

Understanding and Developing Village and City Charters

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by

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Municipal law is a highly specialized area and has a long, if sometimes not entirely consistent, "career." Nowhere is the inconsistency more evident than in the case of **Charters** for Ohio villages and cities. In this short treatment, we overview the process for **Charter** development and review. We will also note some criteria for appraising the content, providing a checklist by which to examine your **Charter**.

As we will note throughout the presentation and this **Handout**, there is no one set of criteria. Different criteria reflect particular political choices, what academics call "values." The word is appropriate because these choices determine what is considered valuable by the community. A **Charter** may be conceptualized as an embodiment of how a community is going to select its values; that is, the **Charter** spell out how government should go about making choices. Keep in mind that many political values have been adopted and are embedded in the **U. S.** and **Ohio Constitutions** as well as general state laws. Others may be in **Charters**. Thus, given these already determined values, **Charters** are mainly concerned with, and appropriately so; (1) processes for selecting additional values; (2) implementing those choices through ordinances; and, (3) the oversight of the implementation of the ordinances. How these are performed vary depending upon the form of government and specific details of either the state statutes or a **Charter**.

The criteria in this Handout focus on what makes a consistent and *user friendly* **Charter**. *User friendly* means the document is as readable as it can possibly be - and still be legally valid. As Jimmy Carter found out to his dismay, legal documents in a complex society cannot be expressed in everyday English. The daily language is too vague and ambiguous for the task. However, a **Charter** should be written in an elegant narrative that eschews legalese, is succinct and uses the active voice.

Another set of criteria is the **Model City Charter (MCC)**. The **MCC** is a publication of the National Civic League and is currently in its eighth edition.

Academics and politicians helped write the **Model Charter**. The provisions of the MCC on City Council are in the *Appendix* to this Handout. One of the most helpful features of the **MCC** is the annotation and comments in each proposed *section*. These assess the options for all the key features and are very educational about many of the consequences of making a particular choice. (Note the annotation is not included in the *Appendix*.)

We will review the background on municipal law briefly and then summarize the main points about understanding and developing **Charters**. As part of the summary, we will look at how the **Ohio Constitution** structures the writing of a **Charter** and how it can be amended. Remember that the **Ohio Constitution** permits amending a **Charter** at any time and thus shortcomings do not have to await the installation of a **Charter Review Commission** or similar body.

The use of such a body, however, may be desirable politically because it provides a periodic overview of their municipal government by citizens. The process can involve the public in a meaningful manner, and if done honestly, yields as close to an unbiased review as is possible. **Charter Commissions** and juries are the two (2) most democratic entities in American government. With few exceptions, citizens who become involved, rise to the occasion and act in a public interest on sometimes intensely emotional issues. This is unlikely to occur, however, if the body lacks professional staff. Such staff not only provide services that free members from the mundane administration surrounding **Charter** development, they also set the tone or culture which promotes public oriented behavior.

However, do not use processes such as a Charter Review Commission unless you as a Council are willing to abide by the outcome. Failure to honor

what citizens do will have worse repercussions than not having done anything at all. The honoring is a political requirement and has nothing to do with whatever provisions may exist in your **Charter**. Of course, if the **Commission** operates in a crass political manner, you need not handle its recommendation in the same manner as if it had worked properly. How you handle the outcomes of what I would call a "tainted body," depends upon the local politics. It is seldom a happy choice.

Charter Background in Brief

As in all states, cities in Ohio are municipal corporations and are regulated by state law. (See the Handout, **Municipal Law and the Ohio Constitution** for more details about municipal corporations.) Contrary to most states, Ohio has a provision in the state **Constitution**, specifically **Article XVIII**, that grants cities the authority to adopt their own laws by writing and adopting **Charters**. [**Article XVIII** is in the *Appendix* of **Municipal Law and the Ohio Constitution**.] If a city adopts a **Charter** by following the provisions of *Section 8* of that **Article**, it can control to a great extent its own government. The **Charter** can subsequently be amended, both by the process or processes contained in the state **Constitution** and a **Charter** provision or provisions. Any amendment must be submitted to a vote of the citizens, that is, a Referendum.

Under *Section 8*, the Village or City Council, or citizens can by a petition process, can call for the issue of a **Charter Commission** to be placed on the ballot. If the petition meets the requirements of *Section 8*, that is, signed by ten percent (10%) of the registered voters (note Ohio Law calls registered voters "electors"), the Council must place the issue on the ballot. Council may also submit the issue to the ballot by a two-thirds (2/3) vote. The ordinance must state that the ballot will have the

following question on it:

Shall a commission be chosen to frame a Charter?

