

**CITIZEN'S GUIDE**

**TO THE**

**IOWA CITY**

**HOME RULE CHARTER**

**February 2006**

# **CITIZEN GUIDE TO THE IOWA CITY HOME RULE CHARTER**

## **Table of Contents**

Disclaimers.....	1
<b>Introduction to the City’s Home Rule Charter .....</b>	<b>1</b>
What is a Home Rule Charter?.....	1
Where can a copy of Iowa City’s Charter be found.....	1
What must a Charter contain?.....	1
What is a Charter Review Commission?.....	2
What is meant by “Home Rule”?.....	2
<b>Iowa City’s Form of Government.....</b>	<b>2</b>
How is the City government organized?.....	2
What is the make up of the City Council?.....	2
How is the Mayor selected and what are Mayor’s duties?.....	3
How does one become a candidate for Council?.....	3
What is the relationship between the City Council and the Mayor.....	3
Does the Charter address the hiring of City employees?.....	3
What does the Charter say about Boards and Commissions?.....	3
What does the Charter say about the campaign contribution limitations?.....	4
<b>The Charter Amendment Process.....</b>	<b>4</b>
How can the Home Rule Charter be amended?.....	3
What is the process by which a citizen may petition to change the Charter?.....	4
How does the amendment process begin?.....	4
What is the role of the City Clerk?.....	5
How can someone object to a petition to amend the Charter that has been accepted for filing by the City Clerk?.....	5
What happens if an objection is filed?.....	5
How can a decision of the Objections Committee be challenged?.....	5
When will the election on the Charter amendment occur?.....	5
<b>Initiatives and Referendums.....</b>	<b>6</b>
What are initiatives and referendums?.....	6
What are the subject matter limits on initiatives and referendums?.....	6
What should I do if I’m not sure whether my proposal can be an initiative or referendum?.....	6
How is the initiative or referendum process started?.....	7
What is the “affidavit” and who must sign it?.....	7
Where does the affidavit go?.....	7
What is the “petition” and how many signatures are necessary?.....	7
What are the deadlines for gathering signatures and filing the petition?.....	8
What happens after the petition is filed with the City Clerk?.....	8
What does the Council do with a petition that has been found to be sufficient?.....	8
When is the election held for an initiative and referendum?.....	8
How many votes are required for an initiative or referendum question to pass?.....	9
ADDENDUM: Timelines for Initiative and Referendum.....	10

# **CITIZEN GUIDE TO THE IOWA CITY HOME RULE CHARTER**

February 9, 2006

## **Disclaimers.**

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

## **INTRODUCTION TO THE CITY'S HOME RULE CHARTER**

### **What is a Home Rule Charter?**

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

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

The Charter is the first section of the City Code, which can be found at the Iowa City Public Library and the City Clerk's office. Both the Charter and the Code are available online. Go to the City's web site at [www.icgov.org](http://www.icgov.org) and click on the "City Code" link on the top toolbar.

### **What must a Charter contain?**

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

---

\* All references to the Code of Iowa are to the 2005 Iowa Code

### **What is a "Charter Review Commission"?**

The Charter Review Commission is a group of citizens appointed by the City Council at least once every ten (10) years to review the Charter and recommend amendments to Council. Council must either pass an ordinance adopting the recommended amendments or submit the recommended amendments to the voters. The third, and most recent, Commission was established by Council resolution on March 16, 2004, and began their work in May, 2004. The Commission submitted its recommendations to amend the charter on January 19, 2005, and Council adopted all the recommendations by ordinance on March 1, 2005. Minutes and reports of the four (4) Charter Commissions, including the original Charter Commission, are available in the City Clerk's office.

### **What is meant by "Home Rule"?**

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

## **IOWA CITY'S FORM OF GOVERNMENT**

### **How is the City government organized?**

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

### **What is the make up of the City Council?**

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

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

The voters do not elect the Mayor. Council members select the Mayor from among themselves at their first meeting of the calendar year after each city council election. The Mayor is a voting

member of the council and has no veto power. The Mayor is the official representative of the City, presiding officer of the Council and its policy spokesperson.

### **How does one become a candidate for Council?**

A person files a petition signed by eligible electors with the City Clerk not more than sixty-five (65) and not less than forty (40) days before the election. An “eligible elector” is “a person eligible to register to vote in Iowa City”. The number of signatures required for a district seat, or an at-large seat, is at least two percent (2%) of those who voted to fill the same office at the last regular city election but not less than ten (10) persons. On June 1 of each election year, the City Clerk’s office ((319) 356-5043) makes available a packet of information such as the calendar date deadlines, the number of signatures needed and nomination forms. Section 3.02 of the Charter describes when a primary election is required.

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

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

### **Does the Charter address the hiring of City employees ?**

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

### **What does the Charter say about Boards and Commissions?**

Subject to state law (for example, section 414.6 of the Code of Iowa requires that the City have a zoning commission with certain duties), the Charter authorizes Council to establish citizen boards and commissions and to specify, among other matters, the term of the members and their duties. Information on the wide variety of boards and commissions can be found on the City web site at [www.icgov.org/boards.htm](http://www.icgov.org/boards.htm). Current vacancies are posted in City Hall, and on the City’s web site and are advertised in the Press-Citizen. Application forms are available on the City’s web site and at the City Clerk’s Office.

