


FROM	NAME & TITLE	THE ADMINISTRATION	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	CHARTER REVIEW COMMISSION — 2023-2024		
	SUBJECT	FULL COMMISSION MEETING – INAUGURAL		

TO: COMMISSION MEMBERS

DATE:

NOVEMBER 7, 2023

AGENDA: Introduction and Welcome Nina Themelis, Mayor's Office
Aaron Degraffenreidt, City Council
 Timothy Goldsby, Comptroller
 Overview of Commission Duties..... Hilary Ruley, Law Department
 History and Structure of Commission.....Ben Guthorn, Legislative Reference
 Member Introductions..... All Members
 Commission Organization: Chair, Vice Chair, and Subcommittees
 Timeline
 Discussion
 Adjournment

DUTIES: The Commission shall review the City Charter, undertake a comprehensive study of its contents, and make findings and recommendations as to the necessity for deleting, adding, or amending its provisions to improve the efficiency and operations of City government.

BACKGROUND: The Charter, in its ideal form, is a collection of principles that speak in broad terms. A charter can only establish the basic organization, components and processes of the government. In Maryland, the voters are empowered to control the content in a charter. The operational details and strategies for governing are legislative or regulatory in nature. Only a legislative body can exercise legislative powers. Material that is legislative in nature but is drafted into the Charter is voidable by a court. Please review the materials provided today to learn more about the history of the City's Charter, the principles for reviewing a charter, and relevant work by prior charter commissions.

TIMELINE:

Tuesday, November 7, 2023	Full Commission Meeting City Hall, Curran Room 6:00 PM
November __, 2023	1 st Committee Meeting
December __, 2023	2 nd Committee Meeting
Tuesday, December 12, 2023	Full Commission Meeting City Hall, Curran Room 5:30 PM – 7:30 PM
January __, 2024	3 rd Committee Meeting
January __, 2024	4 th Committee Meeting
February __, 2024	5 th Committee Meeting
February __, 2024	6 th Committee Meeting
March __, 2024	7 th Committee Meeting
Tuesday, March 26, 2024	Full Commission Meeting City Hall, Curran Room 6:00 PM
April __, 2024	Public Hearing Location: War Memorial (Tentative) Time:
April __, 2024	8 th Committee Meeting
May __, 2024	Full Commission Meeting City Hall, Currant Room 6:00 PM
Friday, May 31, 2024	Deadline to submit Commission's work to Mayor and City Council

Charter Review Commission

November 7, 2023

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COMMISSION MEMBERS:

Appointed By	Name	Phone Number	Email
Mayor	Roger Hartley	(828) 458-0944	rhartley@ubalt.edu
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District 14	Julianne Montes de Oca		julianne.montesdeoca@gmail.com

ADVISORY COMMITTEES; STAFF:

City Charter, Article XI, § 3 {“Composition — Advisory committees; Staff”} provides the Commission with staff and empowers the Commission to create advisory committees.

(1) Advice and technical assistance shall be provided to the Commission by:

- (i) the City Solicitor or the Solicitor’s designee;
- (ii) the Director of Legislative Reference or the Director’s designee;
- (iii) the General Counsel to the City Council;
- (iv) the Director of the Office of Council Services or the Director’s designee; and
- (v) the Deputy Comptroller or the Deputy Comptroller’s designee.

(2) At the discretion of the Commission, advisory committees may be appointed to assist the Commission in its duties.

COMMISSION STAFF:

Name	Title	Department	Phone Number	Email
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***Prepared by the staff to the 2023-2024 Charter Review Commission.*

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MEMO

TO: Members of Mayor's Charter Revision Committee
From: Michael Millemann, Reporter
RE: Brief introduction to Baltimore City's Charter

1. Baltimore City's Charter

Prior to 1918, Baltimore City's government was organized by a "special Charter", which was enacted by the Maryland General Assembly. All changes in that Charter had to be approved by the General Assembly, since it enacted the Charter. In short, the City's government was entirely a creature of the State legislature.

In 1915, the Maryland voters adopted Article XI-A of the Maryland Constitution, the Home Rule Amendment. This constitutional provision authorized the voters of Baltimore City to determine, for themselves, the form and structure of City government.¹ The provision of home rule was consistent with a national movement to place local government in the hands of local citizens.

In 1918, the City of Baltimore adopted its Home Rule Charter pursuant to § 1 of Article XI-A. Over 10,000 registered voters signed a petition requesting that the then Supervisors of Elections schedule the election of a "Charter Board". The Charter Board was elected, and it prepared the Baltimore City Charter and submitted it to the voters of Baltimore City for approval. In

¹. The Home Rule Amendment gave the same right to the people in Maryland's counties.

1918, it was approved by a majority vote.²

Although the Home Rule Amendment grants the people of Baltimore City and Maryland's counties the right to determine the form and structure of their local governments, the Maryland Constitution vests in the State of Maryland the right to determine the legislative powers that the City and the counties may exercise. In a Casenote on Cheeks v. Cedlair Corp., 287 Md. 595, 415 A.2d 255 (1980), a writer in the Baltimore Law Review states:

Every Charter must provide for an elected legislative body to assume the power to pass local laws, but because the power to legislate on local matters is controlled by the General Assembly, the Home Rule Amendment requires the General Assembly to pass a law transferring those legislative powers to Charter Home Rule Counties. The General Assembly complied with this requirement in 1918 by passing the Express Powers Act. In the case of Baltimore City, such powers had already been granted through the legislatively created municipal charter and the Home Rule Amendment simply provided that those powers would become the City's legislative powers once the Charter home rule was adopted. Vol. 11, Baltimore Law Review 159, 167 (1981).

The legislative powers granted to Baltimore City by the Maryland General Assembly are embodied in Article II of the Charter. These powers may not be amended or altered by the voters

². Amendments to the Baltimore City Charter may be proposed by a petition signed by at least 10,000 registered voters or "by a resolution of the Mayor of Baltimore and the City Council". Art. XI-A, §5. Proposed amendments shall be submitted to the voters of Baltimore City at the next General or Congressional Election that occurs after the passage of the resolution or the filing of the petition. Id. Amendments must be approved by a majority vote.

of Baltimore City or by the Mayor and City Council. Only the Maryland General Assembly can amend or alter these delegated legislative powers.

Article XI-A, § 2 of the Maryland Constitution makes clear that the City of Baltimore is to operate within the express powers granted to it by the Maryland General Assembly. Article XI-A, § 2 states in part:

Such express powers granted...to the City of Baltimore, as set forth in Article IV, § 6. Public Local Laws of Maryland, shall not be enlarged or extended by any Charter formed under the provisions of this Article, but such powers may be extended, modified, amended or repealed by the General Assembly.

Thus, the City Charter is like a constitution. It contains the structure and form of government, which the people of Baltimore can change, and the powers City government can exercise, which only the Maryland General Assembly can amend.

Like a constitution, the Charter is not a code. It is a collection of principles that speak in broad terms, leaving "the details to be prescribed by ordinances of the Mayor and City Council." Flack, The Government of the City of Baltimore and Its Relationship to The State Government, Chapter I in Stieff, The Government of a Great American City (1945) (hereafter "Flack") at 8.

Also, like a constitution, but in a much more qualified way, the City Charter is a source of law in Baltimore City. The legislative powers of the City Council and the executive powers of the Mayor must be exercised within the substantive and

procedural limits set by the Charter, and when the Baltimore City Council enacts an ordinance within its express powers, such an ordinance repeals or amends contrary provisions contained in "local laws" enacted by the Maryland General Assembly.

However, the Charter is inferior to the United States Constitution, the Maryland Constitution, and the public general laws of Maryland. It also can be pre-empted by federal laws and regulations.

In sum, Baltimore City's Charter is:

A permanent document intended to provide a broad organizational framework establishing the form and structure of government in pursuance of which the political subdivision is to be governed and local laws enacted. Cheeks v. Cedlair Corp., 287 at 607.

2. The Organization of Baltimore City's Government.

Baltimore was incorporated in 1797. Like other post-revolutionary American cities, Baltimore's City Council initially was a bicameral legislative body. The chief executive was the Mayor. This model, which was based on the federal government's President, Senate and House of Representatives, was popular in late eighteenth and early nineteenth century American cities.

One commentator says:

When the City's Charter was granted our city fathers imitated the Federal and State governments even to the extent of dividing as we did here in Baltimore our legislative branch, that is, our City Council, into two branches, the first branch and the second branch. Broening, Mayoralty, Chapter II in Stieff, The Government of A Great American City (1935) (hereafter "Broening") at 39.

The bicameral City Council was changed to a single body in 1923 because it defused power to such an extent that it made effective governance difficult.

Another commentator describes how this change occurred:

Baltimore was one of the very last of the cities to substitute a single branch Council for the two branch Council and, it would probably have a two branch Council at the present time if it were not for the Home Rule Amendment to the Constitution. The present unicameral Council was established by an amendment to the City Charter in 1923, the Amendment being submitted by a petition signed by 10,000 voters under the Home Rule Amendment, and approved by a majority of those voting. Flack, at 8.

The City Council is "really a local legislature, for within the grant of powers contained in the Charter, the Council has the same power to make laws for the City as the Legislature has to enact law for the State." Like the Maryland General Assembly, which is "subject to the limitations as prescribed by the Constitution of the State", the "power of the City Council [is] limited by the City Charter". Flack at 12.

Although the Charter provides for the various City departments, it leaves to the City Council the "duty of prescribing by ordinance general duties and powers of these departments". Flack at 13.

The Mayor

One of the major revisions of Baltimore City's Charter occurred in 1898, when the Maryland General Assembly made some

significant changes in the organization of the City government.³ One of the most significant changes was the creation of a stronger Mayor.

One of the most important changes made by the 1898 Charter was to make the Mayor the real executive and administrative officer of the City, with the power of appointing all heads of departments, boards and commissions except those of the City Comptroller... . The Mayor can, through his appointing power, determine the policies of the City and shape its course. Flack at 9.

Over time, City government evolved from a pure democracy, when "we elected everybody from the dog-catcher up to the members of our School Board", to a more centralized government. Broening at 40.

The Board of Estimates

Flack describes the third important unit of City government, the Board of Estimates, noting that it has the "controlling influence over the financial affairs of the City". It prepares the City budget. Flack notes that since the Mayor and his appointees comprise the majority of the Board, through it the Mayor can "determine the general financial policy of the City." Flack at 10.

The power of the Board of Estimates is substantial:

The City Council may reduce or eliminate any item provided for ... by the Board of Estimates, but it cannot add new items or

³. In Baltimore, Charter reform has occurred episodically. From 1797 until the "New Charter in 1898", there was "no very radical change" in the "organization of the City government". Flack at 8.

increase any sum provided for by the Board of Estimates. This Board has largely enhanced its control over municipal activities by the growing practice of making appropriations for specific purposes to be used in its discretion or under its direction. The Board of Estimates by this device manages to retain a large control over the City's expenditures, not only in the formulation of the budget ordinance, but in the actual application of the appropriations. Sobeloff, City Solicitor, Chapter V in Stieff, The Government of a Great American City (1935) at 80.

The City Comptroller

The City Comptroller, the fourth unit of City government, is the accountant for the City and also is in charge of disbursements. Graham, City Comptroller, Chapter VII in Stieff, The Government of a Great American City (1935). The Department of Audits and the Real Estate Department are also within the Comptroller's Office.

3. Charter Revision In Baltimore City

There have been numerous amendments of the Charter since 1918, but there have been only two comprehensive Charter revisions. One occurred in 1946. "Under the direction of the citizens commission on charter revisions, a new Charter was proposed for Baltimore City in 1945 and approved, with some modifications, by the electorate in 1946." Bowen, Local Government in Maryland (1955) at 96.

The changes approved in the 1946 Charter dealt with representation in the City Council, functions of the Board of Estimates, reorganization of the finance departments, reorganization of the Department of Public Works, budgeting in the Department of Education, creation of the Department of Recreation and Parks, functions of the Department of Planning, duties of the Board of Municipal and Zoning Appeals, and creation of

a Department of Aviation. Baltimore City Code 1949, pp xvii-xxiv. Bowen at 96, n.10.⁴

A 1964 Charter Review Commission, originally appointed by Mayor Philip Goodman, and expanded and continued by Mayor McKeldin, "gave the Charter its present structure, although its major revisions came in the handling of the City's fiscal matters".⁵ The 1964 Commission, like the 1975 Commission, unsuccessfully recommended the creation of a department of personnel and a division of personnel responsibilities between that new department and the Civil Service Commission.

The 1975 Charter Review Commission was appointed by the Mayor and City Council in 1973, and chaired by M. Albert Figinski. After two years of study, it made recommendations for substantial Charter revision in 1975. Its recommendations were summarized in a August 3, 1976 Baltimore Sun article:

- o That the city solicitor become a non-voting member to avoid the appearance of a legal adviser mixed up in politics.

4. The Report of the 1975 Charter Revision Commission described the work of the 1946 Commission:

[It] dealt with a wide variety of subjects ranging from an equalization of councilmanic districts to combining the duties of the former Board of Awards with those of the retained Board of Estimates, from the creation of a Planning Department to changes in provisions relating to the Department of Education.

Preface to Report of the 1975 Charter Review Commission at 2.

5. Preface to Report of the 1975 Charter Review Commission at 2.

- o That the City Council be allowed to raise certain departmental budgets - as long as the grand total remained the same.
- o That a streamlined personnel department be created and that the powers of useless boards and commissions be given back to the Mayor.

The major recommendations of the 1975 Commission were not adopted by the City Council.

The adoption of Resolution 788 by the City Council in 1990 (creating the Charter Revision Study Committee and the Charter Revision Task Force), and the appointment by Mayor Schmoke of the Charter Revision Study Committee, is the latest Baltimore City Charter Revision effort.

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REVISING THE CITY CHARTER OF BALTIMORE: REVIEW OF EXISTING PROVISIONS

Victor K. Tervala | January 2018

This review is intended to be a guide to revising the Baltimore City Charter based on certain legal constraints on charter-making established by the Maryland courts. The review is in three parts. The first part sets out the court-established guidelines and their overall implications. *It assumes the reader has no knowledge of local government law or practices.* The second part discusses problems with applying the guidelines to the Baltimore City Charter. The third part provides conclusions about the content of the current Charter and presents reasons for retaining or deleting certain Charter provisions based on the guidelines.

Three caveats:

- It is recommended that you read Parts I and II before reading Part III, since Part III is based on the material discussed in the earlier parts.
- The conclusions reached about the current City Charter are my own and not those of the Law Department.
- The views expressed are based on almost 30 years of advising counties and municipalities throughout Maryland about establishing and revising local charters.

PART I: 13 PRINCIPLES AND CONSTRAINTS GOVERNING CHARTER REVISIONS

1. Article XI-A of the Maryland Constitution gives the voters total control over all the content in a charter. A charter is initially created by a handful of city/county voters and must be sent to voters without change to the voters for approval, even over the objection a city/county governing body. Art. XI-A, §§ 1 and 1a. After approval, amendments can be PROPOSED by both the voters and a city/county governing body, but only the voters can ACTUALLY AMEND a charter. A city/county governing body is prohibited from unilaterally amending a charter. Art. XI-A, § 5.
2. For this reason, the charter is truly the “people’s document.” Within the parameters established by State law, the voters determine how a government is generally organized and conducted.
3. This fact colors what should and should not be contained in a charter.
4. According to the Maryland courts, a charter – and thus the voters - can only establish the basic organization, components and processes of the government. *Cheeks v. Cedlair Corp.*, 287 Md. 595, 607 (1980). Any other subject matter is considered “improper charter material.” *Id.* While the voters under Maryland law are granted the power to establish the basic machinery of government through the charter, the details of actual governance – the strategies used to govern the community and the regulation of a government’s internal

affairs – must be created and implemented by those elected to perform those activities; that is, the governing body, and not the voters themselves.

5. Operational details and strategies for governing are deemed legislative or regulatory in nature. Under Maryland law, only a legislative body can exercise legislative powers (although a legislative body can delegate those powers to an administrative agency if appropriate guidelines are in place. *See Andy's Ice Cream v. City of Salisbury*, 125 Md. App. 125, 161 (1999)).
6. This fact establishes the fundamental difference between what is found in law and what is found in a charter. One is legislative in nature and therefore controlled by the governing body. The other is constitutional in nature (that is, a charter, like a constitution, establishes how the government is “constituted”) and therefore controlled by the voters. *See e.g., Board of Sup’rs of Elections of Anne Arundel County v. Smallwood*, 327 Md. 220, 249 (1992).
7. This fact explains why improper charter material is voidable by a court. The voters are not empowered to control the material. *See, e.g., Cheeks* at 608.
8. In effect, the details of governing are left to those who have sufficient information and resources to do the actual work of governing as well as the legal responsibility to do it.
9. Given the fact that a charter can only establish a government’s broad machinery, the following would be considered “essential charter material”:
 - Establishing the composition of the governing body (for the City, this means describing the Offices of the Mayor and City Council)
 - Establishing the way members of the governing body are selected (for the City, this means describing the election process or the appointment process for filling vacancies)
 - Establishing the duties of the governing body (Council, Mayor)
 - Establishing the legislative process (that is, how proposals become law)
 - Establishing the budget process
10. Nothing else is needed or required in a charter.
11. Equally important is the observation that the average voter will be able to form a reasonable opinion about each of these essential elements. No special knowledge, skills or abilities are required.
12. Note that the above list is devoid of items related to administrative affairs. Administrative affairs are not essential charter material but optional. Descriptions of administrative affairs are lawful to include in a charter, but only if the material is not so detailed that it can be deemed legislative or regulatory in nature – that is, matters requiring some amount of

knowledge or expertise in deliberating their ultimate disposition. This fact operates as a serious constraint on material that can be properly proposed or found in a charter.

13. The constraints on charter-making raise concerns about providing specific government departments in a charter. Since administrative affairs are entirely optional subject-matter, government departments need not be mentioned at all. On the other hand, if the choice is made to discuss government departments, operational details would be considered legislative (or regulatory) in nature and therefore deemed improper charter material. Provisions that broadly establish the existence of a given department and its duties, but avoid administrative and operational detail, are entirely proper. Note further that once a charter provides for a given department, any desired reorganization of the department (and the administrative apparatus generally, if many departments are mentioned) may require one or more charter amendments, which may hinder and, in some cases, even prevent a reorganization.

PART II. PROBLEMS WITH APPLYING THE GUIDELINES TO THE CURRENT CITY CHARTER

The application of these principles to the Baltimore City Charter is problematic because the City Charter, for various reasons, is stuffed with administrative and legislative (or regulatory) subject matter. Deleting some of the material will be disruptive for three reasons.

1. The deletion of legislative subject matter may require – at least in some cases - the actual adoption of legislation to replace the deleted charter material. The politics involved in adopting new legislation, to say nothing of the resources and time involved, can act as a serious obstacle confronting their deletion.
2. The entire operation of City administration revolves around the administrative material contained in the current City Charter. In many cases, deleting it will cause anxiety and confusion in public managers, even if the absence of these provisions would not prevent a department from continuing to operate as it always has done.
3. Certain interest groups have arisen around, and strongly adhere to, certain provisions that may, under a strict application of the law, be deemed improper charter material. This fact will serve as a serious obstacle confronting their deletion.

Given these problems, it is unrealistic to anticipate that a revision of the current City Charter will resolve many of the problems that appear to exist in it. It is merely hoped that some of the identified problems will be cured. Furthermore, it is hoped that by identifying these problems, they might inform decisions about which proposals to include in a general charter revision.

PART III. CONCLUSIONS ABOUT THE CURRENT CHARTER

Article I General Provisions

Under the above principles, most of Article 1, General Provisions, is non-essential. The Charter needs to include the provisions of Section 1 Corporate Entity, which are standard charter material. Sections 10 thru 14 concern establishing certain funds “by ordinance.” Typically, establishing funds and accounts is a legislative act. A strict application of the guidelines would have these sections deemed improper charter material. These funds were created before the Council had its current budget authority to add or strike lines of appropriation in the Ordinance of Estimates. While popular with Council members as tokens of commitment to certain issues, these funds are not proper charter material and now may be stricken.

Leaving aside the above material, the following sections appear to be non-essential charter material and voidable:

§ 3. Property rights; Trusts; Gifts.

How the City deals with these subjects are policy matters (and policy can be proper Charter material), but the policies presented in this section are unremarkable and no significant reason exists for their inclusion in a charter.

§ 4. Condemnation interests.

This subject is handled under State law and need not be in the City Charter.

§ 5. Uniform application throughout City; Public ways.

Charters are focused entirely on how governmental machinery operates. It does not regulate different parts of the City differently, but rather applies uniformly to government operations. As such, this section is superfluous.

§ 6. Uniform taxation.

Tax uniformity is handled under the Declaration of Rights, Article 16. This section is superfluous.

§ 7. Records; Reports.

Purely administrative and should be deleted. Much of it also is unworkable considering Public General Law that was adopted after it was included in the Charter.

§ 8. Official time.

Unnecessary provision. Consider repealing or condensing.

§ 9. Inner Harbor Park.

The dedication of a park is legislative in nature. The topic does not concern the basic organization, components and processes of the government. It is improper charter material, but its deletion probably would cause consternation.

§ 13(c)(1). Children and Youth Fund Revenue Sources.

The Charter may not dictate specific appropriations. Not proper charter material.

Article II General Powers

This Article, which provides the City's express legislative powers, cannot be amended locally. Amendments require State legislation and thus, the approval of the City delegation.

Currently, the City delegation in Annapolis is considering striking the second phrase of Section 27 of Article II to further clarify the City's control of the Baltimore City Police Department.

Article III City Council

This Article is essential charter material as it establishes one of the components of the City governing body, the City Council. Certain sections, however, are unnecessary:

§ 2(e). Members Term Limits. – Consider repealing

§ 3(c). President Term Limit. – Consider repealing

§ 7(b). Council districts — Redistricting Plan. – Consider giving more than 60 days for Council review.

§ 9. Floor privileges of municipal officers

It will be useful to keep the requirement that certain City official and board members can be summoned to appear before the City Council, but the rest of the section is unnecessary.

§ 12. Evidence of legislative acts.

Superfluous and dated.

§ 13. Style of ordinances.

The subject matter does not rise to the level of “essential” charter material.

§ 15. General Counsel

While it is customary to discuss the office of City Solicitor (or County or Municipal Attorney) in a charter, the discussion of other legal advisors in a charter typically would be superfluous, except this officer's independence from the Solicitor was intended. Prior to its inclusion, the Solicitor exercised total control over all matters pertaining to the City's legal affairs. We should assume this provision needs to be retained.

Article IV Mayor

This Article is essential charter material as it establishes a fundamental component of the City governing body, the Mayor as chief executive. The only section in this Article that is clearly unnecessary is Section 6(k) Holding Over, Dual Offices of Profit. Dual offices of profit are already prohibited in the Maryland Declaration of Rights, Article 35.

§ 1(d) Election, term, etc. — Term limit. – Consider repealing

§ 5(b) Approval or veto of legislation — Veto; Return to Council. – Consider the timing of the veto override

§ 5(d) Approval or veto of legislation — Items of Appropriation. – Consider simplifying the language

Article V Comptroller

This Article provides for an elected Comptroller and, as an elected office, the provisions that concern the Comptroller are essential charter material. Beyond those provisions, the provisions that create various departments and offices under the Comptroller are all administrative in nature and therefore non-essential charter material, but optional.

The following sections are removable:

§ 1(a)(5) Election, term, etc.; Deputy Comptroller; Staff. – Consider repealing the term limit

§ 4. Department of Real Estate – Established.

While this section is removable, it only provides the broad outline of the department and would not be deemed improper charter material.

§ 5. Department of Real Estate – Duties.

Providing for the general duties of an office is allowable in a charter, as long as the description does not become so detailed as to be legislative (or regulatory) in nature. The second paragraph in this Paragraph (b) is too detailed as is some language in Paragraph (c).

§ 6. Real Property Account.

The establishment of specific accounts and directing how funds are to be spent lies beyond the scope of the voters to control. It provides operational detail that only a governing body would have the necessary information and resources to competently regulate.

§ 7. Department of Audits – Established.

While this section is removable, it only provides the broad outline of the department and would not be deemed improper charter material.

§ 8. Department of Audits – General powers and duties.

While this section is removable, it only provides the broad outline of the department and would not be deemed improper charter material.

§ 8(b)(1) Department of Audits General powers and duties Subpoena. – Consider rewording to remove subpoena within City government as it conflicts with state law

§ 9. Department of Audits – Comprehensive annual financial report

This section provides unnecessary detail, which crosses over into legislative (or regulatory) subject matter. It also provides content that is entirely dispensable in a charter.

§ 11. Department of Audits – Biennial Audits

Generally requiring biennial agency audits is proper charter material, but many of these provisions concern administrative and operational detail that should be controlled by the governing body and not the voters. In effect, this section contains improper charter material, which should be culled from it. I would anticipate the politics of cutting any of it would be prohibitive.

§ 11(a)(3)(ii)(1) Department of Audits – Biennial audits Principal Agency Group B. – Consider removing the Law Department and substituting the Mayor’s Office of Criminal Justice

§ 11(f) Department of Audits – Biennial audits Biennial Audits Oversight Commission. – Consider removing the Commission as the Comptroller’s Office has performed these audits well without need for oversight of a body that rarely meets

Article VI Board of Estimates

This Article concerns the existence and operation of the Board of Estimates, among other things. The BOE is an administrative body which, as a creature of administration, usually signals that the subject matter is non-essential charter material. In the BOE's case, however, the current Charter makes the BOE responsible for the execution of the City's fiscal policy. This fact makes provisions establishing the broad operation of this administrative body essential charter material. Besides establishing the BOE and describing its composition and duties, the first half of this Article provides for the budget process – essential charter material. The second half is largely administrative and non-essential.

The following sections are legislative in nature. They should be culled of certain material or deleted in their entirety:

§ 1(b) Establishment and organization. Meetings. – Consider expressly adding a quorum requirement and clarifying the number needed to approve any item.

§ 10. Salaries.

Other than discussing the manner in which the salaries of elected officials are set, there is no reason to discuss the internal mechanics of employee compensation in a charter. The subject may interest the voters but the governing body is solely responsible for regulating employee compensation.

§ 11. Procurement.

The voters have a right to know that procurement practices will be fair, open and unbiased. Charters usually provide as much, and often include provisions such as to when contracts must be competitively bid. But most of the procurement details in the current Charter are matters that only the governing body has the knowledge and resources to regulate competently. It is, therefore, legislative (or regulatory) subject matter and improper to include in a charter.

§ 12. Salary and wage scales; Work conditions.

While voters may wish to provide in the Charter for collective bargaining in City employment in a general fashion (and it would be deemed proper charter material), listing the bargaining units and other details in this section involving collective bargaining and compensation practices is too granular and very much the responsibility of the governing body to control. It is, therefore, improper charter material.

§ 14. Bonds of municipal officers.

A charter could contain these provisions, but they are totally dispensable and better handled in legislation, if at all.

§ 15. Claims against or by City.

Unneeded detail.

§ 16. Salaries of State's Attorney's Office

State law already requires the City to set the salaries mentioned in this section. No reason to keep this section.

§ 17. Expenditures for new improvements

Unnecessary administrative minutia and beyond the reach of charter-making.

§ 18. Water, sanitary and stormwater utilities

Any charter section that deals with accounts and how money can be spent is improper charter material (with the exception mentioned in discussing Article 1). This section, which provides for certain aspects of fiscal policy, is very much the purview of elected officials as only they have the knowledge and resources to regulate it competently. It's presence in the Charter, however, may be preferred by bond counsel, although I know of no good reason why their concerns could not be adequately addressed by an appropriate ordinance.

Article VII Executive Departments

This Article presents 60 pages of administrative detail, listing almost every department and office in City government plus a few boards and commissions. As discussed above, administrative provisions are optional charter material and totally dispensable. The material becomes objectionable when charter provisions delve into details that only the governing body would have the knowledge and resources to competently regulate. If a charter is intended to list different government agencies, the constraints on charter-making require the departments, boards and commission to be outlined only in broad strokes, leaving administrative and operational details to be filled in by legislation or regulation.

§ 2(b) General provisions: Powers and duties; Contracts Execution of Contracts. – consider being more explicit about who can execute a contract for an entity that is not an agency or giving the Mayor or City Administrator the power to designate someone to sign contracts.

§ 3(a)(2) General provisions: Bureaus and divisions. Establishment or abolishment. – Consider removing the requirement that DPW bureaus can only be changed by ordinance unlike every other agency.

Department of Finance provisions

These provisions provide extraordinary detail as to how the department operates. Much of it is improper charter material and, ideally, should be removed. While their removal would be controversial, it would allow the department to review and analyze how best to perform its wide array of tasks without having to adhere to perhaps dated and stagnant Charter provisions.

§15(a) Department of Finance: Distraint or levy for taxes. Goods or chattels- Notice of proposed sale. – Consider changing the newspaper advertising to online advertising or a hybrid of the two.

Board of Finance provisions

The absence of this board in the Charter likely will go unnoticed by any voter, which is why it should be deleted from the Charter. The Board is purely a creature of internal operations.

Department of Law

It is customary and useful to provide for the chief legal officer in a charter. A description of the overall Law Department is optional like the descriptions of other departments.

Department of Public Works

These Charter provisions contain non-essential charter information and, ideally, would be revised. The provisions in Section 41 are legislative in nature and should to be deleted.

§ 29(a) Department of Public Works: Staff. Deputy; Other employees. – Consider deleting the requirement that Bureau heads need Mayoral appointment and council approval as no other agencies have this same restriction.

Fire Department

Much of Section 52, which concerns the Fire Board and employee retirement, is legislative in nature and improper. Section 53, which deals with arbitration, is squarely a matter only the governing body can competently regulate. In fact, Article II, Section 65 of the City Charter makes arbitration a legislative matter. While providing for a board of arbitration is acceptable in a charter, how proposals should be submitted, how the board considers issues, and how decisions should be implemented are matters that are best left to legislation or regulation.

Department of Health

The way this department is described in the current Charter could serve as a model for how all departments might be described in a charter – just the basic outline of the duties and Office of Health Commissioner.

Department of Education

These provisions should be deleted as obsolete.

Department of Recreation and Parks

If other boards are not mentioned in the Charter, there is no reason the Rec and Parks Board needs to be provided in the Charter.

§ 69 Department of Recreation and Parks: Board – Composition; Appointment; Terms. – Consider repealing this Board.

Department of Planning

The first half of these provisions concern establishing the Planning Commission and Department. Section 72 is too detailed for a charter, although generally providing for the departmental duties is unobjectionable. Section 74 through 78 deal with the master plan and subdivision matters, which generally are subjects which require the expertise of professional planners. As such, these sections are legislative (or regulatory) in nature. Section 79 is superfluous. Section 80, dealing with penalties, is an ordinance masquerading as a charter provision. It needs deletion.

Department of Municipal and Zoning Appeals

Sections 81 through 88 outline the operation of the BMZA, which is unobjectionable if unnecessary when legislation exists that provides the same details. Section 89 is extraneous and legislative in nature.

Department of Legislative Reference

The department is recognized as an “independent” body that serves the Mayor, Council President, Comptroller, City Council, and City agencies as a neutral party. The department’s placement in the executive branch does not match the reality of its work. It is more natural for the department to exist outside the political sphere so that its neutrality is unquestionable.

Civil Service Commission

It is enough in a charter to declare that City employment will be governed by a merit system. How the merit system operates should be a matters of regulations or legislation. Instead, Sections 97, 99, 100, 101, 102, 103 and 104 contain impermissible charter material.

Board of Ethics

Provides a model for how boards or departments might be described in a charter.

Department of Transportation

Section 116 provides the powers and duties of DOT, but much of the description errs on the side of too much prescriptive detail and therefore is legislative (or regulatory) in nature. A concise statement of general duties is all that is needed in a charter. Section 116A, discussing the assessment of benefits and damages, is entirely legislative in establishing prescriptive detail. Section 116B, correcting physical obstruction, is an ordinance masquerading as a charter provision.

§ 116(b)(3) Powers and duties of Department. Street construction and maintenance – Consider changing newspaper advertising to online advertising or a hybrid of the two.

Compensation Commission for Elected Officials

This Commission as described is appropriate charter material.

Department of General Services

Section 134, correcting physical obstruction, is an ordinance masquerading as a charter provision.

Article VIII Franchises

This Article has roots in the Charter of 1898 and has not been the subject of much, if any, revision over the years. Other than certain overarching statements about when franchises and minor privileges need to be granted, the material in this Article is largely dispensable in a charter. If Sections 2 and 3 are to be retained, they need revision for purposes of clarity and succinctness and need to be culled of extraneous administrative detail. Section 4, street railways, is obsolete. Section 6, trackless trolleys, is unnecessary. Section 6 – advertising – need not be in the Charter (and I don't know that we do this anymore). Section 7, reservation of rights, is superfluous. Section 9, minor privileges, can be removed as it contains legislative material.

§ 1 Authority to grant. – remove the phrase “and underground conduit system for cables, wires, and similar facilities” from the second paragraph to make it clear that the City can still grant franchises for the use of the City's conduit.

§ 6. Advertising. – Consider changing newspaper advertising to online advertising or a hybrid of the two.

§ 9a(a) Minor privileges. Temporary minor privilege charges. – consider conforming the language in the last sentence to the current codification of Maryland law.

§ 9(c) Savings clause. – considering conforming the language in the last sentence to the current codification of Maryland law.

Article IX Transition Provisions

These transition provisions can be deleted as it exists today but will need replacing, the content of which will be determined by the content of the Charter revisions.

Article X Office of the Inspector General

§ 3(e) Office of Inspector General: The Inspector General. Performance review–
Consider adding that the advisory board’s meeting to do the performance review is not an open session and is to be closed pursuant the Open Meetings Act.

§ 5(b) Office of the Inspector General: Budget. Advisory board to approve or revise. –
Consider removing the advisory board’s review of the OIG budget as no other agency has their proposed budget be reviewed by a commission prior to submission as part of the City’s budget.

Article XI Charter Review Commission

§ 2(a) Term. In general. – Consider increasing the amount of time that the Charter Commission must do its work.

Consider alternative means for a more regular review of the Charter. Montgomery County’s Charter requires their county council to appoint a standing charter review commission every 4 years. The Montgomery County commission submits reports not later than May 1 of every even-numbered year. Reports contain recommendations concerning proposed Charter amendments.

New Topics

Clarify what occurs when two questions on the ballot are both approved by the voters but are irreconcilable.

1. The Attorney General of Maryland, in an advisory opinion issued on July 18, 2002, addressing proposed charter amendments in Baltimore City that conflicted, agreed with Baltimore’s City Solicitor, opining that “all the proposals that passed must fail” under such circumstances. 87 Md. Op. Att’y Gen. 99 (2002).
2. Section 1202(b) of the Anne Arundel County Charter provides that: “If...the voters approve Charter amendments containing provisions so inconsistent that only one can be given effect, only the amendment that receives the higher number of favorable votes shall take effect and amend the Charter.

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Council Bill #	Ordinance #	Status	File Created	Final Action	Title
23-0445		Introduced In Council	10/30/23		Charter Amendment - Baltimore City Police Department For the purpose of establishing the objectives, powers, and duties of the Baltimore City Police Department; defining certain terms; creating the role of the Police Commissioner and establishing the Commissioner as the head of the Department; providing for the appointment and confirmation of the Commissioner; establishing the powers and duties of the Commissioner; establishing the powers and duties of police officers; providing for police officers' enjoyment of certain immunities and defenses; and submitting this amendment to the qualified v
23-0444		Introduced In Council	10/30/23		Charter Amendment - Inner Harbor Park For the purpose of amending the provision dedicating for public park uses the portion of the City that lies along the north west and south shores of the Inner Harbor, south of Pratt Street to the water's edge, east of Light Street to the water's edge, and north of Key Highway to the water's edge, from the World Trade Center around the shoreline of the Inner Harbor and including Rash Field to permit multifamily residential development and off-street parking within the dedicated boundaries of Inner Harbor Park; and submitting this amendment to the qualified
23-0380		In Committee	5/1/23		Charter Amendment - Community Reinvestment and Reparations Fund FOR the purpose of establishing a continuing, non-lapsing Community Reinvestment and Reparations Fund, to be used exclusively to support the work of the Community Reinvestment and Reparations Commission; authorizing the Mayor and City Council, by ordinance, to provide for the oversight, governance, and administration of this Fund; and submitting this amendment to the qualified voters of the City for adoption or rejection.
22-0326		Introduced In Council	12/8/22		Charter Amendment - Repeal - Term Limits For the purpose of repealing term limits for Baltimore City elected officials, including the Mayor, Comptroller, City Council President, and City Council members; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
22-0258		Withdrawn	8/15/22	10/24/22	Charter Amendment - Forest Preservation Fund For the purpose of establishing a continuing, nonlapsing Forest Preservation Fund, to be used exclusively to fund and administer activities related to forest management, including natural area preservation and restoration, wildlife management, maintenance of paths in forests and natural areas, and tree maintenance; providing for certain modes of appropriation to the Fund; authorizing the Mayor and City Council, by Ordinance, to provide for the oversight, governance, and administration of the Fund; and submitting this amendment to the qualified vote
22-0248	22-03	Enacted	6/21/22	7/27/22	Charter Amendment - Baltimore City Police Department - Local Control - Establishment For the purpose of creating a Baltimore City Police Department as an agency and instrumentality of the City of Baltimore; and submitting this amendment to the qualified voters of the City for adoption or rejection.
22-0243		Introduced In Council	6/13/22		Charter Amendment - Department of Real Estate For the purpose of establishing the Director of the Department of Real Estate as the head of Department of Real Estate; specifying that the Director shall be appointed by the Comptroller; making certain revisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
22-0242	22-05	Enacted	6/13/22	7/29/22	Charter Amendment - Accounts Payable For the purpose of establishing the Department of Accounts Payable; making the Comptroller responsible for the Department; specifying that the Director shall be appointed by the Comptroller; establishing the powers and duties of the Department; conforming the duties of the Department of Finance; conforming certain related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
22-0238	22-04	Enacted	5/16/22	7/29/22	Charter Amendment - Inspector General - Advisory Board For the purpose of altering the method by which individuals are selected to be members of the advisory board that appoints the Inspector General; requiring a member of the City Council to consider certain factors when nominating a candidate for the advisory board; setting term limits and staggering certain terms; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
22-0224		Introduced In Council	4/25/22		Charter Amendment - Sporting Tournament Scholarship Fund For the purpose of establishing a continuing, nonlapsing Sporting Tournament Scholarship Fund, to be used exclusively to fund and administer a scholarship program for certain youth and young adults; providing for certain modes of appropriation to the Fund; authorizing the Mayor and City Council, by Ordinance, to provide for the oversight, governance, and administration of the Fund; and submitting this amendment to the qualified voters of the City for adoption or rejection.
21-0112	22-01	Enacted	7/19/21	3/7/22	Charter Amendment - Supplementary Criminal Apprehension and Conviction Fund For the purpose of establishing a continuing, nonlapsing Supplementary Criminal Apprehension and Conviction Fund, to be used exclusively to supplement rewards offered to the public for information leading to the apprehension, arrest, and conviction of criminal suspects; providing for certain modes of appropriation to this Fund; authorizing the Mayor and City Council, by Ordinance, to provide for the oversight, governance, and administration of this Fund; and submitting this amendment to the qualified voters of the City
21-0092		Introduced In Council	6/8/21		Charter Amendment - Homegrown Heroes Fund For the purpose of authorizing the establishment of a continuing, nonlapsing Homegrown Heroes Fund, to be used exclusively to administer a Public Safety Apprenticeship Program for youth and young adults who are Baltimore City residents and between the ages of 11 through 21 years old; requiring that the annual Ordinance of Estimates include a specified appropriation for the Homegrown Heroes Fund; and submitting this amendment to the qualified voters of the City for adoption or rejection.
20-0563		Failed - End of Term	7/20/20	12/7/20	Charter Amendment - Disposition of City-Owned Real Property For the purpose of amending the City Charter to repeal the City's general authority to dispose of City-owned real property at private sale; conforming and clarifying related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
20-0551		Failed - End of Term	7/6/20	12/7/20	Charter Amendment - Term Limits For the purpose of providing that a person who has served a certain number of terms as Mayor, Comptroller, President of the City Council, or Member of the City Council is ineligible to again serve in that office during the immediately following term; correcting, clarifying, and conforming related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
20-0550		Failed - End of Term	7/6/20	12/7/20	Charter Amendment - City Council Modernization and Re-Structuring Act For the purpose of reducing the size of the City Council; requiring that the City Council Vice-President be elected by the voters of Baltimore City; specifying that in the case of a vacancy in the position of City Council President, the Vice-President shall become President; conforming and clarifying related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
20-0545		Failed	6/22/20	7/13/20	Charter Amendment - Term Limits For the purpose of providing that a person who has served a certain number of terms as Mayor, Comptroller, President of the City Council, or Member of the City Council is ineligible to again serve in that office during the immediately following term; correcting, clarifying, and conforming related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
20-0504		Failed - End of Term	2/24/20	12/7/20	Charter Amendment - City Council - Composition For the purpose of increasing the size of the City Council to 15 members elected from districts; requiring that the City Council President be elected by the City Council from among its members every 2 years; clarifying the terms and the manner of election for the Council Vice President and the Council representative to the Planning Commission; allowing for the City Council to remove a member from the position of President; specifying that the City Council elect an individual to fulfill a mayoral vacancy; conforming and clarifying related provisio
20-0491	20-22	Enacted	2/10/20	6/22/20	Charter Amendment - City Auditor - Powers and Duties For the purpose of authorizing the City Auditor to issue subpoenas to certain individuals and entities; requiring the City Auditor to provide a copy of certain completed audit reports to the agency audited; and submitting this amendment to the qualified voters of the City for adoption or rejection.
20-0492		Failed - End of Term	2/10/20	12/7/20	Charter Amendment - City Council - Reduction in Size For the purpose of reducing the size of the City Council; providing for certain members to be elected at large; requiring that the President of the City Council, the Council Vice-President, and the Council's representative to the Planning Commission be at-large members of the Council; clarifying, correcting, and conforming certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
20-0489		Failed - End of Term	1/27/20	12/7/20	Charter Amendment - Board of Estimates - Composition For the purpose reconstituting the Board of Estimates to comprise the Mayor, Comptroller, and City Council President; correcting, conforming, and clarifying related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
19-0470		Failed - End of Term	12/2/19	12/7/20	Charter Amendment - City Council - Exercise of Legislative Powers For the purpose of modifying and clarifying the City Council's authority to legislate certain powers and duties of all units of the Executive Branch; and submitting this amendment to the qualified voters of the City for adoption or rejection.
19-0467	20-21	Passed	11/18/19	6/22/20	Charter Amendment - Vetoes - Timing of Override For the purpose of modifying and clarifying the time within which the Council may consider to override a mayoral veto; and submitting this amendment to the qualified voters of the City for adoption or rejection.
19-0441	20-18	Enacted	9/9/19	6/17/20	Charter Amendment - Charter Review Commission For the purpose of requiring a Charter Review Commission be appointed at least once every 10 years to review and make recommendations for necessary deletions, additions, or revisions to the City Charter; providing for the term of the Commission; setting forth the manner of the Commission's appointment; providing for the Commission's duties; requiring that the Commission be dissolved on the completion of its duties; and submitting this amendment to the qualified voters of the City for adoption or rejection.
19-0382	20-26	Passed	4/29/19		Charter Amendment - City Administrator For the purpose of establishing the position of City Administrator as the Chief Administrative Officer of Baltimore City; establishing how the City Administrator is appointed and removed; establishing the powers and duties of the City Administrator; establishing that the City Administrator shall appoint a Deputy City Administrator and certain other staff; providing that the City Administrator may appoint and remove certain municipal officials; clarifying and conforming related provisions; generally relating to the position of the City Administrator; and
19-0381	20-24	Enacted	4/29/19	7/13/20	Charter Amendment - Removal of Elected Officials For the purpose of providing for the removal from office by the City Council of certain City elected officials under certain circumstances; expanding the potential individuals or entities entitled to prefer charges for consideration of removal from office; conforming and clarifying related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
19-0380	20-20	Passed	4/29/19	6/22/20	Charter Amendment - Vetoes For the purpose of modifying the vote by which the Council may override a mayoral veto; repealing the mayoral authority to veto "items of appropriation"; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
19-0379	20-25	Enacted	4/29/19	7/27/20	Charter Amendment - Ordinance of Estimates For the purpose of authorizing the City Council to amend the Ordinance of Estimates to increase items of appropriation or add items for new purposes, subject to certain limitations; deleting the requirement that supplementary appropriations be recommended by the Board of Estimates; correcting, clarifying, and conforming related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
19-0353	20-27	Enacted	3/18/19	12/2/20	Charter Amendment - Underground Conduit System - Sale, Transfer, or Franchise Prohibited For the purpose of prohibiting the sale, transfer, or franchising of the City's underground conduit system for cables, wires, and similar facilities; excepting this underground conduit system, its operations and uses, from the Charter provisions otherwise authorizing the grant of franchises or rights relating to the operation or use of public property or places; and submitting this amendment to the qualified voters of the City for adoption or rejection.
18-0271	18-13	Enacted	8/6/18	8/10/18	Charter Amendment - Inalienability of Sewer and Water-Supply Systems For the purpose of declaring the inalienability of the City's sewer system and water-supply system; excepting the sewer and water-supply systems, their operations and uses, from the Charter provisions otherwise authorizing the grant of franchises or rights relating to the operation or use of public property or places; and submitting this amendment to the qualified voters of the City for adoption or rejection.
18-0264	18-11	Enacted	6/11/18	8/10/18	Charter Amendment - Charter Commission General Recommendations For the purpose of increasing the City's record keeping flexibility; repealing an obsolete provision regarding the City's official time; improving the City's legislative and administrative flexibility by removing redundant Charter provisions and language more appropriate for ordinances or regulations; removing Charter provisions found to simply restate applicable State law; requiring the Department of Finance to employ at least 1 Certified Public Accountant to perform certain duties; allowing certain agencies to be designated by

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
18-0263		Withdrawn	6/11/18	6/25/18	Charter Amendment - Charter Commission Recommendations for Office of the Inspector General For the purpose of repealing certain obsolete transition provisions; establishing an Office of the Inspector General headed by an Inspector General; providing for the establishment of an ad hoc board of the Office of the Inspector General to make recommendations regarding the appointment and removal of the Inspector General; allowing the Mayor and the City Council President to jointly appoint or remove the Inspector General after receiving recommendations from an ad hoc board of the Office of the Inspe
18-0262		Withdrawn	6/11/18	6/25/18	Charter Amendment - Charter Commission Recommendations for Board of Estimates Article For the purpose of modernizing various public notice provisions, including removing mandatory requirements for notice to be published in a newspaper of general circulation in Baltimore City; creating a process for the Board of Estimates to set the thresholds for contracts required to be formally advertised or be approved by the Board of Estimates; equalizing the requirements for both bids and proposals sought by the City; allow for earlier notice of City contracts; increasing the Board of Estimates flexibil
18-0261		Withdrawn	6/11/18	6/25/18	Charter Amendment - Charter Commission Recommendations for Comptroller Article For the purpose of clarifying the process for disposing of City property; simplifying language related to the allowed uses of proceeds from the sale of City property; removing carrying out the industrial and economic development powers vested in the Mayor and City Council of Baltimore by the provisions of subsection (15A) of Article II as an approved use for the proceeds from the sale of City property; requiring the Comptroller to appoint a Deputy City Auditor who would serve as acting City Auditor under certain sp
18-0260		Withdrawn	6/11/18	6/25/18	Charter Amendment - Charter Commission Recommendations for City Council and Mayor Articles For the purpose of eliminating existing council district lines as a criteria for City Council redistricting; clarifying the Mayor's powers as conservator of the peace; clarifying certain inherent responsibilities arising from the Mayor's executive duties; deleting a redundant clause relating to the holding over of municipal officers; deleting a redundant clause relating to the prohibition on holding dual offices of profit; setting a special effective date; and submitting this amendment to the qualified

