

GUIDE
TO THE
IOWA CITY
HOME RULE CHARTER

July 2015

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Disclaimers.

This Guide is designed to provide basic information on the Charter. It is not an exhaustive explanation of Home Rule charters in general or the City's Home Rule Charter specifically. The Guide has been prepared by the City Attorney and is based on the law applicable at the time of its writing. This Guide is not intended to be considered - nor relied upon - as legal advice by a resident wishing to file a petition to amend the Charter or to launch an initiative or referendum campaign. It is meant to be a user friendly guide to help better understand their charter.

INTRODUCTION TO THE CITY'S HOME RULE CHARTER

What is a Home Rule Charter?

Iowa law (section 372.1 of the Code of Iowa)* allows cities to choose from among eight (8) possible forms of municipal government, one of which is a Home Rule Charter. The Charter itself is an ordinance that sets forth how the city government is structured. On November 15, 1973, the voters of Iowa City ("City") chose to be governed by a Home Rule Charter, and the first Charter was adopted by Ordinance No. 76-2792 on January 2, 1976. Iowa City is one of only five (5) municipalities in Iowa with a Home Rule Charter.

Where can a copy of Iowa City's Charter be found?

The Charter is the first section of the City Code, which can be found at the Iowa City Public Library and the City Clerk's office. Both the Charter and the Code are available online. Go to the City's web site at www.icgov.org and click on "City Government".

What must a Charter contain?

There are five (5) minimum requirements for a Charter listed in Iowa Code section 372.10, and they are: 1) a City Council with an odd number of members, but not less than five (5); 2) a Mayor, who may be one of those Council members; 3) terms of office for the Mayor and Council members of either two (2) years or staggered four (4) years; 4) the powers and duties of the Mayor and the Council consistent with the provisions of the City Code of Iowa (Chapters 362, 364, 368, 372, 376, 380, 384, 388 and 392 of the Iowa Code); and 5) a Council representation plan pursuant to section 372.13(11).

* All references to the Code of Iowa are to the 2015 Iowa Code

What is a "Charter Review Commission"?

The Charter Review Commission is a group of residents appointed by the City Council at least once every ten (10) years to review the Charter and recommend amendments to Council. Council must either pass an ordinance adopting the recommended amendments or submit the recommended amendments to the voters. The fourth, and most recent, Commission was established by Council resolution on January 7, 2014 and began their work in April 2014. The Commission submitted its recommendations to amend the charter in March 2015, and Council adopted all the recommendations by ordinance on May 19, 2015. Minutes and reports of the previous five (5) Charter Commissions, including the original Charter Commission, are available in the City Clerk's office and archived on the City Government website.

What is meant by "Home Rule"?

"Home Rule" is the broad, although not unlimited, constitutional grant of power to every city in Iowa authorizing self-governance. Municipal Home Rule became effective in 1968 by virtue of an amendment to the Iowa Constitution, voted on by the people. Later, the legislature adopted Iowa Code Section 364.1 as part of the Home Rule Act, to complement the Constitution. That section states, in part: "A city may, except as expressly limited by the Constitution, and if not inconsistent with the laws of the general assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the city or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents." The Iowa Supreme Court has issued many opinions on the powers and limits of Home Rule. Determining whether a particular local ordinance or resolution is authorized by Home Rule in any particular instance requires a legal analysis.

IOWA CITY'S FORM OF GOVERNMENT

How is the City government organized?

The City's Home Rule Charter provides for a City Council of seven (7) members with a Council representation plan whereby, as explained more fully below, four (4) members are at-large representatives and three (3) are district representatives. The Council appoints a City Manager, City Attorney and City Clerk. The City Manager serves as the Chief Administrative Officer of the City.

What is the make up of the City Council?

The City has seven (7) Council members, who serve staggered, four-year terms. Four (4) Council members are "at-large" and are nominated by all voters and elected by all voters. Although the three (3) "district" Council members (Districts A, B, and C) are nominated solely by voters within their districts and any primary is held only within the district, they are elected by voters city-wide. Council elections are held in odd-numbered calendar years.

How is the Mayor selected and what are the Mayor's duties?

The voters do not elect the Mayor. Council members select the Mayor from among themselves at their first meeting of the calendar year after each city council election. The Mayor is a voting member of the council and has no veto power. The Mayor may add items to the City Council agenda. The Mayor is the official representative of the City, presiding officer of the Council and its policy spokesperson.

How does one become a candidate for Council?

A person files a petition signed by eligible electors with the Johnson County Commissioner of Elections (Johnson County Auditor) not more than eighty-five (85) and not less than sixty-eight (68) days before the election. An "eligible elector" is "a person eligible to register to vote in Iowa City". The number of signatures required for a district seat, or an at-large seat, is at least two percent (2%) of those who voted to fill the same office at the last regular city election but not less than ten (10) persons. On June 1 of each election year, the City Clerk's office (319) 356-5043) makes available a packet of information such as the calendar date deadlines, the number of signatures needed and nomination forms. Section 3.02 of the Charter describes when a primary election is required.

What is the relationship between the City Council and the City Manager?

The City Manager is the Chief Administrative Officer of the City. Section 4.04 of the Charter contains a list of City Manager duties. All City employees, except for the City Clerk and the City Attorney and their staffs, answer to the City Manager, who in turn answers to the City Council. The City Council passes legislation and establishes policies for the City. It is the duty of the City Manager to ensure that the City's ordinances are enforced and the policies are implemented.

Does the Charter address the hiring of City employees?

Section 2.08 of the Charter requires the City Council to appoint the City Manager, the City Attorney, and the City Clerk, all of whom report to, are accountable to and are supervised by the City Council. The Council also approves the City Manager's appointments of the Police Chief and the Fire Chief. With the exception of the employees of the City Attorney and City Clerk, all other decisions concerning hiring, firing, discipline, and supervision of employees are made by the City Manager or those employees to whom he delegates responsibility, subject to Iowa law, including Chapter 400 of the Iowa Code regarding civil service employees.

What does the Charter say about Boards and Commissions?

The only board or commission that is established by the Charter is the Community Police Review Board. With this exception, subject to state law (for example, section 414.6 of the Code of Iowa requires that the City have a zoning commission with certain duties), the Charter authorizes Council to establish boards and commissions and to specify, among other matters, the terms of the members and their duties. Information on the wide variety of boards and commissions can be found on the City web site at www.icgov.org under "City Government". Current vacancies are posted in City Hall, and on the City's web site and are advertised in the Press-Citizen. Application forms are available on the City's web site and at the City Clerk's Office.

What does the Charter say about campaign contribution limitations?

The Charter requires that the Council pass an ordinance that limits the amount of campaign contributions made to a candidate for election to Council. The limit, which is currently \$100.00 per person per election, can be found in section 1-9-2 of the City Code.

THE CHARTER AMENDMENT PROCESS

What is a Charter Amendment?

Amendments must relate to the City's "form of government." "[B]asic structural proposals truly involving the form, not the substance, of government are subject to voter approval through the charter amendment process." Berent et al. v. City of Iowa City 738 N.W.2d 193, 212 (2007). The Iowa Supreme Court addresses this issue in detail in the Berent case.

How can the Home Rule Charter be amended?

Under section 372.11 of the Code of Iowa, there are three (3) methods to amend a charter. First, the City Council by resolution may submit a proposed amendment to the voters. Second, the City Council by ordinance may amend the Charter, but if within thirty (30) days of publication a valid petition objecting to the ordinance is filed, Council must submit the ordinance to the voters. Third, an eligible elector may file a petition to place a proposed amendment on the ballot.

What is the process by which an eligible elector may petition to change the Charter?

State law, specifically sections 372.11, 362.4, and 44.8 of the Code of Iowa, governs the petition process. According to Iowa Code section 372.11(3), if a petition to amend the Charter is valid as provided in section 362.4 the Council must submit the proposed amendment to the voters at a special city election.

How does the amendment process begin?

A petition to amend the Charter must be signed by "eligible electors" equal in number to ten percent (10%) of the persons who voted at the last preceding regular city election, but not less than ten (10) persons. Regular City elections are held in November of each odd-numbered year.

The City Clerk's office will provide any interested person with the number of signatures needed to meet the ten percent (10%) requirement. There is no special form required, but it should contain lines for people to sign, to list their places of residence, and to date their signatures. Also, each sheet of signatures must contain or leave attached the language of the proposed amendment. After the requisite number of signatures is obtained, the petition is provided to the City Clerk.

What is the role of the City Clerk?

After the petition is delivered to the City Clerk, the Clerk will "accept" the petition for filing if it is "valid on its face." If the petition lacks the required number of signatures it will be returned to the petitioner. To decide whether the petition is valid on its face, the City Clerk will conduct a cursory review to determine if there are a sufficient number of dated signatures with Iowa City residences. If the petition does not appear to be valid on its face, the Clerk will not accept it, and no further action is taken by the City. If the petition appears valid on its face the City Clerk will accept it for filing.

Can someone object to a petition to amend the Charter that has been accepted for filing by the City Clerk?

After the Clerk's acceptance of the petition, there is a five (5) day period during which a written objection to the petition may be filed with the Clerk. If no objection is filed, the Council forwards the proposed Charter amendment to the Commissioner of Elections (Johnson County Auditor) for submission to the voters. Objections may relate only to whether the petition contains the requisite number of signatures of eligible electors, including their place of residence and the date on which they signed.

What happens if an objection is filed?

If an objection to the petition is filed, the process under section 44.8 of the Code of Iowa must be followed. A three-person committee comprised of the Mayor, the City Clerk, and a Council member chosen by ballot (hereinafter "Objections Committee") must consider the objection. If the Objections Committee does not uphold the objection, the Council forwards the petition to the Commissioner of Elections. If the Objections Committee upholds an objection that affects the validity of the petition (i.e., reduces the number of signatures below that which is required), the petition is not forwarded to the Commissioner of Elections because the decision of the Objections Committee regarding the validity of the petition is "final" under section 44.8. As noted above the Committee may consider only whether the petition contains the requisite number of accurate signatures. The Committee may not consider the substance of the proposed amendments.

How can a decision of the Objections Committee be challenged?

The decision of the Objections Committee can be challenged by filing a petition for a writ of certiorari with the district court. "Certiorari" is a particular remedy available under the Iowa Rules of Civil Procedure when an "inferior tribunal," in this case the Objections Committee, "exceeded its jurisdiction or otherwise acted illegally." A person wanting to challenge the decision of the Objections Committee should seek independent legal advice.

When will the election on the Charter amendment occur?

If the petition is valid, a special City election must be held on the proposed amendment. The City Council sets the date of a special election with approval of the Commissioner of Elections. A special City election can be held at the time of a regular City election or a general election. A charter amendment becomes effective if approved by a majority of those voting.

INITIATIVES AND REFERENDUMS

What are initiatives and referendums?

An "initiative" under the City Charter is the right of an "eligible elector" to propose a "measure" to council. An "eligible elector" is a resident of Iowa City who is eligible to register to vote in Iowa City. A "referendum" is the right of eligible electors to require a reconsideration of an existing measure. In the Charter, "measure" means an ordinance, amendment, resolution or motion of a permanent legislative nature as opposed to an administrative matter. An example of a measure of a legislative nature is an ordinance defining weeds of a certain height to be a nuisance. An example of an administrative matter is the enforcement of the weed control ordinance. Unlike petitions to amend the charter, which are controlled exclusively by State law, the initiative/referendum process is set forth in detail and governed by Article VII of the Charter.

What are the subject matter limits on initiatives and referendums?

Section 7.01B(1) of the Charter limits the right to initiative and referendum by excluding the following measures:

- (a) Any measure of an executive or administrative nature.
- (b) The City budget.
- (c) The appropriation of money.
- (d) The levy of taxes or special assessments.
- (e) The issuance of General Obligation and Revenue Bonds.
- (f) The letting of contracts.
- (g) Salaries of City employees.
- (h) Any measure required to be enacted by State or federal law.
- (i) Amendments to the Charter.
- (j) Amendments affecting the City Zoning Ordinance or the land use maps of the Comprehensive Plan, including the district plan maps.
- (k) Public improvements subsequent to City Council action to authorize acquisition of property for that public improvement, or notice to bidders for that public improvement, whichever occurs earlier. "Public improvement" shall mean any building or construction work.

What should I do if I'm not sure whether my proposal can be an initiative or referendum?