### **What does the Charter say about campaign contribution limitations?**

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

## **THE CHARTER AMENDMENT PROCESS**

### **How can the Home Rule Charter be amended?**

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

### **What is the process by which a citizen may petition to change the Charter?**

State law, specifically sections 372.11, 362.4, and 44.8 of the Code of Iowa, governs the citizen petition process. According to Iowa Code section 372.11(3), if a petition to amend the Charter is "valid" as provided in section 362.4 the Council must submit the proposed amendment to the voters at a special city election. What constitutes a "valid" petition is currently being litigated in Johnson County District Court. The Charter amendment procedure described below reflects the opinion of the City Attorney's office and is the position the City has taken in the litigation.

### **How does the amendment process begin?**

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

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

### **What is the role of the City Clerk?**

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

### **How can someone object to a petition to amend the Charter that has been accepted for filing by the City Clerk?**

After the Clerk's acceptance of the petition, there is a five (5) day period during which a written objection to the petition may be filed with the Clerk. If no objection is filed, the Council forwards the proposed Charter amendment to the Commissioner of Elections (Johnson County Auditor) for submission to the voters.

### **What happens if an objection is filed?**

If an objection to the petition is filed, the process under section 44.8 of the Code of Iowa must be followed. A three-person committee comprised of the Mayor, the City Clerk, and a Council member chosen by ballot (referred to here and in the litigation as the "Objections Committee") must consider the objection. If the Objections Committee does not uphold the objection, the Council forwards the petition to the Commissioner of Elections. If the Objections Committee upholds the objection, the petition is not forwarded to the Commissioner of Elections because the decision of the Objections Committee regarding the validity of the petition is "final" under section 44.8. The role and authority of the Objections Committee is one of the issues in the litigation referred to earlier.

### **How can a decision of the Objections Committee be challenged?**

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

### **When will the election on the Charter amendment occur?**

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

## **INITIATIVES AND REFERENDUMS**

### **What are initiatives and referendums?**

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

### **What are the subject matter limits on initiatives and referendums?**

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

- (a) Any measure of an executive or administrative nature.

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

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

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

### **How is the initiative or referendum process started?**

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

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

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

### **Where does the affidavit go?**

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

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

When the affidavit is accepted for filing by the City Clerk, the Clerk will issue petition forms to the petitioner(s) that same day. The petition must be signed by qualified electors (registered voters) equal in number to twenty-five percent (25%) of persons who voted in the "last regular City election," but no fewer than two thousand five hundred (2,500) qualified electors. Regular City elections are held in November of each odd-numbered year. The City Clerk will provide any interested person with the number of signatures necessary. One difference between citizen petitions to amend the Charter and citizen initiative and referendum petitions is that charter amendment petitions need only be signed by Iowa City residents ("eligible" voters) while initiative and referendum petitions must be signed by Iowa City residents who have registered to vote in Iowa City ("qualified" voters).

Each person signing the petition must provide a signature, printed name, address and the date of signing. A birth date is not required but is recommended because it may help the City Clerk determine if the signer is a registered voter. For example, if the address given for Sally Smith does not match the address on the voter rolls she will be counted as a valid signature only if the birth date provided matches the voter rolls.

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

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

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

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

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

Within twenty (20) days after a petition is filed containing the minimum signatures, the City Clerk must certify whether the petition is "sufficient". Because the petition must be signed by registered voters the City Clerk checks the signatures on the petition against the voter rolls, which are obtained from the Commissioner of Elections (Johnson County Auditor). A petition is sufficient if it contains the required number of valid signatures. If the petition is sufficient, the City Clerk presents a certificate of sufficiency to the Council.

If insufficient, Section 7.04A of the Charter details how the petition may be amended once (more signatures may be gathered). If the petition is not amended or if the amendment does not render it sufficient, Section 7.04B provides the process and deadlines by which one or more of the petitioners may request Council to review the sufficiency of the petition. The Council's decision on sufficiency is a final decision by the City. To the extent allowed by law, the district court may review the Council's actions if a writ of certiorari is filed. Any person seeking to challenge a decision of the City should obtain independent legal advice.

### **What does Council do with a petition that has been found to be sufficient?**

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

### **When is the election held for an initiative and referendum?**

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

(1) Initiative. The vote of the City on a proposed measure shall be held at the regular city election or at the general election which next occurs more than forty days after the expiration of the sixty-day period provided for consideration in Section 7.05A [the 60-day period for Council consideration], provided that the initiative petition was filed no less than 110 days prior to the deadline imposed by state law for the submission of ballot questions to the Commissioner of Elections. Again, potential petitioners should review the applicable deadlines with the City Clerk.

(2) Referendum. The vote of the City on a referred measure shall be held at the regular city election or at the general election which next occurs more than forty days after the expiration of the thirty-day period provided for reconsideration in Section 7.05A [the 30-day period for Council consideration] provided that the referendum petition was filed no less than 80 days prior to the deadline imposed by state law for the submission of ballot questions to the Commissioner of Elections. Again, potential petitioners should review the applicable deadlines with the City Clerk. The Council may provide for a special referendum election on a referred measure any time more than 120 days after the filing of the referendum petition with the City Clerk .

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

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

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

# ADDENDUM

## Timelines for Initiative & Referendum:

