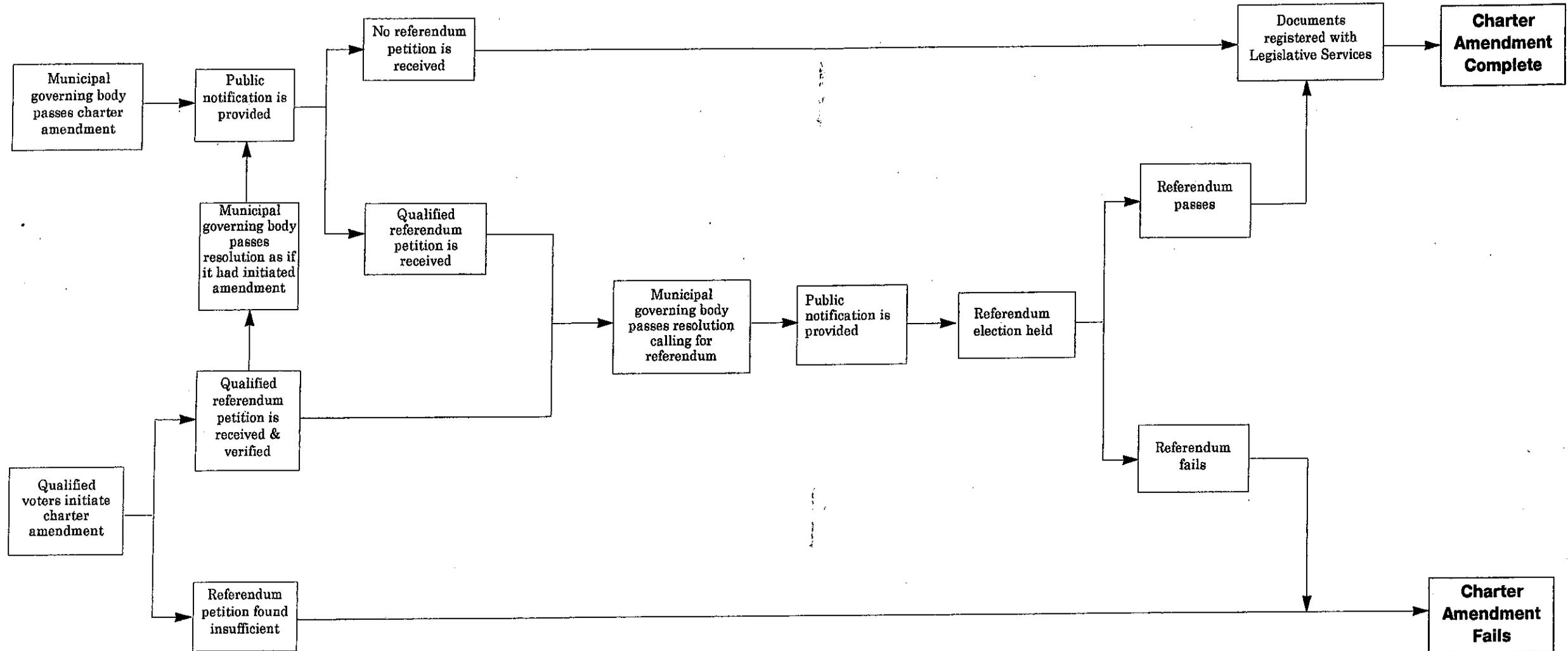
(i) each addition shall be underscored, italicized, or shown in capital letters;

(ii) subject to paragraph (2) of this subsection, each provision to be repealed shall be enclosed in double parentheses or boldface brackets; and

(iii) each new section shall be underscored, italicized, or shown in capital letters or contain some marginal or other notation to that effect.

(2) Each entire section to be repealed need not be written out in full and enclosed in double parentheses or boldface brackets.

Maryland Municipal Charter Amendment Procedures



§4-304. Initiation by Local Governing Body

(a) The legislative body of a municipality may initiate a proposed amendment to the municipal charter by a resolution that, except as otherwise provided in this subtitle, is adopted in the same manner as other resolutions in the municipality by a majority of all the individuals elected to the legislative body.