Voters will vote yes or no on the issue. If a majority vote *yes*, then a **Charter Commission** is empowered.

At the same election in which the above issue is on the ballot, the ballot shall also have candidates for the **Charter Commission**. This is an at-large, non-partisan election. The top fifteen (15) candidates constitute the **Charter Commission**. The **Commission** has one year to write a **Charter** and submit it to the voters for their approval. In reality, this gives the **Charter Commission** about nine (9) months maximum to do its work, since any issue to be placed on a ballot must be received by the Board of Elections seventy-five (75) days prior to the election. In most cases, this translates into six (6) to seven (7) months because few **Charter Commissions** are elected in special elections. Thus, the election is typically in November and because of the necessarily slow start-up process for any body of fifteen (15) members and the holidays at that time of year, they typically do not start any serious work until after January 1.

Even though a **Charter** can be locally written and adopted, it is not a **Constitution** legally. Cities remain subject to state law in many areas and courts interpret **Charters** more restrictively than **Constitutions**. However, a **Charter** in Ohio can fulfill many of the functions of a **Constitution** because of the broad discretion over the content of **Charters** granted to cities; and, most importantly, the **Charter** provisions may substitute for most state laws.

If a city does not adopt a **Charter** it is governed by the state statutes of Ohio. *Section 2 of Article XVIII* required the legislature to develop a comprehensive set

of statutes for governing cities and villages. [Villages are municipal corporations with less than five thousand (5,000) population. Whenever a municipality passes the five thousand (5,000) population criterion, it is automatically converted into a city or village, depending upon whether it surpassed it, becomes a city, or falls below it, becomes a village.] Under those statutes, Ohio cities have a choice in the form of government. By default a city has a Council-Mayor form of government. [See the handout, **Forms of Municipal Government**, for details.] However, a city can hold a referendum and decide by a vote of the people to be governed by the statutes that provide for a Council-strong Mayor (called the *Federal Plan* in the **ORC**), Council-Manager and Commission forms of government. The size of Council, what offices are to be elected, their terms of office, etc., are all specified in the statutes. In contrast, a city can determine its own form of government, including all specifics such as the size of Council, by adopting a **Charter**. Lakewood, for example, adopted a **Charter** in 1913, the year after **Article XVIII** was added to the **Ohio Constitution**.

Though a city can develop many of its own laws and regulations by adopting a **Charter**, it cannot escape from the general municipal laws of the state. What is a general law is not always clear and is often decided by the Ohio Supreme Court. Some aspects of municipal government are clearly covered by general state law. For example, there is a general state law that regulates all public sector labor relations. Most statutes are not general state law under this provision and thus cities with **Charters** determine most of their own Law.

Amending a **Charter** is usually addressed in each **Charter**. Many **Charters** in Ohio call for regular review, typically every ten (10) years. Similarly, the state

Constitution calls for the question of a constitutional convention to be addressed every twenty (20) years. The purpose is to keep the **Charter** current and in touch with changes in the community. The typical process is for an elected or appointed committee to review the current **Charter** and make recommendations to the City Council. In many cases, the recommendations require more than a majority vote of all members of the committee. In many cases the Council must place the recommendations on the next ballot; in other cases, such as Lakewood, the Council can decide which, if any, of the issues recommended by a two-thirds (2/3) vote of a **Charter Review Commission** they want to place on the ballot.

The difference is usually expressed by the verb in the appropriate **Charter** section. In the case of Lakewood, the provision states, "Council *may* submit any recommendations from the **Charter Review Commission** to the electors..." [emphasis added] If the provision uses the verb "shall" rather than "may," the Council has no choice but to place the recommendations on the ballot. (Citizens can sue to force Council to submit the appropriate ordinance. The suit involves one of the ancient writs of the **Common Law** which continues in Ohio because its courts, as with most state courts, are considered part of the over one thousand year old **Common Law**. The writs are in the **Ohio Constitution**. The Federal Courts are constitutional creatures and so inherit none of the authority of the **Common Law**.) Note that the Board of Elections will not place an issue on the ballot unless Council so declares in an ordinance.

Lakewood, Ohio, has some typical provisions for a Charter Review Commission. In Lakewood, a nine (9) member **Charter Review Commission** is appointed every ten (10) years, with the Mayor appointing four (4) and the Council five (5) members.