While some matters are clearly not within the scope of initiative and referendum, other proposals or ideas will require a more detailed legal analysis. The City Attorney will provide an opinion on whether a proposed measure can be the subject of an initiative or referendum after the initial affidavit setting forth the proposal (see later sections) is filed. If changes can be made to cure any defects identified by the City Attorney and the petitioner chooses to make them, a revised affidavit can be filed. The City Attorney will respond to general questions about the scope of initiative and referendum prior to filing of the affidavit. However, the City Attorney represents the City and cannot ethically advise individuals, particularly given the typically diverse range of opinions on issues presented for initiative and referendum. Therefore, the City Attorney will not participate in the drafting of an initiative or referendum, but rather, will give an opinion once the affidavit is filed with the City Clerk. Any person who has questions about the validity of a proposal is encouraged to seek independent legal advice.

How is the initiative or referendum process started?

The procedure to undertake an initiative or a referendum is the same: You must file an affidavit and a petition with the City Clerk. Attached to this Guide is a timeline showing the various deadlines applicable to the initiative process. Potential petitioners are encouraged to contact the City Clerk early in the process to determine the specific deadlines applicable to the petition.

What is the "affidavit" and who must sign it?

The affidavit is a sworn statement signed by one or more qualified electors (persons registered to vote in Iowa City). The persons signing the affidavit are called "petitioners" in the Charter. The affidavit must: a) list the name(s) and address(es) of the petitioner(s); b) specify the address to which all relevant notices are to be sent; c) state that the petitioner(s) will supervise the circulation of the petition; d) state that the petitioner(s) will be responsible for filing the petition in proper format; and e) set out in full the exact language of the proposed initiative measure or cite the measure sought to be reconsidered. A blank affidavit form is available in the City Clerk's office.

Where does the affidavit go?

The petitioner(s) must take the affidavit to the City Clerk. If the affidavit appears to have the signature(s) of one or more registered voters, the City Clerk will accept it for filing.

What is the "petition" and how many signatures are necessary?

When the affidavit is accepted for filing by the City Clerk, the Clerk will issue petition forms to the petitioner(s) that same day. The petition must be signed by eligible electors equal in number to ten percent (10%) of persons who voted in the "last regular City election," but no fewer than (10) eligible electors. Regular City elections are held in November of each odd-numbered year. The City Clerk will provide any interested person with the number of signatures necessary.

Each person signing the petition must provide a signature, printed name, address and the date of signing.

What are the deadlines for gathering signatures and filing the petition?

Initiative signatures must be secured and the petition filed with the City Clerk within six (6) months after the affidavit is filed.

Referendum petitions may be filed with the City Clerk either within sixty (60) days after final adoption by the Council of the measure sought to be reconsidered or subsequently at any time more than two (2) years after such final adoption. If the affidavit commencing the referendum is filed within sixty (60) days of final adoption, the petition with signatures must be filed within the same sixty (60) days. If the referendum petition is commenced two (2) years or more after adoption of the measure, the petition signatures are due within sixty (60) days of filing the affidavit.

Potential petitioners are encouraged to contact the City Clerk early in the process to determine the specific deadlines applicable to the petition.

What happens after the petition is filed with the City Clerk?

The City Clerk will examine the petition before it is accepted for filing. If the petition appears valid on its face, it is accepted for filing. If the petition lacks the required number of signatures, it is considered invalid and will be returned to the petitioners. Petitions which have been accepted for filing are valid unless written objections are filed with the City Clerk within five (5) working days after the petition is received.

What happens if an objection is filed?

If an objection to the petition is filed, a three-person committee comprised of the Mayor, the City Clerk, and a Council member chosen by ballot (hereinafter "Objections Committee") must consider the objection. Objections may relate only to whether the petition contains the requisite number of signatures of eligible electors, including their place of residence and the date on which they signed. The hearing on the objections must be held within ten (10) days of the receipt of the objections. To the extent allowed by law, court review of the Objections Committee's actions shall be by petition for writ of certiorari.

What does Council do with a petition that has been found to be valid?

Council must consider the measure "promptly." If Council does not approve the measure in the initiative petition (or a measure similar in substance) within sixty (60) days after the petition is determined to be valid or repeal the measure in the referendum petition within thirty (30) days after the petition is determined to be valid it must be submitted to the voters.

When is the election held for an initiative or referendum?

