



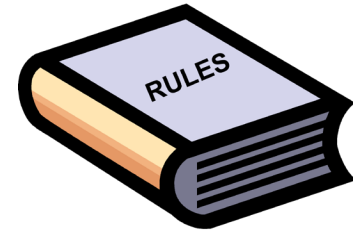
# **Municipal Law for Clerks**

Chapter 5

Municipal Charters



# Resources



- Municipal Clerk's Manual, revised in 2013
- Maine Municipal Association Legal Staff
- Maine Revised Statutes (MRSA)
- Your town's attorney
- Clerk mentors



# Adoption of a New Charter of Revision to an Existing Charter



- May be initiated by:
  - Municipal officers, who can provide for a vote on the question of establishment of a charter commission and provide for the election of its members
  - Written petition signed by a number of voters equal to at least 20% of the number of votes cast in the municipality at the last gubernatorial election (but not fewer than 10 voters).



# Municipal Charters, Generally

- The term “Charter” is generally understood to mean a single document setting forth a plan of municipal government comparable to the state and federal constitutions.
- Since the adoption of “home rule” in 1969, Maine municipalities have had the power to adopt and amend municipal charters by local referendum election
  - New charters or revisions may be accomplished only through a charter commission studying the matter before sending it out to the voters
  - Amendments to an existing charter can go the voters directly by citizen petition or initiative of the municipal officers



# Initiation by Petition



- 5 MRSA Sec. 2012
  - 5 voters from the municipality must file a affidavit, or written statement of facts, confirmed by oath or affirmation before a person with authority to administer oaths.
  - Must include the names and addresses of the members of the committee and the address where all notices to the committee are to be sent.
  - Once filed, the clerk must issue petition blanks to the committee.





# Initiation by Petition



- Petition Blanks 30-A MRSA 2102

- Must be printed on paper of uniform size and may have as many sheets as necessary, which are prepared by the clerk and paid for by the municipality.
- Must state in bold, at the top, the name of the municipality, followed by:

**"Each of the undersigned voters respectfully requests the municipal officers to establish a Charter Commission for the purpose of revising the Municipal Charter or preparing a New Municipal Charter."**

- Each signature on the petition must be in ink and must be followed by the place of residence, including the street name and number of each voter.

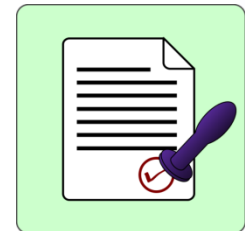
The clerk must note the date when each petition form is issued, because the petition will become null and void if not returned to the clerk by the 120<sup>th</sup> day after the date it was issued.



# Initiation by Petition

- **Circulator's Affidavit**

- Each petition form must have an affidavit printed on the back that each petition circulator must sign, stating that:
  - The named circulator personally circulated the petition
  - The number of signatures collected on the petition
  - That all of the signatures were signed in the circulator's presence
  - The circulator believes them to be genuine signatures of the persons they purport to be
  - Each signer has signed no more than one petition
  - Each signer had a chance to read the petition before signing



# Initiation by Petition



## ■ Petition Certification

- Once filed, the clerk has 20 days in which to certify whether the petitions are sufficient, and to complete a certificate as to whether they are sufficient or why they are not, which is to be sent by mail to the committee and a copy filed with the municipal officers.
- If the petition is insufficient due to lack of the required number of signatures, the petition committee may amend it once if the committee files notice of its intent to do so with the clerk within two days after receiving a copy of the clerk's certificate. The committee must then file a supplementary petition with the clerk within 10 days after the date of filing its notice of intent.
- The clerk then has 5 days after filing of the supplementary petition within which to certify and file a certificate as to its sufficiency.
- The petition committee may, within 2 days after receiving the clerk's certificate, file a request with the municipal officers for review, which is similar to a recount hearing. Once completed, the municipal officers must make a certificate of the results of the inspection and file a copy with the clerk and mail the original to the committee. Their decision is final.