The Commission submits its recommendations to Council by a two-thirds vote.

Under *Section 9* of **Article XVIII** of the **Ohio Constitution**, and by most **Charters**, Councils can submit **Charter** amendments to the voters at any time. In some cases, the submission requires more than a majority vote of all the members of Council. The **Ohio Constitution** and many **Charters** also permit citizens to create amendments and to submit these to the voters. The process is called the Initiative and is a petition process. Under this process, a citizen or a group of citizens form a committee which gathers signatures from registered voters on a petition. The petition must specify the amendment, that is, have it available for anyone to read, and the signatures must be verified. How many signatures are required is stated in the **Charter**. The number is usually expressed as a percentage of the number of electors (this is the legal term in Ohio for those who qualify as voters) who voted in the last municipal or state election. If a petition contains the needed verified signatures, the amendment is submitted to the vote of the people in a Referendum. If conflicting amendments are adopted, the one with the most votes is adopted.

In Lakewood, if ten percent (10%) of the electors (registered voters) sign a petition calling for a specific amendment to the **Charter**, it must be submitted to the voters. Council may also submit amendments to the voters by a two-thirds vote of its members. As in the case of state law, if conflicting amendments are adopted the one with the most votes "shall become a part of this **Charter**."

Amending a **Charter** is a serious process because it determines, to a great extent, what laws apply and how well a community is governed. With this in mind, we turn to the criteria that can be used to ascertain how effective a **Charter** is and

which can guide future efforts to improve it.

Charter Purposes and Criteria

A **Charter** needs to fulfill many of the functions of a **Constitution** while also being legally valid. It cannot be a **Constitution** since many laws that apply to particular situations are general state statutes and these can be neither changed nor overridden by a **Charter**. With this limitation in mind, a **Charter** should:

1. express how citizens want their community to be governed;
2. insure that all aspects of the government are consistent with how the citizens want their government organized;
3. grant sufficient authority to public officials to fulfill the obligations they are assigned by the **Charter** and by general state statutes;
4. explicitly note the responsibilities of each public office and how all such offices relate;
5. embody a consistent set of ethics for how citizens and public officials are to interact in governing the community;
6. state broad policy and administrative guidelines while avoiding management and policy details that need to be updated often by elected and appointed officials;
7. provide any details that facilitate citizens participating fully in governing even if state statutes (**ORC**) are quoted, such as the particulars of city elections;
8. meet legal requirements, especially decisions of the **Ohio Supreme Court**, even if this results in provisions that are difficult to read and are expressed in more detail than is otherwise desirable; and, lastly,
9. read as clearly as is possible in light of the other criteria, so as to produce a document that is coherent to all citizens, elected and appointed public officials.

Necessary Topics in a Charter

The authority and main features of government must be detailed in the **Charter**. I will list the *sections*, which may, or may not be, separate **Articles** in an actual **Charter**, that should be carefully expressed and clearly understood. These can serve as a checklist for looking at any particular **Charter**. The first *section* is typically a preamble, modeled after the **U. S. Constitution**. The preamble has little legal effect, though it usually states that the purpose of the **Charter** is to secure home rule. The statement can help a court interpret a provision by directing it to read the provision as preempting state law as much as is possible. Politically, the preamble states why a community desires this **Charter** and what it means for the community. For example, the preamble to the **Brooklyn Heights Charter** states:

We, the citizens of Brooklyn Heights, in order to secure home rule and the ability to order our affairs to perpetuate the unique character of our community for us and our children, do ordain this **Charter** as our governing instrument.

The first *section* typically deals with the name, boundaries and general authority of the municipality. It is not necessary to detail the above, but to grant authority to a body or bodies to deal with these issues. Typically, the Council is granted the authority to change the name, boundaries, etc., as well as to contract with other governmental units for services. Often, a change in the name and boundaries requires a referendum to become effective.

The second *section* outlines the authority, qualifications, procedures, etc., for the Council. In a republic, the legislative body is the repository of public authority for

creating Laws. This is why, philosophically, they are named before other municipal bodies. The **Charter** will detail the specific authority and the extent to which it is shared or otherwise constrained. The constraints depend in large part upon the form of government as well as the local political culture.

The third *section* deals with the executive authority. The contents of these provisions depend directly upon the form of government. Each form has advantages and disadvantages. Some reflect different values regarding how the governmental process should work. Some need to deal with the problems that each form may have. For example, the **Charter** should carefully specify how conflicts between the Mayor and Council should be handled. These types of conflicts can handcuff that form of government. Similarly, the administrative authority of the city manager needs to be detailed so as make clear what is and what is not proper behavior for the Council.

The fourth *section* typically outlines administrative offices. Two (2) such offices are of particular concern -- Law Director and Finance Director. As noted in the Handout, **Municipal Law and the Ohio Constitution**, municipalities are non-constitutional governments. Thus, the legal relationship between the state and its municipalities is of paramount concern. Also, the legal relationships among local governments are highly significant. Ohio, like all urban states, is characterized by metropolitan complexes which typically mix many local governments in a small area. Thus, the relationships among these units is political charged and legally complex. In Ohio, tax abatements are an example where one unit of local government can directly affect the financial health of another unit even though the two (2) are legally independent of each other. A municipality can grant a tax

abatement that reduces the property tax received by a school district. Legally the process for making the decision can exclude school districts. These types of situations make the Office of Law Director critical. This is doubly so since political theory supports a citizen legislature as most appropriate for a republic. In order for such a legislature to work, it must have faith in the abilities and motivations of the Law Director. Thus, the **Charter** should establish the qualifications and authority of the Office to meet the needs of the government.

Finance Directors are also quite important. Municipalities cannot incur operational deficits in Ohio. Also, budgets can limit what a municipality may do, regardless of how popular a particular policy may appear. As with the Law Director, the Finance Director must have sufficient independence to ward off undue political influences, but be accountable to the main policy actors.

This *section* should also address the public service. Ohio, in a general law, requires local governments to have a civil or merit service. However, the **Charter** can determine the specifics of such a service for any municipality. The specifics can deal with both the substance and the process. An example of the latter is a grievance process. Note, however, that there are many general laws in this area, such as the Public Sector Labor Relations statute, which may pre-empt, or limit, some **Charter** provisions. Also, there are federal statutes, such as affirmative action, and in some cases, federal constitutional provisions, that may also limit the discretion of a municipality. Regardless of these conditions, the nature of the public service may well determine how citizens feel about their government. These will be the actual *government* that bumps up against the citizens. Alexander Hamilton stated that "the best government is that which is best administered." His words are

as appropriate today as they were two hundred years ago.

The fifth *section* normally details the financial and budgetary processes. Obviously, these are critical to the well being of the municipality. The processes need to be effective, timely and understandable while providing opportunities for citizens to voice their preferences.

A sixth *section* outlines the election process. These are important provisions because they structure opportunities for citizens to participate. They can be partisan, nonpartisan, at-large, etc. The municipality may want to follow state law, in part or in whole. Also, the initiative and referendum may be provided. These provisions must be clearly stated as vague and ambiguous text can lead to bitter controversies. Such controversies can damage the legitimacy of government, appearing to citizens to be "politics" of the worse kind.

A final *section* should note how the **Charter** can be amended. Typically, this includes the legal statement that if one part of the document is determined to be illegal, the rest is not affected. This *section* is where **Charter Review Commissions** are specified.

Conclusion

Charters are both legal documents and *handbooks* for citizens, elected and appointed officials. They need to be read and followed. If the processes mandated by the **Charter** are not working, those with the requisite public authority should investigate amending it. There can be no effective or legitimate governing if the government seems beyond the law.

Appendix

**Model City Charter
Article II City Council**

Article II CITY COUNCIL

Section 2.01. General Powers and Duties.

All powers of the city shall be vested in the City Council, except as otherwise provided by law or this **Charter**, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

Section 2.02. Composition, Eligibility, Election and Terms.

- (a) *Eligibility.* Only registered voters of the city shall be eligible to hold the office of Council member or Mayor.
- (b) *Terms.* The term of office of elected officials shall be four (4) years elected in accordance with **Article VI**.
- (c) *Composition.* There shall be a City Council of [] members (see alternatives below)

Alternative I - Option A - Council Elected At Large; Mayor Elected by the Council

The Council shall be composed of [an odd number to be inserted] members elected by the voters of the city at large in accordance with the provisions of **Article VI**. The Mayor shall be elected as provided in *Section 2.03(b), Alternative I*.

Alternative I - Option B - Council Elected At Large; Mayor Elected Separately

The Council shall be composed of [an even number to be inserted] members elected by the voters of the city at large in accordance with the provisions of **Article VI**. The Mayor shall be elected as provided in *Section 2.03(b), Alternative II*.

