

Charter Amendment Procedures



for Maryland Municipalities

INTRODUCTION

A municipal charter determines the basic structure of a municipality. Together with various provisions of Maryland State law, a municipal charter also outlines the basic powers that a municipal corporation may exercise. It is often said that a municipal charter is analogous to the constitution of a state or a nation.

Just as state and federal constitutions are dynamic documents, municipal charters require revisions from time to time. Charter provisions become archaic with the passage of time. The impacts of court decisions and the enactment of state and federal laws dictate the need for change. The needs and desires of municipal officials and the communities they serve change over time. Article 23A of the *Annotated Code of Maryland* sets out the manner in which incorporated cities and towns may amend their charters to adapt to these and other changing circumstances.

The Maryland Municipal League has prepared this handbook to provide basic guidance to municipal officials on procedures for amending their charters. Included for your information are a brief overview of the process, a flow chart to visually illustrate the charter amendment process and the sections of Maryland law that address how charter amendments must be conducted.

League staff members are available to answer any questions that you may have relating to charter amendments. Given the complexities involved and the importance of charter amendments, the League recommends that you use legal counsel when preparing and approving amendments to your municipal charter.

CHARTER AMENDMENT PROCEDURES

A charter amendment may be initiated by formal action of the governing body of a municipality through the passage of a resolution. Alternatively, the qualified voters of a municipality may initiate a charter amendment by gathering the signatures of at least 20 percent of the qualified voters in the municipality. The following text synopsisyzes the two processes.

Initiation by Elected Municipal Officials

Charter Resolution

The elected governing body of a municipality must first pass a resolution to effect a charter change in the same fashion that they would normally approve a formal resolution. The resolution must contain the exact wording of the proposed amendment or amendments. Each amendment must address a single subject and appear in a format set out in law to describe new language to be added to the charter and existing language to be deleted from the charter.

Notifying the Public

Municipal government officials must post an exact copy of the charter amendment resolution at the city or town hall or some other public place for at least 40 days after passage of the resolution. The law further requires the municipality to publish a “fair summary” of the proposed amendment not less than four times at weekly intervals in a newspaper of general circulation in the community.

Effective Date

Unless an approved charter amendment is petitioned to referendum, an amendment becomes effective 50 days after a municipal governing body passes a charter amendment resolution. The effective date is delayed if a petition for referendum is received by the municipality on or before the fortieth day after initial passage of the charter amendment resolution.

Petition to Referendum

Municipal residents may seek to nullify a charter amendment that has been approved by a municipal governing body by petitioning the amendment to referendum. The signatures of 20 percent of the qualified voters of the affected municipality are needed to bring the amendment to a referendum election. If a petition is presented to the municipal governing body and it has the requisite signatures and meets the legal requirements for form, the governing body must pass a resolution to provide for a referendum on the question of whether the charter amendment should be approved. The referendum may occur at the next general election of the affected municipality or a special election may be called. In the event of a special election, it must occur between 40 and 60 days after the referendum resolution is approved.

Initiation by Municipal Residents

Petition to Referendum

The residents of an incorporated city or town may initiate an amendment to a municipal charter by gathering the signatures of at least 20 percent of qualified municipal voters on a petition in the same fashion that a charter amendment approved by a municipal governing body may be petitioned to referendum. The petition must contain the exact wording of the proposed charter amendment. Each amendment must address a single subject and appear in a format set out in law to detail new language to be added to the charter and existing language to be deleted from the charter.

Again, if the petition has the requisite signatures and meets the legal requirements for form, the municipal governing body must within 60 days approve a resolution calling for a referendum election on whether the proposed charter amendment should be approved. Just as in the case of a referendum on a proposed charter amendment approved by the elected municipal governing body, the referendum may occur at the next general election of the affected municipality or at a special election. In the event of a special election, the election must occur between 40 and 60 days after the referendum resolution is approved.

As an alternative to calling for a charter amendment referendum upon receipt of a qualified referendum initiative petition, the affected municipal governing body may pass a resolution adopting the amendment proposed by the petition. The governing body may then proceed to address the amendment in the same fashion as it would if the governing body itself had initiated the proposed amendment.

Referendum

Notifying the Public

Municipal government officials must post an exact copy of a proposed charter amendment at the city or town hall or some other public place for at least four weeks immediately before a charter amendment referendum is held. The law further requires the affected municipality to publish notice of the referendum with a “fair summary” of the proposed amendment not less than four times at weekly intervals immediately before a charter amendment referendum is held. The published notice must appear in a newspaper of general circulation in the community. Lastly, the law requires that, on the day of the referendum election, officials must post an exact copy of the proposed amendment at all municipal sites where voting on the referendum will occur.

Conducting the Referendum Election

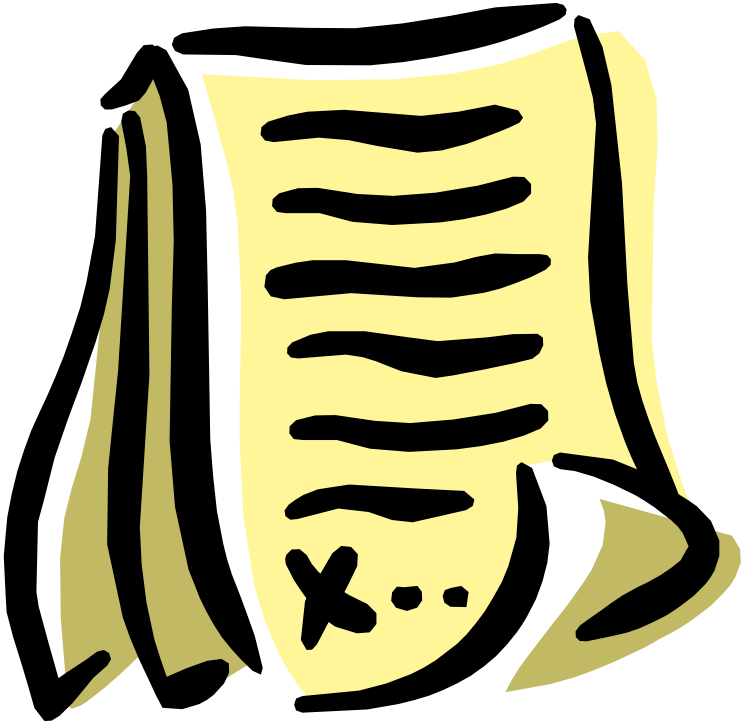
The referendum election on the question of endorsing a proposed charter amendment should generally be conducted in the same fashion in which a normal municipal election is conducted. Election officials must tally the referendum results immediately following the close of voting and certify the election results to the mayor or chief executive officer of the affected municipality.

If the voters approve the proposed charter amendment, the mayor or chief executive officer must publicly proclaim the results within 10 days of receiving certification of the election results. The charter amendment then becomes effective 30 days after the proclamation is issued.

If the voters reject the proposed charter amendment, the mayor or chief executive officer in a similar fashion must proclaim that result. The proclamation must also state that the proposed charter amendment is null and void and of no effect.

Document Registration

Article 23A, Section 9A of the *Annotated Code of Maryland* requires that specified documentation of a municipal charter amendment that is approved be provided to the Maryland Department of Legislative Services within 10 days of the amendment's effective date. Until the General Assembly acted to change the law in 2001, a charter amendment did not become effective until it was registered with the Department. Legislation passed at that time removed the impact of this documentation on the effectiveness of a charter amendment. However, the requirement to send the documentation to the Department of Legislative Services remains.



ANNOTATED CODE OF MARYLAND
Article 23A Section 11 – 17A

Charter Amendments

§ 11. Applicability of subheading.

Every municipal corporation in this State shall proceed as in this subheading provided in exercising and applying the powers for the amendment of municipal charters which are granted thereto by Article XI-E of the Constitution of Maryland.

§ 12. How amendments may be initiated.

An amendment of a municipal charter may be initiated by the legislative body of the municipal corporation or by a petition of qualified voters of the municipal corporation.