Under Section 7.05(B) of the Charter, elections are held as follows:

(1) Initiative. The vote of the City on a proposed measure shall be held at the regular city election or at the general election which next occurs more than forty (40) days after the expiration of the sixty-day period provided for consideration in Section 7.05(A) [the 60-day period for Council consideration], provided that the initiative petition was filed no less than eighty (80) days prior to the deadline imposed by state law for the submission of ballot questions to the Commissioner of Elections. Again, potential petitioners should review the applicable deadlines with the City Clerk.

(2) Referendum. The vote of the City on a referred measure shall be held at the regular city election or at the general election which next occurs more than forty (40) days after the expiration of the thirty-day period provided for reconsideration in Section 7.05(A) [the 30-day period for Council consideration] provided that the referendum petition was filed no less than fifty (50) days prior to the deadline imposed by state law for the submission of ballot questions to the Commissioner of Elections. Again, potential petitioners should review the applicable deadlines with the City Clerk. The Council may provide for a special referendum election on a referred measure any time more than one-hundred twenty (120) days after the filing of the referendum petition with the City Clerk.

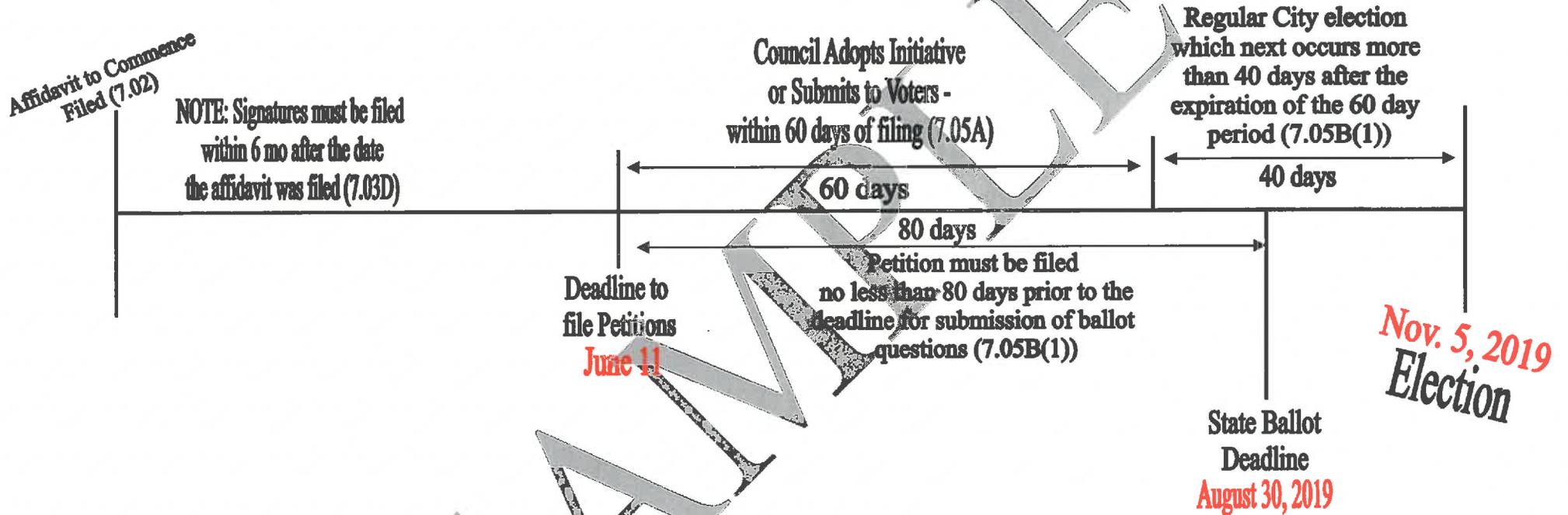
Any person who desires his/her proposal to be on a certain election ballot is urged to confer with the City Clerk as early as possible to review the applicable deadlines.

How many votes are required for an initiative or a referendum question to pass?

A simple majority of the votes cast is required for an initiative or referendum to pass. An initiative that passes is effective upon certification of the election results. If a referendum passes, the repeal of the measure is effective upon certification of the election results.

2019 Sample Timelines for Initiative

Important Note (signatures required): 10% of the number of persons who voted at the last regular City election. (7.03A) = **724 signatures**



This is an initiative (NEW public measure) timeline only. It is not applicable to a referendum (repeals enacted). You must consult the Charter (Article VII) and Guide to the Iowa City Home Rule Charter for additional information if you are contemplating use of either procedure.