(b) The chief executive officer of the municipality shall give notice of the resolution that proposes an amendment to the municipal charter by:

(1) posting an exact copy of the resolution at the main municipal building or other public place for the 40 days after the resolution is adopted; and

(2) publishing a fair summary of the proposed amendment in a newspaper of general circulation in the municipality:

(i) at least four times;

(ii) at weekly intervals; and

(iii) within the 40 days after the resolution is adopted.

(c) Unless a petition meeting the requirements of subsection (d) of this section is presented to the legislative body of a municipality on or before the 40th day after the legislative body adopts a charter amendment resolution, the amendment shall take effect as a part of the municipal charter on the 50th day after the resolution is adopted.

(d) (1) A petition for a referendum on a proposed charter amendment shall:

(i) be signed by at least 20% of the qualified voters for the municipal general election; and

(ii) request that the proposed amendment be submitted to referendum of the qualified voters of the municipality.

(2) Each individual signing the petition shall indicate on the petition the individual's name and residence address.

(3) The petition shall be delivered to the legislative body of the municipality by:

(i) presentment; or

(ii) certified mail, return receipt requested.

(4) (i) On receiving the petition, the legislative body shall verify that each individual who signed the petition is a qualified voter for the municipal general election.

(ii) The petition has no effect if it is signed by less than 20% of the qualified voters for the municipal general election.

(5) If the petition complies with this section, the legislative body shall specify by resolution adopted in accordance with its normal legislative procedure:

(i) the day and hours for the referendum; and

(ii) the exact text that is to be placed on the ballot.

(6) (i) The legislative body may schedule the referendum for the next regular municipal general election or at a special election.

(ii) If the legislative body schedules a special election, it shall be held not less than 40 days or more than 60 days after the resolution scheduling the referendum is adopted.

§4-305. Initiation by Voters

(a) (1) By a petition presented to the legislative body of a municipality, at least 20% of the qualified voters for the municipal general election may initiate a proposed amendment to the municipal charter.

(2) Each individual signing the petition shall indicate on the petition the individual's name and residence address.

(b) (1) On receiving the petition, the legislative body shall verify that each individual who signed the petition is a qualified voter for the municipal general election.

(2) The petition has no effect if it is signed by less than 20% of the qualified voters for the municipal general election.

(c) If the legislative body approves of the amendment in the petition presented under subsection (a) of this section, the legislative body may adopt the proposed amendment by resolution and proceed in the same manner as if the amendment had been initiated by the legislative body and in compliance with §§ 4-303(a) and 4-304 of this subtitle.

(d) Except as provided in subsection (c) of this section, if the petition complies with this section, the legislative body, no later than 60 days after the petition is presented to the legislative body, shall specify by resolution adopted in accordance with its normal legislative procedure:

- (1) the day and hours for the referendum; and
- (2) the exact text that is to be placed on the ballot.

(e) (1) The legislative body may schedule the referendum for the next regular municipal general election or at a special election.

(2) If the legislative body schedules a special election, it shall be held not less than 40 days or more than 60 days after the resolution scheduling the referendum is adopted.

(f) The chief executive officer of the municipality shall give notice of a submission of a proposed charter amendment by:

(1) (i) posting an exact copy of the proposed amendment at the main municipal building or other public place for at least 4 weeks immediately preceding the referendum at which the question is to be submitted; and

(ii) on the day of the referendum, posting a similar copy at the place for voting; and

(2) publishing notice of the referendum and a fair summary of the proposed amendment in a newspaper of general circulation in the municipality at least once in each of the 4 weeks immediately preceding the referendum.

§4-306. Prohibition of Proposed Amendment Rescission

After a resolution is adopted by the legislative body or after its submission in a petition, a proposal to amend a municipal charter may not be rescinded in any manner except by another charter amendment.

§4-307. Referendum

(a) On the day and during the hours specified in the resolution for a referendum, the charter amendment shall be submitted to the qualified voters.

(b) (1) Except as otherwise provided in this subtitle, the referendum shall be conducted generally according to the procedures for regular municipal elections.