Alternative II - Option A - Council Elected At Large with District Residency Requirement; Mayor Elected by the Council

The Council shall be composed of [an odd number to be inserted] members elected by the voters of the city at large in accordance with the provisions of **Article VI**. Not more than one Council member shall reside in each district. The Mayor shall be elected as provided in *Section 2.03(b), Alternative I1*

Alternative II - Option B - Council Elected At Large with District Residency Requirement; Mayor Elected Separately

The Council shall be composed of [an even number to be inserted] members elected by the voters of the city at large in accordance with the provisions of **Article VI**. Not more than one Council member shall reside in each District. The Mayor shall be elected as provided in *Section 2.03(b), Alternative II*.

Alternative III - Option A - Mixed At Large and Single Member District System; Mayor Elected by the Council

The Council shall be composed of [an odd number to be inserted] members elected by the voters of the city at large and one member from each of the even-numbered Council districts elected by the voters of those districts, as provided in **Article VI**. The Mayor shall be elected from among the at-large members as provided in *Section 2.03(b), Alternative I* [specifying that the mayor is an at-large member].

Alternative III - Option B - Mixed At Large and Single Member District System; Mayor Elected Separately

The Council shall be composed of [an even number to be inserted] members elected by the voters of the city at large and one member from each of the even-numbered Council districts elected by the voters of those districts, as provided in **Article VI**. The Mayor shall be elected from among the at-large members as provided in *Section 2.03(b), Alternative II*.

Alternative IV - Single Member District System

The Council shall be composed of an even number of members each of whom shall be elected by district by the voters in that district. The Mayor shall be elected in accordance with the provisions of *Section 2.03(b), Alternative II*.

Section 2.03. Mayor

- (a) *Powers and Duties.* The Mayor shall be a voting member of the City Council and shall attend and preside at meetings of the Council, represent the city in intergovernmental relationships, appoint with the advice and consent of the Council the members of citizen advisory boards and commissions, present an annual state of the city message, appoint the members and officers of Council committees, assign subject to the consent of Council agenda items to committees, and perform other duties specified by the Council. The Mayor shall be recognized as head of the city government for all ceremonial purposes and by the Governor for purposes of military Law but shall have no administrative duties.

- (b) *Election - Alternative I - Mayor Elected by the Council.* The City Council shall elect from among its members officers of the city who shall have the titles of Mayor and Deputy Mayor, each of whom shall serve at the pleasure of the Council. The Deputy Mayor shall act as Mayor during the absence or disability of the Mayor.

Alternative II - Mayor Elected at Large. At each regular election the voters of the city shall elect a Mayor at large for a term of [the same term as other Council members] years. The Council shall elect from among its members a Deputy Mayor who shall act as Mayor during the absence or disability of the Mayor and, if a vacancy occurs, shall become Mayor for the remainder of the unexpired term.

Section 2.04. Compensation; Expenses.

The City Council may determine the annual salary of the Mayor and Councilmembers by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilmembers elected at the next regular election. The Mayor and Councilmembers shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.05. Prohibitions.

(a) *Holding Other Office.* Except where authorized by law, no Councilmember shall hold any other elected public office during the term for which the member was elected to the Council. No Councilmember shall hold any other city office or employment during the term for which the member was elected to the Council. No former Councilmember shall hold any compensated appointive office or employment with the city until one year after the expiration of the term for which the member was elected to the Council, unless granted a waiver by the Board of Ethics.

Nothing in this **section** shall be construed to prohibit the Council from selecting any current or former Councilmember to represent the city on the governing board of any regional or other intergovernmental agency.

(b) *Appointments and Removals.* Neither the City Council nor any of its members shall in any manner control or demand the appointment or removal of any city administrative officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with Administration.* Except for the purpose of inquiries and investigations under **§2.09**, the Council or its members shall deal with city officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

Section 2.06. Vacancies; Forfeiture of Office; Filling of Vacancies.

- (a) *Vacancies.* The office of a Councilmember shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.
- (b) *Forfeiture of Office.* A Councilmember shall forfeit that office if the Councilmember:
- (1) fails to meet the residency requirements,
 - (2) violates any express prohibition of this **Charter**,
 - (3) is convicted of a crime involving moral turpitude, or
 - (4) fails to attend three consecutive regular meetings of the Council without being excused by the Council.
- (c) *Filling of Vacancies.* A vacancy in the City Council shall be filled for the remainder of the unexpired term, if any, at the next regular election following not less than sixty days upon the occurrence of the vacancy, but the Council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the Council fails to do so within thirty days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy, to be held not sooner than ninety days and not later than one hundred and twenty days following the occurrence of the vacancy, and to be otherwise governed by law. Notwithstanding the requirement in **§2.11(c)**, if at any time the membership of the Council is reduced to less than _____, the remaining members may by majority action appoint additional members to raise the membership to _____.