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
18-0229	18-09	Enacted	4/23/18	7/30/18	Charter Amendment - Fair Election Fund For the purpose of authorizing the establishment of a continuing, nonlapsing Fair Election Fund, to be used exclusively to administer a public financing option for political campaigns for Baltimore City elected offices; authorizing the Mayor and City Council to dedicate revenue to the Fair Election Fund by ordinance; establishing a Fair election Fund Commission to administer the Fund; and submitting this amendment to the qualified voters of the City for adoption or rejection.
18-0222	18-14	Enacted	4/16/18	8/14/18	Charter Amendment - Equity Assistance Fund For the purpose of authorizing the establishment of a continuing, nonlapsing Equity Assistance Fund, to be used exclusively to assist efforts that reduce inequity based on race, gender, or economic status in Baltimore; requiring that the annual Ordinance of Estimates include a specified appropriation for the Equity Assistance Fund; and submitting this amendment to the qualified voters of the City for adoption or rejection.
18-0199	18-08	Enacted	3/12/18	7/30/18	Charter Amendment - Office of the Inspector General For the purpose of creating an independent Office of the Inspector General headed by an Inspector General; establishing the process for appointing and terminating the Inspector General; establishing the powers and duties of the Office of the Inspector General; appointing the Inspector General to serve as the Executive Director of the Board of Ethics; granting the Inspector General the authority to cancel or suspend certain contracts with the concurrence of the City Solicitor; setting a minimum guaranteed funding level for the Office of the I
17-0097		Failed - End of Term	7/17/17	12/7/20	Charter Amendment - Tenant Legal Assistance Fund For the purpose of authorizing the establishment of a continuing, nonlapsing Tenant Legal Assistance Fund, to be used exclusively to assist low-income tenants with housing-related legal services; authorizing the Mayor and City Council to dedicate revenue to the Tenant Legal Assistance Fund by ordinance; and submitting this amendment to the qualified voters of the City for adoption or rejection.
17-0005		Withdrawn	1/9/17	6/25/18	Charter Amendment - Term Limits For the purpose of providing that a person who has served a certain number of terms as Mayor, Comptroller, President of the City Council, or Member of the City Council is ineligible to again serve in that office during the immediately following term; correcting, clarifying, and conforming related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
16-0699	16-31	Enacted	6/20/16	7/21/16	Charter Amendment - Biennial Agency Audits For the purpose of amending the section on agency audits to require that the City Auditor conduct performance audits of principal agencies at least twice during every 4-year term of the Mayor and City Council; adding to the list of agencies subject to these audits; establishing a staggered schedule for these audits; redefining certain terms; providing for public posting of audit reports; and submitting this amendment to the qualified voters of the City for adoption or rejection.
16-0672	16-30	Enacted	5/16/16	8/15/16	Charter Amendment - Board of Estimates - Local, Small, and Disadvantaged Business Enterprise Program FOR the purpose of authorizing the waiver or modification of certain procedures in order to assist local, small, or disadvantaged businesses; and submitting this amendment to the qualified voters of the City for adoption or rejection.
16-0660	16-29	Enacted	5/2/16	6/21/16	Charter Amendment - Inner Harbor Park FOR the purpose of amending the provision for Inner Harbor Park to provide for outdoor eating places in the areas known as West Shore Park and Rash Field; and submitting this amendment to the qualified voters of the City for adoption or rejection.
15-0597	16-27	Enacted	12/7/15	3/28/16	Charter Amendment - Subdivision Regulation - Agency Endorsements FOR the purpose of correcting an obsolete reference to the Department of General Services to reflect and conform with the transfer of certain powers and duties from that agency to the Department of Transportation, as mandated by Charter Resolution 14-016 (ratified Nov. 2, 2014); and submitting this amendment to the qualified voters of the City for adoption or rejection.
15-0567	16-26	Passed	9/21/15	2/22/16	Charter Amendment - Children and Youth Fund FOR the purpose of establishing a continuing, non-lapsing Children and Youth Fund, to be used exclusively to supplement services provided to children and youth; requiring a minimum annual appropriation to this Fund; authorizing the Mayor and City Council, by Ordinance, to provide for the oversight, governance, and administration of this Fund; and submitting this amendment to the qualified voters of the City for adoption or rejection.
15-0494		Failed - End of Term	3/9/15	12/5/16	Charter Amendment - Special Elections - Mayoral Vacancies FOR the purpose of authorizing, under certain circumstances, the filling of Mayoral vacancies by special election; conforming, correcting, and clarifying related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
15-0493		Failed - End of Term	3/9/15	12/5/16	Charter Amendment - Special Elections - Council Vacancies FOR the purpose of authorizing, under certain circumstances, the filling of Council vacancies by special election; conforming, correcting, and clarifying related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
15-0479		Failed	2/2/15	5/16/16	Charter Amendment - Board of Estimates - Composition FOR the purpose reconstituting the Board of Estimates to comprise the Mayor, Comptroller, and City Council President; correcting, conforming, and clarifying related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
15-0471		Failed	1/12/15	4/18/16	Charter Amendment - Multi-Member City Council Districts FOR the purpose of amending the City Charter of Baltimore City to reduce the number of Councilmembers and create multi-member City Council districts; and submitting this amendment to the qualified voters of the City for adoption or rejection.
14-0382		Vetoed by Mayor	5/12/14	8/11/14	Charter Amendment - Minor Privileges FOR the purpose of amending the provisions regulating franchises to authorize the Mayor and City Council to regulate, by local law, minor privileges and the issuance of minor privilege permits; defining certain terms; conforming, correcting, and clarifying related language governing franchises; and submitting this amendment to the qualified voters of the City for adoption or rejection.
14-0377	14-16	Enacted	5/12/14	7/25/14	Charter Amendment - Transfer of Powers and Duties FOR the purpose of transferring from the Department of General Services to the Department of Transportation certain Charter powers and duties relating to streets and rights-of-way, including the approval of new streets, the naming or renaming of streets, the opening and closing of streets, the numbering of buildings, the preparation of street plats and plans, and the maintenance of plats and records of all parcels of real property and underground structures, and the maintenance a system of uniform property identification; and submitting this
14-0315		Failed - End of Term	1/27/14	12/5/16	Charter Amendment - Sustainability and Related Funds FOR the purpose of modifying the revenue sources that may be dedicated to special funds established for promoting sustainability, maintaining and establishing parks and other open spaces, and cleaning and preserving the natural environment within the City of Baltimore; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
13-0283	14-14	Enacted	10/21/13	6/16/14	Charter Amendment - Multi-Year Collective Bargaining FOR the purpose of authorizing the Board of Estimates to approve multi-year collective bargaining agreements with the City Union of Baltimore, subject to certain conditions; providing for the funding of those agreements; conforming and clarifying related language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
13-0236	13-13	Enacted	6/3/13	11/25/13	Charter Amendment - City Council - Independent Counsel FOR the purpose of authorizing the City Council to retain the services of independent legal counsel; providing for the qualifications and term of that counsel; specifying the duties of that counsel; providing for the counsel's compensation and expenses; and submitting this amendment to the qualified voters of the City for adoption or rejection.
12-0114		Failed - End of Term	7/16/12	12/5/16	Charter Amendment - Term Limits FOR the purpose of providing that a person who has served a certain number of elected terms of office as Mayor, Comptroller, President of the City Council, or Member of the City Council is ineligible to succeed her- or himself for the immediately following term; correcting, clarifying, and conforming related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
12-0113		Failed	7/16/12	5/16/16	Charter Amendment - Ordinance of Estimates FOR the purpose of authorizing the City Council to amend the Ordinance of Estimates to increase items of appropriation or add items for new purposes, subject to certain limitations; deleting the requirement that supplementary appropriations be recommended by the Board of Estimates; correcting, clarifying, and conforming related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
12-0112		Failed - End of Term	7/16/12	12/5/16	Charter Amendment - City Council - Reduction in Size FOR the purpose of reducing the size of the City Council; providing for certain members to be elected at large; requiring that the Council Vice-President and the Council's representative to the Planning Commission be at-large members of the Council; clarifying, correcting, and conforming certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
12-0111		Failed	7/16/12	3/30/15	Charter Amendment - Vetoes FOR the purpose of modifying the vote by which the Council may override a mayoral veto; repealing the mayoral authority to veto "items of appropriation"; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
12-0093	5-Dec	Enacted	6/4/12	6/26/12	Charter Amendment - Minority Party Representation on Boards and Commissions FOR the purpose of allowing voters registered as unaffiliated or as third party members to sit on City boards and commissions as minority party representatives; defining a certain term; generally relating to minority party representation on City boards and commissions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
12-0092	4-Dec	Enacted	6/4/12	6/26/12	Charter Amendment - Stormwater Utility FOR the purpose of establishing a financially self-sustaining stormwater utility; authorizing supplemental legislation to implement the provisions governing water, sanitary wastewater, and stormwater utilities; correcting, clarifying, and conforming related language; providing for a special effective date; and submitting this amendment to the qualified voters of the City for adoption or rejection.
12-0023	3-Dec	Enacted	1/23/12	6/26/12	Charter Amendment - Municipal Elections FOR the purpose of providing for the election of the Mayor, the Comptroller, and the President and Members of the City Council in 2016 and in every succeeding fourth year; adjusting the terms of office for those elected in 2011; and submitting this amendment to the qualified voters of the City for adoption or rejection.
12-0018		Withdrawn	1/9/12	1/28/13	Charter Amendment - Property Tax Limitations FOR the purpose of imposing limits on the City property tax; authorizing the establishment of 1 or more continuing, nonlapsing funds to be used for the reduction of the property tax; conforming related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
11-0721		Failed - End of Term	6/20/11		Charter Amendment - Board of Estimates - Local, Small, and Disadvantaged Business Enterprise Program FOR the purpose of authorizing the waiver or modification of certain procedures in order to assist local, small, or disadvantaged businesses; and submitting this amendment to the qualified voters of the City for adoption or rejection.
11-0668		Failed - End of Term	3/7/11		Charter Amendment - Property Tax Limitations FOR the purpose of imposing limits on the City property tax; authorizing the establishment of 1 or more continuing, nonlapsing funds to be used for the reduction of the property tax; conforming related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
11-0634	Nov-34	Enacted	1/10/11	7/20/11	Charter Amendment - City Council - Age Requirements FOR the purpose of lowering the minimum age requirement for members of the City Council; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
10-0631	Nov-32	Enacted	12/6/10	6/21/11	Charter Amendment - Nonlapsing Funds for Quality Schools - Reinvesting in our Youth FOR the purpose of expressly authorizing the establishment of 1 or more continuing, nonlapsing funds for purposes of enhancing the educational environment in Baltimore City, by creating modern state-of-the-art schools; and submitting this amendment to the qualified voters of the City for adoption or rejection.
10-0499	24-Oct	Enacted	5/3/10	8/10/10	Charter Amendment - Procurement FOR the purpose of establishing new procedures for establishing and modifying certain bid threshold amounts, bid and performance requirements, advertising requirements, award criteria, and other matters governing procurement; and submitting this amendment to the qualified voters of the City for adoption or rejection.
10-0481		Failed - End of Term	4/19/10		Charter Amendment - Redistricting Plan FOR the purpose of modifying the time by which the Mayor must submit a redistricting plan to the City Council; clarifying and conforming related language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
10-0444		Failed - End of Term	1/25/10		Charter Amendment - Board of Estimates - Composition FOR the purpose of reconstituting the Board of Estimates to comprise the Mayor, Comptroller, and City Council President; correcting, conforming, and clarifying related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
09-0397		Withdrawn	9/14/09	1/24/11	Charter Amendment - Amending or Supplementing Ordinance of Estimates FOR the purpose of authorizing the Board of Estimates, with the consent of the City Council, to submit an amendment or supplement to a pending Ordinances of Estimates for certain purposes; clarifying the authority of the City Council to set the annual levy of full rate property taxes at a rate that exceeds the rate stated by the Board of Estimates; correcting, clarifying, and conforming related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
09-0346		Failed - End of Term	6/1/09		Charter Amendment - City Council - Independent Counsel FOR the purpose of authorizing the City Council to retain the services of independent legal counsel; providing for the qualifications and term of that counsel; specifying the duties of that counsel; providing for the counsel's compensation and expenses; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
09-0338	19-Oct	Enacted	5/18/09	1/19/10	Charter Amendment - Surplus Funds FOR the purpose of repealing a requirement for certain unanticipated surplus funds to be transferred to a capital bond fund appropriation reduction account and used only for certain purposes; and submitting this amendment to the qualified voters of the City for adoption or rejection.
09-0267		Failed - End of Term	1/12/09		Charter Amendment - Multi-Year Collective Bargaining FOR the purpose of authorizing the Board of Estimates to approve multi-year collective bargaining agreements with certified employee organizations, subject to certain conditions; providing for the funding of those agreements; conforming and clarifying related language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
08-0143		Withdrawn	6/9/08	1/11/10	Charter Amendment - City Solicitor - Public Works Director - Compensation FOR the purpose of providing that the compensation of the City Solicitor and Public Works Director be set by the same Commission and under the same procedures as used to set the compensation for elected officials; and submitting this amendment to the qualified voters of the City for adoption or rejection.
08-0108	3-Aug	Enacted	4/28/08	8/12/08	Charter Amendment - Department of General Services FOR the purpose of establishing a Department of General Services among the Executive Departments; providing for the powers and duties of the Department of General Services; transferring certain powers and duties from the Department of Public Works to the Department of General Services; repealing certain obsolete provisions; requiring obstructions to the work of the Department of Transportation or the Department of General Services to be removed; conforming, correcting, and clarifying related provisions; and submitting this amendment to the
08-0055	21-Oct	Enacted	3/3/08	4/15/10	Charter Amendment - Sustainability Funds FOR the purpose of expressly authorizing the establishment of 1 or more continuing, nonlapsing funds to be used for promoting sustainability and a clean and safe environment in the City and for related purposes; and submitting this amendment to the qualified voters of the City for adoption or rejection.
07-0746		Failed - End of Term	7/16/07	12/5/07	Charter Amendment - Elected Officials - Qualifications for Office FOR the purpose of providing that persons are not qualified for elected office if, at certain times, the person is in arrears of costs and penalties assessed and due for violations of the laws governing placement of campaign signs ; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
07-0718		Failed - End of Term	6/11/07	12/5/07	Charter Amendment - Proceeds of School Property FOR the purpose of dedicating proceeds from the sale of school property to the use and benefit of the Baltimore City Public School System; correcting, clarifying, and conforming certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
07-0712	07-031	Enacted	6/11/07	8/14/07	Charter Amendment - Procurement FOR the purpose of updating the rules governing the procurement of public works, supplies, materials, equipment, or services; authorizing the adjustment from time to time, by Ordinance, of certain threshold dollar amounts; modifying the advertising requirements; authorizing certain performance bonds, letters of credit, or certifications to be on an annual contract-price basis; correcting, clarifying, and conforming certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
07-0711		Failed - End of Term	6/11/07	12/5/07	Charter Amendment - Supplementary Appropriations FOR the purpose of conforming procedures for approving supplementary appropriations; correcting, clarifying, and conforming certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
07-0709	07-028	Enacted	6/4/07	6/13/07	In Honor of Leah Waller - 2007 Baltimore City Public School System Teacher of the Year FOR the purpose of congratulating Leah Waller, 1st Grade Teacher, Maree Garnett Farring Elementary School, on being named the Baltimore City Public School System's Teacher of the Year for 2007, expressing appreciation for her 8 years of dedicated service to the children of Baltimore, and supporting her candidacy for Maryland Teacher of the Year; and providing for a special effective date.
07-0706		Failed - End of Term	6/4/07	12/5/07	Charter Amendment - Board of Estimates - Composition FOR the purpose of reconstituting the Board of Estimates to comprise the Mayor, Comptroller, and City Council President; correcting, conforming, and clarifying related provisions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
06-0439	06-017	Enacted	5/15/06	8/15/06	Charter Amendment - Grievance and Arbitration FOR the purpose of authorizing collective bargaining agreements to provide for grievance and arbitration procedures for employees who have been discharged, reduced in pay or position, or suspended for more than 30 days; correcting, clarifying, and conforming certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
06-0435	06-016	Enacted	5/15/06	8/15/06	Charter Amendment - Multi-Year Collective Bargaining FOR the purpose of authorizing the Board of Estimates to approve certain multi-year collective bargaining agreements, subject to certain conditions; providing for the funding of those agreements; and submitting this amendment to the qualified voters of the City for adoption or rejection.
06-0422	06-015	Enacted	5/8/06	8/15/06	Charter Amendment - Affordable Housing Trust Funds FOR the purpose of expressly authorizing the establishment of 1 or more continuing, nonlapsing funds to be used for promoting and assisting in the production, etc., of affordable housing and related purposes; conforming and clarifying certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
05-0300		Withdrawn	12/5/05	11/20/06	Charter Amendment - Ordinance of Estimates - Council Special Services Fund FOR the purpose of authorizing an annual appropriation to a special fund for the exclusive use of the City Council, for certain purposes and subject to certain conditions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
05-0186		Withdrawn	6/6/05	2/27/06	Charter Amendment - Board of Recreation and Parks FOR the purpose of modifying the composition of the Board of Recreation and Parks; and submitting this amendment to the qualified voters of the City for adoption or rejection.
05-0185		Withdrawn	6/6/05	2/27/06	Charter Amendment - Planning Commission FOR the purpose of modifying the composition of the Planning Commission; correcting, clarifying, and conforming certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
05-0024		Failed - End of Term	1/24/05	12/5/07	Charter Amendment - Ordinance of Estimates - Council Special Services Fund FOR the purpose of authorizing an annual appropriation to a special fund for the exclusive use of the City Council, for certain purposes and subject to certain conditions; and submitting this amendment to the qualified voters of the City for adoption or rejection.
04-0007	9-May	Enacted	12/9/04	12/12/05	Charter Amendment - Compensation Commission for Elected Officials For the purpose of establishing a Compensation Commission for Elected Officials; providing for the composition, procedures, powers, and duties of the Compensation Commission; requiring certain procedures for setting the salaries or other compensation paid to elected official; correcting, clarifying, and conforming certain language; and generally relating to the establishment and modification of the salaries or other compensation paid to elected official; and submitting this amendment to the qualified voters of the City for ad

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
04-0008		Failed	12/9/04		Charter Amendment - Council Vacancies - Qualifications FOR the purpose of providing that, in filling a Council vacancy, if the former incumbent was a member of a minority party or an independent, the successor must be an independent or a member of a minority party; defining certain terms; and submitting this amendment to the qualified voters of the City for adoption or rejection.
41448		Failed - End of Term	6/7/04	12/8/04	FOR the purpose of authorizing the use, under certain circumstances, of competitive sealed proposals in procurement; defining certain terms; conforming, correcting, and clarifying certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
41431	1-Apr	Enacted	5/24/04	7/23/04	FOR the purpose of proposing a charter amendment to delete an inoperative provision relating to the filling of vacancies in the Council; clarifying certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
41379		Withdrawn	4/26/04	5/3/04	FOR the purpose of limiting the methods by which an appropriation may be used for a purpose other than that named in the Ordinance of Estimates; and submitting this amendment to the qualified voters of the City for adoption or rejection.
41340	Apr-54	Enacted	4/19/04	6/23/04	FOR the purpose of renaming the Department of Personnel to be the "Department of Human Resources"; renaming the Director of Personnel to be the "Director of Human Resources"; clarifying and conforming certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
41307	Apr-53	Enacted	3/22/04	6/23/04	FOR the purpose of lowering the minimum age requirement for members of the City Council; and submitting this amendment to the qualified voters of the City for adoption or rejection.
30975	Apr-49	Enacted	4/28/03	2/10/04	FOR the purpose of providing for the election of the Mayor, the Comptroller, and the President and Members of the City Council to be in 2007 and in every succeeding fourth year; repealing certain obsolete provisions relating to primaries; adjusting the terms of office for those elected in 2004; and submitting this amendment to the qualified voters of the City for adoption or rejection.
20768		Withdrawn	10/21/02	2/9/04	FOR the purpose of amending the Charter of Baltimore City to reduce the number of Councilmembers, to modify the number of Council Districts and repeal provisions for subdistricts, and to correct, clarify, and conform certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.

Council Bill #	Ordinance #	Status	File Created	Final Action	Title
20632		Withdrawn	6/10/02	2/9/04	FOR the purpose of amending the City Charter of Baltimore City to reduce the number of Councilmembers, to modify the manner in which the Councilmembers and President are elected, to repeal provisions for subdistricts, and to clarify, correct, and conform certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
20616	Feb-33	Enacted	5/20/02	8/16/02	FOR the purpose of conforming to State law the authorized composition of the Social Services Commission; correcting, clarifying, and conforming certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
20419		Withdrawn	1/14/02	2/9/04	FOR the purpose of amending the Charter of Baltimore City to provide that the Board of Estimates be composed of the Mayor, President of City Council, and the Comptroller; conforming certain provisions; correcting, clarifying, and conforming certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
20418		Vetoed by Mayor	1/14/02	8/16/02	FOR the purpose of amending the Charter of Baltimore City to reduce the number of Councilmembers, to modify the number of Council Districts and repeal provisions for subdistricts, and to clarify, correct, and conform certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.
20417	Feb-32	Enacted	1/14/02	8/16/02	FOR the purpose of amending the Charter of Baltimore City to reduce the number of Councilmembers, to modify the number of Council Districts and repeal provisions for subdistricts, and to correct, clarify, and conform certain language; and submitting this amendment to the qualified voters of the City for adoption or rejection.

CHARTER
AND
PUBLIC LOCAL LAWS
OF
BALTIMORE CITY

(Article 4 of the Code of Public Local Laws of Maryland)

With all amendments and additions thereto down to and including the Acts of 1937, with an Appendix containing the Acts establishing the City's boundaries and the Agreement between Baltimore City and Baltimore County, as to the use of the Out-Fall Sewer by Baltimore County, and with references to, and annotations of, decided cases.

COMPILED UNDER THE DIRECTION OF

R. E. LEE MARSHALL,
CITY SOLICITOR

BY

HORACE E. FLACK,
DEPARTMENT OF LEGISLATIVE REFERENCE

BALTIMORE
1938

KING BROS., INC.,
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Baltimore, Md.
1938

Report of Commission

BALTIMORE, January 27, 1898.

To the Honorable General Assembly of Maryland:

The Commission appointed pursuant to the ordinance of the Mayor and City Council of Baltimore, approved November 24, 1897, to draft a new Charter for the City of Baltimore, herewith, as directed by said ordinance, respectfully submit the result of their labors.

After mature deliberation the Commission decided at the beginning of their work of preparing a new organic Act for the City of Baltimore, to be governed by certain well-defined and recognized principles relating to municipal government, which had been found in other cities to be beneficial and which it was thought were fundamental and necessary, if there were to be an improvement on the present law relating to the City of Baltimore. Some of these controlling principles were:

1. To locate responsibility upon public officials in such a manner that it could not be evaded.
2. To give representation to the minority party in all departments, when composed of more than one person, so that an opportunity might be given to the minority to scrutinize the actions of the party in power.
3. To hold municipal elections at a different time from the State and Federal elections, in order to separate municipal affairs from the influence of the political issues which are necessarily involved in State and Federal elections.
4. To require the appointment of experts in all departments where professional knowledge and skill are required.
5. To grant the use of the streets and other public property for limited terms, and to the highest bidder, subject to the control and regulation of the city during the period of the grant.
6. To check hasty legislation, especially in matters relating to expenditure of the public moneys, and to prohibit the creation of floating debts.
7. To remove the public school system from all possible political influence.
8. To place the indigent sick and poor, when their treatment, care or support is paid for by the city, under the supervision of city officials.

The most advanced and improved forms of municipal government, as far as the Commission have been able to ascertain, have had incorporated in them the placing of the power of appointment in one person. It might well be urged that this is conferring too much power upon one man, that the appointing power in city government should be distributed; but experience has shown that by centralizing the appointing power the responsibility for official conduct can at once be definitely fixed. The Charter submitted places the power of appointing the heads of all departments and their respective sub-departments in the Chief Executive of the city, the Mayor, where it properly belongs. The Commission have not taken the extreme position of making the Mayor absolute in regard to this power of appointment. His appointments must be confirmed by the Second Branch of the City Council. The power of appointing all subordinates and employees in the several departments and sub-departments is in each case lodged in the head of the department. The Commission have to this extent endeavored to carry out the single-executive-head system, which has been tried in other cities with good results. It is hoped with this system, as now recommended, the Mayor will be more careful in appointing heads of departments or sub-departments, and the various heads so appointed will also be more careful in selecting competent subordinates.

The principle of representation from the minority party in all departments, boards or commissions, where composed of more than one person, is carried out in the proposed Charter. This will not prevent the successful party at the municipal election from adopting and carrying out any policy or reforms which, in its judgment, might be right and proper, and will in no way interfere with the administration of public affairs by the successful party; but it will afford to the minority at all times a right of representation in the city government, and will give it an opportunity of scrutinizing the actions of the party in power.

The feature of the spring elections is designed for the distinct purpose of separating the municipal elections from those of the State and Nation. It must be conceded that in order to make a good Mayor of a large and prosperous business center like Baltimore there is no inherent necessity for his belief in one rather than another of the principles which separate the leading political parties. The State and National questions are invariably discussed and made issues at all the November elections,

and it is difficult to remove from the influence of these discussions municipal affairs when the elections are held at the same time. The spring elections, it is hoped, will enable the citizens of Baltimore to eliminate everything from their municipal campaigns except that which pertains to the best business administration of the city, and will present to the voters an opportunity of electing such of the municipal candidates as are most likely to ensure good municipal government.

The provisions of the Charter placing experts at the head of the various departments and sub-departments where professional knowledge is required, are expected to secure to the city the best service of men of competent knowledge and experience in the departments placed under their charge. The Commission have adopted the following general provision wherever expert knowledge is required: "He must have had at least five years' experience in the active practice of his profession and have had responsible charge of work for at least that length of time." Experts are required in the following offices: City Engineer, Water Engineer, Harbor Engineer, Inspector of Buildings, and Commissioner of Health. It was deemed advisable for the best interests of the city to put the entire subject of public improvements under the direct control and supervision of a board of experts, styled the Board of Public Improvements. On this Board the Charter submitted, places three civil engineers and an architect, and all matters are referred to them when involving questions of new public buildings, additional harbor facilities, a sewerage system, extension or improvement of streets, the erection of bridges and other similar work.

The proposed Charter requires that the grant of franchises or rights in, over or under the streets or in other public property shall be made for only limited periods (twenty-five years), and also provides that in all ordinances granting such franchises or rights provision can be made for the reverting to the city at the expiration of the grant, of the plant and its appurtenances, and gives power to the city to operate and control the same, if it should prove desirable. All franchises or rights in the highways of the city are to be sold under the supervision of the Board of Estimates. Under no circumstances can the city divest itself of the right or power to regulate the exercise of the franchise or right granted.

The Commissioners have also endeavored to protect the public interests in relation to the finances of the city by the provision of the proposed Charter in regard to the Board of Estimates.

This Board is composed of the highest officials of the city government, that is to say, the Mayor, who is the chief executive officer of the city and elected by the people; the City Solicitor, who is appointed by the Mayor and is the head of the Law Department, and who will always be a prominent member of the bar; the Comptroller, who is also elected by the people and responsible to them, and who is the head of the Finance Department; the President of the Second Branch of the City Council, a representative member from the legislative branch of the city government, and, finally, the President of the Board of Public Improvements, who is the City Engineer, and will be an expert in engineering. It is believed that by this strong combination of leading city officials, representing every branch of the municipal government, the financial interests of the city will be carefully guarded and that the welfare of the citizens will always be the controlling motive in the deliberations and actions of the Board. The duties of this Board are comprehensive in their nature and include the general control of the financial policy of the city. In the preparation of the lists of "Departmental Estimates," "Estimates for New Improvements" and "Estimates for Annual Appropriations," called for by the proposed Charter, the entire appropriations of public funds are embraced. It may, therefore, be expected that the composition of this Board of the highest municipal officers and representatives of the city government will furnish a guarantee in the future against extravagance and the reckless expenditure of public moneys. The provisions of the Charter submitted relating to the Board of Estimates are sufficiently comprehensive to furnish to the municipality opportunities for a safe and conservative financial policy and to prevent the public debt from advancing beyond a safe per centum of the taxable basis. Ample provisions are made for conducting the city government, and no floating debt can be created. The Board of Estimates, in the ordinance they annually submit, providing for the expenditures by the city for the ensuing year, take into consideration all the disbursements, and if the income is insufficient to meet these expenditures there must be a pro rata reduction in all departments. If there is a surplus it must be paid over to the Finance Commissioners to be credited to the general sinking fund. By this provision it is hoped that the sinking fund will be greatly benefited. When any ordinance for public improvements exceeding in cost the sum of \$2,000 has passed its first reading in either Branch of the City Council it shall be referred to the Board of

Public Improvements for their opinion as to whether or not the wants of the city require the improvement mentioned in the ordinance submitted, and when this Board give their report on this ordinance it is then referred to the Board of Estimates for their opinion as to whether or not there is or will be sufficient money in hand to pay for the contemplated improvement. Until both of these Boards report upon the ordinance it cannot become valid. It will be readily seen that in this manner hasty legislation will be checked, and it is probable that only such ordinances for public improvements will be passed for which there is sufficient cash on hand to pay and which the requirements of the city demand. By these provisions it is believed a step will be taken in the direction of a regular and systematic reduction of the enormous debt which now hangs over the City of Baltimore and a check placed upon the expenditure of its money, so as to keep the expenses and appropriations of the city government entirely within its means.

The provisions of the proposed Charter relating to the public school system have been framed after careful consideration and research respecting the systems in force in various cities of importance. It provides for the appointment of the School Commissioners, nine in number, by the Mayor, subject to confirmation by the Second Branch, for a term of six years each, three of them to retire at the end of every two years. It is submitted that a long term, together with the other provisions which have been inserted, will cause the affairs of the schools of Baltimore to be administered by competent men, independent of partisan and ecclesiastical ties. The endeavor has been made to secure three things: First, oversight of the schools by a Board of Commissioners so selected as to ensure conservative administration and full responsibility; second, attention to the details of school management by a body of qualified superintendents, and, third, the maintenance of popular interest in the public schools by means of a large number of local school visitors, one or more of them from the immediate neighborhood of each school-house.

The Charter submitted gives to the city a supervision over all persons who come under the class of indigent sick and poor. All money appropriated by the city for the care of its poor shall be by contract with the various institutions which care and provide for the poor of Baltimore. No money is to be appropriated except under contract, and the Supervisors of City Charities are to have supervision over all persons who are subjects of municipal aid.

The Legislative Department remains substantially as at present, except that the Second Branch is smaller, and that one-half are always old and experienced members. The legislative functions of the City Council are in no wise impaired. Not one cent of the public money can be spent until the City Council, by ordinance, makes an appropriation.

The Commission have had before them the great need of increased revenue to meet the constantly growing wants of the city. To this question the members of the Commission have given their most serious thought. Taxes today are burdensome on the owners of land and houses, and to meet the wants of the city this burden must be largely increased unless the revenue of the city can be increased from other sources. The Commission have proposed to so modify the law as to give to the city all the fees collected by it from liquor licenses. A Supplementary Act accompanies the Charter, providing that the counties shall retain the fees collected by them from the same source. The Commission feel that they would not be performing their full duty if they did not urge upon the Legislature the necessity for this change and the adoption of the provisions as to these fees contained in the proposed Charter.

Another Supplementary Act provides for certain limitations on the power of the city as to contracting debts. This provision is a proper one and should be adopted.

The Commission believe that the Charter herewith submitted will, if adopted, remedy many of the faults of the old law, and provide such a law as will materially contribute to the future development and prosperity of the great metropolis of Maryland.

WILLIAM PINKNEY WHYTE, *Chairman*,
 FERDINAND C. LATROBE,
 DANIEL C. GILMAN,
 SAMUEL D. SCHMUCKER,
 GEORGE R. GAITHER, JR.
 THOMAS IRELAND ELLIOTT,
 THOMAS G. HAYES,
 LEWIS PUTZEL,

New Charter Commission.

FREDERICK T. DORTON, *Secretary*.

Report of Charter Board

BALTIMORE, May 4th, 1918.

*To the Honorable James H. Preston,
Mayor of Baltimore.*

SIR:

The undersigned, constituting the Charter Board of the City of Baltimore, herewith submit a Charter for the City of Baltimore in accordance with the requirements of Article XI-A of the Constitution of Maryland, popularly known as the Home Rule Amendment.

The general demand for Home Rule in the making of local laws for the City of Baltimore and for each County in the State took definite form in 1913 in the Platform Declarations of both the Democratic and Republican parties, and the Legislature of 1914 passed a Home Rule amendment to the Constitution of the State, which amendment was ratified by the people at the polls in the General Election of 1915.

In accordance with the amendment so ratified, a petition signed by ten thousand registered voters of the City of Baltimore, proposing the election of a Charter Board to prepare a Charter to be submitted to the voters of the City, was filed with the Supervisors of Election and the undersigned were elected as such Charter Board.

The first meeting was held on the 19th day of November, 1917, and the Board organized by electing Henry D. Harlan, Chairman, and Horace E. Flack, secretary, and by the appointment of appropriate committees.

Nineteen meetings of the Board have been held, the average attendance being between nine and ten members, and numerous meetings of the various committees have also been held.

The question of the powers of the Board was submitted to a committee composed of Messrs. Harlan, Poe and Maltbie, from whose report, which was adopted by the Board, the following quotation is made:

"The power expressly given to the Charter Commission and the duty imposed upon it is to—

"Prepare within six months from the date of election a *Charter or Form of Government* for said City and present the same to the Mayor of Baltimore."

"The limitations imposed upon the broad and comprehensive power thus granted are—

"(a) The powers heretofore granted to the City of Baltimore as set forth in Art. IV, Section 6, Public Local Laws of Maryland, shall not be enlarged or extended by any charter (so) formed, but such powers may be extended, modified, amended or repealed by the General Assembly.

"(b) The Charter so formed shall provide for an elective legislative body in which shall be vested the law-making power of the City to be known as the City Council of the City of Baltimore.

"(c) The Chief Executive Officer, if the Charter shall provide for the election of such executive officer, or the presiding officer of the legislative body, if such Charter shall not provide for the election of a Chief Executive Officer, shall be known as Mayor of Baltimore City, and all references in the Constitution and laws of this State to the Mayor of Baltimore and City Council of Baltimore shall be construed to refer to the Mayor of Baltimore and City Council of the City of Baltimore herein provided for wherever such construction could be reasonable.

"(d) The right to make changes in Section 1 to 6, Article XI of the Constitution is not conferred upon the Municipality under this amendment, until such time as an express grant shall have been made by the Legislature.

"It is the opinion of this Committee, in view of the difficulty of determining what is to be regarded at present as constituting Sections 1 to 6 of Article XI of the Constitution, that until an express grant of power to do so, is obtained from the Legislature, it is beyond the power of this Charter Board to include in any Charter submitted by it, any changes in the manner or time of electing or in the term of office, of the Mayor as now prescribed by law, or to make any changes in any Charter to be submitted in the bicameral character of the City Council or in the manner or time of electing, or term of office of its members. But subject to these limitations it is within the power of this Charter Board, if it shall deem it wise or expedient, so long as it does not enlarge or extend the powers heretofore granted to the City of Baltimore by Article IV, Section 6 of the Public Local Laws of Maryland, to report a Charter or Form of Government which shall create different departments of government from those now in existence, define their duties and powers, determine the qualifications, compensation, tenure of office and method of selection of the heads of these departments and of all city officers or employees, whether comprised in a department or not, by the merit system or otherwise. This affords quite a wide scope for changes in the present Charter. It would not seem to be within the power of this Charter Board to present a Charter, providing a Commission Form of Government or providing for initiative and referendum legislation, or for the recall of the Mayor or members of the City Council.

"It is the opinion of your Committee, that early application should be made to the Legislature which meets in January next, for a grant of express power to make such changes in Sections 1 to 6 of Article XI of the Constitution as may be deemed wise, so that if the voters of the City of Baltimore shall adopt the Charter presented to the Mayor by this Board, they may have power thereafter to amend the same, so as to make such changes in connection with the Mayoralty and the City Council as a majority of the voters may deem wise within the grant so made."

(Note: For the purpose of carrying out this recommendation of the Committee, Senate Bill No. 301 was introduced by Senator Campbell; was favorably reported by all of the City Senators, and was passed by the Senate. It was favor-

ably reported by the Judiciary Committee of the House, and was made the order of the day for Monday, April 1st, 1918, the last day of the session. Unfortunately, it failed of consideration by that body, along with a large number of bills that were not reached at the time of adjournment.)

"It is the opinion of the Committee that the Charter adopted by this body must be submitted to the voters as a unit, and that it is not within our power to submit any alternative propositions or any sections of the document separately."

In view of these limitations upon the powers of the Board, it has been considered best to submit a charter, the adoption of which will insure Home Rule to the people of Baltimore. This, it is believed, can be more certainly accomplished by submitting to the voters the present Baltimore City Charter with as few amendments as possible, so as to present the main question of Home Rule without confusing it with other issues, which, however desirable, may subsequently be submitted on their own merits.

As, however, the Board is convinced that there is a strong and widespread sentiment in favor of some form of merit system in the selection of city employees, after careful study of the best systems in use in the more progressive American cities, it has been determined to include in the Charter herewith submitted, a plan of civil service, which is to go into effect on January 1st, 1920. This date has been selected in the belief that the people ought to be afforded an opportunity to elect their Municipal Officials, with knowledge that these officials will be charged with the responsibility of administering the merit system of civil service.

In other respects the present City Charter has been reported without any substantial change, and the present section numbers have been retained for convenience of reference and comparison. Such minor changes as have been made are for the purpose of making the Charter conform to existing law and practice.

Upon the adoption of the new Charter by the people in November of the present year, the Constitution automatically establishes, in Section 3 and 4 of Article XI-A, its Home Rule features, the provisions of these sections being as follows:

"SECTION 3. From and after the adoption of a charter by the City of Baltimore, * * * as hereinbefore provided, the Mayor of Baltimore and City Council of the City of Baltimore, * * * subject to the Constitution and Public General Laws of this State, shall have full power to enact local laws of said City, * * *, including the power to repeal or amend local laws of said City * * * enacted by the

General Assembly, upon all matters covered by the express powers granted * * *."

"SECTION 4. From and after the adoption of a charter under the provisions of this Article by the City of Baltimore * * *, no public local law shall be enacted by the General Assembly for said City * * *, on any subject covered by the express powers granted * * *."

It is believed that the large majority with which the people of Baltimore ratified the Constitutional amendment for Home Rule in 1915, and voted for the creation of a Charter Board in 1917, is a guarantee that the people of this City have awakened to the importance of having control over their own government, and justifies also the confident hope that the new Charter submitted in its present form, strengthened, as has been above stated, by a practicable merit system along lines that have proved successful in other cities, will be ratified by the people at the polls.

After the adoption of the Charter herewith submitted, amendments may be proposed in either one of two ways:

First—By ordinance of the Mayor and City Council;

Second—By petition signed by ten thousand registered voters.

In either case the proposed amendment must be submitted to the people to be ratified or rejected by a majority of the votes cast.

Respectfully submitted,

HENRY D. HARLAN, *Chairman*,
DAVID BACHRACH,
J. KEMP BARTLETT,
CHARLES E. FALCONER,
ADOLPH H. HECHT,
JOHN H. LATANE,
WILLIAM H. MALTBY,
ALFRED S. NILES,
CHARLES O'DONOVAN,
WILLIAM J. OGDEN,
EDGAR ALLAN POE,

Members of the Charter Board of Baltimore City.

HORACE E. FLACK,
Secretary,

REPORT OF
CHARTER REVISION COMMISSION

OF
BALTIMORE CITY

Appointed by
Hon. THEODORE R. McKELDIN, Mayor

≡≡≡
NOVEMBER, 1945

CHARTER REVISION COMMISSION

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FREDERICK W. BRUNE

VERNON COOK

PAUL R. KACH

IRVING H. KOHN

EMORY H. NILES

SIMON E. SOBELOFF

HORACE E. FLACK, *Secretary*

CHARTER ADVISORY COMMITTEE

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M. WM. ADELSON

HERSCHEL H. ALLEN

WILLARD W. ALLEN

E. MILTON ALTFELD

ROLAND BENJAMIN

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JAMES T. CARTER

MRS. EMIL CROCKIN

ALFRED E. CROSS

F. CLARK ELLIS

ELI FRANK

DR. KATHERINE J. GALLAGHER

JAMES M. HEPBRON

MRS. ARTHUR KELLY

MRS. CLARENCE KLINGEL

JOHN C. LEGG, JR.

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WALTER MACMANANON

GEORGE W. F. MCMECHEN

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JEROME ROBINSON

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DR. HARVEY B. STONE

ROSZEL C. THOMSEN

ARTHUR T. WARD

LEONARD WEINBERG

LUCIUS R. WHITE, JR.

DR. CLINTON I. WINSLOW

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Baltimore, November 14, 1945.

*Honorable Theodore R. McKeldin,
Mayor of Baltimore,
Baltimore, Maryland.*

DEAR SIR:

The Charter Revision Commission, appointed by you on January 17, 1944, herewith submits its report and recommended amendments to the City Charter. While these amendments are numerous the recommendations include no general change in the structure of City government or administration and major amendments are proposed with respect only to the financial functions of the City and the creation of an appellate board to have jurisdiction over appeals from all municipal agencies.

The Commission was appointed by you on January 17, 1944 with Harry N. Baetjer as Chairman. In February of that year Mr. Baetjer was compelled to resign because of the pressure of professional demands on his time. Mr. Enos S. Stockbridge was then appointed Chairman and Mr. Vernon Cook was appointed to fill the vacancy in the Commission. The Commission has held more than fifty meetings, and in addition to such meetings there have been a number of meetings of sub-committees of the Commission.

At the time of the appointment of the Commission you also appointed an Advisory Committee under the chairmanship of Mr. William T. Childs. This Advisory Committee held a series of open meetings on various subjects at which one or more members of the Commission were present. The assistance of this Advisory Committee through study, investigations and reports made to the Commission has been very substantial.

In June 1945 the Commission submitted to you a preliminary draft of its proposed amendments, copies of which were sent to all municipal department heads, the members of the City Council and various civic organizations, with the statement that the Commission would be glad to receive comments or suggestions with regard to such proposed amendments. Many

such comments and suggestions were received and additional hearings were held by the Commission resulting in substantial revisions of the preliminary draft.

As an aid to a better understanding of the proposed amendments and the purposes sought to be accomplished, we invite your attention to the Foreword and General Comments preceding the draft incorporating the proposed amendments.

Foreword

A Charter in existence since 1898 is certain to have become in part obsolete and outmoded. The Commission has aimed to eliminate the dead wood and apply a measure of modern "streamlining" of thought and action.

Practices have arisen in our municipal government, some beneficial, others essential, that were not countenanced in the Charter. These have been reviewed, and inserted in the Charter, some with and some without amendment.

A vote for the City Council in some sections of the City was found to be worth nearly two and a half times a vote in other Districts. Within what were conceived to be the limits of local tradition and administrative expediency, this has been largely corrected, and, more importantly, a non-political, self-executing, system established for the future that will not only permanently preserve the present corrective steps, but, if anything, hereafter even more nearly equalize the value of a vote throughout the City in future Councilmanic elections.

Boards and Commissions were found to have been created separately as a need arose, with little regard to an over all view of the administrative needs of the City government. The duties of many were so limited that competent, substantially full time personnel could not be assured for them, even apart from the attraction of this part time employment to the strictly politically minded. This situation has been met by consolidating many Commissions into a few. This also avoids the discovered tendency of each too specialized Board to over-emphasize the money needs of its Department instead of weighing the just requirements of all.

The long moot and troublesome question of when a benefit assessment should become due (which, in the past, has resulted in the creation of liens for benefits years before the improvement was made) has been clarified in favor of the taxpayer, so that he may not be required to pay, nor does the assessment become a lien, until the work is completed.

Functions requiring the services of a full time specialist were found in the hands of part time or partially trained men. By consolidating and re-assigning duties sufficient work was found for the retained positions that hereafter it will be economical to provide a salary that will attract the needed skill and experience.

Municipal departments were found to be of three types headed by: (a) unpaid, civic-minded boards; (b) trained, generally well-paid specialists; and (c) part-time but paid boards. On the whole, types (a) and (b) were found so superior that the Commission has sought to eliminate altogether type (c).

The Merit System has been extended and the machinery for Planning has been improved. The Department of Education has had its powers extended in some directions and its independence fully preserved, but certain provisions and practices which have heretofore given rise to criticism have been eliminated. The Cultural and Recreational facilities have been merged for better administration.

With respect to City Planning, the present charter (following the example of most cities) provides only for Master and Official Detailed Plans—the latter to be adopted, as is proper, only after advertisement and public hearing. Because of the expense, great mass of required data, and the rapidity with which they become obsolete, due to the immediate and constantly occurring changes in neighborhoods, the Commission on City Plan has found it impractical to adopt Official Detailed Plans.

The changes proposed provide for preliminary detailed plans in addition to the Official Plans. It is believed that this proposal will correct the defect above pointed out and will adequately fill a gap in present planning practices.

General Comments on Recommendations

General Policies and Purposes

1. In order that the amendments may be considered in their relationship to the Charter as a whole, the complete Charter is reproduced incorporating the proposed amendments, although in many sections virtually no changes have been made.
2. Section 6, which sets out the general grant of powers to the City and can be amended only by the Legislature, is a reproduction of Chapter 548 of the Acts of 1945. The Legislature adopted, with slight modification of two sub-sections, the draft prepared by the Commission.
3. With the introduction of a section defining terms which are frequently used throughout the Charter, and, through the elimination of obsolete provisions, a general simplification of language and the consolidation of existing provisions, the Charter has been reduced from 304 to 181 sections, with a corresponding reduction in length.
4. The proposed amendments have been drafted on the assumption that they would be voted upon by the people of Baltimore City at the General Election to be held in 1946 and that, if adopted, they would become effective on July 1, 1947. These dates have been selected in order that the changes will become effective on the date on which a new municipal administration takes office and that the interval between that date and the date of the election at which the amendments are voted upon would give ample opportunity to make such preparation as might be suitable to effect any functional changes.
5. As the amendment of the Charter is properly a somewhat complicated process, the proposed amendments endeavor, wherever practicable, to incorporate principles rather than details of municipal administration in order that the method of making the principles effective may be more readily altered from time to time by the City Council, the Board of Estimates or other governing authority to meet changing conditions.

6. The duplication of the functions of, and the overlapping of authority vested in, two or more departments or boards is largely eliminated. This should both increase efficiency in operation and eliminate excessive personnel. Examples of this will be found in the vesting of all new construction in the Department of Public Works and the elimination of the Public Improvement Commission; the elimination of the Board of Awards and the vesting of its present authority in the Board of Estimates.

7. The principles of the Merit System are extended to cover all personnel below the grade of department head, except with respect to the Deputy City Solicitor, the Superintendent of Public Instruction, the Deputy Director of Public Works, and the Director of the Department of Planning.

8. Departments are headed by: (a) experienced, full-time specialists where the business of the department requires technical or professional skill, or (b) part-time, unpaid, citizen boards to supervise the activities of full-time trained subordinates where the policies of the department are, and should be, to a large degree determined by public opinion. Examples of the first type are the Department of Health and the Department of Public Works; examples of the second type are the School Board and the Department of Recreation and Parks. Appointment to an unpaid municipal board will attract or will be accepted by capable men and women having a sense of civic responsibility.

9. Provision is made for the shifting of functions, personnel and appropriations from one to another bureau in the same department with the approval of the Mayor or the Board of Estimates, as the case may be. Experience has shown that frequently temporary situations arise of such a nature or conditions change to such a degree that efficient operations are hampered unless this flexibility is provided. It is believed that the safeguards set up are ample to prevent abuse of this authority.

10. The proposed amendments are designed to simplify and make more efficient the machinery of the municipal government, and for that reason suggestions of a controversial nature, involving primarily political rather than operational questions, have not been incorporated.

11. It is the considered judgment of the Commission that if the amendments should be submitted to the City Council they should be presented in the complete form as transmitted herewith. The amendments are numerous and to submit them separately would be extremely confusing; the amendments have been studied and prepared with due regard to their interaction and their relation to various parts of the Charter within the granted powers of the City.

Particular Subjects

1. *City Council.* (Secs. 15-18) At present each Councilmanic District elects three Councilmen, regardless of the population of the District. For example, in 1943 there were 41,492 registered voters in the Second District and 88,645 such voters in the Third District; or, stated another way there were 13,831 voters per Councilman in the Second District as compared with 29,548 voters per Councilman in the Third District. To further illustrate from the 1943 election, all defeated candidates in each of the Third and Fifth Districts received more votes than all elected candidates in each of the First, Second, Fourth and Sixth Districts. Such a situation requires correction; it is un-American and illogical. An apparent remedy would be to elect the Councilmen at large, but there are strong objections to this: (a) unless the membership were drastically reduced, the number of candidates appearing on the voting machine or ballot becomes unwieldy, (b) there is a strong tradition in the City in favor of the District system. Nor does it seem advisable to attempt correction by re-districting the City, since that would be only a temporary remedy as shifts of population occur in the several Districts. It has been noted that in 1943 each Councilman represented an average of 20,231 voters. As a practical solution of this problem, the amendment (Sec. 16) provides that each District shall have a minimum of two Councilmen (instead of three as at present) but if a District has more than 50,000 and not more than 75,000 registered voters then such District will elect three Councilmen; if such District has more than 75,000 but less than 100,000 registered voters, such District will elect four Councilmen; and if more than 100,000 voters, then such District shall be divided into two Districts by ordinance, or, if the Council fails to pass such ordinance, then by the

Supervisors of Elections. By this plan each Councilman in the smallest District (1943 figures) would represent approximately 20,000 voters and in the largest 22,000 voters; in the future, at most 25,000 voters. While the proposal does not provide full equality of representation, it approximates that goal and has the added advantages of not interfering unduly with traditional practice and of providing for adjustments in the future without further amendment. Representation based upon registered voters rather than population has been adopted for the very practical reason that under our system of permanent registration the number of registered voters as of any given date can be readily determined, whereas a census is taken only at long intervals, with interim approximations.

Another phase of this problem should be mentioned. The City Council elected in 1939 consisted of 17 Democratic and 1 Republican members; that elected in 1943 consisted of 18 Democratic members. But in the 1939 election 67,370 Democratic and 50,452 Republican votes, and in 1943, 105,261 Democratic and 74,526 Republican votes were cast. It appears, therefore, that a minority party which cast 43% of the total vote is not represented by a single member in the Council. A strong argument has been made that under an electoral system by which such a result occurs, and can be expected to continue, the legislative body ceases to be representative of the community. The proposed amendments will not effect a change in this situation. In fact the proponents of Proportional Representation claim, with a good deal of justification, that their plan for elections is the only way to secure a legislative body truly representative of the community. That system is in effect in New York City, Cincinnati and several smaller cities and the advantages claimed for it have been presented at length for consideration by the Commission. The Commission has given much time and study to this subject. A majority of the Commission has not been convinced that the adoption of Proportional Representation would result in such substantial improvement in the government of Baltimore City as to warrant the recommendation of its inclusion in these Charter amendments. Moreover, the Commission is unanimous in believing that so fundamental a change as this ought to be presented, if at all, in a separate proposal and separately debated by voters. In that way the merits of the other proposals would not be obscured by the feeling, pro or con, on this debatable question of governmental policy.

2. *Boards of Estimates and Awards.* By the proposed amendments, the Board of Awards is abolished and its functions transferred to the Board of Estimates. The limited duties of the Board of Awards and the fact that all but one of its personnel are members of the Board of Estimates make it clear that no useful purpose will be served by maintaining the former.

3. *Finance Departments.* The present Department of Finance exists in name only and is expressly forbidden to direct or control the work of any of the sub-departments. In several instances similar functions are performed by more than one sub-department; for example, taxes are collected by the Collector (Bureau of Receipts) while rentals due the City and fees from various sources are collected by the Comptroller. All collections made by certain officials are turned over to the Comptroller and by him in turn deposited with the City Collector. Disbursements are made by the Comptroller, although in some instances payments are made direct by a department or bureau having funds in its possession and the balance only, with a statement of account, turned over to the Comptroller. In large part the present duties of the City Register consist of acting as custodian of the City's funds and as register of the City debt. He also signs all checks of the City.

By the proposed amendments there will be two departments: (1) the Department of the Comptroller, which, acting through two bureaus, makes all purchases and disbursements, prepares the City's annual budget, does the accounting for all municipal agencies, and has custody of the City's stores and supplies; and (2) the Department of the Treasurer, which, acting through three bureaus, makes all assessments, collects and has custody of all taxes and other moneys due the City, and acts as register of the City debt. The office of City Collector is abolished and his duties are performed by the head of the Bureau of Receipts; the office of City Register is abolished and a portion of his duties are performed by the head of the Bureau of Municipal Securities.

It is contemplated that various activities now under the supervision of the Comptroller, such as the municipal telephone exchange, municipal post-office, etc., will remain in that Department, but as they are not of sufficient importance to have bureau status they are not specifically referred to in the Charter.

The Commissioners of Finance and the City Auditor are retained as independent municipal agencies substantially as at present.

The advantages of this more efficient lay-out of the financial agencies of the City seem so obvious that no particular comment seems necessary, except with regard to the Bureau of Assessment in the Department of the Treasurer. This Bureau takes over that part of the work of the Commissioners of Opening Streets which has to do with the assessment of benefits and awarding damages. Such work is so like the assessment of property for taxes, since the value of real estate is basically involved, that the Commission believes that this change will not only eliminate a duplication of personnel but will result in a better job.

It should also be noted that the proposed amendments abolish the Commissioners of Opening Streets. The functions not mentioned above are transferred to other Departments; for example, the making of plats, etc. is transferred to that Bureau in the Department of Public Works.

4. *Department of Public Works.* The proposed amendments effect two important changes in this Department:

(a) All new construction is entrusted to the Department and the Public Improvement Commission is abolished. The P. I. C. was created in 1920 for the express purpose of supervising the expenditure of approximately \$26,000,000 of funds derived and to be derived from loans. That work has been completed and the further continuance of that body with the resulting duplication of functions and personnel seems unnecessary.

(b) The heads of the several Bureaus are brought under the Classified City Service (Merit System), as the efficient operation of those bureaus requires the services of technical men and an incentive should be provided to create an experienced body of career men.

There are a few minor changes:

(a) Provision is made for this Department to do work for other departments, charging the cost to the department ordering the work; for example, the Bureau of Parks, instead of maintaining personnel for building or repairing roads, sewers, etc., may have such work done by this Department. With

respect to each department and bureau provision is made for the employment of such personnel as may be provided for in the annual ordinance of estimates. The Board of Estimates, therefore, has the power to determine each year whether the Bureau of Parks, for example, should do its own construction or maintenance work, or whether such work should be done for it by this Department. This degree of flexibility to meet changing conditions without constant amendments to the Charter seems highly desirable.

(b) The title "Bureau of Standards" has been changed to Bureau of Tests to avoid possible confusion with a national body of the same name.

(c) The functions of the Bureau of Stores have been transferred from this Department to the Bureau of Purchases in the Department of the Comptroller, so that these allied activities may be more closely co-ordinated in their work.

5. *Department of Education.* The principal change made by the proposed amendments relates to budgetary control in certain respects: (1) the compensation of employees in a classification common to other municipal agencies shall not exceed the standard fixed by the City for such other agencies; (2) the annual budget shall include a maximum scale for all professional employees, which maximum shall not be exceeded without the approval of the Board of Estimates; and (3) greater latitude is vested in the School Board to determine the allocation of moneys appropriated for its several activities (see Section 92). Provision is also made that all rules for the appointment and promotion of educational employees shall be filed with the Department of Legislative Reference and no amendment shall be effective until thirty days after being so filed. The Board is also given authority to: (1) select sites for school buildings, subject to the provisions relating to the Planning Commission; (2) to select the architects; and (3) to have plans and specifications prepared under its supervision.

6. *Department of Recreation and Parks.* At present there is (1) the Department of Recreation, (2) the Department of Parks and Squares, and (3) the Department of Music. The basic functions of all of these are recreational, in one form or another. There has been and of necessity must be a degree of co-ordination in their activities. To the extent that such

co-ordination is facilitated, the work of the Departments is more effective. To this end the proposed amendments merge these Departments into one—Department of Recreation and Parks—at the head of which is a Board of seven persons (one of whom must be a member of the Board of School Commissioners) thus making provision that the respective activities may be represented by those interested therein. The Board in turn selects a Director who, under the supervision of the Board, carries out its policies through the Superintendents of the three Bureaus of the Department—Recreation, Parks and Music. It will be seen that each of the three activities of the Department is carried on by a Bureau independent of the others, but so co-ordinated by the Director and the Board that the activities of each bear a proper relation to and fit in with the activities of the others. The advisability of the provision that one member of the Board shall always be a member of the Board of School Commissioners is so evident as to call for no special comment.

7. *Department of Planning.* (Secs. 102-123) Conformable to the nomenclature generally adopted, the title of the Commission on City Plan is changed to the Department of Planning. There is one quite material amendment incorporated in the proposed amendments. By the present provisions no amendment can be made to a Master or Detailed Plan except by the Commission itself. This seems to be a very unwise limitation. To at least some extent the plans for a city's development should reflect the desires of its residents as expressed by their elected representatives. An amendment (see Secs. 109 and 113) accordingly provides that either Master or Detailed Plans may be amended by the Commission itself or by the three-fourths vote of the entire membership of the City Council. The large percentage of vote required will preclude hasty interference with the work of the Commission, but at the same time it gives protection against arbitrary action by the Commission contrary to the public desire. In the investigation of this question it was found that in other municipalities some degree of Councilmanic control was provided for and the wisdom of such provision was approved in principle by the zoning experts consulted.

Section 121 deals with the functions of the Commission with respect to zoning ordinances and regulations and the proposed

amendment confers active powers with respect to the granting of exceptions thereunder, again preserving the power of the City Council to act by a three-fourths vote.

8. *Board of Municipal and Zoning Appeals.* (Secs. 124-137) The amendments proposed in these sections concentrate in one body the handling of appeals from all municipal administrative agencies in place of the present Appeal Tax Court and Board of Zoning Appeals. The present Board of Zoning Appeals was created by ordinance pursuant to the authority of Article 66B of the Annotated Code of Maryland. The effect of the proposed amendments is to give such body Charter status and to superimpose upon it additional duties now exercised by the Appeal Tax Court, by the Commissioners for Opening Streets, and with respect to appeals from paving assessments. In view of the additional work to be handled, membership on the Board will require, it is believed, substantially full-time service, and the wider knowledge of property values resulting from the combined jurisdictions should result in an improvement in the handling of these important functions. In order to make it possible to obtain the services of skilled, professional persons as Board members, and in order to meet changing conditions promptly it has been deemed wise not to stipulate a fixed amount of compensation but to provide for its determination in the annual Ordinance of Estimates (see Sec. 173) as in the case of many department heads.

To facilitate the work of this Board provision is made for hearings to be conducted by panels except in the case of zoning appeals. The latter type of appeals will be heard by such majority of the Board as is required by the enabling Public General Law.

In the proposed amendments the right of appeal from the Board to the courts or to the State Tax Commission, as the case may be, has been preserved as it exists under the present Charter and related laws.

9. *Department of Aviation.* (Secs. 138-140) This is a new department created to have charge of an activity which may be reasonably expected to develop rapidly in importance. The authority for its creation is derived from Chapter 10 of the Extraordinary Session of 1944. As in the case of many others, the tenure of office of the members of the Aviation Board is

devised to provide overlapping in order that a continuity of policy may be maintained so far as found advisable.

10. *Miscellaneous Local Laws.* In the bound volume of the Charter (1938 Edition) there will be found a large number of local laws relating to Baltimore City. Many of these are now obsolete and should be repealed. Under the Home Rule Amendment these may be repealed by ordinance of the Mayor and City Council. We recommend that action on these be deferred until the adoption of the amendments to the Charter recommended by this report. At that time these local laws should be reviewed in the light of the Charter as finally amended. Such a review at this time would, in our opinion, be premature and unwise.

11. *Miscellaneous Activities.* Certain activities of the City are not included in the present Charter and have not been incorporated in the proposed amendments for the reason that they represent special bodies or interests created by Acts of the Legislature or by Ordinances of the City, and while they may in some respects be regarded as municipal agencies they do not have Charter status. We refer to such agencies as the Architectural Commission, Housing Authority, Employees' Retirement System, Free Public Bath Commission, Enoch Pratt Free Library, Municipal Museum, Walters Art Gallery, Museum of Art and others.

In closing this report, each member of the Commission desires to pay tribute to the invaluable assistance rendered by Dr. Horace E. Flack. Dr. Flack has served the Commission as its Secretary from the very beginning of our work, and without the benefit of his wide experience, indefatigable work and constant advice our difficulties would have been immeasurably greater.

ENOS S. STOCKBRIDGE, *Chairman*,
FREDERICK W. BRUNE,
VERNON COOK,
PAUL R. KACH,
IRVING H. KOHN,
EMORY H. NILES,
SIMON E. SOBELOFF.

HORACE E. FLACK, *Secretary*.

REPORT
OF THE
CHARTER REVISION COMMISSION
OF
BALTIMORE CITY
TO
THE HONORABLE THEODORE R. McKELDIN,
MAYOR OF BALTIMORE CITY

APRIL 6, 1964

CHARTER REVISION COMMISSION
OF BALTIMORE CITY

FINAL REPORT

Baltimore, Maryland, April 6, 1964

CHARTER REVISION COMMISSION OF BALTIMORE CITY

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M. William Adelson, Associate Chairman

Hon. Joseph Allen

Mrs. Philip Macht

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Leroy Griffin

S. Edward Smith

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Samuel Hopkins

M. Gordon Wolman

Miss Barbara G. Johnson

H. Graham Wood

Henry Koellein, Jr.

G. Thomas Yeager, III

Paul S. Sarbanes, Reporter

HONORABLE THEODORE R. MCKELDIN

MAYOR OF BALTIMORE CITY

CITY HALL

BALTIMORE, MARYLAND

Dear Mayor McKeldin:

In September, 1963, you appointed a Charter Revision Commission to study the need for general revision in the City's basic law. In particular you asked the Commission to suggest necessary changes to comply with the recently enacted legislation of the General Assembly establishing a July 1 through June 30 fiscal year for each political sub-division in Maryland. This report details the recommendations of the Charter Revision Commission. It is accompanied by a proposed amended Charter which incorporates the language of the existing Charter adopted by the voters at the election in November, 1946, subsequent amendments thereto, and the amendments which we now propose.

A limitation of time has influenced the work of the Charter Revision Commission. To effect compliance with the fiscal year requirements of the State legislation it is necessary that amendments to the Charter be placed on the ballot for the general election to be held on November 3, 1964. As a consequence, the Commission early in its deliberations adopted the principle that any proposed change should be carefully scrutinized and included in our recommendations only if it seemed highly probable that the change would better the existing machinery of City government. The Commission has not, however, felt that the time limitation was a substantial handicap. On the contrary, the need for sustained attention to the several matters considered

has produced a cohesiveness of approach, and, we trust, of result, which might well be absent had a much longer period been at our disposal.

In general, the approach of the Commission has been similar to that of its predecessor which, in its report to you of November 14, 1945, emphasized the desirability of a municipal government designed to take an over-all view of the administrative needs of the City. Aside from the changes designed to introduce a new fiscal year, our recommendations are primarily directed to that end.

The demands on the time and energies of the Mayor have inevitably grown larger since the last general revision of the Charter took place. To alleviate what we regard as too great a burden for any one person, we have provided for an executive officer to be appointed by the Mayor, to serve as his pleasure, and to whom the Mayor may delegate any of his powers except those most vitally and directly connected with his office. It is our belief that the improved coordination and direction which a person of outstanding ability in this position can bring to municipal affairs will be of inestimable benefit to the City.

We have recognized the value to the City of boards and commissions composed of civic-minded persons willing to devote their talents to the public service. On the other hand we have noted the difficulties of coordinating the policies of the various boards and commissions and of harmonizing the interests of a particular board or commission with the over-all interests of the City. To help meet these difficulties we have recommended the extension to several other boards and commissions of the power now possessed by the Mayor in some cases to designate and redesignate the chairman or president of boards and commissions from among the members.

We have recommended a substantial reorganization of the role of the Comptroller in the administration of the City's government. As an official elected by the voters on a City-wide basis, he should, we believe, be included in the line of succession in the case of a vacancy in the office of Mayor. Furthermore, to bring his duties more in line with the function which the public as-

sociates with the office of Comptroller and which similar elected officials in several other major American cities perform, we have assigned to the Comptroller the responsibility for supervising the City Auditor. He will thereby insure that the post-audit review of City operations is fully carried out. Coincidentally with this shift in responsibility, we have recommended that the financial operations heretofore lodged with the Comptroller be transferred to the office of the Mayor. This will bring the budgeting process, which is a vital instrument in the formulation and execution of policy, under the authority of the Mayor thereby better enabling him to discharge his responsibilities as the City's chief executive.

Another important change in the organization of the City departments which we have recommended in an effort to improve the operations of the government concerns the area of personnel. We have concluded that the combination in one body of the usual executive functions of recruitment, training and supervision of employees with the screening, investigating and quasi-judicial functions necessary to insure the application of merit system principles to municipal employment has an inhibiting effect on the full exercise of both functions. Accordingly, we have proposed the formation of a Department of Personnel, headed by a director serving under the Mayor, who will have responsibility in the former area. He will advise the Mayor on those personnel matters which are properly the concern of the chief executive and will consult with the heads of the several municipal agencies on their personnel needs. He will be responsible for establishing and carrying out, in cooperation with the agency heads, policies designed to attract, develop, and retain qualified personnel in the City's service.

The Civil Service Commission will remain the body responsible for establishing general policies for the merit system. It will also continue to test prospective new employees and those seeking promotion to insure that only persons of proven merit will occupy positions with the City. The Civil Service Commission will also retain the responsibility of insuring that discharges and other sanctions imposed against City employees do not conflict with merit system principles. To carry out this

duty, the Commission is given the power, presently not possessed by it, to order reinstatement of an employee who has been improperly discharged.

To improve the opportunities for all who must participate in the budget-making process to understand the significance of entries in a document which is necessarily increasingly complex, we have recommended the substitution of a program and performance type of budget for the line item type specified in the present Charter. This reform is one which the State of Maryland has employed with success for a number of years and which has been widely adopted elsewhere. We have also embodied in the proposed Charter the desirable practices which already exist by virtue of Board of Estimates resolution for preparing a capital budget and a related long-range capital improvement program.

The change in the fiscal year necessitated by State law has compelled us to suggest a corresponding change in the times at which municipal elections are to be held. Otherwise, the annual budgeting procedures would have to be carried through while elections are in process. Consequently, we have recommended that elections be held in November and that they continue to take place in odd years, so that municipal issues will not be confused with questions of State or national importance. To effect the transition from the old to the new election dates, we have provided for an extension of a little over six months in the terms of all incumbent elected officials.

A matter of considerable interest to which we devoted much time is the proper composition of the City Council. Substantial reasons have been presented to us to support the inclusion of some members elected for the City as a whole and not simply for particular districts. However, the whole subject of redistricting is itself at present being considered by the City Council and we feel that under the circumstances it would unduly complicate the situation to propose at-large representation. The matter should be reconsidered as a separate issue when the question of redistricting has been finally resolved. At present, the City Council has adopted a resolution for consideration by the voters at the election on November 3, 1964, proposing one plan of redistricting. However, the State Legislature has adopted another

redistricting plan applicable to the election of representatives to the General Assembly. The City Council may prefer a councilmanic redistricting which would coincide with the legislative redistricting adopted by the General Assembly. If so, it may accomplish such a result by adding such a redistricting plan to the language of the general Charter amendment which we are proposing. If not, our proposed amended Charter has been framed in such language that, if the voters accept the redistricting resolution now outstanding, its substance will be incorporated into the amended Charter.

The Charter at present prohibits the selection from among the members of the City Council of a person to fill a vacancy in the office of the President of the City Council. We have eliminated this restriction by providing that the choice may, but need not, be from among the membership. We have provided for the filling of vacancies in the City Council, including vacancies in the offices of President and Vice-President by a majority vote of the entire membership of the Council. In recognition of the very heavy responsibilities connected with the office of the President of the City Council, who not only presides over the Council but also serves as the presiding officer of the Board of Estimates, we have recommended an increase to \$15,000 in the annual salary for that office.

The one area in which limitations of time did prevent as complete consideration of matters as the Commission might have liked was the organization of each of the individual departments, commissions and boards of the City. It soon became evident that each municipal agency would warrant an expenditure of time comparable to that devoted by the Wolman Committee and its Rittershofer Task Force to the Department of Public Works or by the Charter Revision Commission, itself, to the several other matters which it has considered. We concluded that, although there are indications that changes in several areas might be desirable, the matters were not of equal importance with other questions before the Commission and that reorganization studies of the several municipal agencies might be undertaken at a later date.

The Commission did, as already noted, give extensive consideration to the organization of the City government in the areas of finance and personnel. These are matters which affect every municipal agency and the structure and procedure which obtain in these areas are therefore of general importance and concern. Beyond these departmental reorganizations, however, the Commission only considered matters affecting departmental structure generally or those specific departmental problems which were of pressing concern.

In the area of organization of departments generally, the Commission was dissatisfied with the existing obstacles to effective reorganization of municipal agency structures. Such reorganization may become most desirable in the interests of efficiency and economy of operation, yet be long delayed or frustrated by the present requirement for Charter amendment. The reorganization of the Department of Public Works which will doubtless become desirable upon the completion of the work of the Wolman Committee and its Rittershofer Task Force provides an example. Accordingly, we have deleted Charter provisions rigidly establishing the organization structures of individual departments and have provided that the municipal agencies may be organized and reorganized in such manner as their heads, with the concurrence of the Board of Estimates, determine to be advisable. Pending any such reorganization the proposed Charter continues the individual departmental organization which now exists.

The Commission did regard as desirable the reorganization of the Department of Welfare to separate out from its supervision the City Hospitals and to place the hospitals under a new City Hospitals Commission. There was general agreement by all concerned that the establishment of such a separate City Hospitals Commission would substantially improve administration in both areas by permitting a concentration of interest in the hospital area and by permitting the Advisory Welfare Committee to devote itself more exclusively to matters directly concerned with the City's welfare program.

The Commission also considered the desirability of Charter status for certain municipal agencies now existing without it.

As a result, it has provided in the proposed Charter for the Department of Urban Renewal and Housing and for the Department of Transit and Traffic.

It has been brought to the attention of the Commission that certain changes in State law would be desirable to improve the administration of the City government. Such changes are, of course, beyond the scope of Charter revision. Nevertheless, we should particularly like to mention, with the hope that further attention may be given to them, two possible reforms. First, there is the existing requirement of State law that all City bond issues must be authorized by an enabling act of the General Assembly. Among home rule jurisdictions, this is a unique requirement for Baltimore City. Since the program of bond issuance is intimately connected with over-all financial planning, the present procedure creates a number of difficulties for the City. It does not appear to us reasonable to divide responsibility in this area.

Second, there is the matter of the supervision and direction of the Police Department of Baltimore City. We have not studied this subject in detail, but believe the proposal that it be made once again a department of the City rather than a State agency merits serious consideration. Clearly the maintenance of peace and order within its borders is a major concern of any municipal government and it would appear, as is almost universally the case in other major cities, that the responsibility for the police should be in local hands.

The Commission has recognized that the existing Charter contains a number of provisions which are probably not of sufficient importance or immutability to warrant inclusion in so basic a document. However, our attention has not been drawn to any handicaps to the operations of the City government resulting from the presence of such language in the Charter. Furthermore, we did not deem it appropriate to delete such language without also suggesting companion ordinances to be passed by the City Council in order to prevent the gaps in coverage which otherwise would occur. The awkwardness of trying to keep such ordinances in harmony with any changes which might be made in the proposed Charter during its consideration

by the City Council and the possibility that one or more of these companion ordinances might fail of enactment led us to prefer the continuation of such language in the proposed Charter. The City Council, with the assistance of the City Solicitor and the Department of Legislative Reference may wish, following the adoption of the amended Charter, to carry out the desirable excision of language inappropriate to the Charter.

Turning to a more detailed description of the changes which we are proposing, there is first a matter of form. For easier reference, we have divided the Charter into nine articles, as follows:

Article	I—General Provisions
Article	II—General Powers
Article	III—City Council
Article	IV—Mayor
Article	V—Comptroller
Article	VI—Board of Estimates
Article	VII—Executive Departments
Article	VIII—Franchises
Article	IX—Transition Provisions

ARTICLE I

GENERAL PROVISIONS

The general provisions remain substantially as they are in Sections 1 through 5 of the present Charter. However, certain miscellaneous provisions contained in Sections 167 through 180A of the present Charter have been included in this Article. Other such miscellaneous provisions have been relocated elsewhere in the proposed Charter when to do so seemed more appropriate.

We would call attention to the fact that the existing obligation under Section 168(c) on every municipal agency to prepare annually a written report of its work and proceedings has been made subject to the direction of the Board of Estimates. This will permit elimination of needless expense wherever reports manifestly would serve no useful purpose.

ARTICLE II

GENERAL POWERS

The general powers of the City are conferred by Act of the General Assembly and may not be changed by Charter amendment. Except to renumber such powers to take care of amendments since the last general Charter revision, we have left them as they are in the Charter at the present time.

ARTICLE III

CITY COUNCIL

Except for the specific matters to which reference has already been made, this article merely incorporates the provisions of the present Charter governing the City Council.

ARTICLE IV

MAYOR

As indicated above, we have concluded that, should both the elected Mayor and the elected President of the City Council become incapacitated, the next in line for the office of Mayor should be the Comptroller, the one other City official elected on a city-wide basis. Similarly, we have provided that the Comptroller should act as Mayor *ex officio* during the temporary absence of the Mayor and the elected President of the City Council.

The power given to the Mayor to appoint an executive officer to serve at his pleasure appears to the Commission to be especially significant. The conduct of the affairs of Baltimore City is his business. The Mayor must inevitably devote a substantial portion of his time to ceremonial appearances and, even if this were not the case, the many other official demands now placed on him are too great for a single individual. It is the Commission's judgment that providing for someone, whom the Mayor may appoint or replace at his pleasure, to perform such acts as the Mayor may wish to delegate to him will increase materially the Mayor's ability to attend to the manifold duties

imposed on him. Particularly, if a Mayor so desires, he may delegate to the executive officer the time-consuming, but vitally important, role of achieving coordination and adjusting differences when the functions of two or more municipal agencies overlap with respect to a particular project or area. The vital importance of such an assistant to the Mayor was recognized by the Urban Renewal Study Board in its 1956 report and many other cities have established high level administrative assistance for the Mayor.

We have, however, recognized that there are certain duties of the Mayor which are so closely identified with the office and the elected incumbent that they should not be delegated. These are the power to approve and veto enactments of the City Council, the power to appoint, remove or prefer charges against municipal officers, and the responsibility to join with other members of the Board of Estimates in making recommendations to the City Council, particularly the recommendation of the annual ordinance of estimates.

ARTICLE V

COMPTROLLER

As was noted above, the Comptroller will assume primary supervisory responsibility for the operations of the City Auditor. We have provided for a Department of Audits which shall make post-audits at appropriate intervals of all municipal agencies except those under the supervision or control of the Comptroller. The professional status of the City Auditor will be insured through the requirement that he be a certified public accountant who is appointed by the Comptroller and holds office in accordance with the provisions of the Charter relating to the classified civil service. Auditing of the Comptroller's functions will be accomplished through the employment of outside firms of certified public accountants by the Board of Estimates. The Board of Estimates has also been given the authority to retain such outside firms to make general recommendations as to auditing procedures employed by the City Auditor and to make supplementary audits whenever they may be deemed desirable.

The Comptroller's responsibilities in the field of management of the City's real estate remain as in the present Charter. To enable him to carry out these responsibilities we provide for a Department of Real Estate of which the Comptroller is the head. In addition, the responsibilities which the Comptroller has been exercising in the procurement of insurance are spelled out and confirmed as matters under his jurisdiction.

ARTICLE VI

OF BOARD OF ESTIMATES

The Commission devoted a number of its hearings, as did its committees, to the possibility of establishing a different form of administrative organization than that represented by the present Board of Estimates. It was our conclusion that the Board, as it has functioned, has functioned well and that it should continue as the principal administrative body of the City government. Numerous responsibilities of the Board which superficially may seem not important enough to warrant attention by it were on examination revealed as matters on which the assurance of publicity from the fact of presentation to the Board was an important and desirable consideration. It further appeared that the drain on the time of the Board caused by such items is slight in view of careful advance preparation by staff for the meetings at which such items are considered.

The City's budgeting procedures are set out in considerable detail in this Article VI. We have already alluded to a) the change to a fiscal year commencing July 1 and the amendments necessarily related thereto, b) the introduction of a program and performance type of budget in place of the existing line item type budget and c) the spelling out of the existing procedures developed by the Board of Estimates for dealing with capital budgeting and programming. Other proposals related to budgeting are as follows:

1. The present Charter rigidly restricts appropriations to those appearing in the annual Ordinance of Estimates. Experience with this requirement and developments in governmental finance

and activities have shown this provision to be unduly restrictive and inimical to the best interests of the City.

There has been a steady development of programs of State and Federal aid which frequently pose difficult problems for the City tied as it is solely to appropriations made in the annual Ordinance of Estimates. Technically speaking the City is forbidden from expending such funds, even if outright gifts, in those instances where the grants were not foreseen and the appropriations were not included in the Ordinance of Estimates. Also, the City's involvement in revenue-producing activities such as the stadium, the civic center, and the airport has created the necessity for review at more frequent intervals than annually of expenditure requirements in those instances where an unanticipated expansion in activity, while generating increased revenues, gives rise to a need for increased expenditures. Finally, it appeared to us that the City should be able to make provision during the fiscal year for further appropriations for existing programs made necessary by a material change in circumstances or for additional appropriations for new programs which could not reasonably be anticipated at the time of the formulation of the Ordinance of Estimates.

Consequently, we provided that:

- (a) Grants from private or governmental sources which could not be anticipated at the time of preparation of the Ordinance of Estimates may be made available for expenditure by a supplementary appropriation ordinance recommended to the City Council by the Board of Estimates and enacted by the Council;
- (b) the Board of Estimates may make available for expenditure amounts produced by City revenue-producing activities in excess of or in addition to those relied upon in planning the balanced budget at the beginning of the fiscal year; and
- (c) the Council, upon the recommendation of the Board of Estimates, shall have the power to enact, under certain limited conditions, supplementary appropriation or-

dinances for new or existing programs provided each such appropriation is tied to a revenue source other than the property tax sufficient to meet the proposed expenditures.

In view of these provisions, we have concluded that it would not be necessary or desirable, despite the inflation which has occurred since 1947, to increase the maximum of \$500,000 provided in the Charter for the contingent fund.

2. At present, if there is a deficiency in revenues, it must be allocated *pro rata* across all items appearing in the annual Ordinance of Estimates. The adoption of a program and performance budget makes it feasible to introduce the desirable power in the Board of Estimates to determine the relative importance of various programs and to provide for the reduction to be applied in differing proportions, depending upon the importance of each program. As an alternative means of meeting a revenue deficiency we have proposed that the City Council may enact, upon the recommendation of the Board of Estimates, an ordinance raising additional revenues. It should be noted that the present Charter provision against any temporary borrowing in such an instance is retained.

3. Further flexibility has been introduced through a provision permitting the Board of Estimates, with the approval of the City Council, to transfer funds appropriated in the annual Ordinance of Estimates from one municipal agency to another. At present, such transfers can be made only within an agency upon the approval of the Board of Estimates.

4. In dealing with funds unexpended and unencumbered at the end of the fiscal year, we have continued the power of the Board of Estimates to carry over such funds to the ensuing fiscal year with one important limitation. In the past the Board of Estimates has on occasion, during the fiscal year, transferred funds within an agency to a program not originally included in the Ordinance of Estimates and then at the end of the fiscal year has carried over funds for the continuation of such a program. This created the possibility that a program might be initiated and continued for a number of years without ever re-

ceiving the approval of the City Council. To prevent this procedure, our proposed Charter provides that appropriations may only be carried over for the accomplishment of the program for which the appropriation was originally made in the Ordinance of Estimates.

5. The present requirement of daily meetings by the City Council to enact the annual Ordinance of Estimates has been deleted. We have provided that the Ordinance of Estimates should be enacted at least twenty days prior to the start of the fiscal year to which it is applicable. Such enactment would give municipal agencies needed time to prepare for the next fiscal year.

Article VI also sets out in considerable detail the procedures to be followed by the City in the area of procurement. As in the present Charter, the Board of Estimates remains the body primarily responsible for procurement. To compensate for the decline in the purchasing power of money and to allow for the growing activities of the City, we have recommended an increase from \$1,000 to \$2,000 for the limit on purchases which may be made without the approval of the Board of Estimates and an increase from \$2,000 to \$5,000 for the limit on purchases which may be made without formal advertising and award by the Board. Furthermore, because of the unique problems involved in the purchase of foodstuffs and related perishables, we have given the City Council authority to enact an ordinance establishing different procedures in this area. Our proposals also provide for an important, though occasional, problem; namely, that true emergencies may arise requiring immediate procurement without awaiting approval by the Board of Estimates. In such circumstances, we have authorized the Department of Finance, to which procurement duties have been assigned, to proceed, if it is satisfied that an emergency exists and if the head of the municipal agency concerned has requested that the purchase be made.

The present Charter does not contain any provisions concerning disposition by the Board of Estimates of tie bids. We have recommended language which would leave resolution of such cases to the discretion of the Board of Estimates acting after

having received the recommendation of the procuring authorities. We have also provided a procedure whereby bidders for City business may file annual bid bonds rather than accompanying each bid with a certified check. Finally, while the proposed Charter leaves with the Board of Estimates authority over bid specifications if the Board chooses to act, it drops the requirement that bid specifications must invariably be approved by the Board before the City can proceed to advertise and obtain bids.

ARTICLE VII

EXECUTIVE DEPARTMENTS

As already noted a principal general change proposed with respect to the several municipal agencies has been the deletion from the Charter of bureau structures for several departments, including the Department of Public Works and the Department of Recreation and Parks. A desirable consequence of this change is to place bureau head positions in the Department of Public Works heretofore not under the merit system in the classified civil service. The Commission is convinced that such status is important, not only to insure that those selected for the bureau chief positions will be capable, but also to assist in recruitment at all levels within the Department of Public Works. The possibility that, on merit alone, one may rise to the top is a desirable personnel incentive.

In the area of finance, we have recommended the establishment of a Department of Finance under the Mayor to be headed by a Director of Finance appointed by the Mayor and holding office in accordance with the classified civil service provisions of the Charter. The Department will supervise performance of the functions now assigned to the Bureau of Accounts and Disbursements (including budget preparation) and Bureau of Purchases in the Comptroller's office and to the Bureau of Receipts in the office of the Treasurer. These several functions should be integrated for maximum efficiency, both in the preparation and implementation of the budget and in the daily operations of the City government.

The Department of Finance will be responsible for procurement not only of materials, supplies, and equipment but also for the obtaining of services other than professional services. As a part of this procurement function, the Department of Finance will exercise responsibility for storing City supplies, materials, and equipment. Centralized procurement and storage can achieve substantial economies through the discounts obtained in quantity buying and through effective control of inventories.

The Department of the Treasurer will continue to perform all its existing functions, except those with respect to receipts which have been transferred to the Department of Finance. The Treasurer will thus be the debt manager for the City. We have provided that the City Treasurer shall be appointed by the Mayor, with the approval of the City Council, and shall be President of the Board of Finance. The power of the Board to issue and sell certificates of indebtedness has been made explicit and it has been given power to determine the proper custodian of any security posted by banks in which deposits of City funds are made.

The existing autonomy of the School Board has been maintained. We have endeavored to clarify the definition of those professional employees whose appointment and removal are under the control of the School Board. We have specifically provided that employees certified under State law shall fall in that category both because proper control by the School Board of such professional employees is thereby enhanced and because the possibility of loss of State aid for the City schools is thereby minimized.

As for the Department of Recreation and Parks, we have recommended that the Director be selected under the Charter provisions applicable to the classified civil service. At present, the appointment is made without regard to civil service requirements, yet the appointee is automatically afforded merit system protection. To us, it appears that for the position of Director of Recreation and Parks civil service procedures should either apply completely or not at all, and that the former alternative better suits the needs and purposes of the Park Board.

Our Commission has considered a suggestion that the responsibility for maintenance and operation of the stadium be separated from the other functions of the Department of Recreation and Parks. We have also considered the subsidiary suggestion that, if such a separation takes place, the responsibility should be combined with those of the Civil Center under a single agency. The study soon developed that the questions were not simple. To argue arguments for and against such a change is to enter the merit system and consider it in which an attempt is made to alter the Revision Commission does not permit. Further complications arose because any change in the role presently played by the Civil Center Commission may entail changes in State law since it is an agency created by the General Assembly.

We have already described our proposals to create a Department of Personnel to deal with executive aspects of personnel policy. The Civil Service Commission will thereby be freed to concentrate on its primary role as the protector of the merit system. The Civil Service Commission has been given discretion to extend probationary employment periods from six months to a maximum of one year.

The Commission has made explicit the requirement that no discriminatory practices shall be tolerated in City employment, and has, in this connection, provided for advisory opinions to the Civil Service Commission from the Baltimore Community Relations Commission, whenever charges of discrimination are made by City employees. We have recommended a requirement that any employee in the Classified Civil Service desiring to stand for election to public office must resign from the civil service. As for other political activities, the permissible is left to the discretion of the Board of Estimates which will make rules and regulations of general applicability covering the subject.

ARTICLE VIII

FRANCHISES

No substantive changes have been made in the sections dealing with grants of franchises and minor privileges, although

here, as elsewhere, some slight amendments have been proposed to improve clarity and to increase consistency throughout the Charter.

ARTICLE IX

TRANSITION PROVISIONS

The matter of transition from the present Charter to our proposed new Charter presented rather more questions than might normally be expected, in view of the change in the fiscal year made necessary by State law. The City must shift from the present calendar year budget to a fiscal year budget for periods commencing July 1st and ending June 30th in every year. The State law requires that the change-over be accomplished no later than the fiscal year commencing July 1, 1966. An immediate and basic problem which the City will have to face is whether to adopt, as an interim measure, a six months budget or an eighteen months budget. We have made no attempt in the Charter to make the policy decision between these two alternatives. Rather, we have endeavored merely to insure that full freedom of choice between them would be preserved to the Board of Estimates.

Bearing in mind that the proposed Charter cannot be approved by the voters until the general election of November 3, 1964, it is manifestly impractical for the City to start the change-over to fiscal year budgeting while preparing the Ordinance of Estimates which must take effect upon expiration, on December 31, 1964, of the current Ordinance of Estimates. By the November, 1964, election, the work on such proposed ordinance of estimates will have to have been substantially completed, and it would be an unwarranted burden and expense upon the City for its officials to prepare alternative budgets, not knowing whether the Charter amendments placed before the electorate will or will not be adopted. To us, it seems clear, therefore, that a calendar year budget for all of 1965 must be adopted. Our proposed Charter then gives a choice of alternatives between a six months budget from January 1, 1966 through June 30, 1966, followed by fiscal year budgets thereafter, or an initial eighteen months budget combining such six months interim budget and the initial

full fiscal year budget for the period January 1, 1966 through June 30, 1967.

In order that the budgeting process will not be seriously handicapped in election years, we have felt it essential that elections for municipal offices be shifted from May to November. The preferable course to deal with the initial interim situation, to our minds, is the extension for six months of the terms of all incumbents so that they expire in December 1967, after the municipal election in November 1967.

It also has seemed self-evident to us that terms of appointees to municipal offices should remain, as at present, keyed to the municipal elections and the dates on which newly elected officials take office. At present, appointments are for periods commencing July 1 and ending June 30. We have provided that the terms shall commence January 1 and end December 31. To accomplish the change-over, we have provided, as to incumbents, the same solution as the one chosen for elected officials. Any official holding office at the time the Charter becomes effective as to him shall have the term of his office automatically extended until December 31 in the year in which, under the present Charter, it would expire. This provision serves to preserve the staggered term principle with respect to membership on several of the boards and commissions where continuity is essential to effective conduct of affairs. The proposed Charter is explicit that its adoption will not affect adversely the Civil Service status of any municipal employee.

Believing as we do that the recommended changes in the organization of the City government contained in our proposed Charter amendments represent substantial improvements, we are desirous of seeing them instituted at the earliest date possible without resulting dislocation in the City's business. We have, consequently, established July 1, 1966, as the final date for full effectiveness of the amended Charter, but have provided for earlier implementation of one or more of its provisions by the Board of Estimates whenever it deems such earlier effective dates desirable. It is our thought that, in several of the City agencies affected by the amendments, preparation of the steps

necessary to make the change-over can be completed long before July 1, 1966. If so, we believe that the Board of Estimates should be able to introduce the changes at once, without having to wait until a later date.

CONCLUSION

All of use who have been privileged to serve on the Charter Revision Commission should like to thank you for the opportunity to review the basic document which charts the course of our City government. The work has been stimulating and instructive to us all. It has been particularly gratifying to learn from close first-hand experience how capable and dedicated are the many officials of Baltimore City whom we have interviewed and consulted in the course of our inquiries. They have displayed a willingness to subordinate considerations of personal dislocation resulting from possible changes under discussion and have considered questions which we put to them in the light of what would improve the City machinery for the task it must perform. Their attitude was an inspiration to us to expend every possible effort to improve the Charter, one of the basic tools for governing our City with which they must work. Equally unstinting has been the help provided to us by retired officials of the City, both elected and appointed.

We have also received valuable suggestions from members of the Charter Advisory Committee appointed by you to assist us in our work. The counsel of its Chairman, Mr. Enos S. Stockbridge, who had served as Chairman of the 1945 Charter Revision Commission, was particularly helpful and we greatly regret his untimely death.

Finally, the work of the Commission could not have been accomplished without the services of its tireless, informed and altogether effective Reporter, Paul S. Sarbanes. His ability to assemble the information required by us, his care in sifting and arranging it so that we could make maximum use of it, and his

genius for ascertaining and stating all the factors and arguments bearing on the decision of each issue with which we were confronted were truly indispensable.

Respectfully,

FRANCIS D. MURNAGHAN, JR., *Chairman*

M. WILLIAM ADELSON, *Associate Chairman*

Hon. Joseph Allen

Harry Bard

Winfred O. Bryson, Jr.

Samuel T. Daniels

Eugene M. Feinblatt

Robert L. Gill

Leroy Griffin

Henry R. Hergenroeder

Samuel Hopkins

Miss Barbara G. Johnson

Henry Koellein, Jr.

Mrs. Philip Macht

Mrs. John B. Ramsay, Jr.

Norman P. Ramsey

Hugo A. Ricciuti

Francis E. Rourke

Jesse Slingluff

S. Edward Smith

Melvin J. Sykes

M. Gordon Wolman

H. Graham Wood

G. Thomas Yeager, III

**BOARD OF ESTIMATES SUBCOMMITTEE
CHARTER REVISION COMMISSION**

Lalit Gadhia, Chair
Michael Pretl
Father Donald Sterling
Loretta Johnson

The Board of Estimates Subcommittee has identified several issues through discussions with the Honorable Martin P. Welch, formerly Associate Solicitor, Baltimore City Law Department and Mr. Robert Embry. Both of these individuals generally felt that the Board of Estimates worked well and there was no need for serious revisions in its Charter provisions. Other issues have also been raised during the course of the work of the various other subcommittees of the Charter Revision Commission which this subcommittee will also consider.

Mr. Embry's only suggestion regarding change in the existing Charter provisions is the composition of the Board. He suggested that perhaps the Mayor should be given the power to appoint two agency people of his choice as members of the Board rather than the Charter designating that the City Solicitor and the Director of Public Works are members of the Board. His rationale was that possibly there are other agencies that have more business pending before the Board and it would therefore be more logical to have these agencies represented on the Board. The subcommittee does not have a position on this recommendation at this time. It will reserve judgment pending input from the Commission members on this issue at the time of the subcommittee's presentation.

Other issues raised by various subcommittees include:

1. Should Article VI, Section 2(c) be amended to provide for a single budget for all City agencies and not make special provisions for the Board of School Commissioners. There was apparently a request made of Phillip Farfel, President of the Board of School Commissioners for his input on this issue. The Subcommittee is not aware of whether a response has been received. The Subcommittee agrees with the Commission's feeling that a single budget is preferable to a fragmented one. There is concern about compliance with State law regarding budgets of local school systems. It is unclear whether there are requirements above and beyond Education Article, Section 5-101, from which Baltimore City is exempt.

2. Should Article VI, Section 2(g) be amended to provide more flexibility in the date of enactment of the Ordinance of Estimates. This issue was debated extensively at the time of the Finance Subcommittee report but it is unclear if any resolution was reached. The Subcommittee has no specific recommendation but feels this is an important matter that the Commission may want to revisit.

3. The Public Works Subcommittee and the Baltimore City Law Department generated several questions regarding Article VI and suggested some amendments. These issues are presented below.

The Subcommittee would like to reserve discussion on these issues until the next session in order for its members to discuss these issues with the Director of Public Works.

- Should the threshold for competitive bidding be raised to a value greater than \$25,000? (Art. VI, Section 4(b))

- Who should certify to the Board the need for sole source or emergency procurement the Department of Finance or the agency involved? (Art. VI, Section 4(d))
- Should an agency, such as Public Works, be given limited procurement powers in order to purchase supplies it needs to pursue construction projects?
- Should specific dollar amounts be included in Article VI, Section 4(e) or should the Board set the thresholds by rule or regulation?
- Who should make the recommendation to the Board for awards in the case of a tie, the Department of Finance or the agency involved? (Art. VI, Section (g)(i))
- Should contracts for "professional services" be competitively bid? (Art. VI, Section 4(b))
- Should bid and performance bonds on construction contracts be mandated by the Charter to comply with state law rather than retaining current language which states under what conditions such bonds will not be required? Should payment bonds be required by Charter on construction contracts? (Article VI, Section 4 (h))

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**Draft Report of the Comptroller Subcommittee
Baltimore City Charter Revision Commission**

submitted by

H. Russell Frisby, Jr., Esquire, Chair
Ms. Lois Macht
Professor Katherine Vaughns

The Comptroller of Baltimore City is an independently elected City official charged with various responsibilities generally involving the oversight of City government. Prior to 1964, the Comptroller performed budgetary functions including preparing and proposing the Ordinance of Estimates, the City's budget. In the Charter revision of 1964, that budgetary power was taken from the Office of the Comptroller and moved to the executive branch of municipal government, where it remains today in the Department of Finance. The functions that remain with the Comptroller are a conglomeration of responsibilities.

The Subcommittee's study, and the recommendations that follow, are an attempt to maintain the vitality of the Comptroller's office by giving it a more coherent and logical function. To this end, the Subcommittee tentatively recommends that the Comptroller's central function should be one of oversight and that all of the Comptroller's office functions which are not logically related to this central function be removed. In addition, several functions relating to the oversight of City government are recommended for addition to the Comptroller's office.

Current Duties of the Comptroller

The primary responsibilities of the Comptroller are set out in Article V, §3 of the Charter:

3. COMPTROLLER--DUTIES.

In addition to his duties as a member of the Board of Estimates and of the Commissioners of Finance (now Board of Finance), the Comptroller shall have such general supervision of the Department of Audits and the activities of the City Auditor as may be provided for in this Charter and shall be responsible for the proper conduct, management and operation of the Department of Real Estate.

Subject to the approval of the Board of Estimates, the Comptroller shall, within the limits of the appropriation therefor in the Ordinance of Estimates, obtain such insurance as may be necessary for the proper protection of the City or as may be required by applicable law. The Comptroller shall, whenever he finds that it would be to the City's advantage, seek competitive bids for such insurance. He shall perform

such other duties as may be prescribed by ordinance not inconsistent with the Charter.

Article VI, §1, also provides, ". . . one of the members [of the Board or Estimates] shall act as Secretary. The Board may employ such clerks and assistants as may be necessary to discharge its duties; their number and compensation shall be fixed in the Ordinance of Estimates." Traditionally, the Comptroller has served as the Secretary to the Board and it has been the Comptroller's staff that serve as "clerks and assistants" to the Board. Weekly preparation of the Board of Estimates agenda is an important non-Charter function of the Comptroller.

An important non-Charter function of the Comptroller is membership on the three pension boards of the City: the Employee's Retirement System, the Fire & Police Retirement System, and the Elected Official's Retirement System. These systems are authorized in the grant of powers, Article II, §§24-26, but the board membership is controlled by the City Code, Article 22, §5(b) (1) (Comptroller a member of the Employee's Retirement System, *ex officio*); Article 22, §33(b) (1) (Comptroller a member of the Fire & Police Retirement System, *ex officio*); Article 22, §21 (Board of Trustees for Employee's Retirement System serve as Trustees for the Elected Official's Retirement System).

The Comptroller also has charge of the Municipal Post Office and the Municipal Telephone Exchange. This is not an entirely logical assignment of duties, but rather one that came in 1964 when major Comptroller responsibilities were transferred to the Department of Finance. However, the Subcommittee views this as not being an appropriate Charter issue, but one best left to the Mayor, City Council and the Comptroller to resolve.

Another difference between the Charter duties of the Comptroller and those actually performed, is the insurance function described in the second paragraph of Article V, §3. The City Code continues to recognize the Comptroller's insurance role in Article 5, §§3-7, but this is obsolete. In 1986, the City established its own self-insurance fund operated in the Office of Risk Management within the Department of Finance. Baltimore City Code, Article 1, §§195-200. Other insurance related functions are performed by various City agencies: the Law Department investigates claims; the Board of Estimates authorizes settlements; and the Civil Service Commission and the Personnel Director administer the employee's health insurance benefits.

Proposed Changes in the Duties of the Comptroller

The Department of Real Estate manages all real property of the City. While some of the functions of the Department are of an oversight nature, the majority are executive in nature. The Department of Real Estate negotiates all purchases, sales and leases of land. This is an executive function and should logically be removed from the office of the Comptroller and moved to an appropriate executive branch department. The

Subcommittee tentatively recommends that this be the Department of Finance or the Department of Housing and Community Development.

Currently, the City Auditor, an employee of the Comptroller, is authorized to perform financial audits. The Subcommittee strongly recommends retaining this oversight function in the independent Comptroller's office. Furthermore, the Subcommittee urges that the professionalism of the Auditor's office be maintained, including the Civil Service status of the City Auditor.

The Subcommittee further recommends that a new performance audit function be created explicitly in the Charter. The proposed performance audits would not necessarily be performed by the City Auditor whose primary responsibilities go to fiscal questions. Instead such audit could be performed by other members of the Comptroller's staff. Attached please find provisions taken from the Charters of New York City and Pittsburgh, the U.S. General Accounting Office and Baltimore City Council Bill 92, a proposal offered by the incumbent Comptroller. The Subcommittee envisions the performance audit function being performed by a separate office from the City Auditor. Performance audits could be initiated by the Comptroller, or at the request of the Mayor or the City Council. A report of the performance audit would be required to be submitted to the Mayor, Comptroller, and the City Council.

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COMPTROLLER

1. COMPTROLLER--ELECTION.

The voters of Baltimore City shall elect on the Tuesday next after the first Monday in November, 1967, and on the same day and month in every fourth year thereafter, a person to be Comptroller of the City, possessing the same qualifications as prescribed in the Charter for the Mayor. The term of the Comptroller shall commence on the Tuesday next after the first Monday in December succeeding ~~his~~ THE election and continue for four years and until ~~his~~ A successor shall have been elected and qualified. The Comptroller ~~shall be paid an annual salary of \$17,500~~ and shall appoint, to aid ~~him~~ THE COMPTROLLER in the discharge of ~~his~~ THE ENUMERATED duties, a Deputy Comptroller and such assistants and employees as may be provided for in the Ordinance of Estimates. In case of temporary absence or disqualification of the Comptroller, the Deputy Comptroller shall, during such absence or disqualification from any cause, perform the duties of the Comptroller, including ~~his~~ duties as a member of the Board of Estimates.

2. COMPTROLLER--REMOVAL.

The City Council by a majority vote of its members may remove the Comptroller from office for incompetency, ~~wilful~~ WILLFUL neglect of duty or misdemeanor in office, upon charges preferred by the Mayor, and after notice of such charges is given to the Comptroller, and an opportunity afforded ~~him~~ THE COMPTROLLER to be heard by the City Council. In the event of the death, resignation or removal from office of the Comptroller, ~~his~~ A successor, to fill out ~~his~~ THE unexpired term, shall be elected by the City Council by a majority vote of its members.

3. COMPTROLLER--DUTIES.

In addition to ~~his~~ THE duties as a member of the Board of Estimates and of the BOARD OF FINANCE ~~Commissioners of Finance~~, the Comptroller shall (1) AUDIT FINANCIAL TRANSACTIONS OF THE CITY; (2) AUDIT ALL OFFICIAL ACCOUNTS AND THE ACCRUAL AND COLLECTION ANNUALLY OF ALL REVENUES AND RECEIPTS; (3) AUDIT THE EXPENDITURE OF CITY FUNDS BY ANY PUBLIC OR PRIVATE AGENCY THAT RECEIVES SUCH FUNDS FROM THE CITY; (4) AUDIT THE OPERATIONS AND PROGRAMS OF CITY AGENCIES TO DETERMINE WHETHER FUNDS BEING EXPENDED ARE UTILIZED EFFICIENTLY AND ECONOMICALLY AND WHETHER THE DESIRED GOALS, RESULTS AND BENEFITS OF AGENCY PROGRAMS ARE BEING ACHIEVED; AND (5) UNDERTAKE STUDIES, INCLUDING COST BENEFIT ANALYSIS OF PURCHASES OF GOODS, SERVICES AND CONSTRUCTION BY AGENCIES OF GOVERNMENT THAT USE CITY FUNDS FOR SUCH PURPOSES. THE COMPTROLLER SHALL ALSO have such general supervision of the Department of Audits. IN ORDER TO PURSUE THE ACTIVITIES AND DUTIES ASSIGNED, THE COMPTROLLER SHALL HAVE ACCESS TO ALL RELEVANT DOCUMENTS OF THE

~~CITY. the activities of the City Auditor as may be provided for in this Charter and shall be responsible for the proper conduct, management and operation of the Department of Real Estate.~~

~~Subject to the approval of the Board of Estimates, the Comptroller shall, within the limits of the appropriation therefor in the Ordinance of Estimates, obtain such insurance as may be necessary for the proper protection of the City or as may be required by applicable law. The Comptroller shall, whenever he finds that it would be to the City's advantage, seek competitive bids for such insurance. He THE COMPTROLLER shall perform such other duties as may be prescribed by ordinance not inconsistent with the Charter.~~

~~4. DEPARTMENT OF REAL ESTATE ORGANIZATION.~~

~~There shall be a Department of Real Estate, the head of which shall be the Comptroller. For the conduct of the Department, the Comptroller shall appoint a Real Estate Officer and such assistants and employees as may be provided for in the Ordinance of Estimates.~~

~~5. DEPARTMENT OF REAL ESTATE DUTIES.~~

~~The Department of Real Estate shall have the following responsibilities in all matters relating to the acquisition, sale, lease, exchange or other disposition of real property of the City; provided, however, that nothing in this section shall affect the exercise by the City by ordinance of the powers granted to it in subsection (15) of Article II:~~

~~(a) Subject to any limitation on this power elsewhere in the Charter, any purchase (other than by condemnation) of real property or an interest therein by the City shall (unless and to the extent otherwise provided by the Board of Estimates) be negotiated and made on its behalf by the Department of Real Estate in such a manner as the Board of Estimates shall from time to time authorize and instruct.~~

~~(b) The Department shall (unless and to the extent otherwise provided by the Board of Estimates) arrange for the disposition of any building or parcel of land (or any other real property) no longer needed by the City for public use. Any such disposition shall be authorized by ordinance, shall be approved by the Board of Estimates with the approval entered in its minutes, and shall be made at public sale unless a private sale or other manner of disposition shall be expressly authorized by the Board of Estimates and entered in its minutes. The instrument of conveyance of any building or parcel of land (or any other real property) whose disposition has been so authorized and approved shall be executed on behalf of the City by the Comptroller or~~

~~Deputy Comptroller and attested to by the Treasurer or the Deputy Treasurer.~~

~~(c) The Department is authorized to lease any building or parcel of land (or any other real property) not needed by the City for public purposes on a month to month basis, unless otherwise provided by ordinance. It is also authorized to lease such property for fixed terms provided such leases are first approved by the Board of Estimates.~~

~~6. REAL PROPERTY ACCOUNT.~~

~~Except as may be otherwise provided by ordinance with regard to the exercise by the City of the powers granted to it in subsection (15) and subsection (15A) of Article II, the Comptroller shall cause to be credited to an account to be known as the "Mayor and City Council Real Property Account", the proceeds from the sale by the City of any real or leasehold property or interest therein. Moneys received from such sales shall be appropriated in the Ordinance of Estimates only for the purchase of land, and the purchase or construction of buildings, and other construction work and projects, and to carry out the industrial and economic development powers vested in the Mayor and City Council of Baltimore by the provisions of subsection (15A) of Article II, it being the intent of this provision to limit the use of such moneys to the purposes specifically mentioned in this section, and otherwise to prohibit their use for current expenses of the City. The annual Ordinance of Estimates shall include the appropriations which are proposed to be charged to the "Mayor and City Council Real Property Account", and the state of the account, with the particulars as to sources of receipts, shall be reported by the Comptroller annually to the City Council. (Res. No. 2, 1972, ratified Nov. 7, 1972.)~~

~~7. 4. DEPARTMENT OF FINANCIAL AUDITS--ORGANIZATION.~~

There shall be a Department of Audits, the head of which shall be the City FINANCIAL Auditor ~~who shall in the first instance be the person holding the position on the effective date as determined under Article IX.~~ The City Auditor shall, except as above provided, be a certified public accountant LICENSED IN THE STATE OF MARYLAND and shall be appointed by the Comptroller in accordance with the provisions of the Charter relating to the Classified Civil Service, and shall hold office in accordance with such provisions. The City Auditor shall appoint such assistants and employees as may be provided in the Ordinance of Estimates. Sufficient funds shall be included in the Ordinance of Estimates for the Department of Audits to enable the City Auditor to perform the duties prescribed herein.

~~0.~~ 5. DEPARTMENT OF ~~FINANCIAL~~ AUDITS--DUTIES.

The City Auditor shall make, in accordance with generally accepted auditing principles:

(a) at appropriate intervals, a regular audit of the financial transactions of every municipal agency, other than those under the supervision or control of the Comptroller,

(b) at any time, such other FINANCIAL audits as the City Auditor may, on ~~his own~~ INDEPENDENT initiative, undertake, INCLUDING BUT NOT LIMITED TO AUDITS OF CONTRACTS, GRANTS, SUBGRANTS AND OTHER AGREEMENTS OF THE CITY,

(c) at any time, such other audits as the Comptroller or the Board of Estimates may request; provided, that, such requested audits shall not, in the judgment of the City Auditor, unduly hinder the performance of regular audits. The City Auditor shall make reports of all such audits to the Comptroller and, at the same time, to each of the other members of the Board of Estimates. In addition, the City FINANCIAL Auditor shall, under the supervision of the Comptroller, annually make a general comprehensive public report of the financial position of the City; in the discretion of the Comptroller such report may be in the form of an opinion on the annual financial statement prepared by the Director of Finance. To carry out his THESE duties, the City FINANCIAL Auditor shall have access at all times to the financial records of all municipal agencies.

~~9.~~ 6. DEPARTMENT OF ~~FINANCIAL~~ AUDITS--INDEPENDENT FINANCIAL AUDITORS.

The Board of Estimates shall at appropriate intervals engage an independent firm of certified public accountants to audit the financial transactions of the Department of Audits and of those municipal agencies under the control of the Comptroller and may, from time to time, engage such a firm to examine the fiscal and financial procedures, records, and accounts of any municipal agency. In all such instances, the independent firm of certified public accountants shall make reports of its audits or recommendations to the Board of Estimates. The Comptroller or the Board of Estimates may, from time to time, engage an independent firm of certified public accountants to examine and report to the Board of Estimates on the techniques and methods used by the City FINANCIAL Auditor in carrying out his THE duties under this Article.

~~8.~~ 7. PERFORMANCE AUDITS.

THE COMPTROLLER SHALL CONDUCT AUDITS OF THE PERFORMANCE OF ALL DEPARTMENTS, AGENCIES, BOARDS, COMMISSIONS AND UNITS OF

GOVERNMENT WHENEVER THE COMPTROLLER DEEMS NECESSARY, OR IS DIRECTED TO PERFORM SUCH AN AUDIT BY EITHER THE MAYOR OR THE CITY COUNCIL. AT THE COMPLETION OF THE PERFORMANCE AUDIT, THE COMPTROLLER SHALL SUBMIT THE RESULTS TO THE BOARD OF ESTIMATES AND THE MEMBERS OF THE CITY COUNCIL.

THE COMPTROLLER SHALL INVESTIGATE AND RECOMMEND WAYS IN WHICH EACH UNIT OF GOVERNMENT COULD BE MADE TO OPERATE MORE EFFICIENTLY AND EFFECTIVELY SO AS TO PROVIDE MAXIMUM SERVICE TO THE CITIZENS OF BALTIMORE.

THE COMPTROLLER SHALL PROVIDE FOR THE PREVENTION AND DETECTION OF FRAUD, WASTE AND ABUSE. REGULARLY SCHEDULED AUDITS SHALL BE DESIGNED, IN CONJUNCTION WITH THE CITY AUDITOR, TO PROVIDE REASONABLE ASSURANCE OF DETECTING ABUSE OF ILLEGAL ACTS THAT COULD SIGNIFICANTLY AFFECT AUDIT OBJECTIVES. THE COMPTROLLER SHALL INSTITUTE SUCH OTHER MEASURES AS WILL CONTRIBUTE TO THE FINANCIAL INTEGRITY OF THE CITY, TO INCLUDE ASSESSING RISKS AND VULNERABILITIES, PERFORMING PREAWARD REVIEWS, OPERATING A FRAUD HOTLINE, AND COORDINATING WITH AND ASSISTING LAW ENFORCEMENT AUTHORITIES IN CASES INVOLVING THE CITY.

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Mayor's Charter Review Commission

Final Report



May, 2018

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CATHERINE E. PUGH
Mayor
250 City Hall, 100 North Holliday Street
Baltimore, Maryland 21202

May 28, 2018

The Honorable Catherine E. Pugh
Mayor of Baltimore City
Baltimore City Hall

Dear Mayor Pugh:

The Mayor's Charter Review Commission (Commission) you established is hereby submitting its final report and recommended changes to the Baltimore City Charter. You charged the Commission to examine the Charter and recommend revisions to increase the effectiveness of City operations, removed arcane or outdated provisions, and updated sections to reflect the current needs of the City. The Commission was divided into six subcommittees focusing on specific functional areas within the Charter:

- Audits
- Budget and Finance
- City Council and Legislative Process
- Mayor's Office and Executive Function
- Procurement and Purchasing
- Pruning and Human Resources

Between early February and early April, these subcommittees held weekly meetings open to the public to discuss potential changes within their respective areas. On March 14th, the Commission held a public hearing on potential charter revisions. In April, each subcommittee recommended changes to the Coordinating Committee, which consisted of the subcommittee co-chairs as well as the two Commission co-chairs. The Coordinating Committee evaluated the subcommittees' reports and made final recommendations that are included herewith.

The final report is divided into four sections. The first section provides a detailed overview of the charge and background on the Commission. The second provides information on how the Commission was organized as well as an overview on the subject areas for each subcommittee. The third section includes the global recommendations from the Commission, which are recommendations that either span the entire Charter or are outside of the Charter itself. These recommendations are as follows:

1. The Mayor and City Council should work with the City Delegation to the General Assembly to revise Article II to eliminate obsolete, dated and duplicative provisions and to generally modernize the grant of legislative powers delegated to the City pursuant to Article XI-A of the Maryland Constitution.
2. The Mayor should appoint a committee to study the efficacy of using a biennial budget process and to consider whether such a process could meet the City's needs.
3. The Mayor should appoint a committee to consider how to better engage the public in the budget process.
4. The Board of Estimates should consider establishing a review panel to adjudicate bid and contract disputes before an item is submitted to the Board of Estimates.
5. The City should convene stakeholders to develop a stronger process for managing grants.
6. All provisions of the Charter that provide for notice and publication should be revised to modernize and reflect the use of electronic forms of communication.
7. The Charter should be reviewed and revised to eliminate gender bias in the language used.
8. After the 2020 census, the Mayor and City Council should examine the following:
 - The appropriate number of Council districts relative to the City's population;
 - Whether districts should be multi- or single-member; as well as
 - Whether there should be additional at-large Council members.

The fourth and final section of the report includes specific recommendations on charter changes. The specific recommendations are included within the actual charter text. Affected articles of the City Charter are included and the changes that the Commission recommends are interlineated within the text and highlighted. Substantive changes are highlighted in yellow and are followed by a callout box, which provides a narrative describing why the change is recommended. Technical changes are highlighted in blue and contain no additional narrative.

The recommendations are intended to streamline the Charter and reflect the basic, organizational, and structural purpose of a local government charter. To that end, provisions may be recommended for deletion, not because the policy or process should be eliminated, but because it should be included in an Ordinance, regulation, or policy. Other recommended changes include new language and/or provisions that are appropriate for a charter. Additions of particular note include:

- Establishing the Office of the Inspector General in the Charter;
- Specifying that the Charter should be reviewed at least once every ten (10) years; and
- Allowing the Mayor and City Council or the Board of Estimates to consider types of contracts or procurements outside of just low-bid or high-score.

The Honorable Catherine E. Pugh
Page Three

The Commission believes it held true to your charge to focus on streamlining and improving the Charter to make the City more effective. We focused on recommendations that were common sense and that we believe had broad support. We believe the final recommendations will go a long way towards improving the quality and effectiveness of Baltimore City government and are proud to endorse them. The Coordinating Committee stands ready to provide additional support, background, or information as you or others may require.

Respectfully submitted,

Matthew Garbark
Commission Co-Chair

Ricardo Johnson
Commission Co-chair

Kevin Lynch
Audits Subcommittee

Brandon Moore
Audits Subcommittee

William J. McCarthy, Jr.
Budget and Finance Subcommittee

Sharon R. Pinder
Budget and Finance Subcommittee

Rochelle (Rikki) Spector
City Council and Legislative Process
Subcommittee

Earl Adams
City Council and Legislative Process
Subcommittee

Dawn Kirstaetter
Mayor's Office and Executive Function
Subcommittee

Robert Gonzales
Mayor's Office and Executive Function
Subcommittee

Scot Spencer
Pruning and Human Resources Subcommittee

Carolyn Colvin
Pruning and Human Resources Subcommittee

Ernst Valery
Procurement and Purchasing Subcommittee

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1. Charge/Background

The Baltimore City Charter is the primary governing document for the City of Baltimore. The Charter outlines the framework by which the City Government is to operate. However, the City is constantly evolving, and with it, comes the necessity to evolve our governing document to match these changes. There have been several individual amendments to the Charter in recent years. However, the last time the City performed a major Charter overhaul was in 1994. The City and society as a whole have changed significantly in the last 24 years.

As a result, Mayor Pugh established a Mayor's Charter Review Commission, comprised of over 50 representatives from the community, businesses, non-profit institutions, and City government. The Mayor's charge to the Commission was aggressive. In less than two months, she asked the Commission to review the Baltimore City Charter and develop recommendations to streamline and update provisions so that City operations can be performed more effectively and efficiently. She made it clear that the Commission should not focus on controversial or significant structural changes to City government. Rather, it should focus on common-sense updates to bring the Charter into the 21st century and to conform charter provisions to legal standards for what a local government charter should include. The accelerated timeline was established to ensure that any changes could make it on the 2018 General Election ballot.

Local governments are instruments of the State, which means the Maryland Constitution and laws provide for the creation of local governments. The creation and amendment process for a local government charter is established in the Maryland Constitution. Article 11-A of the Maryland Constitution provides that:

“[a]mendments to any charter adopted by the City of Baltimore... may be proposed by a resolution of the Mayor of Baltimore and the City Council of the City of Baltimore ... A petition shall be filed with the Mayor of Baltimore or the President of the County Council. An amendment so proposed shall be submitted to the voters of the City ... at the next general or congressional election occurring after the passage of the resolution or the filing of the petition.”

In order to make it onto the November 6, 2018 General Election ballot, resolutions containing proposed amendments to the charter must be submitted to the Baltimore City Council. There, the resolutions would follow the same process as any piece of legislation. They would be referred to committee where a public hearing would be held. The committee could make changes to the resolutions. If the committee votes favorably on the resolutions, the entire Council must then vote to approve them. Amendments could also be made when they are considered by the full Council. Since the Maryland Constitution specifies that both the City Council and the Mayor must approve the resolutions, the Mayor has the choice to sign the resolutions passed by the City Council or veto them.

Once the resolutions are passed by the Council and signed by the Mayor, they are sent to the Board of Elections where questions are prepared for the November General Election ballot. The

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questions summarize the changes made by each resolution and must be approved by Baltimore City voters to take effect.

The Commission was briefed by the City Law Department about the legal standards for local government charters. Overall, charters are intended to provide the structure and organization of a local government. As it is subject to voter approval, the Charter must be a simple, straightforward document that provides just enough information to inform the public how their local government is structured and functions. Legislative items should not, and in fact, cannot be included in a charter. Administrative items may be included in a charter so long as they are not so detailed as to become legislative. The courts can strike down charter provisions if they are deemed to go beyond the basic structure and organization of government. A charter is expected to empower a legislative branch to handle legislative matters and an executive branch to handle operational and administrative matters.

Because the Commission is a public body, it was subject to open meetings rules requiring advanced public notice of meetings, the recording of minutes, the posting of meeting agendas, and approval of minutes by the body. With all of this information in mind, the Commission broke into six subcommittees generally co-chaired by two individuals to review specific areas of the charter. To ensure compliance, Robert's Rules of Order were used to govern the overall commission as well as each subcommittee. Per the rules, subcommittees voted on changes and had to have a quorum (majority) of the subcommittee members present to vote.

The subcommittee co-chairs as well as the two Commission co-chairs formed the Charter Commission Coordinating Committee. Subcommittee changes were referred to the Coordinating Committee for consideration. As with the subcommittees, the Coordinating Committee was subject to open meetings requirements and used Robert's Rules of Order to consider the subcommittee recommendations.

In terms of a timeline, the subcommittees met weekly between early March and early April. Reports were submitted to the Coordinating Committee by early-mid April. Draft resolutions of these changes should be prepared and submitted to the Council by early May. The Council would need to approve the resolutions by late July or early August to ensure they can make it on the November ballot.

2. Committee Structure, Membership, and Areas

The Charter Review Committee was segmented into six subcommittees, each focused on a specific subject or area. Each subcommittee consisted, generally, of two co-chairs, approximately 5-10 voting members, one City attorney, one staffer from either the Mayor's Office or the Greater Baltimore Committee, and 2-3 Masters-level students from UMBC to perform research. The subcommittees were as follows:

- **Audits Subcommittee:** This subcommittee was tasked with reviewing the auditing process, including who should participate in auditing accounts and transactions.
 - **Membership:**
 - *Kevin Lynch (co-chair)*
 - *Brandon Moore (co-chair)*
 - Audrey Askew (Member)
 - Steward Beckham (Member)
 - Marie Grant (Member)
 - Sarah Hemminger (Member)
 - Leland Shelton (Member)
 - July Venroy (Member)
 - Brandon Wharton (Staff Support)
 - Mike Mullen (Attorney)
 - Salar Khaleghzadegan (UMBC Researcher)
 - Mike Akama (UMBC Researcher)
 - Aqib Hayat (UMBC Researcher)
- **Budget and Finance Subcommittee:** This subcommittee was tasked with reviewing the processes for preparing, adopting, and altering the City budget. They also reviewed the process and constraints for indebtedness.
 - **Membership:**
 - *Bill McCarthy (co-chair)*
 - *Sharon R. Pinder (co-chair)*
 - Steward Beckham (Member)
 - Ann Cotten (Member)
 - John Brothers (Member)
 - John Hoey (Member)
 - Ellen Janes (Member)
 - Laurie Schwartz (Member)
 - Neb Sertsu (Member)
 - Shaina Hernandez (Staff Support)
 - Elena DiPietro (Attorney)
 - Lucas Manes (UMBC Researcher)
 - Jeremy Matthews (UMBC Researcher)

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- **City Council and Legislative Process Subcommittee:** This subcommittee was tasked with reviewing topics related to the City Council, including the size, composition, and qualifications of City Council members as well as the process by which legislation is passed.
 - **Membership:**
 - *Rochelle Spector (co-chair)*
 - *Earl Adams (co-chair)*
 - Enoch Bevel (Member)
 - Josh Greenfeld (Member)
 - Brian Hammock (Member)
 - Kara Kunst (Member)
 - Tyson King-Meadows (Member)
 - Michael Middleton (Member)
 - Sameer Sidh (Member)
 - Andrew Aleshire (Staff Support)
 - Elena DiPietro (Attorney)
 - Marcus Jones (UMBC Researcher)
- **Mayor's Office and Executive Function Subcommittee:** This subcommittee was tasked with reviewing the qualifications for the Chief Executive, their powers/constraints, and the process by which they are elected.
 - **Membership:**
 - *Dawn Kirstaetter (co-chair)*
 - *Robert Gonzales (co-chair)*
 - Victor Bonaparte (Member)
 - Andy Frank (Member)
 - Kevin Kelly (Member)
 - Fred Lazarus (Member)
 - Caryn York (Member)
 - Anthony Scott (Staff Support)
 - Hilary Ruley (Attorney)
 - Grace De Oro (UMBC Researcher)
 - Caroline Fitchett (UMBC Researcher)
- **Pruning and HR Subcommittee:** This subcommittee was tasked with reviewing the Charter as a whole to identify obsolete or dated provisions, provisions that are legislative in nature or too detailed for a charter, and provisions that could be deemed extraneous.
 - **Membership:**
 - *Scot Spencer (co-chair)*
 - *Carolyn Colvin (co-chair)*
 - Ted Laster (Member)
 - Greg Cross (Member)
 - Kirby Fowler (Member)

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- Roger Hartley (Member)
 - Yu Kang (Member)
 - Mike Kelly (Member)
 - Sabina Kelly (Member)
 - Kimberly Moffit (Member)
 - Christy Wyskiel (Member)
 - Thurman Zollicoffer (Member)
 - Teresa Milio Birge (Staff Support)
 - Victor Tervalá (Attorney)
 - Andrew Reinell (UMBC Researcher)
 - Nick Adcock (UMBC Researcher)
- **Procurement and Purchasing Subcommittee:** This subcommittee was tasked with reviewing and updating the specific requirements that are applied to the procurement and purchasing processes as outlined in the Charter.
 - **Membership:**
 - *Ernst Valery (chair)*
 - Harriette Taylor (Member)
 - Navin Dass (Member)
 - Thomas Hickey (Member)
 - Alex McGuire (Member)
 - Theo Ngongang (Member)
 - Alicia Wilson (Member)
 - Jacob Wittenberg (Member)
 - Dominic Lamartina (Staff Support)
 - Michael Schrock (Attorney)
 - Elena DiPietro (Attorney)
 - Xiaobei Dong (UMBC Researcher)
 - Jennifer Gray (UMBC Researcher)
 - Becca Scharf (UMBC Researcher)

Each of the six Subcommittees was overseen by the Coordinating Committee, which was comprised of each of the Subcommittee co-chairs as well as the co-chairs of the full Charter Review Committee (Matthew Garbark and Ricardo Johnson). The Coordinating Committee was tasked with reviewing the findings of the six Subcommittees and making final recommendations to the Mayor.

3. Global Recommendations

The Charter Commission established a comprehensive review of the City Charter based on extensive feedback from the Mayor's Office, City Council, the Comptroller's Office, and Executive Departments, along with the general public. Based on this process, the Commission produced a series of recommendations to improve and clarify charter language that were either global in nature or specific to particular provisions. This section summarizes those global recommendations that the Commission accepted from the aforementioned subcommittees.

The Pruning Subcommittee identified obsolete or dated provisions that were legislative in nature or too detailed for a charter, and provisions that could be deemed extraneous. This review produced the following recommendations that the Commission accepted:

- The Mayor and City Council should work with the City Delegation to have the Maryland General Assembly revise Article II to eliminate obsolete, dated and duplicative provisions and to generally modernize the grant of legislative powers delegated to the City pursuant to Article XI-A of the Maryland Constitution.
- All provisions of the Charter that provide for notice and publication should be revised to modernize and reflect the use of electronic forms of communication.
- The Charter should be reviewed and revised to eliminate gender bias in the language used.

The Budget and Finance Subcommittee reviewed the processes for preparing, adopting, and altering the City budget. The Commission has accepted the following recommendations from this subcommittee:

- Biennial budget –The recommendation of the subcommittee is to appoint a Task Force to study of efficacy of using a biennial budget process and to develop a form of biennial budgeting that suits the City's needs. This could include studying jurisdictions that currently use this process. This proposal was of interest to the subcommittee because of how time-consuming and intensive the current process has become. The Bureau of the Budget and Management Research (BBMR) has very little time that is not consumed by preparing the next fiscal year budget or participating in the adoption process. This leaves little time to do budget and fiscal policy research and planning which could lead to more innovation in the budgeting process and other fiscal policy areas. Biennial Budgeting is supported and endorsed by both the Budget Director and the Director of Finance. The subcommittee decided that a biennial budget should be seriously considered and that the supplementary appropriation process should be retained to provide for flexibility. The subcommittee, however, felt it had insufficient time to thoroughly study the impact of such a change and how it could be best implemented in Baltimore City.

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- Public engagement around the budget process – The subcommittee was very interested in the concept of participatory budgeting and engaging the community in the process in some way but did not think that this was appropriate for the Charter. The recommendation is that a committee be formed to consider how to better engage the public in the budget process.
- Bid protests – Although not part of the Subcommittee's focus, the subcommittee discussed the lack of a bid process for contractors to follow in order to protest an award of a contract by the Board of Estimates. The recommendation is that the Charter be amended to require the Board of Estimates to establish a best practices process for bid protests. A specific recommendation is for the establishment of an independent body such as a Board of Contract Appeal. This Board of Contract Appeal would adjudicate bid and contract disputes between the City government and contractors or vendors doing business with the City – before it is presented before the Board of Estimates.
- Grant Administration – While there is not a Charter change recommendation, the Subcommittee recommends that the city convene stakeholders toward several goals, including the development of a stronger process of managing grants. This is to ensure that all allotted city grant funding is being used to meet the city's most pressing current needs and that there is a coordinated and collaborative effort to obtain new grant dollars from state, federal and private sources that meaningfully builds upon current and future budgets.

Finally, the City Council Subcommittee reviewed items related to the size, composition, and qualifications of City Council members. Despite the changes to the City's population since 2000, the Commission accepted the City Council Subcommittee's decision to defer discussion on the size of the City Council until after the 2020 Census. However, after the 2020 census, the Commission recommends the Mayor and City Council reexamine the following topics related to the City Council:

- Number of City Council Seats
- Multi-Member Districts vs. Single Member Districts
- At-Large Members vs. Districts

4. Specific Recommendations

The specific charter changes recommended by the Commission are included in this section. In order to view the recommendations in context with other related provisions in the charter, the text from Articles I, III, IV, V, VI, VII, VIII, and IX are included in numerical order and the changes are added directly to the text. A convention is used to denote the changes as follows:

- New language is in **BOLD SMALL CAPS**
- Removal or deletion of language is ~~struck through with one line~~
- Substantive changes are highlighted in yellow
- Non-substantive or technical changes are highlighted in blue

There is a key in the footer on each page of this section to assist the reader in following the convention. In addition, below each substantive change, there is a callout box describing why the change is recommended.

Finally, it should be noted that no changes were recommended to Article II of the City Charter. Article II includes the powers provided by the Maryland General Assembly. As a result, the City cannot change those provisions through this process. Any changes to provisions in Article II must be made first by the Maryland General Assembly. The first global recommendation of the Commission is to work with the City's delegation to review the provisions included in Article II of the Charter and update or modernize as necessary.

The Commissions-specific recommendations to the Charter, starting with Article I, are as follows:

ARTICLE I GENERAL PROVISIONS

§ 7. Records; Reports

THE MAYOR AND CITY COUNCIL SHALL PROVIDE FOR APPROPRIATE RECORD-KEEPING AND THE PUBLIC SHALL HAVE THE RIGHT TO INSPECT PUBLIC RECORDS IN ACCORDANCE WITH STATE LAW.

~~(a) Required maintenance; Admissibility; Public inspection.~~

A suitable record of all the proceedings, financial transactions and official acts of all municipal agencies, shall be kept, and a certified copy of the record, or any part thereof, under the corporate seal of the City shall be admissible in evidence in any court of this State as proof of such record, or a part thereof. A record shall be available for public inspection unless otherwise expressly ordered by the head of the agency or the municipal officer by or on behalf of whom the record is kept; and in the event that written demand shall be made for the public disclosure of any matter deemed confidential by the head of an agency or by a municipal officer, the demand shall at once be referred to the Board of Estimates and the Board, after consultation with the City Solicitor as to the legal propriety of its action, may order the demanded disclosure to be made in whole or in part.

~~(b) Microfilm, etc.~~

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The City may provide by ordinance for the making and keeping of all or some records on microfilm or by other method of reproduction and, when so made, for the destruction of the original records. Any such reproduction or print therefrom shall be in all respects the equivalent of the original from which made, and when authenticated as above provided shall be admissible in evidence in any court of this State as proof of that record, or part thereof.

(c) Annual report; Other information.

Unless otherwise directed by the Board of Estimates, every municipal agency of the City shall prepare annually a written report of its work and proceedings. A copy of each report shall be filed with the Mayor and a copy shall also be filed with the Department of Legislative Reference; additional copies of each report, or parts thereof, shall be prepared and made available as from time to time may be directed by the Board of Estimates.

Upon request of the Mayor or Board of Estimates every municipal agency shall promptly supply the Mayor or the Board with all requested information with respect to the practice and proceedings of the agency; provided, however, that this information need not be given with respect to any undetermined policy or opinion, nor shall the Board of Municipal and Zoning Appeals make any disclosure as to any pending appeal other than to furnish a copy of the testimony and papers filed with it pertaining to that appeal.

Paragraphs (a) and (b) already are required by State law and the referenced technology is obsolete. The provisions of Paragraph (c) in some cases are not being performed and, in other cases, are being performed routinely. In effect, the requirements in this paragraph are unremarkable and need not be contained in the Charter. The proposed language is broad enough so that the Mayor and City Council can exercise whatever document control needs to be imposed.

§ 8. Official time. [RESERVED]

The official time of the City of Baltimore shall conform to standard time based upon the time of the seventy-fifth meridian, except that, from two o'clock a.m. of the last Sunday in April until two o'clock a.m. of the last Sunday in September of each year, the official time throughout the City of Baltimore shall be advanced one hour, and all courts, public offices, legal and official proceedings, insofar as the same are subject to or under the control of the Mayor and City Council of Baltimore, shall be regulated thereby, and all time shown by the public clocks shall agree therewith. Provided, however, that the Mayor and City Council by ordinance passed not less than fifteen days before the change would become effective, may extend the period during which the one hour variation from standard time shall be effective in any year or years. The extension may be to change the advance in time up to two o'clock a.m. on the last Sunday in March, or back to two o'clock a.m. on the last Sunday in October, or both such changes, or any portion or portions of either. Any such extension may be provided only if other municipalities or sections of the United States shall have made such a change, and in the opinion of the Mayor and City Council thereby have caused inconvenience and annoyance to the commercial, economic, industrial or social affairs of the residents of Baltimore City.

This section is obsolete.

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§ 10. Affordable housing funds.

~~(a) Authorization.~~

By Ordinance, the Mayor and City Council of Baltimore may establish 1 or more continuing, nonlapsing funds for purposes of promoting economically diverse housing in City neighborhoods, including:

- (1) providing assistance, by loan, grant, or otherwise, for the planning, production, maintenance, or expansion of affordable housing in the City;
- (2) providing assistance, by loan, grant, or otherwise, to persons unable to obtain affordable housing; and
- (3) otherwise increasing housing opportunities for working families and other persons of low and moderate income.

~~(b) Revenue sources.~~

~~A fund established under this section may comprise:~~

- ~~(1) money appropriated to the fund in the annual Ordinances of Estimates; and~~
- ~~(2) grants or donations made to the fund.~~

~~(c) Continuing nature of fund.~~

~~Notwithstanding any other provision of this Charter, unspent portions of a fund established under this section:~~

- ~~(1) remain in the fund, to be used exclusively for their ordained purposes;~~
- ~~(2) do not revert to the general revenues of the City; and~~
- ~~(3) their appropriations do not lapse.~~

Subsections (b) and (c) are not necessary for a Charter and add nothing that an Ordinance could authorize, as indicated in the first subsection.

ARTICLE III CITY COUNCIL

§ 7. Council districts.

(a) *Criteria for redistricting.*

The City shall be divided by ordinance into districts for the election of members of the City Council. The criteria in redistricting shall be equality of population, contiguous territory, compactness, natural boundaries, ~~existing council district lines~~, and the standards established by the Supreme Court of the United States.

This change removes the requirement that existing council district lines be considered when redistricting. The removal still allows them to be considered, though it would not be required.

ARTICLE IV MAYOR

§ 4. General powers.

- (a) *Conservator of peace; Financial oversight; Report on state of City.*

The Mayor, by virtue of the office, shall have all the powers of a conservator of the peace.

THE POWERS OF A CONSERVATOR OF THE PEACE INCLUDE ANY ACTION NECESSARY AND NOT CONTRARY TO LAW TO KEEP THE PEACE DURING A RIOT, DISTURBANCE OR DISORDERLY ASSEMBLY.

The Mayor may call upon any officer of the City entrusted with the receipt or expenditure of public money, for a statement of account as often as the Mayor thinks necessary, and may at any time by expert accountants and bookkeepers, examine the books and accounts of any department, commission, board, officer, assistant, clerk, subordinate or employee.

The Mayor shall report to the City Council as soon as practicable after the end of each fiscal year, the general state of the City, with an accurate account of the money received and expended, to be published for the information of the citizens.

This addition clarifies the powers of a conservator, however should not be misconstrued to limit them.

- (b) *Chief executive officer.*

The Mayor shall be the chief executive officer of the City, shall see that ordinances and resolutions are duly and faithfully executed, and shall have general supervision over all municipal officers and agencies.

- (c) **GENERAL WELFARE AND** *Economic development.*

Subject to more specific provisions of the Charter, the Mayor shall have general responsibility for the **HEALTH, WELFARE, AND** economic development of the City **THAT ARISE FROM THE EXECUTIVE DUTIES OF THE OFFICE.**

This addition captures other responsibilities that proceed from the Mayor's executive duties, but does not limit them.

§ 6. Appointments of municipal officers.

- (a) *Appointment subject to confirmation.*

Except as otherwise provided in the Charter, the Mayor shall have the sole power of appointment of all municipal officers, subject to confirmation by the City Council by a majority vote of its members; provided the Council shall take action on the nomination within the first three regular meetings of the Council after the nomination is sent to it by the Mayor. If the Council fails to take action within this time, then the person nominated shall be, by operation of

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this subsection, confirmed by the Council. If the Council, by the required vote and in the prescribed time, shall refuse to confirm the nomination, the Mayor shall send to it another name for the office, who shall be subject to confirmation pursuant to this subsection.

(b) *Terms of officers.*

The terms of all municipal officers appointed by the Mayor shall expire at the end of four years or at the end of the Mayor's term of office, whichever first occurs, with the exception of the terms of some of the members of the Board of School Commissioners, the Civil Service Commission, the Planning Commission, the Board of Municipal and Zoning Appeals, and those boards and commissions governed by State or federal law. The terms of the members of these boards and commissions are prescribed elsewhere in the Charter or by other law.

(c) *Removal – In general.*

The Mayor shall have the power to remove at pleasure all municipal officers, except members of boards and commissions established by Charter or other law, appointed by the Mayor in the manner prescribed in this section and confirmed by the City Council; provided, however, that appointees holding office pursuant to the provisions of the Charter relating to the Civil Service may be removed from office only in accordance with such provisions.

(d) *Removal – Boards and commissions.*

Except as otherwise provided by law, the Mayor may remove members of boards and commissions established by Charter or other law by majority vote of the members of the City Council. Removal shall date from the time of City Council approval.

(e) *Term limits.*

No person, except ex officio members, shall serve more than two consecutive full terms, in addition to any unexpired term served, on the same board or commission.

(f) *Vacancies – In general.*

Upon the vacancy in any office subject to this section, whether by resignation, removal, death, end of a term or otherwise, the Mayor shall fill the vacancy by an appointment in the manner prescribed in this section for the remainder of the term, if any, of the former incumbent.

(g) *Vacancies – Boards and commissions.*

When a vacancy occurs on a board or commission established by this Charter, or other law, the Mayor shall have, for 120 days after the occurrence of that vacancy, the sole power of appointment to the vacant office. Such appointment shall be subject to confirmation by the City Council in the manner prescribed in this section.

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If the Mayor fails to submit a nomination within the time prescribed in this subsection, the power of appointment shall vest and be held by the board or commission to which the vacancy shall apply, and that board or commission, by majority vote, shall certify the name of a person to the City Council for confirmation in the manner prescribed in this section.

For the purposes of this subsection only, a vacancy shall occur upon the occurrence of an event enumerated in subsection (f) hereof, and also upon the rejection by the City Council of a nomination to a board or commission.

(h) *Vacancies – Office of director or similar.*

When a vacancy occurs in an office to which a municipal officer may be appointed who is subject to removal as provided in subsection (c), the Mayor may, in the interest of governmental efficiency and in order to provide uninterrupted municipal services, designate a person within the department or agency affected to perform the duties of the vacant office. Such a person shall cease to perform the duties of the office when a municipal officer is appointed and confirmed in the manner prescribed in this section, or one year after designation, or sixty days after the City Council shall by resolution, passed by majority vote and not subject to veto, direct the Mayor to appoint, subject to confirmation, a municipal officer, whichever first occurs; provided, however, that the City Council shall have no power to direct the appointment of any individual.

(i) *Oath and commission.*

All persons appointed by the Mayor, as well as those municipal officers elected by the people or by the City Council, shall qualify for office by taking before the Mayor an oath faithfully to perform the duties of their offices, and to support the laws and constitutions of the United States and of the State of Maryland. A test book shall be kept by the Mayor, which shall be signed at the time of taking the oath, and after qualifying, the Mayor shall issue to the officers a commission signed by the Mayor with the corporate seal attached.

(j) *Recess appointments.*

Whenever a vacancy that the Mayor is empowered to fill subject to confirmation by the City Council shall occur during the recess of the City Council, the Mayor may temporarily appoint a person to fill that vacancy until the next regular meeting of the City Council. At that meeting, the Mayor shall present such appointment for confirmation as provided for in this section for other appointments by the Mayor.

~~(k) *Holding over; Dual offices of profit prohibited.*~~

~~All elected municipal officers provided for in the Charter or other law, shall hold their offices until their successors are appointed or elected and qualified.~~

~~No person shall at any time hold more than one office yielding pecuniary compensation under the Mayor and City Council of Baltimore.~~

This subsection is unnecessary because the Maryland Declaration of Rights, Article 35 already prohibits this.

ARTICLE V COMPTROLLER

§ 5. Department of Real Estate – Duties.

The Department of Real Estate shall have the following responsibilities in all matters relating to the acquisition, sale, lease, exchange or other disposition of real property of the City; provided, however, that nothing in this section shall affect the exercise by the City by ordinance of the powers granted to it in subsection (15) of Article II, or by the Mayor of the powers provided by Section 4(c) of Article IV relating to economic development:

(a) *Negotiation of acquisitions.*

Subject to any limitation on this power elsewhere in the Charter, any purchase (other than by condemnation) of real property or an interest therein by the City shall (unless and to the extent otherwise provided by the Board of Estimates) be negotiated and made on its behalf by the Department of Real Estate in such a manner as the Board of Estimates shall from time to time authorize and instruct.

(b) *Disposition of City property.*

The Department shall (unless and to the extent otherwise provided by the Board of Estimates) arrange for the disposition of any building or parcel of land (or any other real property) no longer needed by the City for public use. **THE DISPOSITION SHALL BE AUTHORIZED BY ORDINANCE AND APPROVED BY THE BOARD OF ESTIMATES.**

~~Any such disposition shall be authorized by ordinance, shall be approved by the Board of Estimates with the approval entered in its minutes, and shall be made at public sale unless a private sale or other manner of disposition shall be expressly authorized by the Board of Estimates and entered in its minutes. The instrument of conveyance of any building or parcel of land (or any other real property) whose disposition has been so authorized and approved shall be executed on behalf of the City by the Comptroller or Deputy Comptroller and attested to by the Director of Finance or the Deputy Director of Finance.~~

(c) *Leasing City property.*

The Department is authorized to lease any building or parcel of land (or any other real property) not needed by the City for public purposes on a month to month basis, unless otherwise provided by ordinance. It is also authorized to lease such property for fixed terms provided such leases are first approved by the Board of Estimates.

(d) *Inventory of City property.*

The Comptroller, working in conjunction with the heads of other affected municipal agencies, shall maintain a public inventory of the City's properties.

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The deleted material is purely administrative in nature and the proposed language captures the substance of the deleted paragraph.

§ 6. Real Property Account.

~~Except as may be otherwise provided by ordinance with regard to the exercise by the City of the powers granted to it in subsection (15) and subsection (15A) of Article II, the Comptroller shall cause to be credited to an account to be known as the "Mayor and City Council Real Property Account", the proceeds from the sale by the City of any real or leasehold property or interest therein.~~

Moneys received from such sales shall be appropriated in the Ordinance of Estimates only for the purchase of land, and the purchase or construction of buildings, and other construction work and projects, and to carry out the industrial and economic development powers vested in the Mayor and City Council of Baltimore by the provisions of subsection (15A) of Article II, it being the intent of this provision to limit the use of such moneys to the purposes specifically mentioned in this section, and otherwise to prohibit their use for current expenses of the City.

~~The annual Ordinance of Estimates shall include the appropriations which are proposed to be charged to the "Mayor and City Council Real Property Account", and the state of the account, with the particulars as to sources of receipts, shall be reported by the Comptroller annually to the City Council.~~

PROCEEDS FROM ANY SALE OF REAL OR LEASEHOLD PROPERTY OR INTEREST THEREIN SHALL BE APPROPRIATED IN THE ORDINANCE OF ESTIMATES AND USED SOLELY TO PURCHASE LAND OR TO FUND CAPITAL IMPROVEMENTS. THE PROCEEDS MAY NOT BE USED TO PAY FOR ITEMS IN THE CITY'S OPERATING BUDGET.

The proposed language is intended to frame the substance of the deleted material.

§ 7. Department of Audits – Established.

(a) *Establishment; City Auditor.*

There shall be a Department of Audits, the head of which shall be the City Auditor.

The City Auditor shall be a certified public accountant who is licensed by the State of Maryland, shall be appointed by the Comptroller in accordance with the provisions of the Charter relating to the Civil Service, and shall hold office in accordance with these provisions.

(B) THERE SHALL BE A DEPUTY CITY AUDITOR.

THE DEPUTY CITY AUDITOR SHALL BE A CERTIFIED PUBLIC ACCOUNTANT WHO IS LICENSED BY THE STATE OF MARYLAND AND APPOINTED BY THE COMPTROLLER. WHENEVER A

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VACANCY SHALL OCCUR IN THE OFFICE OF THE CITY AUDITOR OR WHENEVER THE CITY AUDITOR IS INCAPACITATED OR OTHERWISE UNAVAILABLE FOR DUTY FOR ANY CAUSE, THE DEPUTY AUDITOR SHALL BE THE ACTING CITY AUDITOR UNTIL THE CITY AUDITOR IS AVAILABLE FOR DUTY OR THE VACANCY IS FILLED.

The language includes the position of "Deputy Auditor" in the Charter along with the authority to act for the Auditor as needed.

(b) *Staff; Budget.*

The City Auditor shall appoint such employees as may be provided in the Ordinance of Estimates.

Sufficient funds shall be included in the Ordinance of Estimates for the Department of Audits to enable the City Auditor to perform the duties prescribed herein.

§ 8. DEFINITIONS.

(A) *IN GENERAL.*

IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(B) *AUDIT.*

(1) "AUDIT" MEANS AN AUDIT UNDERTAKEN IN ACCORDANCE WITH GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS AND FEDERAL AND STATE LAW.

(2) "AUDIT" INCLUDES BOTH:

(I) A FINANCIAL AUDIT OF A PRINCIPAL AGENCY'S FINANCIAL TRANSACTIONS, INCLUDING ALL REVENUES AND RECEIPTS; AND

(II) A PERFORMANCE AUDIT THAT ASSESSES A PRINCIPAL AGENCY'S PRACTICES TO DETERMINE WHETHER THE AGENCY IS OPERATING ECONOMICALLY AND EFFICIENTLY AND WHETHER CORRECTIVE ACTIONS FOR IMPROVING ITS PERFORMANCE ARE APPROPRIATE.

(C) *PRINCIPAL AGENCY.*

"PRINCIPAL AGENCY" MEANS ANY OF THE FOLLOWING EXECUTIVE DEPARTMENTS:

(1) DEPARTMENT OF FINANCE.

(2) DEPARTMENT OF PUBLIC WORKS.

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(3) FIRE DEPARTMENT.

(4) DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

(5) DEPARTMENT OF GENERAL SERVICES.

(6) MAYOR'S OFFICE OF INFORMATION TECHNOLOGY (OR SUCCESSOR ENTITY TO THIS OFFICE).

(7) MAYOR'S OFFICE OF HUMAN SERVICES (OR SUCCESSOR ENTITY TO THIS OFFICE).

(8) DEPARTMENT OF LAW.

(9) DEPARTMENT OF HUMAN RESOURCES.

(10) DEPARTMENT OF TRANSPORTATION.

(11) POLICE DEPARTMENT.

(12) DEPARTMENT OF RECREATION AND PARKS.

(13) DEPARTMENT OF PLANNING.

(14) DEPARTMENT OF HEALTH.

(15) MAYOR'S OFFICE OF EMPLOYMENT DEVELOPMENT (OR SUCCESSOR ENTITY TO THIS OFFICE).

This section has been moved forward in this article to appear just after the enabling section. Further, given that the Baltimore Development Corporation (BDC) has its own audit process, separate from the City's, the BDC was removed as one of the principal agencies requiring biennial audits. The Department of Audits retains the authority to audit BDC, if needed, and such a requirement could be done by ordinance or regulation.

§ 89. Department of Audits – General powers and duties.

(a) *In general.*

In accordance with generally accepted government auditing standards and State and federal law, the City Auditor:

(1) shall at appropriate intervals conduct an audit of the financial transactions of every municipal agency, except the Department of Audits;

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- (1) shall conduct an annual audit of all ~~accounts, revenues, and receipts~~ **FINANCIAL STATEMENTS OF THE CITY**;

The revised language is more inclusive and gives broader authority to the Auditor. Financial statements include accounts, revenues, and receipts.

- (3) shall conduct biennial audits of principal agencies, as provided in **§ 1112** of this article;
- (4) may audit the expenditure of City-granted funds by any public or private agency that receives such funds;
- (5) may audit City contracts, grants, subgrants and other agreements as required by the terms and conditions of these instruments and, when the contracts, grants, subgrants and other agreements require that audits be conducted by other auditors, review such audits; ~~and~~
- (6) shall make such other audits as the Comptroller or the Board of Estimates may request, provided that those requested audits do not, in the judgment of the City Auditor, unduly hinder the performance of regular audits;

(7) SHALL REFER TO THE OFFICE OF THE INSPECTOR GENERAL ANY REASONABLE SUSPICION OF FRAUD, WASTE OR ABUSE THAT ARISES FROM AUDITS PERFORMED BY THE CITY AUDITOR OR FROM REPORTS RECEIVED FROM CREDIBLE SOURCES; AND

This language clarifies the duty and authority of the Auditor.

(8) SHALL ADOPT RULES AND REGULATIONS, SUBJECT TO THE APPROVAL OF THE COMPTROLLER, TO CARRY OUT THE POWERS, FUNCTIONS AND DUTIES OF THE DEPARTMENT, WHICH SHALL INCLUDE THE SCHEDULING OF AUDITS AND REQUIREMENTS TO PROVIDE CITY AGENCIES WRITTEN REPORTS OF AGENCY AUDITS AND AN OPPORTUNITY TO RESPOND TO THE FINDINGS OF AN AUDIT.

This language clarifies that the Department of Audits has authority to adopt internal rules and regulations governing how the Department shall function.

§ 910. Department of Audits – Comprehensive annual financial report.

(a) *Audit of report.*

The City Auditor, under the supervision of the Comptroller, shall audit the comprehensive annual financial report of the City, prepared by the Director of Finance. This report shall be a public document.

(b) *Access to records.*

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To carry out the Auditor's duties, the Auditor shall have access at all times to the financial records of all municipal agencies and the relevant financial records of contractors with, and grantees of, the City.

§ 1011. Department of Audits – Independent auditors.

(a) *Required engagement.*

The Board of Estimates, at appropriate intervals, shall engage an independent firm of certified public accountants to audit:

(1) the financial transactions of the Department of Audits; and

(2) the comprehensive annual financial report of the City.

(b) *Permissive engagement.*

The Board of Estimates may engage an independent firm of certified public accountants to audit the financial transactions of any municipal agency and to examine the fiscal procedures, records, accounts, and methods of any municipal agency, including the Department of Audits.

(c) *Reports.*

The independent firm of certified public accountants shall make reports of its audits, examinations, and recommendations to the Board of Estimates.

§ 1112. Department of Audits – Biennial audits of principal agencies.

~~(a) Definitions.~~

~~(1) In general.~~

~~In this section, the following terms have the meanings indicated.~~

~~(2) Audit.~~

~~(i) "Audit" means an audit undertaken in accordance with generally accepted government auditing standards and federal and state law.~~

~~(ii) "Audit" includes both:~~

~~(A) a financial audit of a principal agency's financial transactions, including all revenues and receipts; and~~

~~(B) a performance audit that assesses a principal agency's practices to determine whether the agency is operating economically and efficiently and whether corrective actions for improving its performance are appropriate.~~

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~~(3) Principal agency.~~

~~"Principal agency" means any of the following executive departments:~~

~~(i) Group A—~~

~~1. Department of Finance.~~

~~2. Department of Public Works.~~

~~3. Fire Department.~~

~~4. Department of Housing and Community Development.~~

~~5. Department of General Services.~~

~~6. Baltimore Development Corporation.~~

~~7. Mayor's Office of Information Technology (or successor entity to this Office).~~

~~8. Mayor's Office of Human Services (or successor entity to this Office). (ii)~~

~~(ii) Group B—~~

~~1. Department of Law.~~

~~2. Department of Human Resources.~~

~~3. Department of Transportation.~~

~~4. Police Department.~~

~~5. Department of Recreation and Parks.~~

~~6. Department of Planning.~~

~~7. Department of Health.~~

~~8. Mayor's Office of Employment Development (or successor entity to this Office).~~

These items were moved to Section 8.

~~(bA)~~ *Biennial audit required.*

~~(1) In general.~~

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At least ~~twice during every 4 year term of the Mayor and City Council~~ **ONCE BIENNIALY, AND IN ACCORDANCE WITH THE SCHEDULES AND PROCEDURES ESTABLISHED BY THE DEPARTMENT AND IN CONSULTATION WITH THE BIENNIAL AUDITS OVERSIGHT COMMISSION**, the City Auditor shall conduct an audit of each principal agency's operations for the preceding 2 fiscal years.

~~(2) Staggered schedule.~~

~~These audits shall be staggered so that:~~

~~(i) audits of the principal agencies listed in subsection (a)(3)(i) as "Group A" are initiated in odd numbered calendar years; and~~

~~(ii) audits of the principal agencies listed in subsection (a)(3)(ii) as "Group B" are initiated in even numbered calendar years.~~

The audit schedule and timing should be done with input from the Department of Audits and the Audits Oversight Committee rather than set in the Charter.

(eB) *Costs of audit.*

In each fiscal year preceding the fiscal year in which audits are to be conducted under this section, the Comptroller shall include the costs of those audits in the estimates that the Comptroller submits for the next year's Ordinance of Estimates.

(eC) *Status of prior recommendations.*

(1) *In general.*

Each report of an agency audit conducted under this section shall include an ancillary report on the status of all recommendations for executive action that resulted from that agency's immediately preceding audit under this section.

(2) *Content of report.*

The ancillary report shall:

(i) designate each recommendation's status either as "implemented", "partially implemented", or "not implemented"; and

(ii) provide justification **AS DETAILED BY SUCH APPLICABLE AGENCIES** for the status designation assigned.

(eD) *Publication of reports.*

Reports of all audits conducted under this section shall be:

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- (1) posted on a public website maintained by the City Comptroller;
- (2) filed with the Department of Legislative Reference; and
- (3) submitted to each member of:
 - (i) the Board of Estimates;
 - (ii) the City Council; and
 - (iii) the Biennial Audits Oversight Commission.

(fE) Biennial Audits Oversight Commission.

(1) *Commission established.*

There is a Biennial Audits Oversight Commission.

(2) *Composition.*

The Commission comprises the following 7 members:

- (i) the Director of Finance;
- (ii) the Inspector General;
- (iii) the Comptroller;
- (iv) the City Council President; and
- (v) 3 members of the City Council, appointed by the City Council President.

(3) *Officers.*

- (i) The City Council President shall designate 1 of the members to serve as Chair of the Commission.
- (ii) The members of the Commission, by majority vote, may elect any other officers that they consider necessary or appropriate.

(4) *Meetings; voting.*

- (i) The Commission shall meet at the call of the Chair as frequently as required to perform its duties.

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(ii) 4 members of the Commission constitute a quorum for the transaction of business.

(iii) An affirmative vote of at least 4 members is needed for any official action.

(5) *Procedures.*

The Commission may adopt rules of procedure to govern its meetings and operations.

(6) *Powers and duties.*

The Commission:

(i) shall provide guidance and advice to the City Auditor in determining the scope of a principal agency's performance audit **AND THE SCHEDULE OF BIENNIAL AUDITS**;

(ii) shall hold at least 2 publicly advertised meetings a year, at which meetings the City Auditor shall appear and report on the status of the audits and recommendations under this section; **and**

~~(iii) for good cause shown by a principal agency, may waive the requirement for a financial audit to be conducted under this section.~~

Subparagraph (iii) was added to Charter in 2016 to permit the Baltimore Development Corporation (BDC) to waive an audit by the City, if BDC conducted an independent audit. Since the Committee recommends that BDC be removed from the definition of principal agency subject to City audits, subsection (iii) is unnecessary.

ARTICLE VI BOARD OF ESTIMATES

§ 6. Adoption of proposed Ordinance of Estimates.

(a) *Adoption, submission, and publication.*

After the public notice and hearings prescribed by Section 3(b), the Board shall adopt a proposed Ordinance of Estimates by a majority vote of all the members. The Board shall deliver the proposed Ordinance of Estimates to the President of the City Council and contemporaneously publish a copy of the proposed ordinance in two daily newspapers in Baltimore City **NOTICE IN A MANNER THAT ENSURES ADEQUATE NOTICE TO THE PUBLIC.**

This change will modernize the publication reference to require publication in a modern and more accessible manner that also reduces costs.

(b) *Accompanying materials.*

The proposed Ordinance of Estimates that the Board submits to the City Council shall be accompanied by the following materials:

(1) a breakdown of the amounts stated for each program, purpose, activity, or project of each municipal agency in the proposed operating budget by standard categories of expenditure, for

(a) personal services,

(b) materials, supplies, and equipment, **AND**

(c) debt service, **and**

~~(d) such other categories as the Board of Estimates may deem advisable.~~

This deletes duplicative language that follows in (b)(7) of this section.

The personal services category shall include the compensation of every officer and salaried employee of the City; provided, however, that the salaries for employees in the same classification who have a uniform salary or salary range may be combined into a single entry, which shall indicate the number of such employees, their aggregate salaries, and the name or title of the classification.

(2) a comparison by standard categories of expenditures of the appropriations contained in the proposed operating budget with

(a) the amounts requested by the municipal agencies in their budget submissions

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- (b) the amounts appropriated for the current fiscal year and
- (c) the amounts expended in the prior fiscal year;
- (3) detailed information about the sources of funds to meet the aggregate total of the appropriations contained in the proposed Ordinance of Estimates;
- (4) the long-range capital improvement program adopted by the Board and for each capital project included in the capital budget, the following:
 - (a) a brief description and location, the total estimated cost,
 - (b) the appropriations authorized to date,
 - (c) the appropriations proposed for the next fiscal year,
 - (d) the appropriations required thereafter to complete the project, and
 - (e) the estimated additional annual maintenance and operation cost.
- (5) a statement setting out:
 - (a) the revenues which the City can reasonably expect to receive in the next fiscal year from all existing sources of revenue at existing rates other than the full rate property tax but including amounts believed to be collectible from taxes for prior years and including an estimate of the surplus expected at the end of the current fiscal year;
 - (b) the difference between the revenues expected under (a) above and the total amount of appropriations provided in the proposed Ordinance of Estimates;
 - (c) the estimated taxable basis for the next ensuing fiscal year for the levy of full rate property taxes;
 - (d) the rate for the levy of full rate property taxes which, given the revenues expected under (a) above, the total appropriations in the proposed Ordinance of Estimates, and the taxable basis, will be necessary to raise sufficient total revenues to cover total anticipated expenditures;
 - (e) new sources of revenue or new rates on existing sources of revenue, and the amounts which can reasonably be expected from each of them, which the Board of Estimates believes should be adopted for the next fiscal year; also the rate for the levy of full rate property taxes which, in view of such new sources of revenue or new rates on existing sources of revenue, will be necessary to bring total

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expected revenues for the next fiscal year into balance with total anticipated expenditures for the year;

(6) a message from the Mayor explaining the major emphasis and objectives of the City's budget for the next fiscal year;

(7) such other information as the Board of Estimates may deem advisable.

§ 11. Procurement.

(a) *Board of Estimates responsible.*

The Board of Estimates shall be responsible for awarding contracts and supervising all purchasing by the City as provided in this section and elsewhere in the Charter.

(b) *Authority of City Council.*

(1) **THE BOARD OF ESTIMATES SHALL RECOMMEND TO** ~~By ordinance passed by two-thirds of the City Council members, the Mayor and City Council shall set the dollar thresholds for:~~

(i) contracts that must be formally advertised; and

(ii) contracts that must be approved by the Board of Estimates.

(2) **UNLESS AN ORDINANCE ESTABLISHING DIFFERENT THRESHOLDS IS PASSED BY TWO-THIRDS OF THE CITY COUNCIL MEMBERS WITHIN 90 DAYS OF THE DATE OF THE RECOMMENDATION, THE DOLLAR THRESHOLDS RECOMMENDED PURSUANT TO SUBSECTION (B)(1) OF THIS SECTION SHALL BECOME EFFECTIVE.**

(3) **DURING THE RESPONSE PERIOD ESTABLISHED PURSUANT TO (B)(2) OF THIS SECTION,** ~~Pending enactment of an Ordinance under this subsection,~~ the Board of Estimates shall **UTILIZE**

(I) ~~THE set~~ initial threshold amounts **SET PURSUANT TO A BOARD OF ESTIMATES RESOLUTION ADOPTED ON DECEMBER 22, 2010; OR**

(II) **THE LATEST ESTABLISHED THRESHOLD AMOUNTS SET LATER THAN DECEMBER 22, 2010 BY BOARD OF ESTIMATES RESOLUTION OR BY ORDINANCE.** ~~Those initial amounts shall remain in effect until different amounts have been set by Ordinance under this subsection.~~

As currently written, the Council could enact an ordinance to change the threshold for contracts going to the Board. As the Board is the fiscal policy entity for the City, this change would state the Board determines the threshold and the Council can act to change it within 90 days.

(c) *Formal advertisement.*

In contracting for any public work, or the purchase of any supplies (unless otherwise provided by ordinance for foodstuffs and related perishables), materials, equipment, or services other than professional services, for the City or by any municipal agency, involving an expenditure of greater than the threshold set under subsection (b) of this section, advertisements for **BIDS OR** proposals shall first be published ~~at least twice in two or more newspapers of general circulation published in Baltimore City, and published electronically to the public, unless otherwise provided by the Charter~~ **IN A MANNER THAT ENSURES ADEQUATE PUBLIC NOTICE**. The first publication shall be made not less than 10 nor more than ~~90~~**120** days prior to the day set for opening the bids **OR PROPOSALS**.

These changes:

- 1. Specify that “bids” as well as proposals are subject to publishing requirements;**
- 2. Modernize the publication requirement;**
- 3. Extend the amount of time a notice can be posted prior to award; and**
- 4. Include proposals as well as bids. While proposal and bid mean the same thing functionally, there may be a legal distinction.**

(d) *Professional services.*

All professional services contracted for by the City shall be engaged in the manner prescribed by resolution of the Board of Estimates.

(e) *Emergencies, etc.*

(1) When any supplies, materials, equipment, services, or public works are of such a nature that no advantage will result in seeking, or it is not practicable to obtain, competitive bids **OR PROPOSALS**, or when the need for supplies, materials, equipment, services, or public works is of an emergency nature and the using agency certifies this in writing to the Board of Estimates, with written notice to the Department of Finance, the provisions of subsection (c) of this section may be dispensed with. However, the purchase may not be made, nor may the City incur any obligation for it, until approved by the Board of Estimates after considering the recommendation of the Department of Finance. When practicable, the City's intent to make a purchase under this exception shall be posted electronically to the public for comment prior to the approval of the purchase by the Board of Estimates.

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(#2) In the event of an emergency of such a nature that the public welfare would be adversely affected by awaiting the approval of the Board of Estimates, the Department of Finance, upon application by the head of the municipal agency involved, may proceed to obtain the supplies, materials, equipment, services, or public works required without reference to the provisions of subsection (c) of this section. A full report of any this action shall be promptly submitted to the Board of Estimates.

(f) *Contracts subject to Board of Estimates approval.*

All purchases of services other than professional services, of property other than real estate or interests therein (except as may be otherwise provided by ordinance for foodstuffs and related perishables), and all other contracts involving an expenditure greater than an amount set under subsection (b) of this section, except those awarded by the Board of Estimates pursuant to the provisions of subsection (h) of this section, made by any municipal agency, in addition to compliance with other applicable provisions of the Charter, shall be submitted to the Board of Estimates for its approval and shall be binding upon the City only when so approved. The Board of Estimates may adopt rules and regulations governing the procedures and requirements to be followed by any municipal agency in making purchases or other contracts involving an expenditure that does not require formal advertising under subsection (c) of this section.

(g) *Prequalification of bidders.*

In contracting for any public work or the purchase of any supplies, materials, equipment, or services for the City or by any municipal agency, the Board of Estimates may establish, maintain, and modify rules, regulations, and standards for the prequalification of bidders.

(h) ~~Bid awards~~ **AWARDS.**

- (1) (i) All bids **OR PROPOSALS** made to the City in response to the formal advertising procedures contained in this section, for materials, supplies, equipment, services, or public works, or for any other purpose, unless otherwise provided in the Charter, shall be opened by the Board of Estimates **OR THE BOARD'S DESIGNEE.**

This would allow the Board to designate a person or entity to open bids on its behalf.

- (ii) ~~After opening the bids~~ **UPON RECOMMENDATION OF THE PROCURING AGENCY,** the Board of Estimates shall:
1. award the contract, as an entirety to the lowest responsive and responsible bidder or **PROPOSER,**

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2. **AWARD THE CONTRACT** by items to the respective lowest responsive and responsible bidders **OR PROPOSERS**, ~~or~~
3. in the case of Requests for Proposals, **AWARD THE CONTRACT** to the highest **OVERALL** scoring responsive and responsible ~~bidder~~**PROPOSER**, ~~or~~

For requests for proposals, this change allows the award to be made by the highest score when accounting for the technical and prices proposals.

4. **AWARD THE CONTRACT IN ANY MANNER AUTHORIZED BY ORDINANCE OR BY THE BOARD, OR**

This would allow the Council or Board to authorize a new manner of awarding a contract. This broadens the potential for new and varied types of contracts into which the City can enter, such as public-private partnerships.

5. shall reject all bids **OR PROPOSALS**.

(III) However, whenever alternative bids **OR PROPOSALS** are invited for two or more different things, then, after all bids **OR PROPOSALS** have been opened, the Board may select the particular item that will be procured, and shall award the contract to the lowest responsive and responsible bidder or in the case of Requests for Proposals to the highest scoring responsive and responsible ~~bidder~~**PROPOSER** for that particular item.

(iiiIV) In the event of tie bids, the using agency, with written notice to the Department of Finance, shall make a written recommendation and report to the Board of Estimates setting forth all pertinent considerations and the reasons for its recommendation. The Board, after also considering the recommendation of the Department of Finance, may then award the contract in its discretion, as long as the total cost to the City does not exceed the amount of the tie bid.

(ivV) Once filed, bids **OR PROPOSALS** are irrevocable.

(vVI) Any recommendation that is made by any municipal agency to the Board of Estimates as to the appropriate award to be made by the Board is advisory only and not binding on the Board.

(viVII) Notwithstanding the competitive bid provisions of this Charter, the Board of Estimates may adopt rules and regulations that establish uniform procedures for providing, on a neighborhood service, neighborhood public work, or neighborhood public improvement contract, limited bid preferences to responsive

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and responsible bidders **OR PROPOSERS** who are residents of, or have their principal places of business in, that neighborhood.

- (2) (i) **1.** All bids **OR PROPOSALS** for construction contracts let for the Department of Public Works, the Department of General Services, and the Department of Transportation and any other contracts for public works shall be accompanied by a ~~check or bid bond~~**BID SECURITY**.

Bid security is broader and more encompassing than a bond. There may be other forms of security that are valid.

- 2. SUBJECT TO BOARD OF ESTIMATES APPROVAL, For FOR** all other contracts, the Director of Finance shall implement policies and procedures to determine whether a ~~bid bond~~ **BID SECURITY** is required for a contract, the term and face value of the ~~bond~~**SECURITY**, and the manner in which the ~~bond~~**SECURITY** shall be provided and refunded.

The Department of Finance developed policies on bid security for non-construction contracts. This language requires that the Board approve those policies.

- (ii) Except as otherwise provided in this paragraph (2), the check shall be a certified check of the bidder **OR PROPOSER**, a bank cashier's check, or a bank treasurer's check, drawn on a clearing house bank. The check shall be in an amount provided by ordinance, by the bid **OR PROPOSAL** specifications, or by an order or regulation of the using agency. In the case of bid **OR PROPOSAL** checks of \$5,000 or less, the check may be of any type drawn on any banking institution of the United States.
- (iii) The bid ~~bond~~**SECURITY** shall be in the form and amount provided by the rules and regulations of the Board of Estimates, and shall be filed by the bidder **OR PROPOSER** with the Department of Finance.
- (3) (i) The successful bidder **OR PROPOSER** promptly shall execute a formal contract, to be approved as to its form, terms, and conditions by the City Solicitor.
- (ii) For all construction contracts let for the Department of Public Works, the Department of General Services, and the Department of Transportation and any other contracts for public works, the bidder **OR PROPOSER** shall execute and deliver to the Mayor a good and sufficient performance bond, irrevocable letter of credit, or certification that the successful bidder **OR PROPOSER** meets the requirements under the City's self-insurance program for performance coverage. For all other contracts, the Director of Finance shall implement policies and

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procedures to determine whether a performance bond is required for a contract, the term and face value of the bond, and the manner in which the bond shall be provided.

(iii) The bond, letter of credit, or certification shall be:

1. in an amount equal to the full contract price; or
2. for each year in a multi-year contract (other than a construction contract), in an amount equal to the estimated contract price for that year, as determined by the Director of Finance.

(iv) Any successful bidder **OR PROPOSER** who fails to execute promptly and properly the required contract, performance bond, irrevocable letter of credit, or certification, as applicable, shall forfeit the amount deposited, or an equivalent amount under the bid **bondSECURITY**. This amount shall be taken and considered as liquidated damages and not as penalty for the bidder's **OR PROPOSER'S** failure.

(4) When the successful bidder **OR PROPOSER** executes the contract and, if required, the performance bond, the bid checks shall be returned to all bidders **OR PROPOSERS** or the equivalent amounts charged against their bid **bondSECURITY** shall be released. If the City has deposited bid checks, the City shall reimburse these bidders **OR PROPOSERS** in the amounts of the bid checks.

(5) If a bidder **OR PROPOSER** is not required to file a bid **bondSECURITY** under the policies and procedures adopted by the Director of Finance and the bidder **OR PROPOSER** fails to execute and perform any contract awarded to that bidder **OR PROPOSER**, the exempted bidder **OR PROPOSER** shall forfeit the right to bid on **OR SUBMIT A PROPOSAL FOR** any future City contract for a period of time determined by the Board of Estimates, and shall be liable for any costs incurred by the City as a result of the default.

(i) *Local, small, and disadvantaged business enterprise programs.*

The Mayor and City Council may, by ordinance, establish programs that grant purchasing preferences to local, small, or disadvantaged businesses and, for that purpose, waive or modify the application of this section (with the exception of subsection (a)) to certain transactions.

§ 14. **Bonds of municipal officers.**

~~Except as otherwise provided by State law, the Board of Estimates shall determine which officials of the City shall be bonded for the faithful performance of their duties and the form and amount of such bonds. All premiums on official bonds shall be paid by the City. All bonds executed in favor of the City shall be approved by the Mayor.~~

This eliminates unnecessary detail for a charter. These requirements should be contained in administrative or policy documents.

~~§ 16. Salaries of State's Attorney's Office.~~

~~The Board of Estimates is hereby authorized and empowered to fix the salaries of the State's Attorney, the Deputy State's Attorney, and Assistant State's Attorneys of Baltimore City, in amounts not less than those prescribed by the Constitution of Maryland.~~

This would allow for inclusion of the State's Attorney in the Elected Official Employee Compensation Commission. The Deputy and Assistant State's Attorneys would be set in the Ordinance of Estimates and does not need to be specified in the Charter.

~~§ 17. Expenditures for new improvements.~~

~~Except as provided in Section 61 of Article VII, no expenditure for any new improvement shall be made out of any appropriation in the Ordinance of Estimates unless the plans for such improvement are first submitted to and approved by the Board of Estimates.~~

This section provides administrative detail that need not be regulated by the Charter but by custom or by the Board of Estimates.

ARTICLE VII EXECUTIVE DEPARTMENTS

GENERAL PROVISIONS

§ 3. General provisions: Bureaus and divisions.

(a) *Establishment or abolishment.*

With the approval of the Board of Estimates, the head of a municipal department (except as otherwise provided for the Department of Public Works), commission, or board provided for by the Charter may establish and abolish bureaus and divisions within that department, commission or board.

Bureaus in the Department of Public Works shall be established or abolished from time to time by an ordinance which shall have been recommended to the City Council by the Board of Estimates and shall have been duly passed by the City Council by a majority vote of its members and shall have been approved by the Mayor.

(b) *Allocation of powers and duties.*

~~Subject to the authority of the Board of Estimates, the head of any department, commission, or board may assign among the bureaus or divisions in that department, commission, or board, duties and powers of that department, commission, or board. A board or commission may act under this subsection only by the majority vote of its membership.~~

The reassignment of duties within a department by a department head is common place and well within the scope of a director's responsibilities, except for the presence of this charter provision. If a reassignment is made that proves to be controversial, the absence of this charter provision would not be a deterrent to having it corrected either by the Board or the Mayor.

DEPARTMENT OF FINANCE

§ 5. Department of Finance: Established.

There is a Department of Finance, the head of which shall be the Director of Finance.

§ 6. Department of Finance: Director.

(a) *Duties; Qualifications.*

The Director of Finance shall supervise and direct the Department. The Director shall have substantial experience in financial administration.

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(b) *Appointment; Term.*

The Director shall be appointed, must be confirmed, and shall serve, pursuant to Article IV, Section 6.

(c) *Salary.*

The Director's salary shall be set in the Ordinance of Estimates.

§ 7. Department of Finance: Deputy Director; Employees.

(a) *Deputy – Appointment.*

The Director shall appoint a Deputy Director of Finance pursuant to this section.

(b) *Deputy – As Acting Director.*

Whenever a vacancy shall occur in the office of Director, or whenever the Director shall be incapacitated or otherwise unavailable for duty for any cause, the Deputy Director appointed pursuant to this section shall be the Acting Director.

(c) *Other employees.*

The Director may appoint such other employees as provided in the Ordinance of Estimates.

§ 8. Department of Finance: Budget preparation.

In accordance with rules established by the Board of Estimates, the Department shall prepare the preliminary operating budget for the consideration of the Board of Estimates, shall make reports and recommendations on the capital budget and capital improvement program, and shall otherwise participate in the making of the proposed Ordinance of Estimates.

§ 9. Department of Finance: Budget administration.

Under the direction of the Board of Estimates, the Director shall implement the Ordinance of Estimates. In the interest of economy and efficiency, the Director shall survey the administration and organization of municipal agencies to support the Director's recommendations to the Board of Estimates on the budget requests of the agencies and the Director's reports to the Mayor on measures which might be taken to improve the organization and administration of City government.

§ 10. Department of Finance: Disbursements.

The Department shall have general supervision and charge over all payments and disbursements made by the City and no payment or disbursement shall be made by the City without the approval of the Department.

The provisions are provided in Section 12(b).

§ 11. Department of Finance: Accounting.

(a) *In general.*

(1) The Department shall keep all general accounts of the City, prepare the City's financial statements, and maintain an adequate system of accounting that, at all times, reflects the actual financial condition of the City resulting from income accrued and liabilities incurred, property owned, and funded obligations, estimated revenue and authorized appropriations, cash received and disbursed, among other factors. The Department shall also maintain complete physical and cost records of all property owned by the City, including perpetual inventory records itemizing materials and supplies on hand.

(2) THE DEPARTMENT SHALL EMPLOY AT LEAST ONE CERTIFIED PUBLIC ACCOUNTANT IN THE PERFORMANCE OF THESE DUTIES.

This provision will ensure that the Finance Department employs a Certified Public Accountant. It currently employs several, but this change will ensure that at least one must be employed.

(b) *Agency oversight.*

The Department shall supervise and direct the accounting and bookkeeping of all municipal agencies. After consulting with the City Auditor, the Director shall install, maintain and prescribe the accounts and financial records that municipal agencies must keep to assure proper accounting. The accounting methods that the Director prescribes and uses shall prevent, where possible, unnecessary and unlawful expenditures.

(c) *Submissions.*

On a monthly basis, the Director shall submit general operating statements to the Board of Estimates and the Board of Finance. At least once annually, the Director shall submit to both these boards financial statements that include total municipal income and expenses and the City's assets and liabilities.

§ 12. Department of Finance: Collections, deposits, withdrawals, etc.

(a) *In general.*

UNLESS OTHERWISE PROVIDED BY LAW, THE The Director shall receive, collect, and account for all moneys due the City and deposit these moneys in depositories selected by the Board of Finance.

(b) *Withdrawals.*

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UNLESS OTHERWISE PROVIDED BY LAW, THE The Director shall approve the withdrawal of City moneys from its depositories.

There has been discussion about allowing the Department of Public Works to manage the utility fund in its entirety. The language added would allow an ordinance to be passed authorizing such a change.

(c) Required signatures for checks.

Unless otherwise provided by law, all checks of the City shall be signed by the Director or Deputy Director, and counter-signed by the Mayor, except payroll, pension, and similar checks, which shall bear the signatures of the Director or Deputy Director and of a person in the Department of Finance designated by the Director to sign as disbursing officer; such designation shall be made in writing by the Director and filed with all banks on which such checks are drawn. Any signature on checks of the City may be manual or facsimile.

~~*(d) Local and state taxes.*~~

~~In addition to collecting all taxes and assessments levied or made by the City, the Director shall collect such State taxes and perform such other duties for the State as may be prescribed by law. The salary provided the Director in the Ordinance of Estimates shall include compensation for collecting State taxes and such other duties as the Director may perform for the State.~~

~~After the levy of the full rate property tax has been made, the Director shall prepare the tax bills and shall have them ready for payment by the taxpayers on the first day of the fiscal year for which the levy is made or as soon thereafter as is possible. To encourage the payment of taxes prior to the date on which they become in arrears, the Department shall allow such discounts upon payment prior to such date as may be provided by law.~~

This subsection contains information already covered by State law. It should not be included in the Charter.

(e) {Repealed by Res. 00-010, ratified November 2000.}

§ 13. Department of Finance: Lien records.

(a) Keeping records; Issuing lien certificates.

The Department shall keep a record of all municipal charges and assessments and shall provide for the issuance of a lien certificate stating whether any, and, if so, what municipal charges or assessments exist against any particular property. The Department shall make such charge for the issuance of a lien certificate as may be fixed by the Board of Estimates.

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~~(b) Contents of certificates; Charges constitute liens.~~

A lien certificate shall show all charges and assessments of every character due the City, including State and City taxes and special paving tax, water and sewer billings, street benefit assessments, minor privilege charges, charges for street, alley and footway paving, sewerage connections, nuisance abatements and other charges. All of the charges and assessments shall be liens, until paid, against the property named in the lien certificate; provided that no then-existing charge shall be a lien against a property after the issuance of a lien certificate for that property unless that charge be shown on the lien certificate.

~~(c) Tax lien records.~~

The Department shall maintain at all times tax lien records that record tax liens and all other municipal liens. The tax lien records shall show the location of the property, the character of the liens against the property, and the amount of the liens as of the date of recording. After a lien shall have been recorded in the tax lien records, it shall remain a lien until paid and no statute of limitations shall operate as a bar to the collection of the lien.

Subsection (a) provides for the general activities described in subsections (b) & (c). Much of these subsections provide administrative detail and activities regulated by State law. There is no charter in Maryland that discusses liens as it is an administration function and not an overarching mechanism of the City government.

~~§ 14. Department of Finance: Notices of lien.~~

The Director shall provide notice of a lien to a property owner as provided by law.

~~§ 15. Department of Finance: Distraint or levy for taxes.~~

~~(a) Good or chattels — Notice of proposed sale.~~

Whenever the Director shall distraint or levy upon any goods or chattels in Baltimore City for nonpayment of any taxes, state or municipal, due by the owner thereof, before making sale of property so distrainted or levied upon, the Director shall give notice as required by law, including notice by advertisement published twice a week for one week prior to the day of sale, and also on the day of sale, in three of the daily newspapers published in the City, that the Director will sell for cash, at public auction, to the highest bidder, on the day and at the time and place mentioned in the advertisement, the property therein specified, unless on or before the day of sale the entire amount of taxes for which such distraint or levy shall have been made, with interest thereon, and costs of making the levy and advertisement, shall be paid.

~~(b) Goods or chattels — Application of proceeds.~~

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Whenever the Director shall sell any goods or chattels levied or distrained upon for taxes, state or municipal, in Baltimore City, after due advertisement as required in the preceding paragraph, the Director shall retain out of the proceeds of sale the amount of taxes due from the delinquent, for which the levy or distraint shall have been made, with interest thereon, and all costs incurred in making the sale, and shall pay over the surplus, if any, to the owner of the property so levied upon and sold.

~~(c) Other sales.~~

All other sales of real or personal property, or interests therein, for nonpayment of taxes or other charges shall be conducted by such persons and in such manner as may be prescribed by law.

These are activities required by State law and they will be performed in accordance with its requirements. No reasons for this to be discussed in the Charter.

§ 16. Department of Finance: Taxes as personal debt and lien.

All taxes and charges in the nature of taxes shall be the personal debt of the person against whom they are charged and recoverable as such, and shall also become a lien against the property assessed in the manner and to the extent provided by law.

§ 17. Department of Finance: Purchasing.

(a) *Central purchasing system.*

The City shall have a centralized purchasing system, and the Department of Finance and all other municipal agencies shall cooperate fully to obtain the maximum benefits from this system.

(b) *Department to procure or approve procurement; Competitive bidding.*

The Department shall procure, by purchase, lease or other acquisition, or shall approve the procurement of, all materials, supplies, and equipment, and all services, other than professional services, that municipal agencies use ("using agencies").

The Department shall insure that competitive bidding is used, and competitive prices are obtained, in purchasing these materials, supplies, equipment and services, to the fullest practicable extent.

(c) *Rules and regulations; Standards.*

Subject to the approval of the Board of Estimates, the Department shall adopt rules and regulations that prescribe when, and the manner and form in which, using agencies will submit estimates of their procurement needs, make requisitions, and enter into contracts.

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In cooperation with the using agencies, the Department shall adopt standards for materials, supplies, equipment, and services required by the using agencies.

(d) *Responsibility for storing, distributing, etc.*

Unless special exception is made by resolution of the Board of Estimates, the Department shall be responsible for disposing of and reclaiming materials, supplies, and equipment purchased for municipal agencies.

(e) *Exceptions.*

Unless otherwise provided by the Board of Estimates, nothing in this section shall be construed to apply to public works done under contract, to records and briefs printed for the Department of Law, or to professional services.

(f) *Board of Estimates to settle agency disputes.*

In the event of a disagreement between departments, the Board of Estimates shall determine whether a proposed procurement is for public works, materials, supplies, equipment, services or professional services.

§ 18. Department of Finance: Registrar of debt; Custodian of funds and securities; Keeper of Seal.

(a) *Registrar of debt; Custodian of funds and securities.*

The Director shall be the registrar of the public debt and responsible for all moneys and securities belonging to the City including the actuarial retirement systems and shall provide for the safekeeping and transfer of stocks, bonds, and securities owned or held by the City or any agency thereof, **provided, however, that the designation of depository institutions shall be as set forth in Article VII, Section 21(b).**

To help the Director discharge the Director's duties as custodian of the moneys and securities of the actuarial retirement systems of the City, the administrators of those systems shall provide the Director with the financial information and assurances that he may request. The Director, acting under the supervision of the Board of Estimates, may contract with banks or trust companies that have appropriate charter authority to be custodians of cash and securities of the retirement systems. The Director shall have no personal liability for the performance, lack of performance, misfeasance or malfeasance of a bank or trust company so selected.

These provisions are unnecessary detail about carrying out this function - and the Charter cannot regulate any entity other than the city government and its officers and employees.

(b) *Securities; Advancements.*

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The Director shall perform such duties relating to the stocks, bonds, and other evidences of indebtedness or securities issued by the City as may be directed by the Board of Finance. In exercising powers as the custodian of the moneys of the City, the Director may advance funds in the Director's custody for the discharge of obligations incurred in connection with projects for which bond issues of the City have been approved and moneys therefor appropriated, prior to the issuance of the bonds; provided that repayment of any advances shall be made out of the proceeds of sale of the bond issue concerned.

(c) *Keeper of City Seal.*

The Director or the Director's delegate, designated in writing by the Director, shall have charge of the corporate seal of the City ~~and shall use it in all cases where the use of the seal is required by federal or State laws, ordinances, or the uses and customs of nations, and shall charge a fee as may be fixed from time to time by the Board of Estimates for each impression of the seal except such as shall be affixed to or impressed upon documents for the City.~~

Possession of the seal implies use in accordance with law. Whether a fee is attached to use is not a matter important enough to include in a charter.

DEPARTMENT OF PUBLIC WORKS

§ 27. Department of Public Works: Established.

There is a Department of Public Works, the head of which shall be the Director of Public Works.

§ 28. Department of Public Works: Director.

(a) *Head of Department; Qualifications.*

The Director of Public Works shall supervise and direct the Department.

The Director shall have had substantial administrative experience in the construction and maintenance of public works, public improvements and the delivery of related public services or ten years experience as an engineer.

(b) *Appointment; Term.*

The Director shall be appointed, must be confirmed, and shall serve, pursuant to Article IV, Section 6.

(c) *Salary.*

The Director's salary shall be set in the Ordinance of Estimates.

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§ 29. Department of Public Works: Staff.

(a) *Deputy; Other employees.*

The Director shall appoint a Deputy Director pursuant to this section and such employees as provided in the Ordinance of Estimates, provided, however, that bureau heads in the Department of Public Works shall be appointed by the Mayor in the manner prescribed in Section 6 of Article IV and shall hold their offices as therein provided.

(b) *Deputy as Acting Director.*

Whenever a vacancy shall occur in the office of Director or whenever the Director shall be incapacitated or otherwise unavailable for duty for any cause, the Deputy Director shall be the Acting Director, until the Director is again available for duty or the vacancy is filled.

§ 30. Department of Public Works: Supervision of public works.

~~The Director shall supervise all public works in Baltimore City or elsewhere, made by or for the City or any municipal agency, that relate to the Department's powers under this Charter. All plans and specifications for these public works, including those involving engineering questions, shall be submitted to the Director for approval.~~

This provision merely says the director supervises the public works of the department. This provision adds nothing that is not already understood to exist. It also does not give the director the authority to supervise the public work performed by other departments because it says the director only supervises public works related to the department's charter powers.

§ 31. Department of Public Works: Construction, maintenance, and repair.

Unless otherwise provided by this Charter, the Department has charge of the construction, demolition, alteration, operation and maintenance of all public works that relate to the Department's powers under this Charter.

§ 32. *{Repealed by Res. 08-003, ratified Nov. 4, 2008.}*

§ 33. Department of Public Works: Water supply.

The Department shall have charge of the water supply of the City and of all the properties, reservoirs, streams, pumping and filtration stations, pipes, apparatus and equipment appurtenant thereto and shall exercise all the powers and perform all the duties connected with the operation thereof and the supplying of water to the City.

§ 34. Department of Public Works: Sewage.

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The Department shall have charge of the construction, operation and maintenance of all drains, sewers, and sewage disposal facilities, of the inspection or supervision of sewer or drain construction and repair work, and of waste disposal.

§ 35. Department of Public Works: Street cleaning.

The Department shall be responsible for cleaning the streets and for the collection, disposal and recycling of garbage, ashes, refuse, trash, and other waste matter, except as otherwise provided by law.

§ 36. *{Repealed by Res. 08-003, ratified Nov. 4, 2008.}*

§ 37. Department of Public Works: Testing.

At the request of a municipal agency, the Department shall test materials and supplies purchased or used by the agency.

This provision is administrative in nature and should not be in a charter.

§§ 38 to 40. *{Repealed by Res. 08-003, ratified Nov. 4, 2008.}*

§ 41. Department of Public Works: Correcting physical obstruction.

~~(a) Correction required.~~

Any person who has, in, over, or under a public street in Baltimore City, any building, structure, conduit, drain, main, pipe, track, work, or other physical obstruction that blocks or impedes the work of the Department shall, on reasonable notice from the Department, promptly shift, adjust, or remove it, at that person's expense, to fully meet the exigencies described in the notice.

~~(b) Condemnation.~~

The City is empowered, when the exigencies of the Department's work require, to secure the condemnation of the physical obstruction as provided in Article II of this Charter.

Subsection (a) is legislative in nature and should not be included in a charter. Subsection (b) is redundant because the power is already addressed in Article II, as indicated.

§ 42. Department of Public Works: Assistance to other agencies.

On the request of the head of a municipal agency, the Director shall:

- (1) supply estimates of the cost of work proposed to be done for that agency during the next fiscal year; and

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(2) perform services for the municipal agency of the same general character as those carried on by the Department, the cost of which shall be charged to the agency requesting the services and shall be paid out of the funds appropriated to it.

These provisions are matters best left to the discretion of the department or the Mayor's office and should, therefore, not be included in the Charter.

§§ 43 to 46. *{Repealed by Res. 08-003, ratified Nov. 4, 2008.}*

FIRE DEPARTMENT

§ 47. Fire Department: Established.

There is a Fire Department, the head of which shall be the Chief.

§ 48. Fire Department: Chief.

(a) Head of Department.

The Chief of the Fire Department shall supervise and direct the Department.

(b) Appointment; Term.

The Chief shall be appointed, must be confirmed, and shall serve, pursuant to Article IV, Section 6.

(c) Salary.

The Chief shall be paid a salary as provided in the Ordinance of Estimates.

(d) Staff.

The Chief may appoint such employees as provided in the Ordinance of Estimates.

§ 49. Fire Department: Board of Fire Commissioners – Established.

There is a Board of Fire Commissioners, which shall advise the Chief and exercise those powers and perform those duties provided by the Charter.

§ 50. Fire Department: Board of Fire Commissioners – Composition; Appointment; Terms.

(a) In general.

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The Board shall consist of three persons, which number may be increased by ordinance to five, who shall be appointed, must be confirmed, and shall serve pursuant to Article IV, Section 6.

(b) *President.*

The Mayor shall designate one member of the Board as its President and may withdraw such designation and so designate another member.

§ 51. Fire Department: Board of Fire Commissioners – Powers and duties.

(a) *Advise Chief.*

The Board generally shall advise the Chief.

(b) *Review disciplinary policies.*

AT THE REQUEST OF THE CHIEF, THE The Board shall review the disciplinary policies and practices of the Department and make appropriate recommendations to the Chief.

(c) *Investigations of Department conduct.*

In giving advice, the Board may investigate all matters affecting the conduct of the Department.

IT SHALL BE THE SOLE DISCRETION OF THE CHIEF WHETHER TO ACCEPT SUCH RECOMMENDATIONS MADE RELATED TO SUCH INVESTIGATIONS.

These changes ensure that the final authority on disciplinary policies and investigations related to the Fire Department rests with the Fire Chief.

(d) *Appeal panels.*

The Board may sit in panels of not less than two to hear appeals under the Fire Prevention Code.

§ 52. Fire Department: Board of Fire Commissioners – Retirement of employees.

As to employees not covered by the Employees' Retirement System or the Fire and Police Employees' Retirement System of the City, the Board may retire from office in the Department any permanent or call member thereof who has become permanently disabled, while in the actual performance of duties, from risks taken in the performance of those duties and not due to any wilful misconduct on the member's part, or who has performed faithful service in the Department for a period of not less than twenty consecutive years, or who may become unable to perform further service by reason of age or other physical or mental disabilities, and place the member so retired upon a pension roll. The amount of such annual pension to be allowed by the Board to each pensioner shall be equal to one half the yearly salary received by members of the Department in active service in the same grade or occupying the same position as, or position most similar to, that occupied by the pensioner at the time of his retirement, payable in monthly installments. The Board

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may also provide for the relief of widows and children of members of the Department who may have been killed in the discharge of their duties or have died as a result of injuries sustained in the performance of their duties, provided that the injuries were caused solely by risks taken in the performance of their duties and not due to the wilful misconduct of the deceased.

The annual amount which shall be paid to the widows and/or to the children under the age of 18 years, of members of the Department who may have been killed in the discharge of their duties or have died as a result of injuries sustained in the performance of their duties shall be in the discretion of the Board, but shall not exceed the full amount of the yearly salary received by members of the Department in active service in the same grade and occupying the same position as, or position most similar to, that occupied by the deceased at the time of his death, payable in monthly installments.

The Board may also provide for the relief of unremarried widows, by marriages existing at the time of retirement or death, of employees of the Department who are not members of the Employees' Retirement System or the Fire and Police Employees' Retirement System who die, whether death occurs before or after their retirement, subject to the Ordinance of Estimates. The annual amount which shall be paid to such widow of such a deceased member shall not exceed fifty per centum (50%) of the yearly pension to which such deceased member would have been entitled to receive had that member lived and been retired under the provisions of this section.

The City Council may provide by ordinance a system of benefits payable to the unremarried widows and children under age 18 of persons who were employees or retired employees of the Department who were not members of the Employees' Retirement System or the Fire and Police Employees' Retirement System and who died or retired prior to June 7, 1963, subject to such exceptions, conditions, restrictions and classifications as may be provided therein.

This section is outdated as the Board of Fire Commissioners no longer performs these functions. The Fire Department no longer has a separate retirement system. It is now combined with the Baltimore Police Department.

§ 53. Fire Department: Arbitration for fire fighters and officers.

(a) *Request for arbitration.*

If the certified employee organization or organizations representing fire fighters and fire officers within the Fire Department and the employer have not reached a written agreement concerning terms and conditions of employment by March 1 of any year, either party may request arbitration by a board of arbitration, as herein provided, which request must be honored.

(b) *Board of arbitration – Selection; Proceedings generally.*

The board of arbitration shall be composed of three members, one appointed by the Mayor, and one appointed jointly by the certified employee organizations representing the fire fighters and fire officers involved. These members shall be selected within four days of the request for arbitration. The third member shall be selected within four additional days by the two arbitrators

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previously chosen and in accordance with the procedures of the American Arbitration Association from a list furnished by the Association. Such member selected shall act as chairman of the board of arbitration.

The board of arbitration thus established shall commence the arbitration proceedings within seven days after the chairman is selected and shall make its decision, by a majority vote, within fifteen days after the commencement of the arbitration proceedings. For good cause the chairman may extend the time requirement set forth herein.

(c) *Submission of last proposals.*

Within three days after the selection of the chairman of the board of arbitration, the Labor Commissioner or **his THE COMMISSIONER'S** designated representative shall provide to each member of the board of arbitration and to all parties, a detailed itemization of the last proposal made by the respective parties during the negotiations.

The Commission recommended eliminating gender-specific pronouns.

(d) *Considerations.*

The board of arbitration shall identify the major issues in the dispute, review the positions of all parties and shall take into consideration wages, benefits, hours, and other working conditions of other fire department and public safety employees in Maryland as well as in comparable metropolitan political subdivisions in other states, and shall also consider the value of other benefits available to or received by other employees of the Mayor and City Council of Baltimore as compared with private sector employees in the metropolitan Baltimore City area and as compared with employees of other fire departments and other public safety employees. The board of arbitration shall further consider consumer prices for goods and services and other related items, cost of living data, and such other factors, not confined to the foregoing, which are normally utilized in the determination of wages and other benefits in the collective bargaining process and shall also take into account the financial condition of the City.

(e) *Oaths, subpoenas, etc.*

The board of arbitration shall have the power to administer oaths, compel the attendance of witnesses, and require the production of evidence by subpoena.

(f) *Decision – In general.*

The board of arbitration after hearing witnesses and considering and receiving such written evidence as may be submitted shall, by written decision, order the implementation, in its entirety, of the last proposal of one of the respective parties previously submitted in accordance with subparagraph (c) of this section.

(g) *Decision – Implementation.*

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The decision of the majority of the board of arbitration thus established shall be final and binding upon the Mayor and City Council of Baltimore and upon the certified employee organizations involved in the proceedings. No appeal therefrom shall be allowed. Such decision shall constitute a mandate to the Mayor of Baltimore City in respect to such matters which can be remedied administratively by ~~him~~ **THE MAYOR**, and as a mandate to the Board of Estimates and the City Council with respect to matters which require legislative action necessary to implement the decision of the Board of Arbitration.

The Commission recommended eliminating gender-specific pronouns.

With respect to matters which require legislative action for implementation, such legislation shall be enacted within forty-five days following the date of the arbitration decision.

With respect to salaries and wage scales, the amounts determined by the final decision of the Board of Arbitration shall be included in the proposed Ordinance of Estimates in accordance with Article VI, Section 4(a), shall not be reduced by the City Council in accordance with Article VI, Section 7(a), and shall be adopted by the Board of Estimates as the salary and wage scales for employees of the Fire Department in accordance with Section 12 of Article VI.

(h) *Costs.*

The cost of the arbitration proceedings provided for herein shall be borne equally by the parties involved.

DEPARTMENT OF RECREATION AND PARKS

§ 65. Department of Recreation and Parks: Established.

There is a Department of Recreation and Parks, the head of which shall be the Director of Recreation and Parks.

§ 66. Department of Recreation and Parks: Director – Appointment, etc.

(a) *Head of Department; Qualifications.*

The Director shall supervise and direct the Department.

The Director shall be qualified by personal background, education and experience to establish, maintain and operate parks and recreational facilities.

(b) *Appointment; Term.*

The Director shall be appointed, must be confirmed, and shall serve, pursuant to Article IV, Section 6.

(c) *Salary.*

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The Director's salary shall be set in the Ordinance of Estimates.

(d) *Staff*.

The Director may appoint such employees as provided in the Ordinance of Estimates.

§ 67. Department of Recreation and Parks: Director – Powers and duties.

The Director of Recreation and Parks shall have the following powers and duties:

- (a) subject to the provisions of Article V relating to the acquisition and disposition of real property, to establish, maintain, operate and control parks, zoos, squares, athletic and recreational facilities and activities for the people of Baltimore City, and to have charge and control of all such property and activities belonging to, or conducted by, the City;
- (b) to provide concerts, symphonies and other musical entertainment for the people of Baltimore City;
- (c) to provide for the protection and maintenance of all monuments belonging to the City;
- (d) subject to the provisions of Article V relating to the acquisition and disposition of real property, to rent for department use buildings and other places suitable for the conduct of the activities of the Department. The Director is hereby authorized and empowered, with the consent of any other municipal agency, to organize and conduct play and recreational activities on grounds and in buildings under the control of such other agency and on such conditions as may be agreed to by such other agency.
- (e) to charge and collect fees for admission, services and the use of facilities, and rentals for the use of property controlled by the Department; provided, that no lease of such facilities shall be made for a period of thirty days or more (or for successive periods aggregating thirty days or more) without the prior approval of the Board of Estimates. All moneys collected by the Department shall be accounted for as the Director of Finance prescribes.
- (f) to adopt and enforce rules and regulations for the management, use, government and preservation of order with respect to all land, property, and activities under the control of the Department. To carry out such regulations, fines may be imposed for breaches of the rules and regulations as provided by law.

§ 68. Department of Recreation and Parks: Board – Established; Duties.

There is a Board of Recreation and Parks, which shall advise the Director and exercise those other powers and perform those other duties prescribed by law.

§ 69. Department of Recreation and Parks: Board – Composition; Appointment; Terms.

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(a) *In general.*

The Board shall consist of seven members, who shall be appointed **BY THE MAYOR** from among those deemed most capable, by reason of character, education, intelligence, experience, and commitment to conservation and environmental protection, of promoting public recreation, parks, and music for the people of Baltimore City. The members must be confirmed, and shall serve, pursuant to Article IV, Section 6.

This change clarifies that it is the Mayor who appoints the members of the Board of Recreation and Parks.

(b) *President.*

The Mayor shall designate one member of the Board as its president and may withdraw that designation and so designate another member.

DEPARTMENT OF PLANNING

§ 70. Department of Planning: Established.

There is a Department of Planning, the head of which shall be the Planning Commission.

§ 71. Department of Planning: Commission – Composition; Appointment; Terms.

(a) *In general.*

The Planning Commission shall consist of nine members,

one of whom shall be the Director of Public Works ex officio,

one of whom shall be the Mayor of the City ex officio, and

one of whom shall be a member of the City Council ex officio, who shall be elected by that body, and

six of whom shall be appointed, must be confirmed, and shall serve, pursuant to Article IV, Section 6.

The terms of three appointed members shall expire on the last day of the year in which the term of the Mayor begins pursuant to Article IV, Section 1, and the four year terms of three appointed members shall expire two years thereafter.

(b) *President.*

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The Mayor shall designate one appointed member of the Commission as its President, and may withdraw such designation and so designate another appointed member.

(c) *Designees of Mayor, Public Works Director.*

The Mayor may designate a municipal officer or member of the Mayor's personal staff to attend meetings of the Commission and to vote thereon in the Mayor's place, and the Director of Public Works may delegate an employee in that department to attend any meeting of the Commission and to vote in the Director's place.

(d) *Salaries.*

Compensation for each of the members of the Commission, excluding those serving ex officio, except the member of the City Council, shall be set in the Ordinance of Estimates.

(e) *Qualifications.*

Each member of the Commission shall be a resident and registered voter at the time, and during the term, of appointment.

§ 72. Department of Planning: Commission – Powers and duties.

The Planning Commission:

- (a) shall adopt rules and regulations to exercise the powers and perform the duties of the Department.
- (b) shall meet regularly as the Commission may determine, and hold special meetings at the call of the President or upon the written request of three members.
- (c) shall hold hearings at the Commission's discretion or upon the written request of any member of the City Council.
- (d) may, at its hearings, administer oaths and compel the attendance of witnesses.
- (e) shall keep minutes of its proceedings and maintain a public record of its decisions, showing the vote of each member.
- (f) shall investigate and study land uses, the development of subdivisions of land, and zoning within the City of Baltimore.
- (g) shall adopt and revise a master plan **IN ACCORDANCE WITH STATE LAW** for the proposed physical development of Baltimore City.

This phrase is in the new Zoning Code and should be included in this section.

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- (h) before adopting or revising the master plan, shall hold a public hearing, **AND PROVIDE** reasonable notice ~~of which shall be given~~ in the neighborhood of the properties affected ~~and by publication in a newspaper of general circulation in Baltimore City~~ **IN A MANNER \THAT ENSURES ADEQUATE PUBLIC NOTICE.**

This change will modernize the publication reference to require publication in a modern and more accessible manner that also reduces cost.

- (i) shall consider, and may approve, if they are consistent with the master plan, among other things:
1. development plans
 2. an enterprise or public or private improvement that requires a permit
 3. urban renewal plans
 4. plans for the subdivision and consolidation of public and private parcels of land.
- (j) shall submit for the consideration of the Board of Estimates a recommended capital budget for inclusion in the Ordinance of Estimates, a recommended long-range capital improvement program, and a report explaining both, all of which shall be made public.
- (k) shall issue a report and recommendation, which shall state the nature of the investigation made by the Commission, whether hearings were held thereon, reasons for the recommendation, and the number of members voting for or against it:
1. on every proposed amendment to the Baltimore City Zoning Ordinance referred to it; and
 2. on the creation of, and proposed amendments to, an urban renewal plan.
- (l) may report and submit to the City Council amendments to the Baltimore City Zoning Ordinance. Any such amendment shall be submitted only by resolution, adopted by the affirmative vote of two-thirds of the entire membership of the Commission.
- (m) shall have reasonable access, through its agents and employees, to the plats and records of all other municipal agencies of the City and, subject to the approval of the Board of Estimates, may require the assistance of any other municipal agency of the City.
- (n) may take such other actions, subject to the provisions of this Charter and law, that it deems necessary and appropriate to assure that development is well-planned, efficiently coordinated by the City, and consistent with the health, order, security, safety and morals of the inhabitants of Baltimore City, as well as the aesthetic and natural environment of the City.

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§ 73. Department of Planning: Director and staff.

(a) *Director – Appointment; Term.*

The Mayor shall appoint a Director from a list of candidates provided by the Commission. If, within 120 days of a vacancy in the position of Director, the Commission fails, by a majority vote of its members, to provide such a list to the Mayor, the Mayor may select the Director in the Mayor's discretion.

The Director must be confirmed by the City Council pursuant to Article IV, Section 6(a). The Mayor, after consulting with the Commission, may suspend, demote or dismiss the Director.

(b) *Staff.*

The Commission shall also appoint such other employees (including part time consultants) for the conduct of the office of the Commission, as may be provided for in the Ordinance of Estimates.

(c) *Director – Qualifications.*

The Director shall be qualified by personal background, education and experience to advance the development and planning of Baltimore City.

(d) *Director – Salary.*

The Director's salary shall be set in the Ordinance of Estimates.

§ 74. Department of Planning: Master Plan.

(a) *Purpose.*

The Master Plan shall be made for the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of Baltimore City to promote the health, order, security, safety, and morals of its inhabitants, and to preserve and enhance the aesthetic and natural environment of the City.

~~(b) *Scope.*~~

~~The Master Plan may consist of a series of component plans.~~

~~It shall show, among other things, the future general location and extent of all public improvements and enterprises, including among other things, the general location and extent of streets, highways, boulevards, viaducts, bridges, subways, tunnels and all uses of land for purposes of public transportation, and also the general location and extent of piers, wharves, docks and bulkheads, and buildings or structures thereon, whether publicly or privately owned or operated, and also the general location and extent of publicly owned places of recreation, such as~~

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playgrounds, squares, and parks, and all public buildings and other public property, including school buildings, and all existing and proposed zoning areas or districts, and all public utilities, services and terminals, such as water, gas, electricity, sewerage, telephone, telegraph and transportation, whether privately or publicly owned or operated.