(2) The official who conducts the regular municipal election shall perform the same duties for the referendum.

(c) The municipality shall pay for the referendum.

(d) Promptly after the canvas is complete, the official who conducts the referendum shall certify the results to the chief executive officer of the municipality.

(e) Within 10 days after receiving the certification:

(1) if a majority of those who voted on the question voted for the proposed charter amendment:

(i) the chief executive officer of the municipality publicly shall so proclaim; and

(ii) on the 30th day after the public proclamation, the charter amendment shall become part of the municipal charter; or

(2) if less than a majority of those who voted on the question voted for the proposed charter amendment:

(i) the chief executive officer of the municipality publicly shall so proclaim; and

(ii) the proclamation shall state that the charter amendment is not approved.

§4-308. Conveyance of Amendment to the Department of Legislative Services

When a charter amendment becomes effective, the chief executive officer of the municipality shall send the information concerning the charter amendment to the Department of Legislative Services as provided in § 4-109 of this title.

§4-309. Inclusion of Amendment in Charter Codification

The exact text of an amendment to a municipal charter then effective shall be included in any later edition or codification of the charter.

§4-310. Annual Requirements for Municipalities

(a) (1) At the end of each calendar or fiscal year, each municipality shall compile a complete set of charter enactments of the municipality for that year.

(2) The charter enactments in the compilation shall be in a numerical sequence, beginning with No. 1, and in a separate series for each year.

(b) (1) Subject to paragraph (2) of this subsection, copies of the compilation shall be:

(i) kept on permanent record at the offices of the chief executive officer and legislative body of the municipality;

(ii) made available at those offices for inspection during regular business hours; and

(iii) provided by those offices without charge.

(2) The county in which the municipality is located may make other copies of the compilation available at a reasonable cost to any person.

(c) On or before March 1 of each year, the municipality shall provide without charge copies of the compilation to the Department of Legislative Services as provided in § 4-109 of this title.

(d) Along with the compilation provided under subsection (c) of this section, the municipality shall provide to the Department of Legislative Services, as provided in § 4–109 of this title, a statement that includes information on any referendum on a proposed charter amendment.

§4–311. Annual Requirements for the Department of legislative Services

(a) (1) At the end of each calendar year, the Department of Legislative Services shall ask each municipality whether any charter enactments have been adopted during that calendar year or the last fiscal year.

(2) The municipality promptly shall:

(i) answer the inquiry; and
(ii) verify, by a signed and notarized statement, that copies of the charter enactments already have been sent to the Department of Legislative Services.

(b) (1) The Department of Legislative Services promptly shall certify to the State Comptroller if a municipality does not comply with subsection (a) of this section or § 4–310(c) or (d) of this subtitle.

(2) If the Department of Legislative Services certifies noncompliance, the Comptroller may discontinue all funds, grants, or State aid that the municipality is entitled to under State law relating to:

- (i) the income tax;
- (ii) the tax on racing;
- (iii) the recordation tax;
- (iv) the admissions and amusement tax; and
- (v) license taxes or fees.

(c) The Department of Legislative Services shall:

(1) arrange in a logical and convenient order the titles of the laws of the municipalities that amend the municipal charters;

(2) print each title, identified as a title of the laws of the municipality, in the Session Laws of the General Assembly for its regular session in that year; and

(3) index each title with or in a supplemental volume to the laws enacted by the General Assembly.

§4–312. Compilation of Charters

(a) The Department of Legislative Services shall compile the charters of all municipalities into a single publication.

(b) The Department of Legislative Services shall update the compilation of municipal charters on a regular basis.

The Maryland Municipal League

The Maryland Municipal League, founded in 1936, represents 157 municipal governments and two special taxing districts throughout the State. A voluntary, nonprofit, nonpartisan association controlled and maintained by city and town governments, the League works to strengthen the role and capacity of municipal government through research, legislation, technical assistance, training, and the dissemination of information for its members. Through its membership in the National League of Cities, the League offers legislative representation in Washington, urban research programs, and a national municipal government information exchange.



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