Section 2.07. Judge of Qualifications.

The City Council shall be the judge of the election and qualifications of its members, and of the grounds for forfeiture of their office. In order to exercise these powers, the Council shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing.

Section 2.08. City Clerk.

The City Council or the City Manager shall appoint an officer of the city who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, keep the journal of its proceedings and perform such

other duties as are assigned by this **Charter** or by the Council or by state Law.

Section 2.09. Investigations.

The City Council may make investigations into the affairs of the city and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the Council shall be a misdemeanor punishable by a fine of not more than \$_____, or by imprisonment for not more than _____ or both.

Section 2.10. Independent Audit.

The City Council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. Such audits shall be carried out in accordance with **section 5.12.**

Section 2.11. Procedure.

- (a) *Meetings.* The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor or of _____ or more members and, whenever practicable, upon no less than twelve hours notice to each member. Except as allowed by state law, all meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter which would tend to defame or prejudice the character or reputation of any person, if the general subject matter for consideration is expressed in the motion calling for such session and final action on such motion is not taken by the Council until the matter is placed on the agenda.
- (b) *Rules and Journal.* The City Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.
- (c) *Voting.* Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. _____ members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in **§2.06(c)**, shall be valid or binding unless adopted by the affirmative vote of _____ or more members of the Council.

Section 2.12. Action Requiring an Ordinance.

In addition to other acts required by law or by specific provision of this **Charter** to be done by ordinance, those acts of the City Council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any city department, office or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes;
- (4) Grant, renew or extend a franchise;
- (5) Regulate the rate charged for its services by a public utility;
- (6) Authorize the borrowing of money;
- (7) Convey or lease or authorize the conveyance or lease of any lands of the city;
- (8) Regulate land use and development; and
- (9) Amend or repeal any ordinance previously adopted; or
- (10) Adopt, with or without amendment, ordinances proposed under the initiative power.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

Section 2.13. Ordinances in General.

- (a) *Form.* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The city of _____ hereby ordains...." Any ordinance which repeals or amends an existing ordinance or part of the city code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by *italics*.
- (b) *Procedure.* Any member at any regular or special meeting of the Council may introduce an ordinance. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each Councilmember and to the City Manager, shall file a reasonable number of copies in the office of the City Clerk and such other public places as the Council may designate, and shall publish the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing the Council may adopt the ordinance with or without amendment or

reject it, but if it is amended as to any matter of substance, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures herein before required in the case of a newly introduced ordinance. As soon as practicable after adoption, the Clerk shall have the ordinance and a notice of its adoption published and available at a reasonable price.

- (c) *Effective Date.* Except as otherwise provided in this **Charter**, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.
- (d) *"Publish" Defined.* As used in this section, the term "publish" means to print in the contemporary means of information sharing, which includes but is not limited to, one or more newspapers of general circulation in the city, and, if available, in a web site: (1) The ordinance or a brief summary thereof, and (2) the places where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price.

Section 2.14. Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the City Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in **§5.07(b)**. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least _____ members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to **§5.07(b)** shall automatically stand repealed as of the sixty-first day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 2.15. Codes of Technical Regulations

The City Council may adopt any standard code of technical regulations by reference

thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

- (1) The requirements of **§2.13** for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and
- (2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to **§2.16(a)**.

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

Section 2.16. Authentication and Recording; Codification; Printing of Ordinances and Resolutions.

- (a) *Authentication and Recording.* The City Clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the City Council.
- (b) *Codification.* Within three years after adoption of this **Charter** and at least every ten years thereafter, the City Council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published, together with this **Charter** and any amendments thereto, pertinent provisions of the constitution and other laws of the state of _____, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the _____ City Code. Copies of the Code shall be furnished to city officers, placed in libraries, public offices and, if available, in a web site for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.
- (c) *Printing of Ordinances and Resolutions.* The City Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this **Charter** to be printed promptly following its adoption, and the printed ordinances, resolutions and **Charter** amendments shall be distributed or sold to the public at reasonable prices as fixed by the Council. Following publication of the first _____ City Code and at all times thereafter, the ordinances, resolutions and **Charter** amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the

constitution and other laws of the state of _____, or the codes of technical regulations and other rules and regulations included in the code.