§ 13. Initiation by legislative body.

(a) *Initiation of amendment by resolution.* - The legislative body of the municipal corporation, by whatever name known, may initiate a proposed amendment or amendments to the municipal charter, by a resolution which, except as otherwise specified in this subtitle, is ordained or passed as in the usual course of considering resolutions in the government of the municipal corporation by a majority of all the persons elected to the legislative body.

(b) *Contents of resolution.* - In conformity with a requirement imposed upon the General Assembly by Article III, § 29 of the Constitution of Maryland, the resolution shall contain the complete and exact wording of the proposed amendment or amendments, prepared so that the section or sections are set forth as they would read when amended or enacted. No charter and no section of a charter may be revised or amended by reference to its title or section only.

(c) *Amendment to embrace only one subject.* - In conformity with a requirement imposed upon the General Assembly by Article III, § 29 of the Constitution of Maryland, every charter amendment adopted by a municipal corporation shall embrace but one subject, and that shall be described in its title.

(d) *Posting resolution.* - The mayor or other chief executive officer of the municipal corporation, by whatever name known, shall give notice by posting and publication of

any resolution which proposes an amendment or amendments to the municipal charter. A complete and exact copy of the resolution containing the proposed amendment or amendments shall be posted at the town hall or other main municipal building or public place for a period of at least forty days following its adoption.

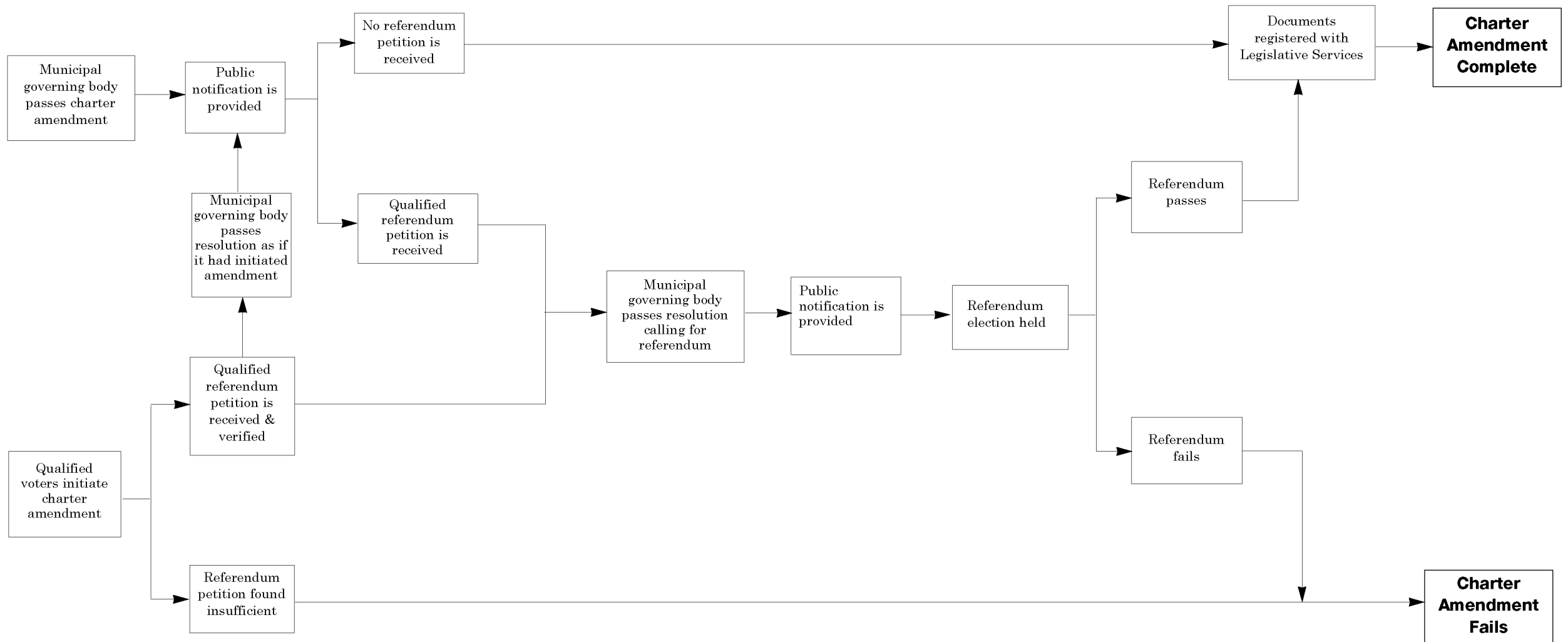
(e) *Publication of summary.* - A fair summary of the proposed amendment or amendments shall be published in a newspaper of general circulation in the municipal corporation not less than four times, at weekly intervals within a period of at least forty days starting immediately after the date of the adoption of the resolution containing the proposed amendment or amendments.