# Submission of Charter Commission Question to the Voters

- Within 30 days after the municipal officers have either adopted an order to elect a charter commission, or are in receipt of sufficient petitions to do so, the municipal officers must submit the question of whether to establish a charter commission to the voters. This election must take place at the next regular or special municipal election held at least 90 days thereafter.
- The wording of the question before the voters must be:  
"Shall a Charter Commission be established for the purpose of revising the Municipal Charter or establishing a New Municipal Charter?"



# Elected and Appointed Membership

- If the voters approve establishment of a charter commission by majority vote, a charter commission is established. The charter commission must consist of both voters from the community and 3 people appointed by the municipal officers.  
30-A MRSA Sec. 2103
- The elected members must consist of either:
  - 6 people elected in the same manner as the municipal officers, except that they must be elected at-large without party designations
  - One member elected from each voting district or ward, in the same manner as the municipal officers, except that each member must be elected without party designations
  - Voter members are elected both at-large and by district or ward, as long as the number of voter members is the same as the number of municipal officers in that community and the voter members are elected in the same manner as the municipal officers



## Election or Appointment of Members

- Elected members:
  - May be chosen at the same municipal election as the referendum for the charter commission or at the next regularly scheduled municipal or special municipal election. Once the municipal officers set the date, the clerk must be informed so that nomination papers can be issued.
  - The candidates' names must be arranged alphabetically by surname, and immediately below the question relating to the formation of a charter commission if the question is voted upon at the same time as the election.
  
- Appointed members:
  - Do not have to be residents of the municipality.
  - Only one appointed member may be a municipal officer.
  - Appointments must be made within 30 days after the adoption of the charter commission.



# Organizational Meeting



- Immediately after receiving notice of the appointment and election of the charter commission members, the clerk must determine the date, time and location of an organizational meeting.
- The clerk must give at least 7 days notice of the date, time and location of the meeting to all commission members and other members of the public.
- The commission must elect a chair, vice chair and secretary and file those names with the clerk.
- If a vacancy among elected members occur, the remaining commission members must vote to chose a new member from the municipal voters. The municipal officers would appoint a member to fill a vacancy of any of the appointed members.





# Commission Resources

- The municipality is obligated to provide resources in the form of office space, access to facilities and monetary support. 30-A MRSA Sec. 2103
- Contributions from private and public sources may be received; however donations may require recordkeeping and reporting to the clerk.
- Before terminating, the commission must file a complete account of its receipts and expenditures with the clerk, which must be available for public inspection.



# Schedule

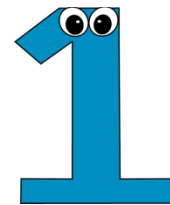


- Activities and schedule for completing its responsibilities (30-A MRSA Sec. 2103):
  - Within 30 days after its organizational meeting, the charter commission must hold a public meeting to receive information, views, comments and other material related to its function
  - Within 9 months of its election it must complete a preliminary report of its findings and must provide the clerk with sufficient copies to permit distribution to each voter requesting a copy
  - Within 12 months after its election (or 24 months if granted an extension by the municipal officers) the commission must submit a final report to the municipal officers



# Charter Amendments

- Amendments to an existing charter may also be initiated by order of the municipal officers or by petition of the voters.
- An amendment must be limited to a single subject, but more than one section of a charter may be amended as long as the amendments are germane to a single subject.



## Initiation by the Municipal Officers

- If the municipal officers determine that amendments to the charter should be considered, they may, by order, provide for notice and hearing on the proposed amendments. The notice must be published in a newspaper having general circulation in the town at least 7 days before the hearing.
- Within 7 days after the hearing, the municipal officers must order the proposed amendments be placed on a ballot at the next regular municipal election held at least 30 days after the order is passed, or they may order a special election to be held at least 30 days after the order.





# Initiation by Petition



- A charter amendment initiated by the petition process follows the same requirements that pertain to charter adoption/revision , except the forms prepared by the clerk must indicate the municipality's name, and read:

"Each of the undersigned voters respectfully requests the municipal officers to provide for the amendment of the Municipal Charter as set out below."

- No more than one charter subject may be included in a petition. If the clerk is requested to do so by the petitioner's committee, the petition form shall also contain:

"Each of the undersigned voters further requests that if the municipal officers determine that the amendment set out below would, if adopted, constitute a revision of the charter, then this petition shall be treated as a request for a charter commission."



# Initiation by Petition

- If a petition containing the additional language is received, and the municipal officers do find that the proposed amendment would actually be a revision, they must treat the petition as required for a charter commission and follow the applicable procedures.
- Within 10 days after receiving a certificate from the clerk stating that a petition for an amendment is sufficient, the municipal officers must, by order, provide for a public hearing, with notice published in a newspaper having general circulation in the town at least 7 days before the hearing.
- Within 7 days after the public hearing, the municipal officers must file with the clerk a report containing the final draft of the proposed amendment and a written opinion by an attorney admitted to the Maine Bar that the proposed amendment does not contain any provision prohibited by the general laws or the state or federal Constitutions.
- If the municipal officers, with advise from an attorney, determine that it is not practical to print the proposed amendment on the ballot and that a summary would not misrepresent the issue, they may include in their order an instruction to the clerk to include a summary on the ballot in lieu of the actual full text.



# Vote on Charter Adoption, Amendment, Revision

- Must be by the secret ballot process, even if the municipality has not adopted the secret ballot method of voting for municipal elections.
- In the case of a charter adoption or revision, the municipal officers must print sufficient copies of the commission's final report and make it available to the public in the clerk's office and post a copy in the same manner as for proposed ordinances at least 2 weeks before the date of the election.



# Ballot wording, Adoption or Revision

- The wording of the question to go to the voters must be:
  - “Shall the municipality approve the (charter revision) (new charter) recommended by the charter commission?”
- If the charter commission finds that the existing charter needs only minor modifications, those changes can be submitted to the voters in as many separate questions as the commission finds practicable, by majority vote of its members. In this case, the wording of the question should be:
  - “Shall the municipality approve the charter modification recommended by the charter commission and reprinted (summarized) below?”





# Ballot wording, Amendment



- At least 2 weeks before the election, the municipal officers must print sufficient copies of the proposed amendment and any summaries of the amendment and make them available in the clerk's office, and must post in the same manner as proposed ordinances are posted.
- The wording of the question presented to the voters must be:
  - "Shall the municipality approve the charter amendment reprinted (summarized) below?"



# Effective Date



- If a majority of the voters who cast ballots approve the question, the new charter or charter revision becomes effective immediately for the purpose of conducting necessary elections, but otherwise, the provisions do not take effect until the first day of the next municipal (fiscal) year.
- No charter vote is valid unless the total votes cast equal or exceed 30% of the total votes cast for the office of Governor in the municipality at the most recent gubernatorial election.
- Within 3 days after the results of the election have been declared, the clerk must prepare and sign three certificates detailing any charter that has been adopted or revised and any charter amendments approved. These certificates must be filed with the Secretary of State, the Law & Legislative Reference Library and in the clerk's office.



# Test your knowledge

- How a charter adoption or revision is initiated
- Relevant timelines to certify petitions and to send a question to the voters
- Membership on a charter commission
- How to amend a charter
- Ballot wording for an adoption or an amendment



# Thank You



- You have reached the end of Module 5 of Municipal Law for Clerks.
- For specific questions on any topic in this module, please contact the legal department at Maine Municipal Association, your town's attorney, or a clerk mentor.
- Please print this final page as proof of completion of this module.
- You may submit this final page to MMA along with the other ten modules' completion pages to obtain a certificate to be used for certification points.