This information in this subsection does not need to be in a charter. It is too detailed.

(c) *Revisions.*

After the adoption of the Master Plan, or any part thereof, by the Commission, the plan may be revised **AS PROVIDED BY STATE LAW AND** only by a resolution of the Commission, carried by the affirmative vote of not less than six members of the Commission, or by ordinance adopted by the City Council by the affirmative vote of not less than three-fourths of its members.

~~An original copy of the revision, duly signed by the President, or by the Mayor if made by ordinance, shall be filed with the Department of Legislative Reference.~~

(d) *Conformity with Plan required.*

~~No public improvement or enterprise, including, among other things, streets, highways, boulevards, viaducts, bridges, subways, tunnels or other uses of land for purposes of public transportation, and piers, wharves, docks, and bulkheads, and buildings or structures thereon, whether publicly or privately owned or operated, and publicly owned places of recreation, such as playgrounds, squares or parks, and public buildings, including school buildings, and public utilities, services or terminals, including gas, water, electricity, sewerage, telephone, telegraph or transportation, whether privately or publicly owned or operated, within the scope of the Master Plan shall be authorized or constructed in Baltimore City unless the location and grade thereof and, in cases of the use of land for purposes of transportation, the width thereof, shall be in conformity with the Master Plan and have been first approved by the Commission. PUBLIC AND PRIVATE IMPROVEMENTS SHALL BE IN CONFORMITY TO THE MASTER PLAN TO THE EXTENT REQUIRED BY LAW.~~

The changes truncate the language and allow greater flexibility while retaining the concepts and the legal requirements.

§ 75. Department of Planning: Subdivisions ~~—In general.~~

- (A) The Commission shall publish rules and regulations for the development of subdivisions which will require that development plans include adequate provision for all public improvements, enterprises and all public utilities, whether privately or publicly owned or operated; for the proper width, grade and arrangement of streets, and all uses of land for public transportation, and the relation thereof to existing streets; for adequate and convenient open spaces for traffic and the access of fire fighting apparatus; for proper drainage; and which will require that all such subdivisions and the owners thereof comply in all respects with the Master Plan.

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(B) NO PERMITS MAY BE ISSUED FOR ANY PROJECT OR DEVELOPMENT THAT IS SUBJECT TO A PROPOSED SUBDIVISION PLAN UNTIL THE COMMISSION AND THE DEPARTMENT OF TRANSPORTATION HAVE APPROVED THE PLAN

(C) EVERY PLAT SHOWING AN IMPROVED SUBDIVISION PLAN SHALL BE FILED AMONG THE LAND RECORDS OF BALTIMORE CITY.

~~§ 76. Department of Planning: Subdivisions — Definition.~~

~~A subdivision plan shall mean a plan submitted by the owner of not less than one-third of the land included therein showing one or more new streets or parks, or showing the division of a lot, tract or parcel of land into two or more lots, tracts or parcels, or other divisions of land for the purpose, whether immediate or future, of sale or building development.~~

~~§ 77. Department of Planning: Subdivisions — Approvals.~~

~~(a) Commission approval required.~~

~~All plans for subdivision of land shall be filed for record with the Commission, and no permits shall be issued by any department of the City for any work of any character whatsoever, to be done in such subdivision of land, until the plan thereof shall have been approved by the Commission as in conformity with the rules and regulations formulated and published by the Commission.~~

~~(b) Deadline for decision.~~

~~In the event the Commission shall fail to approve or disapprove any such subdivision plan within thirty days from the date of submission thereof to the Commission, such plan shall be deemed to have been approved by the commission unless the applicant waives this requirement and consents to an extension of such period.~~

~~§ 78. Department of Planning: Subdivision regulation — Recording.~~

~~Every plat showing a subdivision plan shall be filed among the Land Records of Baltimore City and with the Department of Legislative Reference, but not until after the plan has been endorsed with the approval of the Commission and of the Department of Transportation.~~

The language added to Section 75 incorporates the necessary provisions in Sections 76-78.

§ 79. Department of Planning: Appeals.

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Any applicant for a permit who is aggrieved by any decision of the Commission may appeal as provided by law.

~~§ 80. Department of Planning: Penalties.~~

~~Any person who shall violate any of the provisions or requirements of Sections 71 to 80 shall be guilty of a misdemeanor, and, upon conviction in any court of competent jurisdiction, shall be fined as provided by law. Every day that such violation continues shall be deemed a separate offense.~~

Penalties are legislative in nature and should not be included in the Charter.

DEPARTMENT OF MUNICIPAL AND ZONING APPEALS

§ 81. Department of Municipal and Zoning Appeals: Established.

There is a Department of Municipal and Zoning Appeals, the head of which shall be the Board of Municipal and Zoning Appeals.

§ 82. Board of Municipal and Zoning Appeals: Established; Composition, etc.

(a) *Composition, appointment, terms, qualifications.*

(1) The Board shall consist of five members, at least one of whom shall be a lawyer, **AND AT LEAST ONE ALTERNATE MEMBER, EACH OF WHOM** ~~who~~ shall be appointed, ~~must be~~ confirmed and ~~shall~~ serve pursuant to Article IV, Section 6 and State law.

(2) AN ALTERNATE MEMBER MAY SIT ON THE BOARD WHEN ANOTHER MEMBER OF THE BOARD IS ABSENT OR RECUSED.

(3) WHEN AN ALTERNATE MEMBER IS ABSENT OR RECUSED, THE MAYOR MAY DESIGNATE A TEMPORARY ALTERNATE.

(4) Each member of the Board shall be a registered voter and resident of the City at the time, and during the term of, appointment.

These changes reflect current State law, which requires the Mayor to appoint an alternate Board member to sit in for a Board member who is absent. State law also allows the Mayor to appoint a temporary alternate should the alternate be unavailable when needed. These changes merely reflect the current law.

(b) *President; Salaries.*

The Mayor shall designate one member of the Board as its President and may withdraw that designation and so designate another member.

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The salary of the President and each member of the Board shall be set in the Ordinance of Estimates.

§ 83. Board of Municipal and Zoning Appeals: General powers and duties.

(a) *Meetings; Minutes; Hearings.*

The Board shall hold meetings at such times as it may by rule prescribe. Minutes shall be kept of all its proceedings, showing those present and their vote on each question submitted. These minutes and all other records of the Board shall be public records and kept at the office of the Board. All hearings held by the Board or its panels shall be open to the public.

(b) *Rules of proceedings.*

The Board shall adopt rules for the conduct of its proceedings, which may be modified or repealed by **THE BOARD OR BY** ordinance **OF THE MAYOR AND CITY COUNCIL**. The rules shall be in writing and when adopted shall be ~~immediately filed in the office of the Board and shall be a public record. A copy thereof (and of any amendments thereto) shall also be~~ **AVAILABLE TO THE PUBLIC AND** filed with the Department of Legislative Reference.

This language clarifies the subsection and allows the Board to modify or change its rules without requiring an ordinance.

(c) *Zoning appeals.*

The Board shall sit to hear zoning appeals. The hearing shall be conducted by all members present and if five members of the Board are present, the concurring vote of at least four members of the Board is necessary to reverse any order, requirement, decision, or determination of an administrative official, or to decide in favor of the applicant on any matter on which it is required to pass under a zoning ordinance or to effect any variation in such ordinance. If only four members of the Board are present, the concurring vote of at least three members is necessary to take any action under this subsection. In other cases, the Board may sit in panels of not less than two members each and, in such cases, the concurrence of at least two members shall be required to make a decision of the Board.

(d) *Oaths and subpoenas.*

The Board shall have power to administer oaths in hearings before it, to compel the attendance of witnesses and, pursuant to its rules, to require any person to answer in writing and under oath any interrogatories it may direct to such person as to any matter pending before it or subject to its action or review.

(e) *Executive Secretary; ~~Staff~~.*

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The Board shall appoint an Executive Secretary. ~~and such other employees as may be provided in the Ordinance of Estimates.~~

~~(f) Access to agency records.~~

The Board shall have access, through its agents and employees, to the plats and records of all other departments of the City.

All public records and access is required by State law and by other provisions in the Charter. The ability to hire other employees is already authorized. There is no need to contain this provision.

§ 84. Board of Municipal and Zoning Appeals: Zoning appeals.

Appeals from the Zoning Commissioner shall be determined by the Board and shall be taken pursuant to law. Upon such appeals, the Board shall have such powers and be subject to such restrictions as may be provided by law. The Board, after public hearing, may grant special individual exceptions to the provisions of the zoning ordinances or regulations as provided by law.

§ 85. Board of Municipal and Zoning Appeals: Paving assessments.

~~(a) Appeal to Board.~~

~~Whenever the Department of Transportation levies an assessment or charge for the paving of a street, alley, or sidewalk under § 116 of this article, the owner of the property on which the assessment or charge is levied may, within 30 days of the mailing to the owner of a notice of the assessment or charge, bring the assessment or charge to the Board for its review.~~

~~(b) Decision.~~

~~On reasonable notice in accordance with its rules and this Charter, the Board shall:~~

~~(1) determine whether the assessment or charge is proper; and~~

~~(2) if not, set it at the amount that the Board determines to be proper.~~

THE BOARD SHALL HEAR APPEALS CONCERNING THE ASSESSMENT OF FEES AND CHARGES FOR THE PAVING OF A STREET, ALLEY OR SIDEWALK AND SET AN AMOUNT THE BOARD DETERMINES PROPER.

The proposed substituted language adequately covers the essential concepts in the deleted provisions. Setting time limits to appeal a decision is implied in the power to hear appeals and need not be established in a charter.

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§ 86. Board of Municipal and Zoning Appeals: Review powers conferred by law.

~~The Board shall have such additional powers to examine, review and revise acts or rulings of other departments and officers of the City affecting the construction, alteration, use or operation of land or buildings in the City or other charges as may from time to time be conferred upon it by law, but the powers conferred upon it in the Charter shall not be diminished or abridged by ordinance, nor may the Board be given power to review or alter determinations of the Planning Commission.~~

§ 87. Board of Municipal and Zoning Appeals: Additional powers conferred by law.

~~The Board of Municipal and Zoning Appeals shall have and exercise all the rights, powers, duties, obligations and functions conferred by law upon the Board of Zoning Appeals not otherwise conferred by the Charter on other agencies of the City and not inconsistent with its provisions.~~
THE BOARD BY ORDINANCE MAY BE GRANTED ADDITIONAL POWERS TO REVIEW ADMINISTRATIVE ACTIONS, PROVIDED THE ADDITIONAL POWERS GRANTED ARE NOT INCONSISTENT WITH THIS CHARTER OR LAW. IN NO EVENT MAY THE BOARD BE GRANTED THE POWER TO REVIEW OR ALTER DECISIONS OF THE PLANNING COMMISSION.

The proposed new language is intended to capture the key concepts of Sections 86 and 87.

§ 88. Board of Municipal and Zoning Appeals: Judicial review.

If any person, including the City and the Planning Commission, feeling aggrieved by any decision of the Board within thirty days of a decision by the Board, appeals therefrom to the Baltimore City Circuit Court, the Board shall forthwith transmit all papers, or copies thereof, to the court, certified by its executive secretary.

An appeal shall stay all proceedings in furtherance of the action appealed from. But whenever, in the opinion of the Board, such stay would cause imminent peril to life or property, or serious public inconvenience, it may ask the Circuit Court for an order vacating such stay. From the findings of the Circuit Court in such cases, there shall be such appeal, if any, as may be permitted by law.

§ 89. Board of Municipal and Zoning Appeals: Notices; Evidence.

(a) Notice of decisions.

Whenever the Board shall make a decision it shall give reasonable notice thereof by mail to all parties who, from the papers or testimony before it, seem to be parties in interest. But failure to give such notice or of a party to receive notice of an order within thirty days of its entry shall not invalidate the decision nor, save by petition to and special order of the Board, extend the time to appeal from the order.

(b) Evidence; Notices of proceedings.

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Parties in interest who appear at a hearing before the Board shall be permitted to offer testimony pertinent to the issue or issues in which they are concerned, but the Board shall not be bound by the technical rules of evidence in force in the courts of Maryland, and may receive in evidence any paper, statement, record or other evidence, with or without prior notice to the parties, which it deems to be material and to have probative force.

Whatever record or notice of the proceedings or action of the Board is required by an act of the General Assembly to be given to any person or public officer shall be observed by the Board.

DEPARTMENT OF LEGISLATIVE REFERENCE

§ 90. Department of Legislative Reference: Established.

There is a Department of Legislative Reference, the head of which shall be ~~a Board of Legislative Reference~~ **THE DIRECTOR OF LEGISLATIVE REFERENCE WHO SHALL SUPERVISE AND DIRECT THE DEPARTMENT.**

The Board of Legislative Reference is outside of the City's control and influence in that it includes positions that are not subject to City oversight and control. The City Charter has no ability to compel the Deans or Presidents of universities to act in a particular manner, which thus renders the Board beyond the authority of the City Charter. Thus, as with other Departments, the Director should be listed as the head.

§ 91. BOARD OF THE DEPARTMENT OF LEGISLATIVE REFERENCE.

(A) *AD HOC BOARD.*

THERE IS A BOARD OF THE DEPARTMENT OF LEGISLATIVE REFERENCE, WHICH FROM TIME TO TIME SHALL BE ESTABLISHED PURSUANT TO THIS SECTION.

(B) *COMPOSITION OF THE BOARD.*

(1) THE BOARD SHALL BE COMPOSED OF THREE (3) MEMBERS. THE MAYOR, THE PRESIDENT OF THE CITY COUNCIL AND THE COMPTROLLER OF THE CITY SHALL EACH APPOINT ONE MEMBER TO THE BOARD.

(2) NO MEMBER OF THE BOARD MAY BE A CITY EMPLOYEE OR AN ELECTED OFFICIAL EXCEPT FOR A MEMBER OF THE JUDICIARY.

(3) THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(C) *FILLING A VACANCY.*

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- (1) WHENEVER THE MAYOR AND PRESIDENT OF THE CITY COUNCIL DECLARE A VACANCY IN THE OFFICE OF THE DIRECTOR OF LEGISLATIVE REFERENCE, THE BOARD SHALL BE APPOINTED WITHIN SIX (6) WEEKS OF THE DECLARATION.
- (2) THE BOARD SHALL BE RESPONSIBLE FOR ALL ACTIVITIES BY WHICH CANDIDATES TO FILL A VACANCY ARE SOLICITED, INVESTIGATED, INTERVIEWED AND RECOMMENDED FOR APPOINTMENT.
- (3) THE BOARD SHALL RECOMMEND NO LESS THAN TWO (2) CANDIDATES FOR APPOINTMENT BUT NO MORE THAN THREE (3) CANDIDATES TO THE MAYOR AND PRESIDENT OF THE CITY COUNCIL.
- (4) UPON THE APPOINTMENT OF THE DIRECTOR PURSUANT TO SECTION 92 OF THIS ARTICLE, THE BOARD SHALL BE DEEMED DISSOLVED AND ITS WORK COMPLETED.

The proposed changes would establish an ad hoc Board composed of three members. The Mayor, the City Council President, and the Comptroller would each have one appointment. This Board would conduct all the necessary activities related to filling a vacancy for the Director of Legislative Reference. The Board would solicit, interview, and investigate potential candidates and would recommend either 2 or 3 candidates to the Mayor and City Council President. The Mayor and City Council President would jointly appoint the Director from the list provided. This Board would ensure independence while balancing accountability. This structure is used for the appointment of the State Prosecutor and is being recommended for use in the appointment of the City's Inspector General as well. However; unlike the Inspector General provisions, this Board would only be convened to fill a vacancy in the position of Director of Legislative Reference.

§ 91 92. Department of Legislative Reference: Director – Appointment, qualifications, etc

(a) *Appointment; Tenure.*

The Director shall be appointed by the Board of Legislative Reference, shall be a member of the Civil Service, shall hold office during good behavior, and shall be subject to removal by a majority of the Board members for incompetence or neglect of duties.

(bA) *Head of Department; Qualifications.*

The Director of Legislative Reference shall supervise and direct the Department. The Director shall have substantial experience in law, legislative drafting or library administration.

(B) **APPOINTMENT.**

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UPON RECEIPT OF A RECOMMENDATION BY THE BOARD PURSUANT TO SECTION 91 OF THIS ARTICLE, A DIRECTOR MAY BE APPOINTED BY THE AFFIRMATIVE VOTE OF BOTH THE MAYOR AND PRESIDENT OF THE CITY COUNCIL.

(C) REMOVAL.

THE DIRECTOR MAY BE REMOVED FROM OFFICE BY THE AFFIRMATIVE VOTE OF BOTH THE MAYOR AND PRESIDENT OF THE CITY COUNCIL.

These changes would eliminate redundant language regarding appointment and supervisory responsibilities. It would also add language specifying that both the Mayor and City Council President must affirmatively vote on the appointment and/or removal of the Director of Legislative Reference for it to take effect.

(eD) Salary.

The Director's salary shall be set in the Ordinance of Estimates.

§ 92 93. Department of Legislative Reference: Director – Powers and duties.

The Director:

(a) Legislative matters.

shall investigate and report upon the laws of this and other states and cities relating to any subject requested by the Mayor, any committee of the City Council or the head of any department;

accumulate data in relation to the practical operation and effect of such laws;

investigate and collect all available information relating to any matter which is the subject of proposed legislation by the General Assembly of Maryland, or the City Council of Baltimore;

examine acts, ordinances and records of any state or city, and report the result thereof to the Mayor, any committee of the City Council or the head of any department requesting the same;

prepare or advise in the preparation of any bill, ordinance or resolution when requested so to do by any member of the City Council; and preserve and collect all information obtained, carefully indexed and arranged so as to be at all times easily accessible to city officers and open to the inspection of the general public.

(b) Records and archives.

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shall keep all the books, documents, archives, records, official plats, papers and proceedings of the City except those in current use or whose custody the Board of Estimates shall by resolution otherwise direct or authorize;

carefully collect, arrange and safely keep a complete series of the ordinances, resolutions and proceedings of the City;

receive and keep all other documents pertaining to the City which the Director may deem of historic value or be instructed so to do by ordinance or by resolution of the Board of Estimates;

~~retain~~ **PROVIDE FOR THE RETENTION OF** such books, documents, papers, plats or archives ~~in the Department, but~~ **AND** permit their inspection and reproduction by the public under such reasonable regulations and supervision as the Director may prescribe;

carefully prepare and keep an index of all books, papers, records and documents in the custody of the Department; and

keep a current separate index of all rules and regulations of other departments and agencies of the City.

(c) *Staff.*

may appoint such employees as may be provided in the Ordinance of Estimates.

(d) *Duties prescribed by law.*

perform such other duties as prescribed by law.

~~§ 93. Department of Legislative Reference: Board.~~

~~The Board of Legislative Reference shall be comprised of~~

~~the Mayor,~~

~~the City Solicitor,~~

~~the President of the Johns Hopkins University,~~

~~the Deans of the University of Maryland and University of Baltimore Schools of Law,~~

~~a member of the City Council selected by the Council and~~

~~the Director of the Enoch Pratt Library.~~

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See the above comment re the Board of Legislative Reference being outside of the authority of the Charter.

CIVIL SERVICE COMMISSION

§ 94. Civil Service Commission: Established.

(a) *Appointment, term, qualifications.*

- (1) There is a Civil Service Commission of three members who shall be appointed, must be confirmed and shall serve pursuant to Article IV, Section 6. **ONE OF THE THREE MEMBERS APPOINTED SHALL BE RECOMMENDED BY THE PRESIDENT OF THE CITY COUNCIL.**

This change would allow the President of the City Council to recommend one of the three Civil Service Commissioners.

- (2) The terms of two members shall expire on the last day of the year in which the term of the Mayor begins pursuant to Article IV, Section 1, and the four year term of the third member shall expire two years thereafter.

~~Each member of the Commission shall be a registered voter and resident of the City at the time, and during the term, of appointment. All appointments to the Commission shall be made from persons friendly to the merit system of appointment to office. No one holding any public office of profit shall be appointed a member of the Commission.~~

(3) EACH MEMBER OF THE COMMISSION SHALL:

(I) BE A REGISTERED VOTER AND RESIDENT OF THE CITY AT THE TIME, AND DURING THE TERM, OF APPOINTMENT;

(II) HOLD A RELEVANT POST-GRADUATE DEGREE; AND

(III) POSSESS SUBSTANTIAL EXPERIENCE AND KNOWLEDGE OF LABOR AND EMPLOYMENT ISSUES AND LAW.

- (4) NO ONE HOLDING ANY PUBLIC OFFICE OF PROFIT MAY BE APPOINTED A MEMBER OF THE COMMISSION.**

These changes ensure that the members of the Civil Service Commission have critical skills necessary to address labor, employment, and personnel issues.

(b) *President.*

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The Mayor shall designate one member of the Commission as its President, and may withdraw that designation and so designate another member.

(c) *Staff.*

The Commission may appoint such employees as may be provided in the Ordinance of Estimates.

§ 95. Civil Service Commission: Powers and duties.

The Commission:

- (a) shall advise the Mayor and Director on personnel matters.
- (b) shall provide to the Mayor and City Council at least annually a report on the operations of the Commission.

~~(c) shall review and approve the different groupings of positions having similar duties, responsibilities and qualifications ("classifications") that are used by the Department.~~

Subsection (c) was removed and included in Section 96 as these duties are performed by the Department of Human Resources, not the Civil Service Commission.

- (d) shall promulgate and make available to the public rules governing the operation of the Commission.
- (e) shall review and approve, before they become final, and make available to the public, the rules of the Department.
- (f) shall provide a hearing, on written request, to any non-probationary member of the Civil Service who has been discharged from the Civil Service, reduced in pay or position, or suspended for longer than 30 days. If the Commission finds that the intent and spirit of a provision of this Charter has been violated, it shall report its findings to the Mayor; and the appointing officer shall take whatever action the Commission directs to rectify the violation.
- (g) may, if it determines after appropriate investigation, that any administrative head of the City, including any commission or board, or any officer having the power of appointment and removal in the Civil Service, has abused such power by making appointments or removals for any reason other than the good of the public service, so report to the Mayor.
- (h) may appoint such hearing officers and other employees as provided in the Ordinance of Estimates.

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- (i) may, in the course of hearings, administer oaths, subpoena documents, summon witnesses, and examine witnesses; and may delegate these powers to a commissioner or hearing officer.
- (j) shall render decisions within sixty days of the close of hearings unless the City employee and City both agree to an extension. If the Commission fails to decide within the sixty day time period, the decision of the hearing officer, if there is one, shall be deemed to be the decision of the Commission.

§ 96. Civil Service Commission: Department of Human Resources – Established.

(a) *In general.*

There is a Department of Human Resources.

(b) **PurposePowers.**

The Department shall:

- (1) ~~promote merit and fitness in City employment~~ **BE RESPONSIBLE FOR PROPOSING TO THE COMMISSION PERSONNEL AND CIVIL SERVICE RULES AND REGULATIONS FOR ITS APPROVAL;**
- (2) ~~ensure that appointments and promotions in the City's Civil Service are made, and that salaries are established, without regard to political affiliation; and~~ **IMPLEMENT, MANAGE AND ADMINISTER APPROVED REGULATIONS;**
- (3) ~~promote the efficient delivery of services to the public.~~ **REVIEW AND APPROVE DIFFERENT GROUPINGS OF POSITIONS HAVING SIMILAR DUTIES, RESPONSIBILITIES AND QUALIFICATIONS ("CLASSIFICATIONS") THAT ARE USED BY THE DEPARTMENT; AND**
- (4) **PERFORM ALL FUNCTIONS NECESSARY AND RELATED TO HUMAN RESOURCE ADMINISTRATION AND MANAGEMENT REQUIRED BY THIS CHARTER, LAW AND REGULATION.**

This language is intended to provide as much administrative flexibility for the Department of Human Resources to perform its assigned scope of work.

~~§ 97. Civil Service Commission: Department of Human Resources – Powers and duties.~~

~~The Department:~~

- ~~(a) shall propose and submit to the Commission for final approval rules and regulations, including rules and regulations governing probationary status, temporary and emergency~~

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appointments, classifications, reclassifications, examinations, promotions, demotions, transfers, reinstatements, discharges, and other discipline of employees.

(b) shall propose and submit to the Commission for final approval the different classifications that are used by the Department. Such classifications shall assure that City employees are hired and promoted based on ability, efficiency, character, and industry ("merit"); and shall encourage the recruitment, training and supervision of qualified employees. Classifications may be grouped into categories, which may include a general category for employees who are hired or promoted based, in part, on the results of competitive or non-competitive examinations; a labor category for unskilled or skilled laborers; and other categories that the Commission may deem to be appropriate.

(c) subject to the exceptions in Section 99, shall assign to a classification each position in the City to which appointments are made. The Department shall not assign a position outside of the Civil Service without the approval of the Civil Service Commission. All the classified positions shall constitute the Civil Service, and appointments to positions in the Civil Service shall be made according to the rules of the Commission.

(d) shall provide for competitive examinations, non-competitive examinations, and other evaluative measures to assure that City employees are hired based on merit.

(e) shall provide for competitive examinations, non-competitive examinations, and other evaluative measures, including conduct in office, demonstrated capacity, and seniority, to assure that City employees are promoted based on merit.

(f) shall promptly certify to appointing officers lists of candidates eligible for employment within each classification. The Commission, by rule:

1. shall determine when certifications shall include, in rank order, those persons who have performed best on competitive examinations and when certifications should include persons whose fitness has been otherwise established;

2. shall determine when and how the appointing officer shall fill a vacancy or new position from the certifications; and

3. may provide that honorably discharged veterans of war, including disabled veterans, may receive special credits for their service to the United States in determining the qualifications and relative standing of applicants for City positions.

(g) shall establish a period of probation not exceeding one year during which the appointing officer may remove the employee at pleasure.

(h) shall propose to the Board of Estimates appropriate salaries and wages for each classification.

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~~(i) shall, in conjunction with the employing department, recruit, train and counsel Civil Service members.~~

~~(j) may appoint such employees as provided in the Ordinance of Estimates.~~

~~(k) shall administer employee benefits and pre-employment screening programs as directed by the Board of Estimates.~~

This section is quite detailed and the proposed new language in the previous section would allow all of these functions to be performed without having to specify each of them here.

§ 98. Civil Service Commission: Department of Human Resources – Director.

(a) *Head of Department; Qualifications.*

(1) The Director of Human Resources shall supervise and direct the Department.

(2) The Director shall have substantial experience in ~~personnel administration~~ **HUMAN RESOURCE MANAGEMENT**.

This change updates the qualifications required for the Director of the Department of Human Resources.

(b) *Appointment; Term.*

The Director shall be appointed, must be confirmed, and shall serve, pursuant to Article IV, Section 6.

(c) *Salary.*

The Director shall be paid a salary as provided in the Ordinance of Estimates.

§ 99. Civil Service Commission: Civil Service positions.

~~(a) *Positions included.*~~

~~1. All employees of the City of Baltimore, except as otherwise provided by the Charter or State law, shall be members of the Civil Service, with the exception of:~~

~~a. elected officials and those employees whom the elected officials have designated as members of their personal staffs.~~

~~b. Assistant City Solicitors.~~

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~~e. with the exception of the Director of the Department of Legislative Reference, directors, or by whatever other name the chief administrative officer may be known, and the deputy directors, of all departments of the City.~~

~~d. all members of boards and commissions.~~

~~e. all professional employees of the Department of Education.~~

~~f. persons in positions of temporary or seasonal employment.~~

~~g. persons who, in the judgment of the Civil Service Commission, exercise policy making discretion or occupy a position of special trust and confidence that is inconsistent with membership in the Civil Service.~~

~~2. Any dispute about whether a position is within the Civil Service shall be finally resolved by the Commission.~~

~~(b) Reemployment of director or deputy.~~

~~Upon leaving a position of director or deputy director, one who relinquished Civil Service status to assume that position shall, on application and with approval of the Commission, be placed on the re-employment list for his or her former classification.~~

EMPLOYEES OF THE CITY OF BALTIMORE SHALL BE MEMBERS OF THE CIVIL SERVICE, EXCEPT AS MAY BE PROVIDED BY CIVIL SERVICE RULES AND REGULATIONS.

There is no reason why these positions need to be listed in the Charter. DHR should have as much flexibility as possible to move positions in and out of these categories as it deems prudent and necessary.

§ 100. Civil Service Commission: Discharges, etc.; Reductions in force.

(a) *Discharges, suspensions, reductions in pay or position.*

~~(4)~~ No person may be discharged from the Civil Service, reduced in pay or position, or suspended because of political opinions or affiliations, or for refusing to contribute to any political fund or refusing to render any political service. But nothing in this Charter relating to the Civil Service forbids the discharge, reduction in pay or position, or suspension of an officer or employee for any just cause.

(B) REDUCTION IN FORCE.

THE DISPOSITION OF EMPLOYEES DISCHARGED AS A RESULT OF A REDUCTION OF FORCE SHALL BE DETERMINED BY CIVIL SERVICE RULES AND REGULATIONS.

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~~(2) Whenever a non-probationary employee is discharged, reduced in pay or position, or suspended for more than 30 days, the appointing officer shall furnish a copy of the order of discharge, reduction, or suspension, together with a statement of the reasons for the action, to the employee and to the Commission.~~

~~(3) The employee may contest the action by:~~

~~(i) requesting a hearing before the Commission; or~~

~~(ii) initiating a grievance pursuant to an applicable grievance and arbitration procedure, if any, contained in an applicable collective bargaining agreement.~~

~~(4) Once an employee has chosen to contest an action by electing one of the procedures specified in paragraph (3) of this subsection, the employee is bound by that election and may not subsequently choose to follow a different procedure.~~

~~(5) In all cases, except one in which an employee elects to contest an action through a grievance and arbitration procedure under paragraph (3)(ii) of this subsection, the Commission may, and on the written request of the employee, the Commission shall investigate the disciplinary action. If the Commission finds that the intent and spirit of the provisions of this Charter have been violated in the discharge, reduction, or suspension, it shall report its findings to the Mayor; and the appointing officer shall take whatever action the Commission directs to rectify the violation.~~

~~(b) Reductions in force—Reemployment preference.~~

~~Each person discharged for the purpose of reducing the force and without fault shall receive a certificate so stating and all persons so discharged shall be placed on the eligible list in the order of the length of their service in their classifications at the time of being laid off and in other classifications the civil service in which they may have served previously. The weight to be given to length of service in their last classification and in prior classifications shall be determined in accordance with the rules of the Commission. Persons so discharged shall have preference in the order of their seniority over others on the eligible list, subject, however, to the terms of the next subsection and to any priority to which any person may be entitled by virtue of any preference to veterans or their dependents.~~

~~(c) Reductions in force—Seasonal and part-time employees.~~

~~In the case of classes of seasonal or part-time employees the Commission, after notice and a public hearing, may adopt rules excluding them from, or limiting the application to them of, the preference contained in the preceding subsection.~~

This section pertains to personnel administration. It is better suited for regulation or legislation. The new language includes the necessary information that should be in the charter.

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§ 101. Civil Service Commission: Roster of Service employees.

~~(a) Commission to keep; Contents.~~

The Commission shall keep in its office an official roster of the Civil Service, and shall enter thereon the name of every person who has been appointed, employed, promoted, reduced, transferred or reinstated in any Civil Service position.

This roster shall be open to public inspection at all reasonable hours, and shall show in connection with each name the date of appointment, employment, promotion, reduction, transfer or reinstatement and the compensation of the position, its title, the nature of the duties thereof and the date and cause of any termination of such office or employment.

~~(b) Reports to Commission.~~

It shall be the duty of each appointing officer to report to the Commission forthwith, upon the appointment or employment of any person in the Civil Service, the name of the appointee or employee, the title and character of the office or employment, the date of commencement of service, and to report the separation of a person from the service, or other change in status and other information that the Civil Service Commission may require in order to keep the roster.

~~(c) Salary contingent on roster listing.~~

It shall be unlawful, after notice from the Commission for the Department of Finance to pay any salary or compensation to any officer, clerk, employee or other person in the Civil Service whose name does not appear upon the roster as being in the employ of the City.

This section pertains to activities involving human resource management and their absence in the charter would not eliminate the need to perform these activities. Such detailed information should not be included in the Charter.

§ 102. Civil Service Commission: Political contributions.

No person in the Civil Service shall for any reason be under any obligation to contribute to any political fund, and no person shall knowingly, directly or indirectly, in person or by letter, request or solicit the payment of any political assessment, subscription or contribution from any person in the Civil Service.

§ 103. Civil Service Commission: Abolished positions.

Any person holding any position in the Civil Service which may be abolished by the adoption of any amendment to the Charter or in any other lawful manner, shall be placed upon the reemployment list for the classification to which the abolished position belonged in accordance with Sections 100 and 101; or if no position of the same classification as that of the position abolished shall remain in the

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~~Civil Service after the abolition of the position, the person shall be placed on the reemployment list for a position that, in the judgment of the Civil Service Commission, shall most nearly approximate the position abolished.~~

~~No position shall be deemed to be abolished by reason of being transferred or placed in or under a different municipal agency without substantial change in the nature of the actual duties of the position. THE DISPOSITION OF EMPLOYEES HOLDING CIVIL SERVICE POSITIONS THAT MAY BE ABOLISHED SHALL BE DETERMINED BY CIVIL SERVICE RULES AND REGULATIONS.~~

The activity described in this section is purely an internal personnel function that does not affect the wider community of Baltimore. As a purely administrative function with no broader effects than on internal affairs, it should be deleted from the Charter.

~~§ 104. Civil Service Commission: Penalties.~~

~~Any violation of any of the provisions of the Charter relating to the Civil Service, or any willful use of any corrupt means in connection with any examination, appointment, promotion, reduction, transfer or reinstatement shall be deemed a misdemeanor and, upon conviction in a court of competent jurisdiction, shall be punished by a fine or by imprisonment as provided by law.~~

Penalties are legislative in nature and should not be included in the Charter.

DEPARTMENT OF TRANSPORTATION

§ 114. Department established.

There is a Department of Transportation, the head of which is the Director of Transportation.

§ 115. Director of Transportation.

(a) Duties; Qualifications.

- (1) The Director shall supervise and direct the Department.
- (2) The Director must have substantial administrative experience in transportation or in the delivery of related public service.

(b) Appointment; Term.

The Director shall be appointed, must be confirmed, and serves pursuant to Article IV, § 6 of this Charter.

(c) Salary.

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The Director's salary shall be set in the Ordinance of Estimates.

(d) *Employees.*

The Director may appoint the employees provided for in the Ordinance of Estimates.

§ 116. Powers and duties of Department.

(a) *In general.*

Notwithstanding anything to the contrary in this Charter, the Department has the following powers and duties.

(b) *Street construction and maintenance.*

(1) The Department has charge of constructing and maintaining the streets of the City.

(2) The Department shall:

- (i) prepare the plans and perform the work required by Ordinances for opening, extending, widening, straightening, grading, and closing any street in the City; and
- (ii) prepare all Ordinances for the opening and closing of streets, attend the hearings on those Ordinances, and perform all administrative functions related to those Ordinances.

(3) Before paving or repaving a street, the Director of Transportation shall ~~give notice in one of more daily City newspapers that~~ **ENSURE ADEQUATE PUBLIC NOTICE**, not less than 90 days from the first publication date, the Department will proceed with the paving or repaving and warning all persons to obtain permits for and to complete before that day all work that might involve the digging up of the street.

This change will modernize the publication reference to require publication in a modern and more accessible manner that also reduces cost.

(4) The Director shall send a copy of this notice to all persons who the Director has reason to believe would be interested in receiving it, but failure to send the notice does not affect the validity of any action taken by the Mayor and the Director to pave or repave a street.

(5) No pavement laid after the publication of the notice may be dug up by any person without a permit issued by the Director. The Director has discretion to issue or withhold this permit, and may attach appropriate conditions and charges to the permit.

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- (6) Whenever an assessment or charge is to be made against a property for paving a street, alley, or sidewalk, the Department after giving the owner of the property involved due notice and an opportunity to be heard, shall fix the amount of the assessment or charge.

(c) *Lighting.*

The Department has charge of the lighting of the City.

(d) *Conduit system.*

The Department may exercise all the powers and shall perform all the duties relating to the conduit system, and has charge of all property and equipment pertaining to that system.

(e) *Approval of new streets.*

- (1) Any person who, in connection with any real estate development, wants to lay out, locate, or construct a street, public or private, within Baltimore City shall, before beginning construction and before selling any land abutting on the street, present to the Department a copy of the plat for the proposed development, as approved by the Planning Commission, showing in detail the proposed streets.

- (2) If the plat is approved by the Department, the person shall:

- (i) record a copy of the plat, with the endorsements of the Planning Commission and the Department on it, with the Clerk of the Circuit Court of Baltimore City; and
- (ii) a certified copy of the recorded plat with the Department.

(f) *Street names.*

- (1) New public streets may not be designated by names until the names have been approved by the Department and entered on the appropriate plats and records of the Department.
- (2) If a private street is dedicated for public purposes and the dedication is accepted, or if the title to a private street is conveyed to the City, the Department shall give the street a name, by which it shall be known on all official records of the City.
- (3) The name of a public street may not be changed except by ordinance or resolution of the Mayor and City Council

(g) *Building numbers.*

- (1) The Department:
 - (i) shall determine and fix the number of every new building; and

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(ii) may change existing numbers.

(2) The Department shall report each new number or change of number to the owner or occupant of the building.

(h) *Street plats and plans.*

The Department shall:

(1) adopt rules and regulations regarding plats and plans relating to the location of streets; and

(2) shall prepare these plats and plans as required by the Board of Estimates or by ordinance.

(i) *Plats and records – Underground structures.*

The Department shall maintain plats and records of tunnels, pipes, mains, sewers, conduits, and other underground structures, both public and private.

(j) *Plats and records – Properties.*

(1) The Department shall maintain adequate plats and other records of all parcels of real property within Baltimore City.

(2) These plats and records shall include:

(i) the ownership of each parcel; and

(ii) the symbol by which each parcel is identified.

(3) These plats and records shall be the official plats and records to be used by all municipal agencies to identify and determine the location of every parcel of real property within Baltimore City.

(k) *System of uniform property identification.*

(1) The Department shall maintain a system for the uniform identification of all real property within Baltimore City.

(2) The system shall identify each parcel of real property by a symbol. That symbol shall be used by every municipal agency to identify that parcel, until it is subdivided or the symbol is changed by the Department.

(3) The failure of the Department or of any other municipal agency to identify a parcel of property by its symbol does not affect the validity of any assessment or charge otherwise properly made.

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(l) *Additional powers and duties.*

The Department has the additional powers and duties relating to the construction, reconstruction, and maintenance of streets, to transportation, and to traffic, including powers and duties transferred from other municipal agencies, as are prescribed by law.

§ 116A. Assessment of benefits and damages.

(a) *Elements of enabling ordinance.*

An ordinance to open, extend, widen, straighten, close, or grade any street, alley, or footway in Baltimore City may provide that the benefits assessed may be paid in not more than 5 annual installments, with interest at a rate determined just and proper by the Director of Transportation, with the concurrence of the Board of Estimates, on all deferred installments, accounting from the date that, under subsection (e) of this section, the first annual installment would become in arrears if unpaid.

(b) *Notice to Finance, owner.*

When the physical work required by the ordinance is completed:

- (1) the Department of Transportation shall notify the Director of Finance that the work has been completed; and
- (2) the Department of Finance shall give written notice to the property owner:
 - (i) that the work has been completed;
 - (ii) that the benefits assessed for the work are due; and
 - (iii) how the owner may obtain a hearing on the assessment.

(c) *Payment for benefits.*

If the ordinance does not provide otherwise, all benefits assessed shall be payable, at the option of the property owner, either at once or in 5 equal annual installments.

(d) *Damages.*

- (1) If, in any proceedings, the same person is assessed for benefits and also awarded damages, the damages shall be deducted from the benefits, and the provisions of this section as to payment of benefits apply only to the excess of the benefits over the damages.
- (2) The damages awarded to any person in connection with the project shall be payable at the time or times provided in the ordinance.

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- (3) No part of any street, alley, or footway may be physically opened, extended, widened, or straightened on or over the ground of any person determined by the Department of Transportation to be entitled to damages for the alteration without the written consent of that person, unless the damages have been paid to that person or paid into a special account to the credit of that person.

(e) *Lien for benefits; Arrearage.*

- (1) An assessment by the Department of Transportation on benefitted property is a lien on that property, in the full amount of the assessment, from the date the Department of Transportation notifies the Director of Finance that the physical work required has been completed until the assessment is paid to the Director of Finance.
- (2) Benefits assessed or, if payable in installments, the first installment, are due and payable on the date when the Director of Finance notifies the property owner of the assessment, and are in arrears 6 months from that date.

(f) *Sale on default.*

If the assessment on a property is in arrears, the Director of Finance shall proceed to sell that property in accordance with and subject to the same conditions imposed by the laws governing the sale of real estate charged with the payment of City taxes.

(g) *Resale on purchaser's default.*

If the tax-sale purchaser fails to comply with the terms of the sale, the Director of Finance shall resell the property at the risk of the former purchaser.

(h) *Refunds of assessment.*

If an ordinance providing for the opening, extending, widening, grading, or closing of a street, alley, or footway is invalidated by a court of competent jurisdiction or is repealed, the Director of Finance shall promptly:

- (1) refund all assessments paid under the invalidated ordinance; and
- (2) pay all expenses incurred, including reasonable attorney's fees, and for which the City is liable in carrying out the ordinance.

§ 116B. Correcting physical obstruction.

~~(a) *Correction required.*~~

~~Any person who has, in, over, or under a public street in Baltimore City, any building, structure, conduit, drain, main, pipe, track, work, or other physical obstruction that blocks or impedes the~~

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~~work of the Department shall, on reasonable notice from the Department, promptly shift, adjust, or remove it, at that person's expense, to fully meet the exigencies described in the notice.~~

~~(b) *Condemnation.*~~

~~The City is empowered, when the exigencies of the Department's work require, to secure the condemnation of the physical obstruction as provided in Article II of this Charter.~~

This section is legislative in nature and should not be included in the Charter.

COMPENSATION COMMISSION FOR ELECTED OFFICIALS

§ 117. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Commission.*

“Commission” means the Compensation Commission for Elected Officials.

(c) *Compensation.*

“Compensation” means all salary and allowances paid to an elected official.

(d) *Elected official.*

“Elected official” means:

(1) the Mayor;

(2) the City Comptroller;

(3) the President of the City Council; ~~and~~

(4) the Members of the City Council; ~~AND~~

(5) THE STATE'S ATTORNEY.

Pursuant to the proposed deletion in Article VI, §16, this change includes the State's Attorney as part of the Compensation Commission for Elected Officials.

§ 118. Commission established.

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There is a Compensation Commission for Elected Officials.

§ 119. Composition; Qualifications; Term.

(a) Composition.

The Commission comprises the following 7 members:

- (1) 3 members appointed by the Mayor in accordance with Article IV, § 6 of this Charter;
- (2) 1 member appointed by the City Comptroller, subject to confirmation by the City Council in the same manner as provided in Article IV, § 6 of this Charter for appointments by the Mayor; and
- (3) 3 members appointed by the President of the City Council, subject to confirmation by the City Council in the same manner as provided in Article IV, § 6 of this Charter for appointments by the Mayor.

(b) City officials, employees ineligible.

No official or employee of the City may be appointed to or serve on the Commission.

(c) Term.

- (1) A member of the Commission serves for a term of 4 years, beginning October 1 of the second year preceding the mayoral general election, and until a successor is appointed and qualifies.
- (2) Members of the Commission are eligible for reappointment.

§ 120. Compensation; Expenses.

Members of the Commission:

- (1) serve without compensation; but
- (2) are entitled to reimbursement of reasonable expenses incurred, as provided in the Ordinance of Estimates.

§ 121. Officers.

(a) Chair.

The Commission shall elect a chair from among its members.

(b) Others.

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The Commission may elect a Vice-Chair and other officers from among its members.

§ 122. Meetings.

(a) Quorum.

5 members of the Commission constitute a quorum.

(b) Votes for action.

(1) An affirmative vote of at least 4 members is needed for any action by the Commission.

(2) The Commission's records must show how each member voted on each question.

(c) Open Meetings.

All meetings of the Commission must be conducted in accordance with the Open Meetings Act, State Government Article Title 10, Subtitle 5 *{now Title 3 of the State General Provisions Article}*.

§ 123. Commission recommendations.

The Commission shall:

(1) evaluate the compensation of all elected officials; and

(2) recommend that, for the next term of office, the compensation be increased, decreased, or remain unchanged.

§ 124. Submission to Council.

(a) When required.

The Commission shall submit to the President of the City Council its recommendations on or before October 1 of the year preceding the mayoral general election.

(b) If change proposed.

If the Commission recommends one or more changes in compensation, the President of the City Council shall cause all of the recommendations to be introduced at the next meeting of the City Council as a proposed Resolution of the Mayor and City Council

(c) If no change proposed.

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If the Commission recommends no change in any elected official's compensation, or fails to submit a timely recommendation, no Resolution is to be introduced and the compensation to be paid elected officials remains unchanged.

§ 125. Council action.

(a) Amendment not authorized.

The Council may not amend the Resolution to change or affect any recommended compensation.

(b) Rejection by Council.

If, by a majority vote of all members, the City Council affirmatively rejects the Resolution on or before December 15 of the year preceding the mayoral general election, the compensation to be paid elected officials remains unchanged.

(c) Adoption by Council.

If the Resolution is adopted on or before December 15 of the year preceding the mayoral general election, or if the City Council fails to adopt or reject the Resolution on or before that date, the compensation recommended by the Commission will apply, effective at the beginning of the next term of office.

DEPARTMENT OF GENERAL SERVICES

§ 130. Department established.

There is a Department of General Services, the head of which is the Director of General Services.

§ 131. Director of General Services.

(a) Duties; Qualifications.

(1) The Director shall supervise and direct the Department.

(2) The Director must have:

- (i) substantial experience in the construction and maintenance of public works and improvements and in the delivery of related public services; or
- (ii) 10 years experience as an engineer.

(b) Appointment; Term.

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The Director shall be appointed, must be confirmed, and serves pursuant to Article IV, § 6 of this Charter.

(c) *Salary.*

The Director's salary shall be set in the Ordinance of Estimates. (d) Employees.

The Director may appoint the employees provided for in the Ordinance of Estimates.

§ 132. Powers and duties of Department.

(a) *In general.*

The Department has the powers and duties specified in this section.

(b) *Supervision of municipal buildings, related improvements.*

(1) Unless otherwise provided by this Charter, the Director shall supervise all municipal buildings and related improvements made in Baltimore City or elsewhere by or for the City or any municipal agency.

(2) All plans and specifications for these municipal buildings and related improvements, including those involving engineering questions, shall be submitted to the Director for approval.

(c) *Construction, maintenance, etc., of buildings, related improvements.*

(1) Unless otherwise provided by this Charter, the Department has charge of the construction, demolition, alteration, operation and maintenance of all municipal buildings and related improvements.

(2) To carry out these activities, the Director may enter and occupy any municipal property after giving due notice to the agency having control of the property. The Director shall restore any property so entered to the condition in which it was before the entry.

(d) – (f) *{Repealed by Res. 14-016, ratified Nov. 4, 2014.}*

(g) *Fleet management.*

(1) The Department is responsible for:

(i) the maintenance, repair, and operation of all motor vehicles and related equipment owned by the City, whether held for general service or assigned for the use of a particular office or agency,

(ii) the maintenance and operation of related garages, depots, and shops;

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(iii) the inspection of all City vehicles and related equipment and the keeping of proper records about how these vehicles and equipment are handled and operated;

(iv) the assignment of these vehicles and related equipment for the use of officers and other agencies of the City; and

(v) the maintenance or the hiring of any hauling or passenger service needed by any municipal agency.

(2) This subsection does not apply to motor vehicles and related equipment of the Baltimore City Public School System, except to the extent requested by that department and agreed to by the Department of General Services.

(h) *Assistance to other agencies.*

On the request of the head of a municipal agency, the Director shall:

(1) supply estimates of the cost of work for building improvements and vehicles to be done for that agency during the next fiscal year; and

(2) perform services for the municipal agency of the same general character as those carried on by the Department, the cost of which shall be charged to the agency requesting the services and shall be paid out of the funds appropriated to it.

(i) *Additional powers and duties.*

The Department has the additional powers and duties as are prescribed by law.

§ 133. {Repealed by Res. 14-016, ratified Nov. 4, 2014.}

~~§ 134. Correcting physical obstruction.~~

~~(a) *Correction required.*~~

~~Any person who has, in, over, or under a public street in Baltimore City, any building, structure, conduit, drain, main, pipe, track, work, or other physical obstruction that blocks or impedes the work of the Department shall, on reasonable notice from the Department, promptly shift, adjust, or remove it, at that person's expense, to fully meet the exigencies described in the notice.~~

~~(b) *Condemnation.*~~

~~The City is empowered, when the exigencies of the Department's work require, to secure the condemnation of the physical obstruction as provided in Article II of this Charter.~~

This section is legislative in nature and should not be in the Charter.

ARTICLE VIII FRANCHISES

§ 4. Street railways.

The Board of Estimates, subject to ratification and approval by ordinance, is empowered to agree with any street railway company for the surrender of any of its franchises, easements or rights of way, and in substitution for the franchise, easement or right of way so surrendered to grant a new franchise, easement or right of way on any street, and which may be for the same duration as the franchise, easement or right of way surrendered; and to provide, in appropriate cases, for a graduated park tax, as prescribed by Chapter 566 of the Acts of the General Assembly of 1906.

§ 5. Trackless trolleys.

The City may, by ordinance, permit any street railway company to operate under its existing franchises vehicles propelled by electricity furnished by overhead wires but not operated upon rails, and any such grant heretofore made is hereby ratified and confirmed.

§ 6. Advertising.

Before any grant of the franchises or right to use any street, or other public property, either on, above or below the surface of the same shall be made, the proposed specific grant, except as provided in the second paragraph of Section 2 of this Article VIII, embodied in the form of a brief advertisement, prepared by the Board of Estimates, at the expense of the applicant, shall be published by the Comptroller for at least three days in one daily newspaper published in Baltimore City to be designated by the Board of Estimates, and all the provisions of the first paragraph of Section 2 of this Article VIII shall be complied with.

