

## City and Town Charters - Adoption, Revisions and Amendments

Under the Home Rule Amendment to the [Massachusetts Constitution](#) (Amendment Article 89) and the [Home Rule Procedures Act \(MGL Ch. 43B\)](#), cities and towns can form a charter commission to adopt a new charter; entirely revise an existing charter, or amend selected charter provisions. As an option to the Home Rule Charter process under Ch. 43B, communities can also adopt, revise or amend a charter by a special act of the State Legislature with approval by the Governor ([See Special Acts](#) ). In each instance, "Charter" refers to a written instrument that defines the government structure under which a city and town operates, that may create local offices; distribute powers, duties and responsibilities among local offices; and that may establish and define certain procedures to be followed by a city or town government. ([MGL Ch. 4, Sec 7, Clause 5](#)).

For municipalities, a key distinction between a charter commission and a special act is the time required to complete the process. The work of a charter commission is directed by statute and will involve 18-24 months. Whether initiated locally, or as a recommendation of the governor, a special act involving city and town charters can generally advance more quickly.

*Charter Commission* - Under [Section 3 of Ch. 43B](#), the process to form a charter commission is initiated when 15 percent of the voters petition the city council or board of selectmen to order a local ballot question on whether to adopt a new charter, or to revise or amend an existing charter. Once the petition and signatures are certified as valid, the city council or selectmen have 30 days to adopt the order and place the question on the ballot of the next regular election which may not be within the ensuing 60 days.

When votes are cast on the question of forming a charter commission, votes are simultaneously cast to elect the nine commission members who qualify for nomination through the collection of voter signatures. If a majority of the voters approve the question, the top nine vote getters sit on the commission which is directed by statute to hold its first public hearing within 45 days of the election. It must complete a preliminary report within 16 months, then publish and submit its preliminary report to the attorney general for an advisory opinion, and complete its final report within two additional months (or 18 months from the election). Charter commission recommendations are then placed before the voters for acceptance or rejection. If the commission has no recommendation, then no vote occurs.

Under [Section 10](#), an alternative process which does not involve a charter commission is available to amend a previously adopted or revised charter. It begins with a two-thirds vote of a city council (with concurrence of the mayor), or by two-thirds vote of town meeting. A public hearing must be held within three months and final action must occur within six months of the date of proposal. Each proposal must be submitted to the Attorney General for approval and then to the voters.

*Special Act* - As an alternative, a community can adopt, revise or amend a charter by a special act of the State Legislature. Special acts, or special laws, involving government structure are applicable only to one city or town and, with few exceptions, are deemed to have the force of a charter. In cities, the city council must approve submission of a special act, and in towns, approval of town meeting is required. Under rarely used provisions of law, changes to local charters can be imposed on recommendation of the Governor and two-thirds vote of each branch of the Legislature.

Local actions to adopt, revise or amend a charter through a special law need not be approved by the voters at-large before, or after, Legislative enactment in order to take effect. However, as a matter of practice, the Legislature, or the city council or town meeting locally, almost always make special laws to adopt or change a charter contingent on voter approval.

State law does not mandate or prescribe any procedure for arriving at proposed charter provisions when a special act is to be drafted. However, a local government study committee, typically appointed by the selectmen, or when town meeting directs, by the moderator, is a frequently used method. The appointing authority is not restricted in the number of committee members. It can define the charge of the committee broadly to encompass all aspects of local government, to narrow the scope of investigation, or to ensure that particular matters are included within the committee's focus. In its charge,

the committee can also be directed to complete its work in a shorter time frame than what the law requires for a charter commission.

Once a charter proposal is drafted as a special act, it must be presented to the city council and mayor, or to town meeting for approval and authorization to be submitted to the General Court.