(f) *Effective date of amendment.* - The amendment or amendments so proposed by the legislative body of the municipal corporation shall become and be considered a part of the municipal charter, according to the terms of the amendment or amendments, in all respects to be effective and observed as such, upon the fiftieth day after being so ordained or passed, unless on or before the fortieth day after being so ordained or passed there shall be presented to the legislative body of the municipal corporation, or mailed to it by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, a petition meeting the requirements of this section.

(g) *Petition for referendum.* - The petition shall be signed by twenty per centum or more of the persons who are qualified to vote in municipal general elections of the particular municipal corporation and shall request that the proposed amendment or amendments be submitted on referendum to the voters of the municipal corporation. Each person signing the petition shall indicate thereon both his name and residence address. Upon receiving the petition for a referendum, the legislative body of the municipal corporation is directed to verify that any person who signed it is qualified to vote in its municipal general elections and shall consider the petition as of no effect if it is signed by fewer than twenty per centum of the persons who are qualified to vote in municipal general elections.

(h) *Referendum election.* - If the petition for a referendum complies with the requirements of this section, the legislative body shall by resolution, passed as in its normal legislative procedure, specify the day and the hours for the election at which the question shall be submitted to the voters of the municipal corporation. This may be at either the next regular municipal general election or at a special election, in the discretion of the legislative body. In the event a special election is designated, it shall be held within a period of not less than forty days nor more than sixty days after the final passage of the resolution providing for the referendum. The resolution providing for the referendum shall specify the exact wording, which is to be placed on the ballots or voting machines when the question is submitted to the voters of the municipal corporation.

Maryland Municipal Charter Amendment Procedures



§ 14. Initiation by petition.

(a) *Petition; resolution of legislative body setting time for referendum.* - Twenty per centum or more of the persons who are qualified to vote in municipal general elections in the particular municipal corporation may initiate a proposed amendment or amendments to the municipal charter, by a petition presented to the legislative body of the municipal corporation, by whatever name known. The petition shall contain the complete and exact wording of the proposed amendment or amendments, and the proposed amendment or amendments shall be prepared in conformity with the several requirements contained in subsections (b) and (c) of § 13 of this subtitle. Each person signing it shall indicate thereon both his name and residence address. Upon receiving the petition, the legislative body is directed to verify that any person who signed it is qualified to vote in municipal general elections, and shall consider the petition as of no effect if it is signed by fewer than twenty per centum of the persons who are qualified to vote in municipal general elections. If the petition complies with the requirements of this section, the legislative body shall by resolution, passed as in its normal legislative procedure, and not later than sixty days after the petition shall have been presented to it, specify the day and the hours for the election at which the question shall be submitted to the voters of the municipal corporation. This may be at either the next regular municipal general election or at a special election, in the discretion of the legislative body. In the event a special election is designated, it shall be within a period of not less than forty days nor more than sixty days after the final passage of the resolution. In the resolution, the exact wording shall be specified which is to be placed on the ballots or voting machines when the question is submitted to the voters of the municipal corporation.

(b) *Adoption of amendment by resolution.* - Provided, however, that if the legislative body shall approve of the amendment or amendments provided for in the petition presented to it under subsection (a) above, it shall have the right by resolution to adopt the amendment or amendments thereby proposed and to proceed thereafter in the same manner as if the amendment or amendments had been initiated by such legislative body and in compliance with the provisions of § 13 of this article.