These provisions are obsolete and outdated. They should be removed from the Charter.

ARTICLE IX TRANSITION PROVISIONS

§ 1. Terminology.

The Charter in effect immediately prior to the general election of November 3, 1994, shall for the purposes of this Article IX be known as the old Charter. The Charter as amended at said general election shall be known as the new Charter.

§ 2. Final effective date.

The new Charter shall, except as hereinafter provided, become fully effective as to all its provisions on July 1, 1996. All municipal officials shall do such acts as may be necessary or convenient in preparation for the new Charter's becoming effective.

§ 3. Advanced effective dates.

By resolution, the Board of Estimates may make effective any provision or provisions of the new Charter as of any date from and after the thirtieth day after the election at which the new Charter is approved by the voters and prior to July 1, 1996, in which case, to the extent of any inconsistency or conflict between such provision or provisions of the new Charter and the old Charter, the provision or provisions of the new Charter shall prevail.

§ 4. Existing employees.

- (a) Positions and salaries unaffected. Notwithstanding that the entry into effect of the new Charter will cause the transfer of certain powers and duties among municipal agencies, no position occupied by any employee in the Civil Service as of July 1, 1996, shall be abolished nor shall the salary of any such employee be affected by virtue of the entry into effect of the new Charter.
- (b) Civil Service status. The officers and employees of the City who, on July 1, 1996, are in positions that the new Charter removes from the Civil Service shall retain their Civil Service status until they retire or until and unless their positions are abolished or they are removed from them pursuant to law.

§ 5. Records and funds.

The books, records, property and funds of any municipal agency abolished or superseded by the new Charter are hereby transferred to and vested in the municipal agency to which the powers, duties and functions of the agency so abolished or superseded are transferred; and whenever part of the powers, duties and functions of any municipal agency are transferred by the new Charter to another municipal agency, then the books, records, property and funds relating to the powers, duties, and functions so transferred shall be transferred to and vested in the agency to which such transfer is made.

§ 6. Ordinances, orders, regulations.

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All ordinances and all orders, rules and regulations heretofore made in accordance with law by any municipal agency, insofar as the same are not in conflict with the provisions of the new Charter, shall remain in full force and effect until revoked or modified by agencies of the City empowered by the new Charter or otherwise by law, to repeal or amend the same. References in such ordinances, orders, rules and regulations to any municipal agency existing prior to the applicable effective date of the new Charter, shall be deemed to refer to the municipal agency to whom its powers and duties shall have been assigned by the new Charter.

§ 7. Contracts and obligations.

All contracts, leases and obligations to which the City is a party at the applicable effective date of the new Charter shall remain in full force and effect according to their terms, and shall be performed by or for that municipal agency which, by the new Charter or applicable ordinances, shall have jurisdiction over the subject matter of such contracts, leases or obligations.

§ 8. New terms for boards and commissions.

The first terms of office provided by the new Charter for members of boards and commissions that are coterminous with the Mayor's term of office shall begin on the last day of December, 1995, and the first four year terms of office provided by the new Charter for board and commission members that are staggered with the Mayor's term of office shall begin two years thereafter.

ARTICLE IX

OFFICE OF THE INSPECTOR GENERAL

§ 1. OFFICE OF THE INSPECTOR GENERAL: OFFICE ESTABLISHED.

THERE IS AN OFFICE OF THE INSPECTOR GENERAL, THE HEAD OF WHICH IS THE INSPECTOR GENERAL.

§ 2. BOARD OF THE OFFICE OF THE INSPECTOR GENERAL ESTABLISHED.

(A) *AD HOC BOARD.*

THERE IS A BOARD OF THE OFFICE OF THE INSPECTOR GENERAL, WHICH FROM TIME TO TIME SHALL BE ESTABLISHED PURSUANT TO THIS SECTION.

(B) *COMPOSITION OF BOARD.*

- (1) THE BOARD SHALL BE COMPOSED OF THREE (3) MEMBERS. THE MAYOR, THE PRESIDENT OF THE CITY COUNCIL AND THE COMPTROLLER OF THE CITY SHALL EACH APPOINT ONE MEMBER TO THE BOARD.**
- (2) NO MEMBER OF THE BOARD MAY BE A CITY EMPLOYEE OR AN ELECTED OFFICIAL EXCEPT FOR A MEMBER OF THE JUDICIARY.**

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(3) THE BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(C) BOARD ASSISTANCE.

THE CITY SOLICITOR AND THE DEPARTMENT OF LAW SHALL PROVIDE ADMINISTRATIVE AND SUPPORT SERVICES TO THE BOARD.

§ 3. DUTIES OF BOARD

(A) FILLING A VACANCY.

(1) WHENEVER THE MAYOR AND PRESIDENT OF THE CITY COUNCIL DECLARE A VACANCY IN THE OFFICE OF THE INSPECTOR GENERAL, THE BOARD SHALL BE APPOINTED WITHIN SIX (6) WEEKS OF THE DECLARATION.

(2) THE BOARD SHALL BE RESPONSIBLE FOR ALL ACTIVITIES BY WHICH CANDIDATES TO FILL A VACANCY ARE SOLICITED, INVESTIGATED, INTERVIEWED AND RECOMMENDED FOR APPOINTMENT.

(3) THE BOARD SHALL RECOMMEND NO LESS THAN TWO (2) CANDIDATES FOR APPOINTMENT BUT NO MORE THAN THREE (3) CANDIDATES TO THE MAYOR AND PRESIDENT OF THE CITY COUNCIL.

(4) UPON THE APPOINTMENT OF THE INSPECTOR GENERAL, THE BOARD SHALL BE DEEMED DISSOLVED AND ITS WORK COMPLETED.

(B) REMOVAL OF INSPECTOR GENERAL.

(1) THE BOARD SHALL BE APPOINTED IN ACCORDANCE WITH SECTION 2(B) OF THIS ARTICLE WHEN THE MAYOR, THE PRESIDENT OF THE CITY COUNCIL OR THE COMPTROLLER OF THE CITY ALLEGE THE EXISTENCE OF GROUNDS FOR REMOVAL AS PROVIDED IN SECTION 4 OF THIS ARTICLE AND CALL FOR THE REMOVAL OF THE INSPECTOR GENERAL.

(2) THE BOARD SHALL BE RESPONSIBLE FOR REVIEWING AND INVESTIGATING THE GROUNDS FOR REMOVAL AND FORMING AN OPINION, BASED ON THE RECORD BEFORE THE BOARD, AS TO WHETHER THE GROUNDS FOR REMOVAL ARE SUFFICIENT TO WARRANT A RECOMMENDATION TO REMOVE THE INSPECTOR GENERAL.

(3) THE BOARD SHALL RECOMMEND TO THE MAYOR AND PRESIDENT OF THE CITY COUNCIL EITHER THE REMOVAL OR RETENTION OF THE INSPECTOR GENERAL.

(4) IF THE INSPECTOR GENERAL IS RETAINED IN OFFICE, THE BOARD THAT IS APPOINTED PURSUANT TO THIS SUBSECTION (B) SHALL BE DEEMED DISSOLVED AND ITS WORK COMPLETED.

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- (5) IF THE INSPECTOR GENERAL IS REMOVED FROM OFFICE PURSUANT TO SECTION 4(D) OF THIS ARTICLE, THE BOARD APPOINTED UNDER THIS SUBSECTION (B) SHALL PERFORM THE TASKS TO FILL A VANCANCY PROVIDED IN SUBSECTION A OF THIS SECTION AND DISSOLVE AND TERMINATE ITS WORK PURSUANT TO THOSE PROVISIONS.

§ 4. OFFICE OF THE INSPECTOR GENERAL: INSPECTOR GENERAL.

(A) *QUALIFICATIONS*

THE INSPECTOR GENERAL SHALL HAVE:

- (1) SUBSTANTIAL EXPERIENCE AND DEMONSTRATED ABILITY IN AUDITING, FINANCIAL ANALYSIS, CRIMINAL JUSTICE, LAW, MANAGEMENT ANALYSIS, PUBLIC ADMINISTRATION, INVESTIGATIONS OR OTHER APPROPRIATE FIELD; AND
- (2) ACQUIRED SPECIAL TRAINING AND CERTIFICATION AS AN INSPECTOR GENERAL OR WILL ACQUIRE THE SPECIAL TRAINING AND CERTIFICATION WITHIN SIX (6) MONTHS OF APPOINTMENT.

(B) *TERM.*

THE INSPECTOR GENERAL SHALL SERVE A SIX-YEAR TERM, EXCEPT IN THE CASE OF REMOVAL FROM OFFICE AS PROVIDED IN THIS ARTICLE.

(C) *SALARY*

THE INSPECTOR GENERAL SHALL BE PAID A SALARY AS PROVIDED IN THE ORDINANCE OF ESTIMATES.

(D) *APPOINTMENT AND REMOVAL.*

UPON RECEIPT OF A RECOMMENDATION BY THE BOARD PURSUANT TO SECTION 3 OF THIS ARTICLE, AN INSPECTOR GENERAL MAY BE APPOINTED OR REMOVED FROM OFFICE BY THE AFFIRMATIVE VOTE OF BOTH THE MAYOR AND PRESIDENT OF THE CITY COUNCIL.

(E) *GROUND FOR REMOVAL.*

THE INSPECTOR GENERAL MAY BE REMOVED FROM OFFICE FOR:

- (1) MISCONDUCT IN OFFICE;
- (2) PERSISTENT FAILURE TO PERFORM THE DUTIES OF OFFICE; OR
- (3) CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF JUSTICE.

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§ 5. OFFICE OF THE INSPECTOR GENERAL: POWERS AND DUTIES OF OFFICE.

(A) *RESPONSIBILITIES OF THE OFFICE*

THE OFFICE OF THE INSPECTOR GENERAL IS RESPONSIBLE FOR:

- (1) INVESTIGATING COMPLAINTS OF FRAUD, FINANCIAL WASTE, AND ABUSE IN CITY GOVERNMENT; AND
- (2) PROMOTING EFFICIENCY, ACCOUNTABILITY, AND INTEGRITY IN CITY GOVERNMENT.

(B) *JURISDICTION OF OFFICE*

THE OFFICE OF THE INSPECTOR GENERAL MAY INVESTIGATE ALLEGATIONS THAT INVOLVE CITY GOVERNMENT AND POTENTIAL VIOLATIONS OF LAWS OR REGULATIONS BY ANY:

- (1) CITY ELECTED OFFICIAL;
- (2) CITY EMPLOYEE;
- (3) MEMBER OF A BOARD OR COMMISSION ESTABLISHED OR GOVERNED BY THE CITY CHARTER, CITY CODE, OR AN EXECUTIVE ORDER ISSUED BY THE MAYOR;
- (4) CITY CONTRACTOR OR PERSON NEGOTIATING A CONTRACT WITH THE CITY;
- (5) PERSON OR ENTITY SEEKING CERTIFICATION TO PROVIDE GOODS OR SERVICES TO THE CITY; OR
- (6) EXTERNAL RECIPIENT OF CITY FUNDS, BENEFITS, OR SERVICES.

(C) *ISSUING SUBPOENAS.*

- (1) TO PERFORM THE DUTIES OF OFFICE, THE INSPECTOR GENERAL MAY ISSUE A SUBPOENA TO REQUIRE:
 - (I) ANY PERSON TO APPEAR UNDER OATH AS A WITNESS; OR
 - (II) THE PRODUCTION OF ANY INFORMATION, DOCUMENT, REPORT, RECORD, ACCOUNT, OR OTHER MATERIAL.
- (2) THE INSPECTOR GENERAL MAY ENFORCE ANY SUBPOENA ISSUED PURSUANT TO THIS SECTION IN ANY COURT OF COMPETENT JURISDICTION.

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§ 6. ADMINISTRATION AND OPERATION.

(A) *STAFF.*

THE INSPECTOR GENERAL MAY APPOINT SUCH OTHER EMPLOYEES TO ASSIST IN THE CONDUCT OF THE OFFICE AS MAY BE PROVIDED IN THE ORDINANCE OF ESTIMATES.

(B) *DEPUTY INSPECTOR GENERAL.*

THE INSPECTOR GENERAL SHALL APPOINT A DEPUTY INSPECTOR GENERAL WHO SHALL SERVE AS THE ACTING INSPECTOR GENERAL IF THE INSPECTOR GENERAL IS ABSENT OR UNAVAILABLE FOR DUTY.

(C) *FUNDING.*

THE OFFICE OF THE INSPECTOR GENERAL SHALL BE FUNDED ANNUALLY IN THE ORDINANCE OF ESTIMATES.

(D) *ADMINISTRATIVE AND OPERATIONAL PROCEDURES.*

THE INSPECTOR GENERAL MAY ESTABLISH BY RULE AND REGULATION THE ADMINISTRATIVE AND OPERATIONAL PROCEDURES OF THE OFFICE.

This is a new article, which adds the Inspector General to the Charter and ensures it is independent.

ARTICLE X CHARTER REVIEW COMMISSION

§ 1. COMMISSION ESTABLISHED.

A CHARTER REVIEW COMMISSION MAY BE APPOINTED FROM TIME TO TIME PURSUANT TO THE REQUIREMENTS OF THIS ARTICLE BUT AT LEAST EVERY 10 YEARS FOLLOWING THE ADOPTION OF THIS ARTICLE IN NOVEMBER 2018.

§ 2. APPOINTMENT.

A CHARTER REVIEW COMMISSION SHALL BE APPOINTED NO LATER THAN MAY 1 IN THE YEAR PRECEDING A CONGRESSIONAL ELECTION AND COMPLETE ITS WORK, AS PROVIDED IN THIS ARTICLE, NO LATER THAN MAY 1 IN THE YEAR FOLLOWING ITS APPOINTMENT.

§ 3. COMPOSITION.

THE COMMISSION SHALL BE COMPOSED OF NINE REGISTERED VOTERS OF THE CITY APPOINTED WITHOUT REGARD TO POLITICAL AFFILIATION. THE MAYOR, THE PRESIDENT OF THE CITY COUNCIL, AND THE COMPTROLLER OF THE CITY SHALL EACH APPOINT THREE (3) MEMBERS TO THE COMMISSION. EXCEPT FOR A MEMBER OF THE JUDICIARY, NO PERSON WHO HOLDS ELECTED OFFICE MAY BE APPOINTED TO THE COMMISSION. THE CHAIR OF THE COMMISSION SHALL BE ELECTED FROM AND BY THE COMMISSION MEMBERS. AT THE DISCRETION OF THE COMMISSION, AN ADVISORY BODY MAY BE APPOINTED TO ASSIST THE COMMISSION IN ITS DUTIES.

§ 4. DUTIES.

THE COMMISSION SHALL REVIEW THE PROVISIONS OF THIS CHARTER AND MAKE RECOMMENDATIONS AS TO THE NECESSITY FOR DELETING, ADDING OR REVISING ITS CONTENTS. DURING ITS DELIBERATIONS, THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING TO RECEIVE PUBLIC TESTIMONY CONCERNING THE WORK OF THE COMMISSION.

§ 5. REPORT TO THE MAYOR AND CITY COUNCIL.

THE COMMISSION SHALL DELIVER A WRITTEN REPORT CONTAINING ITS RECOMMENDATIONS TO THE MAYOR AND CITY COUNCIL. THE CITY COUNCIL SHALL CONVENE A PUBLIC HEARING AT WHICH THE COMMISSION SHALL PRESENT ITS REPORT AND RECOMMENDATIONS.

§ 6. DISSOLUTION.

UPON COMPLETING THE ACTIVITIES REQUIRED IN SECTION 5 OF THIS ARTICLE, THE COMMISSION SHALL BE DEEMED DISSOLVED AND ITS WORK COMPLETED.

These changes would require that the Charter be reviewed at least once every ten years to ensure it is modern and up-to-date.



SIXTH EDITION

Guide for Charter Commissions



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Foreword

Imagine being a member of the Constitutional Convention in Philadelphia and having to make critical decisions that would determine the course of American politics and government for generations to come. It's not too much of an exaggeration to suggest that serving on a local charter commission is the closest thing we have to being part of a constitutional convention. In home rule cities, residents are able to draft and revise their own governing charters and make decisions about election procedures, ethical codes, legislative methods and administrative structures.

Most of us learn about the "separation of powers" approach of the framers in our civics or American history classes, but few of us are given much information about the various theories and structures of local government. The federal constitution is mute on how cities should be governed. The "city council/city manager" form of government, which a majority of cities have adopted, has a very different set of arrangements from the constitutional framework. It's not surprising that when members of the public call us for information on charters, their questions often betray a surprising lack of knowledge about how and why local government works the way it does.

When the framers met in 1787, they were working without blueprints, armed only with their knowledge of classical history and their familiarity with works of Locke and Montesquieu. Since the early 1900s, charter commissioners have had the benefit of models and research materials developed by the National Civic League. The league published its first Guide to Charter Commissions in 1945. During the years that followed, the various editions of the guide have served as the most widely used and recognized source on the complex process of reviewing and revising local charters. The last edition, issued in 1991, was one of our top selling publications.

When it came time to republish it, however, we decided enough years had passed to justify a substantial revision and redrafting. Although the old edition served as a source for this document, the Sixth Edition represents a considerable change in tone, content and structure. The chapters have been revised and reordered and the language made less formal, so the guide will be more accessible for lay users. The primary author of the new guide is Wendy Hassett, Ph.D., who worked with us on the various drafts of the new document. Wendy is a Clinical Associate Professor of Public Affairs at The University of Texas at Dallas (UTD). Before joining the faculty at UTD, she worked as an assistant city manager and has over twelve years of experience in local government.

We would also offer our thanks to the reviewers of the guide. Terrell Blodgett, a former chairman of the National Civic League, and a Professor in Urban Management at the LBJ School of Public Affairs at the University of Texas at Austin, was instrumental in initiating this revision process. James Svava, Ph.D., a professor at the School of Public Affairs at Arizona State University and a participant in the committees to revise the 7th and 8th editions of the Model City Charter, served as primary reviewer of the document and offered key insights and feedback.

We also wish to thank an anonymous donor, the NCL Board, Council of Advisors and Board Chairs and NCL chief information officer Mike McGrath for their contributions to this project. The guide is intended to be used as a supplement to the Eight Edition of the Model City Charter, the "blueprint" for government structure used by thousands of community around the world.

Gloria Rubio-Cortés

President, National Civic League

Chapter One



Introduction to the Charter Process

Of all levels of government, local government is by far the most common point of contact for the average citizen. In fact, it is difficult to imagine any important aspect of American life that is insulated from the influence of local government. An individual may interact with federal or state agencies a handful of times in an entire lifetime, but he or she will interact with local government employees on a much more frequent basis—while speaking to a police officer, paying a water bill or greeting the people who have come to collect the garbage.

Quite a lot is expected from local governments. They provide a vast array of services to residents, everything from public safety to utilities, recreation, education, transportation, storm water management, zoning and land use regulation and enforcement, construction permitting and inspection, and much more. And while cities, towns, villages, and counties are increasingly expected to be self-reliant in providing these services, they are also expected to execute policy mandates handed down from state and federal governments.

Local governments are also expected to adjust to changing times and expectations. For example, there was a time when there were no cities providing recycling services. However, a heightened sensitivity to environmental concerns brought that issue to the forefront. Today, recycling is a common service provided at the local level that a growing number of citizens have come to expect. Without a doubt, managing and administering the business of local government is a challenging task that requires those in leadership positions to carry out an expanding array of public services efficiently and effectively day after day.

The journey of a local government is one fraught with challenges and achievements, successes and failures, risks and rewards. One of the most interesting things about local governments is the flexibility they have in forging their own paths. Within some constraints set by state law, municipal governments create their own futures through the decisions made by citizens and local elected officials. One important way that a local government controls its own destiny is through its charter.

A charter is the foundation of a local government and functions as the municipal equivalent of a state or federal constitution, setting forth guiding principles for governance. Composed by citizens, a charter specifies the most fundamental relationships between a government and its community. It establishes the framework for how a local government operates in terms of its structure, responsibilities, functions, and processes. The way public officials are elected, the form of government, and the role citizens play in local government are just a few examples of the important choices articulated in a charter.

Because a charter is the vehicle that allows a local government to officially control its operations, many cities adopt a charter soon after formal incorporation as a municipality. And, in spite of the differences in the legal status of cities and counties, many counties also adopt charters. This is particularly the case with counties that perform functions similar to those commonly provided by municipalities.

A charter can be amended by following the process set out in its respective state constitution and sometimes in the charter itself. Although some states permit the council to make charter changes, any charter amendment proposed by a charter commission must be formally considered by the citizens in an election, or referendum, before it can be officially incorporated into the charter. Citizen approval is important because a local government's charter influences virtually every aspect of its operations, for better or for worse.

Having competent, responsive, and effective individuals filling elected and administrative positions is critical to the success of any local government. The charter plays a role in this as well. If the local government runs efficiently, effectively, and openly, it is viewed in a positive light. Capable and civic-minded citizens are much more likely to volunteer their time and talents to an organization that is well-regarded. On the other hand, good men and women are reluctant to align themselves with a struggling government guided by an ineffective or out-of-date charter. Whether those in public positions are experienced or novice, they are much better positioned to be effective in moving the community forward if the locality is working with a well-constructed charter. Clearly, the benefits of an effective local charter are far-reaching.

Reviewing the Charter — The Big Picture

When facing a new or unfamiliar task, it is often helpful to step back and examine the “big picture.” So, what brought you here? What has led your community or local government to the place where an examination of its charter is warranted? What are you trying to achieve?

Understanding the circumstances surrounding the charter process is important. There can be many different reasons behind the initiation of a charter commission. Here are a few examples:

- a law requires periodic evaluation of the charter
- a small (but growing) city becomes increasingly complex but is operating with an out-of-date charter that is simply not working any more
- residents desire a more representative body of elected officials
- a vocal group wants to change the existing form of government
- a newly-incorporated local government needs to draft its first charter
- widespread community discontent regarding a string of governmental policy or project debacles triggers an interest in making changes to the charter
- residents desire greater governmental accountability

- a newly-elected slate of public officials calls for change - including charter revisions
- poor governmental performance is linked to overly-restrictive charter provisions
- city officials realize that the charter conflicts with state law

Whatever has occurred in your local government to trigger an examination of its charter, it is critical that the reasons behind the effort be understood and carefully scrutinized. Initiating a process to change a local government charter should never be a “knee-jerk” reaction to a recent problem. If it is entered into by choice, a charter review should be undertaken only after serious consideration.

Why Review the Charter?

Most local governments are fortunate to have charters that were written by civic-minded and well-meaning individuals who engaged in serious deliberation and thoughtful discussions as they made charter-related decisions. There are reasons behind why the charter of each community was written as it was. However, new generations come into leadership positions with new ideas. Leaders of each generation need to learn by precept and experience what the previous ones had come to accept as true through experiences of their own. And, as is so common in local governments, dissenters emerge from time to time and criticize the “outdated” charter document created in the distant past and question how it could be relevant and useful today. Reviewing the charter does not necessarily mean changing the charter if it is sound in design. In some cases, the charter review can be viewed as a routine “checkup” that may find the patient is healthy.

Many local governments have made changes to their charters since they were first adopted. Periodic general review can be a useful exercise. Some charters have added multiple revisions over time without a comprehensive review while other revisions resulted from earlier efforts to carefully reform the charter. While updating and changing a charter can be beneficial, it should only be done for the right reasons within the proper context. A charter commission carries a weighty burden in exercising its judgment to determine which features should change and which should be retained.

So, why are charter changes necessary? The easy answer is “because things change,” or “because we want to see real change in our local government.” But the easy answer is not always the right answer. Changing a charter is not a cure-all. Many local governments are able to turn things around and make sweeping organizational changes without changing their charters. Examples abound of newly-elected public officials, innovative city managers, and creative department heads making considerable positive impact on the communities they serve without modifying their respective city charters.

On the other hand, demographics, economics, and dynamics of cities, townships, and counties change over time. And, that may mean the values of the community have changed as well. For example, because of the unique characteristics of a growing number of residents living in different geographic pockets of the city, the public interest might be better served with council members elected by districts instead of at-large. Vocal representatives from the flourishing business community may join together to support the idea of adding a professional manager to the city administration.

Many consider the election of a fresh slate of public officials to be a solution to poor government performance, waste, or corruption. This kind of wholesale change certainly can and has made a difference in many local governments. However, sometimes efforts by even the most seasoned and well-intentioned elected officials can be stalled or thwarted by an overly-restrictive charter. In some cases, only after charter

revisions are in place can public officials make significant strides to improve governmental operations, processes, or policy. Things change with the passage of time, and so should charters.

The process of writing a charter or drafting charter amendments is not an easy undertaking. This is by design. A charter provides stability and consistency to a local government. The charter writing process is a major task that has long-lasting impacts - not just for the local government, but also for its residents. Therefore, broad community involvement is needed. The process requires the commitment, time, and talents of citizens and governmental staff. Ultimately, voter approval is necessary for the proposed charter or charter changes to take effect. It is not a task that should be entered into lightly.

When to Consider Changing the Charter

Not every local government issue is a charter issue. Most problems governments face have nothing to do with the quality of the charter. Many concerns about the workings of local government can (and should) be handled other ways. There is a danger to making changes to a charter when those changes could be achieved another way. In as much as charter changes can bring about positive results, they can also produce overly cumbersome procedures, unjustifiable advantages for certain groups, and onerous restrictions on governmental leaders.

So, before a decision is made on whether or not to pursue a desired change through the charter, other possibilities should be considered first. The following questions are suggested to sort out how best to address the area(s) of concern:

- Can this problem be solved by the passage of an ordinance?
- Can this problem be addressed with an administrative measure (such as amending an existing departmental or city-wide administrative policy or procedure)?
- Does the mayor or city manager already have the authority to make changes that might address this problem?
- Should a solution to this problem be sought by getting new officials in office?
- Might state legislation address this problem more effectively than a change to the local charter?

If the answer to any of these questions is “yes,” that alternative should probably be tried first. While many problems could be solved through a charter amendment, most problems can be addressed more efficiently other ways. Furthermore, many local government services and regulations are mandated by federal or state law. In other words, altering a municipal charter cannot eliminate or change policies or requirements established at higher levels.

What Charter Change Can and Can't Do

So what can charter change do? And, perhaps more importantly, what can it not do?
Charter change CAN...

- alter a form of government so the new form is better aligned with the preferences of citizens
- restrict or increase options available to governmental leaders
- alter electoral representation
- clarify ambiguity or confusion caused by existing charter language
- redistribute powers among elected officials, appointed officials, and governing bodies as well as between city officials and citizens
- set the stage for governmental leaders to achieve desired changes
- convert elected governmental positions to appointed positions or vice versa

Charter change CAN'T...

- automatically increase the quality of governmental products and services
- eliminate political in-fighting and make elected officials achieve consensus (although governmental form can affect the likelihood of conflict)
- expand the scope of municipal powers in states without home rule
- jumpstart the local economy
- decrease local crime
- improve the school system
- stop a controversial public project
- change or eliminate state-mandated activities

A charter can easily become a tediously detailed document that hampers those in office as they work toward improving services, streamlining governmental functions, or reorganizing departments by severely limiting available options. While a certain level of control over governmental action is necessary and appropriate, balancing control with organizational and process flexibility and discretion should be the ultimate objective of any charter.

Does Our Problem have a Charter Solution?

Sometimes when a local government faces a difficult challenge, leaders consider conducting a charter review in an attempt to find a solution. In these cases, an objective and well-informed decision should be made that changing the charter is the best path to take. Some charters include a provision requiring a formal charter commission be appointed from time to time (every five or ten years, for example) to conduct a thorough review of the charter. In other cases, a charter review may be statutory - mandated by state law. This kind of routine examination may or may not involve an attempt to "fix" something that appears to be broken in the local government.

So, what kinds of challenges justify convening a charter commission? The following are a few issues faced by local governments that often warrant an examination of the charter.

A Charter-Created Problem: This kind of problem is one that originates in the charter. It, therefore, can only be addressed by a change to the charter. For example, a city with a charter that establishes a "rotating mayor" (in which the mayoral position rotates through council members every year) may determine that this system for selecting a mayor is no longer effective. Over time, it has become evident that while many competent individuals have served as mayor, recurring problems continue. It appears that the real problem has nothing to do with the actions or abilities of those who have served as mayor over the years. Instead, the problem appears to be the rotating mayor system established in the charter. To address this, the rotating

mayor system must be changed in the charter document.

Lack of Formal Power: Regardless of the home rule status of a state, all local governments are able to adopt a charter to establish basic principles for local governance. Local government powers cannot be assumed by adopting an ordinance, enacting state-enabling legislation, adopting a new administrative policy or procedure, or taking any other action emanating from the city council, county commission, the mayor, or the city manager. If the local government has not assumed the available state-specific powers through its charter, the city's authority will be limited unnecessarily. This challenge is faced by a recently-incorporated city functioning without a municipal charter. The city must adopt a charter that assumes all powers available to it so the city can exercise its legal authority and have formal control over all aspects of its operations.

Form of Government: Governmental structure matters. The way a local government is structured affects how decisions are made and how the everyday business of government is carried out. This is particularly true with the form of government. When the ideas held by citizens about how the government functions are not in line with the city's particular form of government, a local government may consider changing its structure. This kind of structural problem requires a charter solution.

A word of warning should be mentioned here. A form of government should never be changed in response to the desire, action, or inaction of a particular *person, for example a mayor or city manager*. Changing a form of government does not change a person's leadership style, personality, management approach, or preferred political strategies. For example, the current mayor in a council-manager city may argue that he or she needs more power to be an effective leader and changing to a mayor-council form will allow him or her to be more successful. This argument falls short for two reasons. First, future mayors may not be as effective as the current one. Changing a form of government is not a short-term solution. Once the form is changed to mayor-council, city government would depend heavily on the mayor's political and administrative leadership under the leadership of both effective mayors and ineffective mayors. Therefore, changing form of government should never be aimed at providing a person with more power. Second, mayors can exert substantial leadership within the council-manager form when they bring together a clear majority and set goals for the city manager. Finally, altering the city's form of government should never be used as a weapon to eliminate a person from the organization. If there is dissatisfaction with the person serving as city manager, for example, this person should be removed by the council rather than shifting from a council-manager to a mayor-council form and eliminating the position of city manager.

The question of whether change in form should be considered and, if so, which form should be chosen is a major issue in some charter reviews. A preliminary discussion of factors to consider in choosing form of government is presented as an appendix to this publication. For additional information, see *The Model City Charter* published by the National Civic League.

Once a general consensus exists that convening a charter *review commission* is the right approach or convening a commission is required by the charter, work may begin.

The Road Ahead

Residents of a community have the right and responsibility to shape their local government. While the level and extent of citizen participation may vary, a process of actively and effectively engaging citizens should be at the heart of any charter creation or revision.

One of the first steps in changing a local government's charter is identifying a group of individuals who may be willing to serve on a charter review commission. A charter review commission is a body authorized by law and exists for the sole *purpose of drafting and ultimately* submitting to the voters either a new charter or revisions to an existing charter.

Like a constitutional convention at the state or national level, a charter review commission closely examines the government and its present charter, studies the experience of other cities or counties under their respective charters and forms of government, determines the best principles of local government to build into proposed charter changes, and then drafts a new charter, charter amendments, or a presumably improved charter. Because the commission is typically composed of community residents who are not involved in daily governmental operations, the commission, by design, is able to be objective and impartial in its evaluation.

While the individuals appointed to this commission may be chosen various ways, there are some common features of their work that are consistent across the country. For instance, there is typically a time constraint placed on the commission to complete its work, the commission encourages and solicits citizen input, and the final commission recommendations are considered by voters at the polls.

The group of individuals chosen to serve on this commission is charged with a unique and important civic-minded task. An opportunity to serve one's community in this way typically comes once in a lifetime. Furthermore, if voters approve the changes, the commission's work will have lasting impact for many years to come.

Because each local government is unique in its strengths, community dynamics, power structures, and personalities, there is not one "right" way to conduct a charter review. This Guide is designed to be used in conjunction with the latest edition of *The Model City Charter* published by the National Civic League. The *Model City Charter*, which is judiciously updated from time to time to remain current and relevant, has proven extremely useful to many local governments that have written new a new charter or amended an existing charter. This Guide is intended to complement the *Model City Charter* by providing helpful suggestions and strategies aimed at facilitating what many consider a complex and overwhelming task: the process of charter review.

Chapter Two



The Charter Review

During the early 1900s, many cities faced serious challenges to effective governing. As a result, they became actively involved in charter reform. Since charter reform provides a way to redefine the basic rules of governmental operation, cities looked to their charters as a way of reducing corruption, enhancing local autonomy beyond what was granted by state governments, improving government efficiency and strengthening control over municipal finances. Over the twentieth century, more than eight cities in ten over 10,000 in population changed their form from the traditional weak mayor-council form or chose one of the new approaches as newly created cities.

Today's local governments also face challenges and often look to their charters for solutions. A well-functioning local government relies on established rules, regulations, practices, and precedent, and its charter is a large part of this. Sometimes a local "crisis" or series of public debacles bring into question some aspect of the charter. In other cases, a local government might be required to conduct a charter review every ten years, for example, to assess whether or not any changes should be considered. When a routine charter review is mandated, the review is necessary even if there is not a specific reason for a review. It is important to note that a charter review commission does not singlehandedly have the power to change the charter. Instead, this body has the ability to draft charter amendments or a new and presumably improved charter to be considered by local voters at the polls.

While a charter contains the enduring guiding principles for governmental operations, it also must be able to be adapted and changed. Although many good charters stand the test of time, they are documents crafted by flawed human beings who are unable to see into the future. Therefore, charters need to be revised and updated from time to time - in good times and in bad.

Charter review starts with the appointment of a commission made up of local residents who are tasked with methodically and objectively reviewing the existing charter and various aspects of local government operations. The scope of work assigned to charter commissions varies widely. As a result of the review, the group determines what (if any) changes should be considered for formal adoption. Because each community is different, there is not one "right" way to do this. Each charter review process will be unique to the community conducting it.

While writing or amending a charter requires the involvement of local residents, interestingly only a

handful of people have ever had any experience drafting a charter or changes to one. So, for most people involved in the process, it is their first and only experience with such a task. Without a doubt, this body is challenged with an uncommon and significant civic duty.

Commission Membership

Opportunities for direct citizen involvement in local government often garner a healthy amount of attention. While citizen involvement in committees, advisory groups, public hearings and the like is a significant and valuable part of local government operations, membership on a charter commission offers an uncommon opportunity for public service to one's community. Participation in the charter process is citizen involvement at a higher level and with greater potential impact.

A charter commission is a body authorized by law and established for the single purpose of drafting and submitting to the voters a newly created local government charter or revisions to an existing charter. The appointment of this group of individuals, typically between 15-20 registered voters, is often governed by laws and regulations that specifically deal with charter creation and revision. For example, in some cases the commission members might be required to be appointed by the mayor. In other cases, it may be the council that appoints the members. In still other situations, these individuals are elected by the voters. In any case, this independent commission of citizens is empowered to organize its review within the assigned scope and establish its schedule in order to facilitate its study of the charter and certain aspects of the government.

Given the importance of the commission's task, the membership of the charter commission is worthy of careful consideration. Individuals chosen to serve on the commission have a special opportunity for local statesmanship. If voters ultimately approve the work of the commission, the efforts of this group will have lasting impact on the future of the community and the local government. Therefore, selection of the individuals to serve in the charter process is a crucial decision.

All participants should be eager to work hard and willing to share their talents and expertise. It is important to understand that participants bring with them unique value systems, biases, differing opinions on what "good government" is, good and bad life experiences living in different communities, and (in some cases) personal agendas. As a result, deeply-held beliefs and viewpoints set the stage for complex committee dynamics, passionate discussions, and heated debates.

At the heart of this process is the active and focused engagement of a diverse and representative group of community members. Diversity is important for several reasons. The involvement of diverse groups and perspectives will not only contribute to a better final product, but also lend credibility to the validity of the final outcome. Therefore, no group should be left out. All segments of the community should be represented and no one should be excluded based on race, creed, color, ethnicity, national origin, religion, sex, sexual orientation, gender expression, age, height, weight, disability status, veteran status, military obligations or marital status.

When the commission is composed of community residents who are not involved in day-to-day governmental operations, the commission is able to be detached, objective and impartial. The most effective charter commissions are not dominated by lawyers, scholars, and accountants, but made up of civic-minded, intelligent lay people with a common-sense approach to things. The members should a) be in touch with the perspectives present in the community; b) command respect from local residents; and c) bolster the confidence of citizens in the process and the work of the commission.

Special mention should be made about the role of local elected officials. While in many cases the mayor and/or council plays a role in the appointment of commission members, the involvement of elected officials should end at that point. The charter process functions best when it is rooted in citizen involvement rather than one influenced (intentionally or unintentionally) by political officials directly serving as members. In some cases, the commission's recommendations go back to the council, which has the authority to decide whether the proposal will go to the people for a vote or may determine the final language of proposals. Still, the commission should do its work independently and give the council and the voters its best thinking about charter change.

Key Commission Players

The Chairperson. The chairperson of the commission will have a vital role to play. Because commission members are respected and intelligent individuals in their own right, it follows that they should be led by someone who is widely regarded as a person of integrity and good judgment who is politically neutral, accomplished, and widely-respected. The ability to collaborate is also valuable. This individual might be a former mayor or other well-known civic-minded individual who is level-headed and has a good sense of the work of a charter commission.

A number of real advantages come from the city council naming a chairperson and commission members simultaneously. However, if the council does not choose a chairperson, it is up to the commission to do so. Oftentimes a commission takes up the subject at its first meeting without much thought. Due to the significance of this position, the selection of the person to head the commission should not be taken lightly. The most successful charter commissions are led by a well-chosen chairperson. Unfortunately, instead of a thoughtful and deliberative decision, many times the selection of the chair is made quickly and relegated to a random selection from among those willing to be considered.

So, what makes for a good commission chair? A good chair is skilled at conducting well-run meetings. But there is much more to being a successful chair of a charter commission. A good chairperson has a sincere passion for the work of the commission and is able to translate that passion to its members. A good chair motivates commission members and speaks personal words of support and encouragement when needed. A good chairperson connects ideas, challenges opinions, helps define problems, and ultimately assists the group in reaching consensus on the issues that must be addressed.

These qualities are found when the chairperson uses a participatory style over an autocratic one to encourage active involvement among the members. This kind of chair acts more as a facilitator than as the local expert with all the answers. The chair leads the meetings, focuses the work of the commission, and keeps the process organized and on-track. The chair does not give up his or her right to participate in shaping the decisions of the commission but participates in a fair way. For example, the chair does not use the position to give advantage to some members nor to discourage members who hold different views. Further, the fair chairperson does not forcefully express his or her views in order to discourage others from expressing their opinions.

It is a lot to ask for the chairperson to singlehandedly address the myriad of issues that may arise during commission deliberations. Ideally, the commission chair will have the ability to call upon competent advisors to assist when needed. A discussion of two such advisors follows.

A Resource Person. The intensity and scope of the work of a charter commission make it ripe for conflict. The politically-charged task for which this body is responsible can easily result in communication breakdowns and gridlock. For this reason, many chairs have found it valuable to have a substantive resource person, consultant, or other expert sit alongside the chairperson and serve as a “go-to” person when a complex or substantive question arises. This person may also make early presentations to the commission on form of government alternatives and on other key issues as they arise. This person is not a member of the commission and does not have a vote.

A resource person might be educated in public affairs, political science, or public administration with experience in charter writing, such as a university professor or a senior staff member at an institute of government. In other cases, this person may be a consultant with a favorable record of involvement with charter commissions. If a charter commission does not have the luxury of engaging a paid resource person, a “pro bono” volunteer from a university or governmental institute with charter experience may be an option to consider. Regardless, an outside resource person is often an extremely useful addition to the commission as a source of technical guidance, suggestions, and advice. The key is that this person *has had experience with charter commissions* and is willing to bring that experience to the commission.

A Legal Expert. Every charter commission should have access to sound legal counsel. However, it is important to note that the study of law is by no means a study of local government, politics, and public administration. And, not just any lawyer can provide the information the commission will need.

For charter writers, it is highly important to be sensitive to the state-specific legal context in which the resulting charter must operate. A legal advisor can be invaluable in helping the group avoid potential conflicts with state provisions. Sometimes specific charter provisions must be included to allow a local government to take advantage of or to escape from laws established at the state level.

City or county attorneys are of particular value to the commission because they are familiar with the existing charter, the legal problems the local government may have had with it, and the applicable state laws. Furthermore, laws that govern the county, school districts, and other units may come into play. The detailed and sometimes complex arrangements that exist among a local government and its public sector components, quasi-governmental entities, and associations underscore the value of a knowledgeable, state-specific legal advisor who can address questions that arise.

However, not all legal experts are created equal when it comes to charter commissions. If the city attorney has experience drafting charters or charter revisions, that individual may be the preferable choice to serve as the commission’s legal expert because this individual will be affordable and responsive. However, if the city attorney does not have this kind of experience, the commission needs the ability to hire outside legal counsel with state-specific experience drafting new or revised charters.

If an outside attorney is hired, the city’s full-time attorney should still be involved in the process by providing testimony to the commission and reviewing and commenting on the final draft document. After all, long after the commission has dissolved, the city attorney will be the one to defend the charter if and when it is attacked. Therefore, ongoing involvement of the city’s own legal advisor is a critical part of the process.

Finally, a commission should not refrain from claiming power or including a provision in the charter just because there is doubt about how it will stand up in court. The powers of many local governments have

been unduly limited not by the laws or courts of the state but by the timidity of the charter commission or the commission's legal counsel.

Funding

As a conscientious public body, the commission should make every attempt to minimize its financial obligations. However, every charter commission must have some money available to cover its necessary expenses.

As often as possible, the commission should use public buildings for its meetings. It is likely that the local government will make its office staff and equipment available to the commission so that secretarial services, stationery, copying, and postage can be handled in-house. Even more technical matters such as website updates and bulk email messages may be completed by local government staff. Instead of paying outside experts for their time, local government staff members (such as the finance director, for example) should be considered because they typically prove to be informative advisors willing to share their expertise with the commission at no cost.

While visits to other communities by commission members may occasionally be desirable, junkets at public expense are not appropriate. A better alternative is to invite speakers from outside the community to speak to the group during its meetings.

No commission member should be paid a salary or honorarium. Furthermore, commission members should never assume that they will be reimbursed for expenses without first consulting the appropriate government staff member.

If a significant cost is identified and deemed necessary or appropriate, the commission should make a formal request to the local authorities for the needed funds. Only necessary expenses should be reimbursed - such as consulting fees or outside technical assistance. Accounts of all receipts and all expenditures should be carefully maintained.

Public Outreach

The best charter is of little value if voters do not approve it. For this reason, a concerted effort to win public understanding and acceptance should begin the day the charter commission is selected and continue until the day the vote is taken on the proposed charter or amendments. This may mean a small work group is charged with this task.

Many former charter commission members would likely agree that only half of their job was charter writing. The other half was sound public outreach. Many well-written charters have been defeated at the polls due to poor public relations and a lackluster voter education program.

Positive publicity and voter education can be achieved a number of ways. The most common and long-standing approach is through public hearings. Unfortunately, public hearings are notoriously poorly attended and are considered by many to be ineffective. Fortunately, there are a number of other ways to gather public input and share information. Neighborhood-based meetings and specially designed "dialogue" sessions can be organized. At the latter, participants discuss the qualities they would like to see promoted in their government and their community rather than suggesting specific charter provisions.

Local government newsletters, speakers' bureaus (including commission members), brochures, local magazines and newspaper articles, television and radio ads, public access television channels, and updates sent via email are other ways citizens can be informed of the process and invited to participate.

The local government website should include the most up-to-date information about commission meeting times, agendas, and minutes. Also through this site, residents should be able to sign up for charter-related email alerts, press releases, and meeting reminders. Another useful idea is to make available well-written speeches, white papers, PowerPoint presentations, and talking points addressing the commission's work and related efforts. An online forum can be set up to collect views about the charter revision. In sum, extensive information about commission meetings should be easily accessible to the community, ideally published electronically and available online.

It is not unusual for the work of charter commissions to pique the attention of schools and civic groups. Such an exercise in democracy is worthy of attention and serves as an excellent real-life case study of government in action. For example, junior charter commissions may be used as a learning tool for students. Of more immediate importance is that the attention of students will often indirectly invite the attention of their parents who, of course, are part of the voting public who will be asked to support the new charter at the polls. Therefore, the commission should willingly work with schools and civic groups to plan activities or projects related to the charter commission's work.

Residents deserve the fullest opportunity to be informed and to participate in the process. To this end, charter commission members should encourage the involvement and attention of a variety of community groups. Local residents can never have too much information concerning the vital charter-related issues being discussed in commission meetings. That said, the information released to the public must be easily understood and clearly organized to avoid confusion often caused by information overload.

Public involvement has many benefits. One important benefit of an aggressive public outreach and education process is that it often results in a constructive and thorough review of the commission's work which, if considered honestly, will improve the final product. Furthermore, when residents are afforded the opportunity to offer their opinions and suggestions in an environment in which ideas and input are taken seriously, residents are more likely to support the commission's recommendations at the polls.

Therefore, it is not enough to rely on just a few avenues to effectively educate and update the citizenry on the commission's work. Publicity and education efforts must be multi-pronged. In all cases, the message should be consistent: a charter commission is active; its members are hard at work; it is considering complex and substantive issues; citizens are encouraged to get involved and offer their ideas and opinions; and once the commission has completed its work, citizens will decide in an election whether or not to adopt the proposed charter or charter amendments. In sum, the message to the broader community should be that the commission is working in good faith to make the best decisions possible about what is best for the community and its local government.

While communicating with the public is important, individual commission members should be wary of making any statements that are inconsistent with the overall public message endorsed by the whole commission. This includes taking a public stand prematurely on controversial matters which can undermine the progress of the group. When in the public eye, it is important for commission members to guard against untimely public comment on issues on which the commission might change its mind in light of further study. Oftentimes, the best answer to some questions is, "We are still studying the question."

Every local political situation is unique to a certain extent. Without a doubt, local leaders best understand local dynamics and can come up with the most effective public education strategies aimed at gaining the support of a majority of citizens. These efforts should become more intense during the final campaign. A good public outreach and voter education campaign allows the commission to keep in touch with what the public is thinking and saying about the commission's work. This is important throughout the process, but is of particular importance as the election draws near.

The “Charge”

The task of a charter commission is to prepare and present to the voters the most straightforward, clear, and forward-looking charter it can. Many times the specific “charge” for the commission's work comes from the city council. In particular, a commission may be authorized and empowered to do the following:

1. Examine the existing local government charter.
2. Conduct a comprehensive or limited study of various aspects of the local government.
3. Examine the procedures and interrelations of the different parts of the government to determine the role the charter plays in the current state of affairs.
4. Research the experiences of other cities or counties under their respective charters and forms of government to discover better governmental arrangements and practices.
5. Determine from independent study and investigation the principles of local government that should be built into the proposed charter or proposed charter changes.
6. Draft the proposed charter or charter amendments in a clear, logical, and consistent way.
7. Conduct its affairs in such a manner as to win the respect of local residents.
8. Educate citizens about the process and the progress of the commission and encourage adoption of the charter or its amendments.

Sometimes a particular area of the charter is singled out for review. For example, a charter commission may be instructed to examine whether the mayor's term should stay the same or be lengthened, if a city administrator should be added to the mayor-council structure, or if the number of council members should be changed. Charter commissions are convened for a host of different reasons from the mundane (such as a legal requirement to do so every ten years) to the politically charged (such as in reaction to municipal scandal and corruption). Identifying the factors that serve as the impetus for charter review is extremely helpful to organizing the early work of the commission and in setting the right tone for productive meetings.

In this vein, many questions may cross the minds of commission members:

- What are the expectations for the commission?
- To whom is the commission accountable?
- Is there a crisis in local government that gives clear purpose to the commission's work? If so, how might that situation influence the commission's work? Is the crisis related to conditions that can be affected by the charter?
- Were any members of the commission “instructed” by someone (such as the mayor or council) to promote a certain position or advocate specific changes to the charter?
- Will the commission's recommendations go directly to the voters or to the city council first for review and possible revision?

Once these kinds of issues are addressed, the real work can begin. One suggestion is to hold a kick-off meeting early in the process to bring everyone together and work through any concerns such as those listed above.

Getting Started

Holding an initial kick-off meeting with the commission and local elected officials has a dual purpose. First, it officially conveys the reasons behind creation of the commission and offers a sense of purpose. Second, it provides an opportunity to address lingering concerns or questions and to dispel any uncertainty or doubt in the minds of commission members, local residents, and the media.

A useful exercise for the commission members themselves soon after the kick-off session is to create a “shared vision of government” - a statement aimed at drawing members together towards a shared purpose, motivating them when times get tough, and giving their work meaning. This vision should not specify particular charter provisions (such as an election method or form of government), but instead should describe the qualities of the government the community would like to have in the future. This is not a simple assignment. Creating such a statement requires an examination of the values held by the community and the unique characteristics of the population. It is an exercise in finding unity in the midst of diversity.

While the individuals serving on the commission have different backgrounds, priorities, and beliefs, their shared aspirations for good government will be a uniting force. Discussing the diverse perspectives represented on the commission will be time-consuming. Supportively listening to the ideas of others requires patience. However, the tangible achievement of common ground evidenced by a written shared vision statement can be a significant early milestone.

Another idea for the early meetings of the commission is to invite one or more members of previous charter review commissions to speak to the group. These individuals may be local residents who have participated in past charter efforts or individuals from other communities that have recently gone through the process. Those with charter-writing experience will likely have some “words of wisdom” to share with the group that can prepare and inspire them to face what lies ahead.

The commission works together for only a limited period of time (generally no longer than 12 to 18 months) since there is typically a time constraint placed on the group to complete its work. Working with a strict time constraint places a premium on the efficient use of time. For this reason, many charter commissions find it helpful to establish a calendar at an early meeting. This calendar should set forth the work of the commission, meeting times, and important dates such as elections and other deadlines that are fixed and cannot be changed. It is not unusual for city councils to specify - or at least have in mind - when they want to hold the charter election. Other times there are legal restrictions on when an election may be held. For example, in Texas, cities have only two dates in a calendar year in which an election can be held. Knowing these kinds of deadlines up front is a key step to the success of any charter commission.

The Commission at Work

The work of charter writing is not easy. The issues are complex. While writing or amending a charter is challenging, it is not impossible. Frankly, the charter process often stirs passion and controversy. It can be messy, noisy, and complicated.