§ 15. Posting and publication.

The mayor or other chief executive officer of the municipal corporation, by whatever name known, shall give notice by posting and publication of any submission of a proposed charter amendment to the voters thereof. For not less than the four weeks immediately preceding the election at which the question is to be submitted a complete and exact copy of the wording of the proposed amendment or amendments shall be posted at the town hall or other main

municipal building or in a public place. On the day of the election, a similar copy shall be posted at the place or places for voting. Notice of the election, together with a fair summary of the proposed amendment or amendments, shall be published in a newspaper of general circulation in the municipal corporation, not less than once in each of the four weeks immediately preceding the election.

§ 16. Referendum.

(a) *Conduct of election; ballots; expenses.* - On the day and during the hours specified for any referendum, the proposed charter amendment or amendments shall be submitted to the qualified voters of the municipal corporation. The official or officials thereof whose duty it is to arrange for and conduct the regular municipal elections shall perform the same duties so far as relevant to the referendum election on the proposed charter amendment or amendments. It is the intent of this section that the referendum election shall be conducted generally according to the procedures and practices observed for regular municipal elections, except as specifically or necessarily modified by the provisions of this subheading. The wording specified by the legislative body of the municipal corporation, in the resolution providing for a referendum on the charter amendment or amendments, shall be placed on the ballots or voting machines used at the referendum election. The expenses of the referendum election shall be defrayed by the municipal corporation.

(b) *Officials to tally and certify result.* - The official or officials charged with the duty to arrange for and conduct the referendum, promptly following the closing of the polls, shall tally the results thereof, and shall forthwith certify the results of the referendum to the mayor or other chief executive officer of the municipal corporation.

(c) *Proclamation of result, effective date of amendment.* - If a majority of those who vote on any question so submitted to the voters of the municipal corporation shall cast their votes in favor of the proposed charter amendment or amendments, the mayor or other chief executive officer of the municipal corporation shall so proclaim publicly within ten days after receiving a certification of the votes from the officials conducting the referendum; and on the thirtieth day following the public proclamation the proposed charter amendment or amendments shall become a part of the charter of the municipal corporation, according to its terms, in all respects to be effective and observed as such. If less than a majority of those who vote on any such question shall cast their votes in favor of the proposed charter amendment or amendments, the mayor or other chief executive officer likewise shall so proclaim, adding to his proclamation the statement that the proposed charter amendment or amendments contained in said question are null and void and of no effect whatsoever.

§ 17. Form and registration of amendments.

(a) *Form.* - In any proposal to amend an existing charter of a municipal corporation, the new matter, if any, to be added to the charter shall be indicated by being underscored or in italics or typed or printed completely in capital letters and all matter to be eliminated from the existing charter, if any, shall be indicated in its proper place by enclosing such matter in double parentheses or in boldface brackets. Where the subject matter consists of an entirely new section or sections the words of such new section or sections shall also be underscored or in italics or typed or printed completely in capital letters or contain some marginal or other notation to that effect. When the purpose of any proposal is to repeal in entirety any section or sections of the existing charter, the matter intended to be repealed need not be written out in full and enclosed in either double parentheses or boldface brackets.

(b) *Citation of original section.* - The resolution to amend a charter shall identify the source of the existing section or sections, citing the code or other publication or amendment in which appears the most recent text of the section or sections to be amended.

(c) *Consecutive numbering.* - Amendments to the charter of any municipal corporation shall be in a consecutively numbered series.

(d) *Repeal of other sections.* - The resolution to amend a charter shall provide specifically (and not simply by implication) for the repeal of any section or sections of the existing charter which are inconsistent with the amended section or sections.

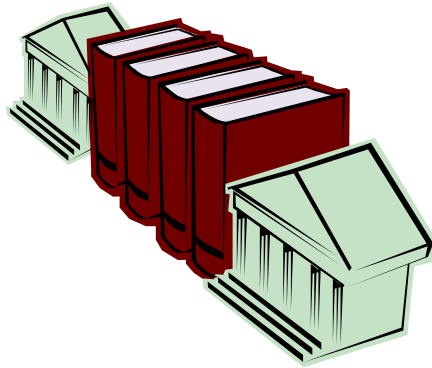
(e) *Rescission.* - A proposal to amend a charter, whether initiated by the legislative body of the municipal corporation or by a petition of qualified voters of the municipal corporation, may not be rescinded after its adoption by the legislative body or after its formal submission in a petition, in any manner other than that of another charter amendment.

(f) *Registration.* - At the time a charter amendment or amendments become effective by reason of having been ordained or passed by the legislative body of the municipal corporation, or at the time of making public proclamation as to the vote on any question containing a proposed charter amendment or amendments which have been adopted, the mayor or other chief executive officer of the municipal corporation shall send the information concerning the charter amendment or amendments to the Department of Legislative Services as provided in § 9A of this article.

§ 17A. Compilation of measures enacting, amending or repealing charter provisions-copies; statement as to referendum; annual inquiry; noncompliance; printing and indexing.

- (a) *Compilation of measures enacting, amending or repealing charter sections during calendar or fiscal year - Generally.* - At the end of each calendar or fiscal year, each municipal corporation shall furnish in a convenient and legible compilation a complete set of the measures dealt with during that year which enact, amend, or repeal sections in its municipal charter. The measures in the compilation shall be in a numerical sequence, beginning with No. 1, and in a separate series for each year.
- (b) *Same - Availability of copies for inspection.* - Copies of this compilation shall be made available for inspection at the office of the mayor and town council, by whatever name known, during normal business hours; and copies shall be kept on permanent record in the same office. The foregoing copies shall be furnished without charge, and the county also may make other copies available at a reasonable cost to any person.
- (c) *Same - Copies to Department of Legislative Services.* - Not later than March 1 of the next succeeding year, the municipal corporation, without charge, shall furnish copies of the compilation to the Department of Legislative Services as provided in § 9A of this article.
- (d) *Statement as to referendum.* - In addition to furnishing copies of the compilation, the municipal corporation shall provide to the Department of Legislative Services as provided in § 9A of this article, a statement concerning any referendum on any proposed charter amendment.
- (e) *Annual inquiry as to enactment, amendment or repeal of charter provisions.* - At the end of each calendar year the Department of Legislative Services shall address an inquiry to each municipal corporation inquiring whether or not during that calendar year or its latest fiscal year it has enacted, amended or repealed any portion of its municipal charter. The municipal corporation shall promptly answer the inquiry and shall verify by a signed and notarized statement that copies of all such enactments, amendments, or repeals have already been sent to the Department.
- (f) *Noncompliance.* - If the municipal corporation fails or refuses to supply copies of this compilation and of the results of any referenda thereon to the Department of Legislative Services by March 1 of the next succeeding year, or fails or refuses to certify that there have been no such enactments, amendments, or repeals, or referenda, during the last calendar or fiscal year, the Department shall promptly certify that fact to the State Comptroller, who then may order the discontinuance of all funds, grants or State aid which the municipal corporation is entitled to receive under State law. The section refers specifically to all funds, grants or State aid which the municipal corporation is entitled to receive under applicable provisions of State law relating to the income tax, the tax on racing, the recordation tax, the admissions and amusement tax, and the license tax.

(g) *Printing and indexing of compilations and statements.* - The Department of Legislative Services shall receive the several compilations and statements thus delivered to it. The titles of the laws of the several municipal corporations which amend their charters shall be arranged in a logical and convenient order and shall be delivered to the State printer for inclusion in the Session Laws of the General Assembly for its regular session in that year. The titles of the laws of the municipal corporations which amend their charters shall be printed and identified as such, and they shall be indexed with or in a supplemental volume to the laws enacted by the General Assembly.



ANNOTATED CODE OF MARYLAND
ARTICLE 23A, SECTION 9A

§9A. Deposit with Department of Legislative Services.

(a) *Documents to be deposited with Department of Legislative Services.* – Whenever the mayor and city council, by whatever name known, of any municipal corporation in this State (as defined in §9 (a) of this article) causes, or is required to cause any of the following documents to be created, implemented or otherwise established, the respective documents shall be deposited with the Department of Legislative Services, and in the manner, as prescribed by this section.

(1) A code or compilation containing all or a portion of the municipal charter, published or issued in printed, mimeographed or similar duplicated form; as provided in §9 (e) of this article.

(2) A charter amendment or amendments ordained or passed by the legislative body of the municipal corporation, or as adopted by the vote on the question at a public referendum; including (i) the complete text of it, (ii) the date of the referendum election, if any, (iii) the number of votes cast for or against each question containing the charter amendment or amendments, whether in the legislative body or in a referendum, and (iv) the effective date of the charter amendment or amendments, as provided for in §17 (f) of this article.

(3) A complete list of the measures which enact, amend, or repeal sections in the municipal charter, identifying each charter section affected by number and title; as provided for in §17A(a), (b) and (c) of this article.

(4) A charter amendment, ordinance, referendum or any other device by which the corporate boundaries of the municipality are enlarged or otherwise changed; including (i) a copy of the complete text of it with a statement of the new boundaries, (ii) the date of the referendum election, if any, (iii) the number of votes cast for or against the annexation, whether in the legislative body or in a referendum, and (iv) the effective date of the annexation; as provided for in § 19 (p) of this article.

(5) A unified charter providing for the merger of two or more municipal corporations; including (i) the complete text of it, (ii) the date of the referendum election, if any, (iii) the number of votes cast for or against the adoption of the unified charter, whether in the legislative bodies or in a referendum, and (iv) the effective date of the unified charter; as provided for in § 19A (j) of this article.

- (6) A charter providing for the creation of a new municipal corporation; including (i) the complete text of it, (ii) the date of the referendum election, (iii) the number of votes cast for and against the question of incorporation, under the charter, and (iv) the effective date of the charter; as provided for in § 27 (a) of this article.
- (7) A charter amendment providing for the entire repeal of the charter of a municipal corporation, ordained or passed by the legislative body of the municipal corporation, or as adopted by the vote on the question at a public referendum, including (i) the complete text of it, (ii) the date of the referendum election; if any, (iii) the number of votes cast for or against the charter amendment, whether in the legislative body or in a referendum, and (iv) the effective date of the charter amendment; as provided for in § 41 of this article.
- (8) In addition to the document and referenda enumerated elsewhere in this subsection, a statement on the results of any referendum on any proposed charter amendment held during the year, and any referendum pending, actually or potentially, but not yet held, at the end of the year; as provided for in §17A(d) of this article.
- (b) *Copies to be sent by mail to Department of Legislative Services.* – The mayor or other chief executive officer, by whatever name known, of each municipal corporation shall send, or cause to be sent, separately by mail, bearing a postmark from the United States Postal Service, one copy of each of the documents, as appropriate, enumerated in subsection (a) of this section to the Department of Legislative Services.
- (c) *Charter amendment resolution; annexation resolution.* – The mayor or other chief executive officer, by whatever name known, of each municipal corporation shall send to the Department of Legislative Services:
- (1) A charter amendment resolution within 10 days after the resolution becomes effective under § 13(f) or § 16 (c) of this article; or
- (2) An annexation resolution with 10 days after the resolution becomes effective under §19(e) or (1) of this article.

Code provisions are drawn from the *Annotated Code of Maryland*, LexisNexis 2001 Replacement Volume

The Maryland Municipal League

The Maryland Municipal League, founded in 1936, represents 157 municipal governments and two special taxing districts throughout the State. A voluntary, nonprofit, nonpartisan association controlled and maintained by city and town governments, the League works to strengthen the role and capacity of municipal government through research, legislation, technical assistance, training, and the dissemination of information for its members. Through its membership in the National League of Cities, the League offers legislative representation in Washington, urban research programs, and a national municipal government information exchange.



Maryland Municipal League *an association of cities and towns*

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