Throughout the process, some members may feel that progress is not coming fast enough. Some will want to slow the process to allow for further study or public input. Others may want to move ahead without additional public comment. Some may become frustrated. Some may become angry. The challenge for the commission is to remain focused on the work at hand in spite of these obstacles.

As uncomfortable and contentious as commission discussions may become, the best commission members stay focused on what they are asked to do. They are not afraid of what is hard, even when success is uncertain. The greater the success of the commission in writing a charter that advances the public welfare of the community, the more honor and satisfaction will come to its members.

Typically, a commission holds many meetings and public hearings. Meetings should be held in a convenient and well-known location that encourages public involvement. Meeting attendance is critical and should be required of members. Because the ongoing involvement of the membership is so important to the process, members who are not able to attend meetings consistently should be replaced. For example, it is not uncommon for members who miss three consecutive meetings to be removed and replaced.

Many charter commissions reach out to the community by holding certain meetings outside the confines of city hall or the commission chambers. One strategy to encourage participation is to hold some meetings in various public venues throughout the community - essentially moving select meetings to the “backyards” of local residents.

During meetings, the commission hears testimony from public officials, staff, representatives of community organizations, and members of the public. It receives reports on special topics, listens to experts make presentations on various issues, and debates important policy matters and discusses draft reports on special topics. Often, a city staff member or administrator serves as a non-voting liaison and provides some level of staff or clerical assistance.

It is possible and desirable for meetings to be both businesslike and informal at the same time. Meetings should be planned and organized, but not rushed. The chair should see that members stick to the business at hand while retaining an atmosphere of friendly informality. Meeting agendas are beneficial because they help focus the group’s discussion. Everyone should be heard with time allowed for focused deliberation.

Upon completion of its draft, the group should come back together to review all of the proposed changes. A few meetings should be set aside for this. Additional clarification or resolution may be needed to address any charter revision recommendations that are unclear or overlapping. Arriving at the proper charter language is a key final step because no matter how good the recommendations may be, they cannot simply be compiled. Legal edits and other modifications aimed at providing continuity and harmony will be required at this point. Therefore, if a substantive resource person was involved in the charter process, soliciting his or her comments and suggestions on the draft is a worthwhile step. If the local government did not engage such a person, the commission should attempt to get “pro bono” feedback and suggestions from a university or governmental institute resource person. The city attorney should also be called upon to provide comments.

A good practice is to publish and circulate an official yet tentative charter draft and invite public scrutiny. Inviting reactions to the draft serves a number of purposes. First, it affords another opportunity for genuine feedback from citizens. Second, it informs the voters that the commission is, for the most part, done with its drafting work. Third, it allows the commission to make adjustments prior to the election which may

strengthen the charter and improve its chances of success. Fourth, it helps to clear away doubts and rumors about what is and is not contained in the recommendations. Finally, it reminds residents that the final decision lies in their hands in the upcoming election.

At the end of its work, the commission should prepare and issue a “Report to the Voters” that serves as an executive summary telling the community what principles the commission followed and explaining the main features and merits of the proposed charter or charter amendments. Circulating such a document allows the commission to share candidly with the voters what benefits are expected from the proposed charter and the rationale behind various elements. If appropriate, an organizational chart illustrating the proposed governmental structure can often be helpful. If used, this Report should be released with the draft charter serving as a guide for reporters and editors as to what the commission considers the most important features of the recommendations. It is important that the first impression of the commission’s work be an accurate impression.

Should We Draft a Completely New Charter or Amend the Old Charter?

One question that commonly arises during the work of charter revision is whether to set aside the existing charter and draft a completely new charter - or simply amend the current version. The appropriate approach depends on a number of factors including the quality of the existing charter and the extent and characteristics of the contemplated changes. If the charter requires a number of fundamental changes (such as changing the form of government), it is often better to submit the changes as a clean, new draft of a complete charter.

Charters have so many interlocking provisions that it is often difficult to produce a consistent, coherent result by submitting a series of separate amendments. Many local governments have been frustrated when attempts to produce a basic change with patchwork amendments have resulted in a disjointed, confusing document. If the entire charter is re-written, it has the additional benefit of allowing the commission to “clean-up” minor defects in the original document which, while needed, did not on their own warrant the convening of a charter commission.

One of the common arguments in support of charter amendments is that changing only certain parts of the charter is likely to encounter less opposition than presenting a completely new document to the voters. When voters are considering an entirely new document, opposition to one part of the charter might jeopardize public support of an otherwise acceptable charter. Such opposition is typically focused on just one or two sections. If this is a possibility, some states allow the commission to submit the charter to the voters with alternatives on the matter(s) in question. The burden, then, is on those who advocate the alternative option. They must then convince the voting public that their alternative position is better than the one recommended by the commission. In many cases where this approach has been taken, citizens supported the charter as a whole *and* approved the choice preferred by the commission. It should be noted that when submitting a proposition with alternatives, care should be taken to make sure that the alternatives do not result in conflicting provisions.

Dealing with Opposition

Opposition is often encountered with a good charter, so the commission should not be surprised or disheartened when it occurs. Strong opposition does not occur in all cases, however. Many charter reforms are strongly supported by local officials and members of civic-minded community organizations who know

from personal experience the need for improvements to the workings of the local government.

When they surface, opponents can and will come from very different places. Certain groups and individuals will be opposed to any departure from the status quo. Others will be opposed to changes because they do not go far enough. Elected officials often do not support changes to their offices, powers, duties, or salaries. It is not uncommon for leaders of political parties, influential community groups, or other factions with interests at stake to make their disapproval known.

It is important to understand the viewpoints and fears of such groups in order to win their support, or, if necessary, counteract their influence. Often the support of these individuals is lost because it is assumed they are unalterably opposed to charter change. However, sometimes a group may be won over by a meeting to discuss their concerns. Other times, a non-objectionable provision in the proposed charter could be added to allay their concerns and win their support.

While the commission should be sympathetic and open to listening to the demands and views of all local residents, it must take the high ground by appealing directly to those in opposition to support sound principles of government first and foremost. It cannot do this by appeasing each pressure group and yielding to its demands. Making weak compromises often results in an inferior document. The dignity, independence, and effectiveness of the commission will be destroyed if it gives in to the demands of special interest groups in ways harmful to the public welfare.

The important thing to remember when compromises are suggested is that the essential features of a charter must be in harmony. More than one charter has failed at the polls or (worse yet) in implementation due to compromise provisions that are incompatible with its basic pattern. If enough broad support exists for the effort and the draft document as a whole, this support will override objections to small matters that are raised.

Evidence is overwhelming that the vast majority of citizens in any community want “good government.” That is, people desire a government that can be described as ethical, effective, and efficient. A useful byproduct of discussions about good government is that often the opposition comes to the realization that, while they won’t agree with the majority on many things, common ground can be found when it comes to the underlying principles of good government.

The commission’s constant message of working for a better government coupled with a sincere interest in involving all citizens in a transparent and open process will do much to counteract the negative pressures of special interest groups that may surface in opposition to the work of the commission.

The Election

The process for how and when the charter or charter amendments are considered by voters varies greatly by community. Upon completion of its work, the commission forwards its final recommendations to either the elected officials for their consideration or directly to the voters. Ultimately, the decision is in the hands of the local residents.

In many cases, recommendations of the charter commission are added to a scheduled upcoming election. In states that are covered by the Voting Rights Act, the Justice Department typically has to approve a charter election. In other cases, charter recommendations are a stand-alone issue and the timing of the election can

be determined by the local government. If the charter commission is able to weigh in on the timing of the election, it should carefully consider the matter in light of the political calendar, weather, holidays, and other local community dynamics in an attempt to time the election to encourage high voter turnout.

Regardless of the timing of the election, appropriate and sufficient time should be allowed between the completion of the commission's work and the election to allow for ample public comment and feedback. Voter approval of the charter recommendations will be the test of the vision, courage, statesmanship, and public outreach exercised by the commission's members.

Conclusion

All charter reviews are different. Most commissions enjoy substantial discretion in what they can recommend to address the areas within their purview - from sweeping changes to no changes at all. For example, following an evaluation of the government and its charter, a commission may recommend leaving the current charter basically intact. On the other hand, a group may recommend a far-reaching change such as changing the city's form of government. In the end, the best commission recommendations are those based on transparency, diversity, and widespread public involvement.

Dos and Don'ts for Commission Members

DO be a team player. You should be intent on making significant improvements. So, share your thoughts and ideas and respectfully listen to the comments of others. Be wholeheartedly engaged and committed to the process while respecting the time constraints imposed on the commission.

DO be open to finding the form of government that best fits the preferences of local residents. If the commission is considering form of government in its deliberations, each member should put any preconceived ideas aside in order to evaluate the options objectively based on the fundamental features of each and the experiences of other cities.

DO be willing to compromise and change your mind in light of evidence. Let go of the belief that if you lose, I win. That said, compromising does not mean giving up your good ideas and accepting inferior ones advocated by others. Taking the easy way is not the best way. Halfway measures have little usefulness or appeal. Statesmanlike compromise is a group process of give and take in which the most practical ideas rise to the top, are blended together, and made into a workable system. The end result may not please you in all respects, but it will represent legitimate consensus and, likely, substantial improvement.

DO keep in mind that the voters are the final decisionmakers on whether to accept or reject the proposed changes. Be willing to play a part in educating the electorate and publicizing the work of the commission. An informed citizenry will make the best decision on election day. So, welcome the involvement of many people in the discussion. Be sensitive and responsive to what you hear from them. Know that ongoing community support for the work of the commission keeps naysayers in check and ultimately leads to good results when the votes are counted.

DO be cautious of making premature public statements on charter-related matters.

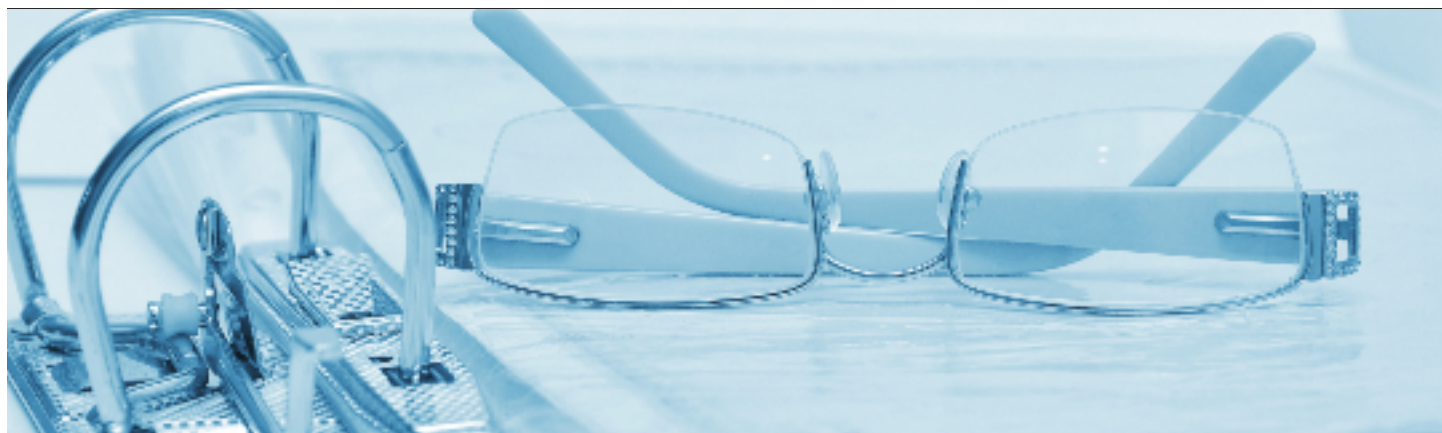
DON'T refuse to support a good idea for improvement to the charter because you feel it is not good enough. The "perfectionist" - the person who insists on perfection or nothing - will likely be at best a distraction and at worst a serious roadblock impeding the important work at hand.

DON'T use commission membership as a springboard for your future political career. You were chosen to be involved to serve the citizens, not your ambitions. Any attempt to use your involvement as a stepping stone toward a career in politics will not be lost on other members of the commission who will likely discount your opinions as political posturing. Commit to putting the public welfare ahead of your own career aspirations. Focus your attention on the work of the commission. If your work on the commission triggers in you a genuine desire to seek political office or if a citizen movement drafts you for office, so be it. In either case, you will get more respect as a political candidate when you make that decision made after your involvement on the commission rather than before.

DON'T try to solve all the ills that might plague the local government by pushing for overly restrictive prohibitions in the charter. Power is always subject to possible abuse in the hands of the wrong people. The challenge is to establish a system that will enable local residents to hold their public officials responsible for the way they use power. There is no gain in setting up a new government and then hamstringing it by denying it the flexibility and power essential to any effective government.

DON'T allow the commission to surrender sound principles of good government to the stubborn opposition.

Chapter Three



The most practical way of keeping a charter to moderate bulk is to restrain the tendency common among charter commissions of trying to solve all municipal problems right in the charter. This is not the proper function of a charter, which is rather to establish a framework within which the city government, representing the people, can solve its problems as they arise.

— Thomas H. Reed, *Revising a City Charter*

The Charter Document

What Qualities Make a Good Charter?

A charter is not only used by attorneys. It is used by a cross-section of the community - elected officials, government employees, and everyday citizens. Therefore, the language used and writing style employed should be user-friendly and easily understood by an average citizen.

The better a charter is, the easier it will be for public leaders and officials to operate a proactive and successful local government. A good charter functions as a harmonizing, integrating, and controlling document. Therefore, the qualities of a good charter are worthy of consideration. Good local government charters are (1) straightforward; (2) consistent; (3) thorough, but not exhaustive; (4) flexible; and (5) focused on the fundamentals.

1. Straightforward. Simple and straightforward language facilitates comprehension. A good charter is easily understood by laymen as well as lawyers. The reality is that elected officials, government professionals, community leaders, and average citizens - none of which are legal experts - will be the main users because *they* are the ones that will implement the charter and refer to it when a question arises. Good charters are understood without a law dictionary. That said, including certain clauses or phrases that have been accepted by the courts as having a precise meaning may be necessary to ensure the charter will hold up in

the courts. Furthermore, much care should be taken in choosing the “right” words. The choice between words such as “shall” and “may” is an example of how exact wording is very important.

2. Consistent. Consistency throughout a charter is important on many levels. The writing style, verbiage, and content should be considered when looking at consistency. Comparable provisions should be handled similarly. Charter provisions of substance that do not harmonize with each other may lead to disunity, unhealthy bickering, and government paralysis. Inconsistencies not only breed confusion for the local government, but also can trigger future litigation.

In addition, a charter should be free of any internal structural contradictions or inconsistencies. For this reason, once a basic form of government is chosen, the charter commission should be wary of adding elements of other forms or eliminating features inherent to the chosen form. For example, the structure of the council-manager form can be completely undermined by provisions that permit the mayor to wield administrative powers exercised in the strong mayor form. While adopting widely accepted variations within a form can be workable, caution must be taken to avoid creating a system that is essentially at war with itself.

3. Thorough, but not Exhaustive. A good charter is comprehensive in terms of addressing all the necessities to facilitate an effective government. However, it should not attempt to be exhaustive by addressing every possible future scenario. There is a fine line in which the goal should be to include all necessary and essential components in a thorough, yet concise manner. Details should be avoided as much as possible. However, brevity at the expense of clarity can lead to confusion and litigation. A good rule of thumb is to express the intended meaning with the fewest and best words, whether it takes ten or one hundred. Generally, better charters are shorter charters. That said, the length is somewhat an outgrowth of state law and what broad areas need to be included. Detailed procedures should be established in administrative codes which are more easily updated and changed.

4. Flexible. Desires of citizens change over time. State and federal mandates on local governments are on the upswing. Residents demand new and expanded services. “Doing more with less” is a mantra often heard in local government. Those who make management and administration decisions are challenged every day to do just that. Officials must often use creativity and innovation to come up with new ways of doing things in order to free up time and resources to take on new programs or services. Providing local government leaders the flexibility to make changes is critical.

Good charters leave far more discretion to local government officials than charters of the distant past. Simply put, a charter should confer upon the elected officials and administrative staff broad powers to implement it and to promote the community’s welfare. In the interest of local self-government, the charter must free the hands of decision-makers rather than tying them.

5. Focused on the Fundamentals. Good charters set forth general principles rather than legislative details. A charter’s focus can be limited to the fundamentals when it is supplemented by an administrative (or municipal) code that addresses the details of the local government’s administration and procedures. An administrative code is simply a collection of ordinances that sets forth the particulars of how the broad statements in the charter will be implemented on a daily basis. When procedural details are handled in the code or elsewhere (such as a policy and procedures handbook, for example), the charter can focus exclusively on the most fundamental provisions aimed at protecting the citizens, the form of government, and the relationships between the elected officials and the administration.

Essential Components of a Charter

Local governments were not created by U.S. Constitution. Local governments are, in fact, creatures of the states. Therefore, they are regulated by the states and have only the powers and functions given to them by their respective state constitutions and legislatures. So, to discuss local governments in general terms is virtually impossible due to the different legal and political contexts represented by different states across the country.

However, an important court decision that is widely accepted as governing relationships between cities and states is known as “Dillon’s Rule.” Iowa Supreme Court Chief Justice John Forrest Dillon’s view was that because cities are creations of the state, they have only the powers *specifically given to them* by the state constitution or legislature or included in a state-approved charter. If there is ever a question or “gray area” regarding the power of a local government to do something, the answer is always “no.” In other words, if it is unclear whether or not a local government has the authority to take some action, the authority has not been granted. Chief Justice Dillon’s viewpoint had significant impact on cities in the late 1800s because other courts and legislatures embraced the same perspective.

Because a growing number of local governments wanted more flexibility and discretion in decisions about issues that impacted them, a movement to counteract Dillon’s Rule emerged. The concept of “home rule” supports the rights of cities to govern themselves. Supporters of home rule defend the right of municipalities to manage their own affairs without state interference or involvement.

Today, most states have provisions in their state constitutions or other legal instruments that allow some form of municipal home rule, allowing citizens to exercise expansive decision making powers through their municipalities. Local governments that operate under home rule have broad powers that include control over things *that the state legislatures have not specifically granted and those things not specifically prohibited*. Essentially, home rule frees a local government in many ways to take actions that those without home rule are not able to take. For this reason, many cities adopt home rule charters. It is important to note that the degree of home rule afforded local governments varies greatly by state and is often limited to specific classes of cities and counties, for example.

Unfortunately, not all states have home rule. Local governments in these states still operate with restricted powers. To a large degree, the power of cities located in states without home rule is limited to the specific powers granted to them by their state legislatures. For example, a city located in a non-home rule state that encounters a situation in which a certain authority has not been specifically granted by the state is required to get special legislation passed at the state level before it can take that action. On the other hand, cities with home rule are freed from the necessity of running to the state legislature every time the public welfare requires something new to be done or an old function to be performed in a new way.

A city in a home rule state should boldly include in its charter broad discretion over the scope of services it provides in order to take full advantage of the power available under the home rule provisions of its respective state. Doing so will provide the opportunity to undertake new policies or new methods to address issues that are not currently anticipated. Is there any real danger in this approach? The answer is no. In spite of broad powers that a far-reaching home rule charter might afford a municipality, there are several safeguards that will keep a city from venturing too far into uncharted territory:

1. Most city councils are highly conservative about undertaking new services or enacting novel or inappropriate regulations that may put the reputation of the city at risk.
2. Typically, city budget dollars are tight. Risky ventures that may impact the city coffers too severely are generally derailed before they get too far.
3. Periodic elections, vocal residents, citizen surveys, governmental audits, and watchdog groups keep municipal decision makers mindful of the consequences of their actions.
4. Regardless of charter provisions, legal restrictions still exist to limit some municipal activities and powers. Limits have set by the state constitution, state legislature, and the courts. The U.S. Constitution prevents any city, as an agent of the state, from depriving any person of life, liberty, or property without due process. The court system exists to test any possible abuse.

Because particular laws and circumstances vary from place to place, the essential components of a charter will be discussed in general terms. Detailed and sometimes complex arrangements exist among a local government and its public sector components, quasi-governmental entities, and associations. Setting local peculiarities aside, the essential provisions found in most charters can be organized into a few specific categories: powers of the city; city council; city manager (if applicable); departments, offices, and agencies; financial management; elections; general provisions; charter amendment; transition and severability.

1. Powers of the City. A starting point for many local government charters is to address and define the scope of powers of the local government. Within the context of specific state law, a local government should claim all powers it may legally exercise through its charter. Again, a city in a home rule state should include a statement that allows for broad discretion in order to take full advantage of the power available under home rule provisions set forth at the state level.

When writing a new charter or making revisions to an existing one, commission members need to remember that the rules established by charters do not exist in a vacuum in organizing, empowering, and regulating local governments. There is a “hierarchy of laws,” so to speak. And while a charter which establishes various legal regulations is a part of that hierarchy, so are other laws. The federal constitution, federal laws, federal administrative regulations, state constitutions, state laws are also a part of this legal context. For example, general state legislation and special legislation take precedence over charter provisions in regulating the activities of a local government. Even a city that operates under constitutional home rule may have no power to change some of the statutory provisions of law that bind it.

2. City Council. A challenge for every local government is to attract able, talented, and willing elected leaders that represent the community well. The charter plays a role in this. Because there is not a special formula to make sure this will happen, local communities are left to come up with their own solutions. Many argue that concentrating council authority in a small, representative governing body is desirable because smaller legislative bodies are more effective than large councils. In addition, every member is essential in a smaller council and can be closely monitored by citizens and the media.

This charter section discusses various details regarding elected officials, including the mayor and city clerk. The goal is to prescribe a way for elected officials to be chosen that allows for fair representation and fits with local values. Specifically, the charter should address issues of residency requirements and whether or

not public officials are to be elected by district or at-large. Other issues such as powers and duties, eligibility, terms of office (number of years, staggered vs. concurrent), term limits, compensation (salary), prohibitions, vacancies, and ordinances are also included here.

City council members. Regardless of form of government, the council is the decision making body that sets the direction of the local government through local policies. The expansive power of council members includes control over the local government's finances (budgets, revenues, expenditures, and borrowing), property, priorities, goals, and legislation. These individuals are elected by the citizens to represent them and be accountable to them. Much is expected of a city council member. Serving one's community in this way is a high calling.

Every charter establishes the process for selecting council members. Specifically stating how public officials are elected is essential. Alternate approaches are discussed later in this chapter. The unique characteristics of each local government's population come into play here. Representation is key. The charter should allow for the election of a council that is truly representative of the entire community. While no specific design can guarantee effective, impartial, and equitable elected representation, the charter sets the stage for this to happen.

Mayor. A community's history, traditions, preferences, and experiences factor into the decision of how to handle the selection of the mayor. The way the mayor is elected impacts the dynamics among all local elected officials and the overall effectiveness of the mayor's office, among other things. Therefore, careful consideration should be given to this procedure set forth in the charter. Two commonly used methods in council-manager cities are when (1) the council chooses a mayor from among its membership; and (2) the mayor is elected at-large. (All voters directly elect the mayor.) Both are workable alternatives, although the second is now the predominant practice. A mayor elected at-large increases the likelihood of effective mayoral leadership. Candidates for at-large mayoral positions have the opportunity to discuss citywide issues, and the broad base of community support needed to win the office provides the winner with a mandate for action.

3. City Manager. For those cities operating under the council-manager form of government, the Model City Charter recommends a section addressing the appointment, qualifications, compensation, removal, and powers and duties of the city manager. It is important to note that deviation from the tried and true ways of successfully operating a council-manager city should be avoided. If basic standards and protections of council-manager government are laid aside, the form can be seriously undermined setting up the city for failure.

If a CAO is a part of a mayor-council city, a section in the charter should be designated to address this person's appointment, qualifications, compensation, removal, and powers and duties. As a source of professional advice, the CAO may function as a unifying force between the mayor and council. As stated earlier, the National Civic League in its latest *Model City Charter* recommends the CAO be either jointly selected by the mayor and the council or nominated by the mayor and approved by the council. This method encourages the CAO to be responsive to both the mayor and the council since both were involved in the hiring decision.

4. Departments, Offices, and Agencies. Every local government requires administrative departments to provide basic public services to its residents. Departments of a typical city include finance, human resources, parks and recreation, public works, library, water, sanitation, and public safety. These departments are responsible for conducting the business of the city and providing public services day after day.

How these departments are organized and how they function in the administrative hierarchy differs across the country - and even over time within a single community. Administrative shifts and reorganizations occur for a host of different reasons including taking advantage of organizational efficiencies, department head strengths, and personnel changes. Departmental reorganizations can vastly improve the inner workings of a local government saving the government and taxpayers money and improving customer service.

While most local government charters address governmental administration and departments to some extent, a charter should not identify a list of specific departments. Instead, it should simply state that the governing body may establish any office, department, or agency it deems necessary to carry out the functions of the local government. Consequently, the city council could approve changes such as combining or eliminating departments without changing the charter. While simple and general language is suggested, the latest edition of the Model City Charter recommends special attention be paid in the charter to the critical areas of personnel, law, planning, and financial management.

A charter commission should resist temptations to specify lines of accountability, add layers of complexity, or build in any extraneous features of supposed "safeguards." An example would be an independently elected department head. These additions are pitfalls for both efficiency and popular control. Instead, administrative departments should report to either the city manager (in the council-manager form) or the mayor (in the mayor-council form). In this way, the charter does not insulate any governmental function from popular control. The mayor is responsible to the voters for the administration's actions and is held accountable at the next election. The manager is responsible at all times to city residents through their council members who have the ability to dismiss the manager at will. These are essential features of each form of government. If the charter builds in any deviation from them, such as council confirmation of appointments made by the city manager or specified tenure for the manager, it will certainly reduce the chances of satisfactory operation of the government administration and weaken accountability. This means there is no room in either form of government for independently elected administrative personnel. Independent election of such officers undermines administrative responsibility and adds to the burden on and confusion of voters.

Furthermore, departments should not be headed by or responsible to boards or commissions. Boards and commissions, more or less autonomous and more or less independent of city government, are found in municipalities across the country. While citizen boards and commissions play valuable advisory roles for local governments, they should not play a role in actual administration, supervision, or policy execution. Departmental functions should be under the responsibility of a single individual (department head) who is held responsible and is accountable to the manager or mayor. Possible exceptions include the city clerk and judge who are typically appointed by the council.

So, where is the appropriate place for details of the organizational departments and functions to be enumerated? The answer is in the administrative (or municipal) code. And, the charter should mandate the city council to adopt one. An administrative code, adopted and amended by the council, governs the activities of the administration and sets forth the organization of the departments. Placing the administrative details in the code rather than in the charter allows for modifications without the burdensome and time consuming process of amending the charter.

The administrative code is, of course, subordinate to the charter. Specifically, subjects that should be detailed in the code rather than in the charter include the following: administrative/departmental organiza-

tion; accounting, expenditures, payroll; auditing; purchasing; bonding and borrowing procedures; franchises; eminent domain; special assessments; licensing and license revocation; nuisance abatement and planning and zoning.

It should be noted that flexibility is crucial to build into the administrative code as well so that it is easily maintained. The code, and the charter for that matter, should be silent on internal departmental workings allowing the manager or mayor latitude to make changes administratively without being hindered by council-mandated requirements or restrictions.

In sum, local government leaders *should* have the ability to make necessary or desirable changes to the administrative side of the organization. A good deal of leeway allows for quick responses to changing requirements and environmental factors. A charter that addresses administration in a simple and straightforward way and incorporates an appropriate level of flexibility sets the stage for an effective, efficient, and responsive government administration.

5. Financial Management. A well-run financial system is a critical component of a well-run local government. Because strong financial guidelines help to ensure the fiscal health of a local government, this section of the charter focuses exclusively on the finance function of the local government, particularly the budget. Flexibility and sound budgetary practices should be emphasized. Topics addressed in this section include fiscal year, budget submission, budget message, budgetary council action, appropriation and revenue ordinances, budget amendments, budgetary administration and oversight, the capital program, independent auditing, and public availability of budget-related records. In an era of public sector financial scandals and problems, charter writers should pay particular attention to this section. Clearly articulating sound fiscal practices in the charter is a key step along the path of financial health. The requirements set forth in this section of the charter, such as the independent audit, serve as a robust layer of protection for the finances of any local government.

6. Elections. A goal of every charter should be to establish democratic control so the local government is responsive to the will of the people. State election laws typically apply to municipalities, leaving local governments little if any control in these matters. However, there are a few important areas still under the control of local governments.

This section of the charter outlines various facets of the election process including election methods; when elections are held; partisan vs. nonpartisan elections; council districts and adjusting those districts; and initiative, referendum, and recall.

Election methods. The two common ways to elect council members are by **district** or **at-large**. A **mixed system** is one in which district and at-large elections are combined in some way.

District: District elections require a city to be divided in a number of geographical areas or districts. Each council member is chosen by the residents of a different district of the city. Candidate residency in the district is typically required. District elections have noteworthy benefits:

- They allow a minority group, particularly one living in a specific geographic area, to have a fair chance of being represented on the council.

- A council member elected by residents of a particular geographic area likely feels beholden to those living in the district. This often translates into a heightened sensitivity by the elected official to the concerns of those living in his or her district.
- Running a district campaign is less expensive than running a city-wide campaign. Therefore, district elections reduce the financial barrier for those seeking office as compared to running city-wide. As a result, the diversity and number of candidates could be strengthened with district elections.

On the other hand, governing bodies made up of individuals elected by district can have a difficult time agreeing on community-wide goals since council members are predisposed to focus on the problems of their district rather than the priorities of the city as a whole.

At-Large: In at-large elections, all candidates are placed on a ballot to be considered by all voters. Candidates in at-large elections occasionally run for specified seats on the council. Those candidates with the highest number of votes are elected to office. Public officials elected at-large represent the entire community. The at-large election system has noteworthy benefits as well.

- Unlike those elected by district, council members elected at-large theoretically are able to objectively view the priorities of the community as a whole and make impartial decisions based on the needs of all residents rather than on the priorities and desires of just one limited geographic area.
- If all council members are elected at-large, they all ideally embrace a holistic view of the community leading to a more unified and objective viewpoint as compared to a council composed of individuals elected from different districts with very different priorities.
- Residents can voice their concerns to any of a number of council members rather than just one. This is because residents are represented by all council members.

One possible negative effect of at-large elections is that it can dilute the ethnic or racial minority vote making it difficult for these groups to elect a representative to the council. Furthermore, at-large elections could result in the election of a number of council members who live in the same area of the city. This can raise questions regarding the fair distribution of public resources and the governing body's sensitivity to geographic areas where no elected officials reside. To address this particular concern, an outgrowth of the at-large system is the inclusion of a district residency requirement. In this scenario, council members are elected at-large, but not more than one council member can live in each district.

Mixed System: Some cities have chosen to use a mixed system in which some council members are elected by district and some are elected at-large. Since the Justice Department approved this hybrid as a system that complies with the Voting Rights Act, it has gained popularity. Supporters of this system argue that it combines the best attributes of both district and at-large systems. For example, it facilitates a city-wide perspective offered by at-large elections while incorporating the "personal connection" between local government and voters promoted by

geographically-based district elections. Problems can arise here as well when council members elected at-large believe their seats are superior to district council seats. To help combat this, all council seats should have the same duties and terms of office.

It is important to note that courts have had a lot to say in this matter. The one man-one vote court decisions and the passage of the federal Voting Rights Act have heightened both awareness of and concern about how local elections are structured. Across the country, many municipalities have been forced by the Justice Department to abandon at-large elections and replace them with district elections to increase the chance that representatives from minority groups serve on city councils.

Timing of Elections. If allowed by state election laws, the timing of local elections should be established in the charter. When a local election is held has certain implications. For example, if a local election occurs at the same time as a state and national election, voter turnout is generally high leading to more widespread participation by the electorate in local races. When elections are held at a time separate from state and national elections, local issues and candidates are the main focus and can be considered separately and apart from the broader political context. Both alternatives have positive and negative impacts. The National Civic League does not take a stand on either option. Legal advice, local preferences, and community dynamics should dictate the proper approach prescribed in the charter.

Nonpartisan vs. Partisan Elections. Political parties so prevalent and significant at the federal and state levels have little significance at the local level. It is unfortunate when local elections are decided solely on the basis of political party affiliation because of the limited importance of parties in municipal governance and because of the seed of division it plants before a single vote is cast on the council. Party primaries that nominate candidates from each party typically favor candidates who appeal to the most loyal “base” of voters within each party grouping. Primary voters are less likely to select moderates in each party and very unlikely to choose independents who are not affiliated with either party.

While nonpartisan elections do not eliminate the involvement or influence of political parties in local races, it can minimize the emphasis on politics by shifting the focus from Democrat vs. Republican to that of local issues. When deciding among candidates on a ballot without party labels, voters typically elect a mix of Democrats, Republicans, and Independents who must all work together on the council. For very practical reasons, national party strife should be put aside at the local level to focus on the concerns of the community.

The National Civic League supports nonpartisan elections as evidenced in the latest edition of the *Model City Charter*, and it is not alone. A number of states have formally recognized the benefits of this approach and have passed legislation requiring nonpartisan elections at the municipal level. Elections that use ballots without party designation help place local politics on its own and free local governments from domination by national, state, or county party organizations. Local governments that willingly choose this approach recognize that it is an important part of genuine home rule.

Council Districts. If the election of local officials is based on the existence of districts, the establishment of districts and process for re-districting is included in the charter. This section holds particular significance for political representation since re-drawing district boundaries is generally required after each U.S. Census based on population changes. The process, timing, and method (by districting commission or city council) are included in this section - not the actual district boundaries.

Initiative, Referendum, and Recall. If permitted by the state, these three procedures of direct democratic control over government give citizens a degree of confidence in their ultimate control of the city. Therefore, a charter should not dictate a severely high threshold for signatures required to initiate these measures. The commission should be sensitive to setting the required number of signatures at a reasonable level. If the charter sets an impossible standard, it will render these measures worthless. While they can be considered a “last ditch effort” to push an action through the legislative system, initiative and referendum are viable alternatives that should be available to residents and included in a charter if legally possible. If the local government is well-managed, responsive, ethical, efficient, and effective, use of these measures is kept to a minimum. Recall gives voters a chance to remove an elected official from office who is not meeting his or her responsibilities. The permissible grounds for recall, however, should be limited to misconduct or failure to perform the duties of the office, not disagreement with a decision the council member has made.

7. General Provisions. Good government is rooted in public trust. To a large degree, this requires government, as far as possible, to be responsive, open, and transparent. In today’s information age, transparency takes on a much different meaning than it did decades ago. Citizens have a high expectation for timely and accurate information to be available 24-7. Local governments should be proactive in making information available through all avenues possible. This moves beyond passing out copies of budget numbers at public meetings and issuing press releases on project updates. Citizens want and expect easy electronic access to considerable amounts of substantive public information.

The National Civic League’s *Model City Charter* includes a section titled “general provisions” which covers conflicts of interest, ethics, basic prohibitions, and campaign finance. A charter that emphasizes transparency and openness in these areas encourages public trust in local government and those working in it. Again in these matters, the charter should present the process for dealing with these issues in light of specific state laws or, alternatively, mandate that a process be adopted by the governing body via ordinance.

8. Charter Amendment. A charter should stand the test of time. However, from time to time charter revisions are necessary. While amending a charter should be possible, it should not be too easy. This helps ensure that successful charter amendments are both appropriate and necessary. For states that allow cities to adopt their own procedures for charter amendment, this section sets forth that procedure. Included here are regulations for the proposal of the amendment(s) and the subsequent election when voters approve or disapprove the proposed changes. Some charters include a provision here that requires a review of the charter every five or ten years, for example. Many cities have found the practice of mandated charter reviews to be a useful exercise. Any charter changes should, of course, require popular approval at a referendum.

9. Transition and Severability. Many charters do not address the possibility of a governmental transition from one form of government to another. However, charters that speak to this issue can be extremely helpful to those leading such a change by protecting a city from litigation, avoiding general uncertainty and confusion, and clarifying general city-related questions. While care should be taken to tailor this section to state law, the *Model City Charter* offers recommendations on how to handle existing employees, departments, and agencies; how to address pending legal and administrative matters; and the schedule for various upcoming meetings, deadlines, and elections.

Conclusion

One of the most interesting things about local government charters is that each one is a distinct reflection of its community. Because a charter is the document that allows citizens to determine their own structure of government within state-prescribed legal limits, a charter is, in many ways, a manifestation of a particular community's values. Each charter is built on a specific set of political and administrative choices that are determined by the values held by local residents.

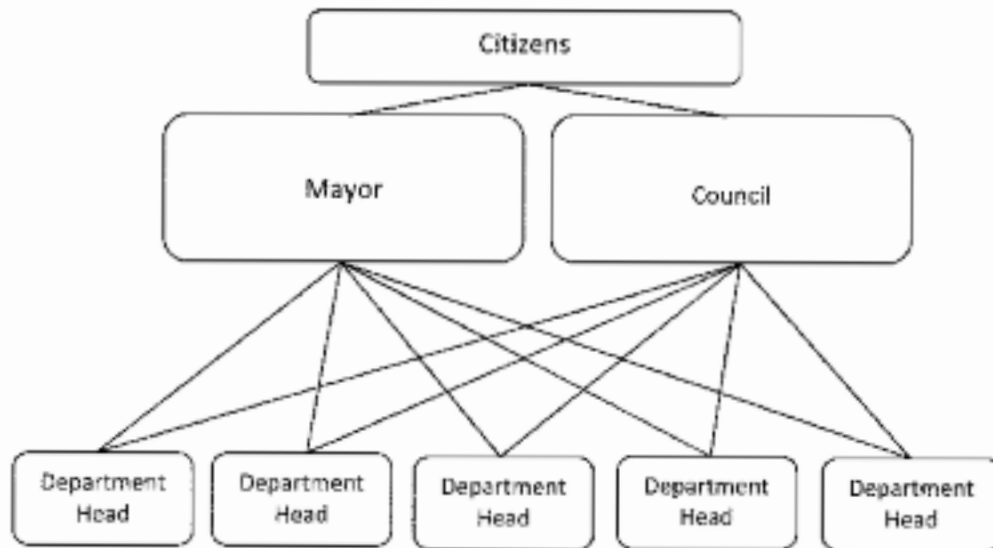
The final product of this process should be a charter built on widespread community involvement and, ultimately, widespread agreement on how the local government should function to best serve its residents. However, the charter process can result in even more. The call to action that the charter process requires can awaken a community's sensitivity to the importance and responsibility of civic involvement. If conducted successfully, the charter review process can result in a rebirth of widespread civic-mindedness - a quality that unfortunately is rarely seen in communities in a tangible way.

In the end, it is the community's values that build, alter, or reaffirm the foundation of its local government. In vibrant communities, citizens continually seek out new ways to improve how they govern themselves guided by the constitutional principles incorporated in their city charter. Ongoing refinement of the charter as a tool for effective governance is what the charter review process is all about.

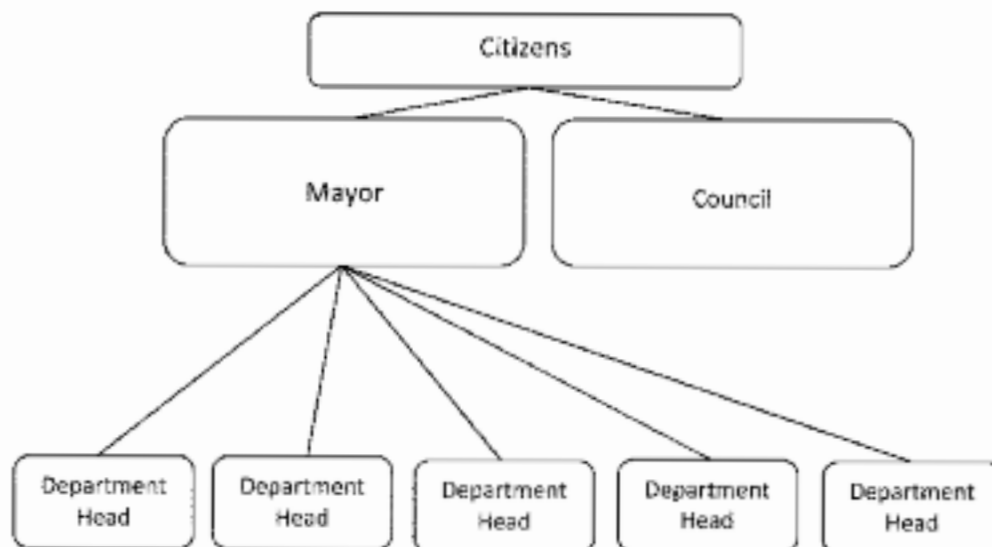
A more thorough discussion of all of these charter components is presented in the latest edition of the Model City Charter published by the National Civic League. Commission members are urged to refer to the Model City Charter for background information, further detail, and insightful commentary on all aspects of charter revision discussed here.

Figure 1
Forms of Government

Mayor-Council



Strong Mayor-Council



Council-Manager



Appendix

Which Form of Local Government is Right for Us?

A charter specifies a form of government. Because of its significance, a local government's form of government arguably influences every facet of its operation. Therefore, it is one of the most fundamental issues to address in the early work of a charter commission. Oftentimes, form of government is not on the table for discussion. However, for many cities, the underlying form of government is fair game. It is certainly a matter of discussion for a newly-formed city writing its first charter.

It is hard to exaggerate the significance of a city's underlying form of government. A city's form of government is the constitutional and legal basis for assigning authority and functions to government officials and creates its overall framework. Form shapes the nature of official roles and channels interactions into likely patterns of relationships, i.e., who talks to whom, who gives instructions to whom, and how are those instructions interpreted and acted on by the recipient. The United States is unique in having widespread use of two forms of government based on different constitutional principles. The essential differentiating characteristic is whether power is divided between the mayor and the council as in mayor-council governments, or resides in the council as in council-manager governments.

A city's decision about governmental form should be made only after a thorough and thoughtful examination of the different forms, the governmental characteristics represented by each, and the qualities local citizens would like to see in their government. This single decision will arguably influence more facets of government than any other. If the community is discussing form of government as a part of the charter review process, it might be helpful to step back and ask why form of government is on the table. As mentioned earlier, governmental form is a critical and necessary question for a city establishing its first charter. In other cases, a city in the midst of charter reform may consider moving away from its current form of government. To begin the discussion of the latter case, the following questions may be useful:

- What is the specific catalyst or impetus for desiring a change in the form of government?
- How will the proposed change in structure, function, and powers impact governmental leadership, management, operations, processes, and services - both positively and negatively?

Interestingly, while form of government is one of the most profound decisions a community can make about its local government, it is also one of the most commonly misunderstood. How a particular form of government plays out in everyday governmental operations is often not understood by many citizens. This lack of understanding poses a challenge when attempting to engage citizens in a meaningful discussion on the topic. At times, misunderstandings and misperceptions regarding the different forms of local government undermine constructive dialogue. Informal opposing groups advocating one form over the other can spark potentially uncomfortable and passionate debates. For this reason, conversations surrounding form of government should be handled delicately. For those commissions discussing form, a useful starting point is the presentation of an unbiased, fact-based, educational overview of the different forms.

Different Forms of Municipal Government

Today, most cities operate under either the "mayor-council" form or "council-manager" form of government. The mayor-council form is modeled after the structure of the national government with checks and balances similar to those found in the U.S. Constitution. Like the constitution, little attention is given to the administrative responsibilities of the government. The council-manager form emerged as a proposal for reform in the early twentieth century. It was designed to focus on sound democratic governance determined by a unified mayor and council with professional advice provided by a professional

city manager accountable to the council. The manager is responsible for advising the council, implementing council decisions, and acting as steward of municipal resources. The National Civic League, established in 1894 to facilitate more honest and efficient local governments, has been a strong advocate of the council-manager form since its second Model City Charter adopted in 1915. Although this form departs from the divided powers principle in the national and state governments in the United States, the governing board-appointed executive model is the predominant structure in school districts and other special districts, hospitals, and nonprofit organizations.

Since it emerged, the council-manager plan has grown in popularity and is now the most widely used local government form in the United States in cities over 10,000. The council-manager form is also seen internationally in Canada, Australia, and other countries. Part of its appeal is its simplicity and its strong emphasis on democratic governance and professionalism. The International City/County Management Association (ICMA) reports that in 2010, there are more than 3,500 city governments in the U.S. operating under the council-manager form.

Mayor–Council

Within the mayor-council form, there are variations in the division of power and authority. (See Figure 1) In both categories discussed here, the primary executive role is assigned to the mayor and the primary legislative (policymaking) role is assigned to the council but other officials may be involved as well depending on the exact features of the form.

The traditional mayor-council pattern is based on both separate and shared responsibility between the mayor, council, and other officials. It is often called the “weak mayor-council” form. Details differ but the top charts in Figure 1 illustrate two common examples. In addition to the division of policymaking and administrative roles between the mayor and council, a department head may report to a separate commission or a department head may be directly elected. Because of the fragmentation of authority under this form, arriving at consensus on a particular policy and achieving coordination can be difficult.

Many mayor-council cities have eliminated the features that produce fragmentation of authority, but assign overlapping and offsetting authority to the mayor and council. As in the U.S. Constitution, the mayor may have authority to appoint top administrators, but job candidates are subject to confirmation by the city council. The mayor typically has executive power for the local government's day-to-day management and operations, prepares and administers the budget, and carries out policies. The mayor typically has the authority to veto legislation passed by the council but subject to override by a supermajority in the council.

The strong mayor-council pattern emerged as a reform to weak mayor-council structures with highly fragmented authority and centralized more powers in the mayor's office. It is illustrated in the lower organizational chart in Figure 1.

Not only is the mayor the chief executive officer but also enjoys a high degree of independence. For example, the strong mayor has executive power to hire and fire department heads and city staff and to appoint members to city advisory boards. The mayor typically has greater latitude to act without council approval, for example, the authority to sign larger contracts. Information and analysis conducted by the city staff goes to the mayor who decides what

information will be shared with the council and the public.

Under this pattern, the city council is responsible for policymaking by way of resolutions and ordinances. Council members have no administrative power. The council has a broad oversight role but may have more difficulty getting information from administrative departments whose heads are the mayor's appointees. The mayor possesses the authority to veto actions of the city council. Although the council has authority to override the mayor's veto, the majority may not be able to assemble the super-majority that is required, for example, two thirds of the members rather than half plus one of the members. Stalemate between the mayor and council results when the mayor can block a council majority but the council does not have the extra votes to override the veto.

Those who champion the strong mayor-council pattern desire a strong independent political leader who also serves as the chief executive with centralized authority and limited checks on that authority. It is hoped that, from electoral support, the mayor can successfully enact programs and policies that are supported by and in the best interest of the citizens. Supporters argue that political responsiveness and political control will result in governmental actions that are supported by a majority of the community. On the other hand, the concentration of political and administrative power in one office may contribute to the misuse of authority, a diminished role of the council, the dismissal of professional information and advice or a lack of transparency.

The addition of a "chief administrative officer" (CAO) to the mayor-council form has become increasingly popular with mayor-council cities. The National Civic League recommends the addition of a CAO to all types of mayor-council governments. While the responsibilities of a CAO can vary widely, this individual is hired to handle some degree of the administration of the local government. How the CAO is appointed matters. The latest model city charter recommends a professional CAO who is either jointly selected by the mayor and the council or nominated by the mayor and approved by the council. This method encourages the CAO to be responsive to both the mayor and the council since both were involved in the hiring decision.

Council-Manager

The council-manager form of government emerged as a result of local government scandals and corruption in the late 19th century and early 20th century. In an effort to find an alternative to the mayor-council form, government reformers advocated the council-manager form in hopes that it would be a more business-like approach to local government. Consequently, the structure of this form mirrors that of a corporation. The citizen-voters serve as shareholders who elect a city council to fill the role of a board of directors. The mayor serves as the chair of the board. They, in turn, hire a professional manager (similar to a corporate CEO) to implement the policies established by the council. This trained, professional, nonpartisan manager serves as the chief executive, has authority to manage all aspects of local government operations, and is continually accountable to the elected officials. (See Figure 1) If the manager is not performing to the satisfaction of the elected officials, the manager can be removed at any time. In sum, the city council fills the policymaking role and an appointed city manager is responsible to the council for policy advice and the executive functions.

Under this form, all local government powers rest with the governing body of elected officials, which includes the mayor. Since the mayor is a part of the city council, he or she usually does not have veto power. The mayor's contributions are based on the dual role as leader of the community and leader of the council. Effective mayors develop a shared vision for the city supported by the council and facilitate cooperation within the council and between the council and the manager. The mayor does not play a direct role in the administration of any aspect of city administration. The city manager provides information and recommendations to the entire council in public sessions that assure complete transparency. In addition, the manager is accountable to the council as a whole to provide information on city government performance to the council's oversight function.

While the governing body can issue instructions to the manager, elected officials are not allowed to go around the manager and issue a directive to any staff member under the authority of the manager. In this way, lines of accountability are clear. The city manager is singlehandedly responsible for all aspects of municipal operations including hiring and firing department heads (with the exception of the city clerk and often the municipal judge) and preparing and administering the municipal budget. The governing body holds the manager responsible for making sure their goals are being pursued and that the business of the local government is carried out efficiently and professionally. In addition, the city manager typically advises the council on various matters impacting the city. The city manager is a "controlled executive" chosen by the council to meet the distinct needs of the city, evaluated by the council on a regular basis, and can be removed at any time.

The city council in a council-manager city, serving as the city's governing board, provides a much different kind of political leadership than that found in mayor-council governments. In council-manager governments, the city council and mayor focus all energy and attention on the "big picture" by setting goals, monitoring progress toward those goals, and overseeing governmental operations. Supporters of this form value its tendencies toward politically-neutral policy recommendations that emphasize a long-term and communitywide perspective, effectiveness of policy implementation and service delivery, efficiency, clear lines of accountability, and a professional approach to city management.

Those who wish to alter either form's basic features should be cautioned. While a local government should adopt a form of government that fits its unique community, it is a mistake to think that one community is so "different" that it should tinker with the form and move away from the well-tested principles that have proven effective over years of experience in local communities of all shapes and sizes. Under both plans, variations are seen in at-large vs. district elections and partisan vs. nonpartisan elections, for example. However, ignoring fundamental aspects of either form of government can easily undermine the central principles of organization and official responsibilities essential for success.

Without question, the consequences of choosing one form of government over another should be carefully considered by charter commission members. Because there are so many excellent resources available that provide details about the plans as well as their advantages and disadvantages, the discussion offered here should be considered only a starting point or a "refresher" regarding the different forms of government.

Suggested Readings

Note: This abbreviated list of suggested readings represents just a sample of the resources available that address the topics covered in this *Guide*.

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