

Reforming Local Government by Charter

Who is in charge? Local government belongs to the voters. We decide the budget. We fill offices by election. Although representative town and school officers do much of the footwork, they work for us.

Sometimes we lose track of our powers and responsibilities. We forget there is a fundamental difference between the governance of a Vermont town and any other form of government in the world. We let the selectboard rule and we fall into that old habit of complaining about the way things are run, when it's really our fault all along for not getting involved.

But what can we do, people ask. It's the Vermont legislature that makes the law. Local government is just another agency to do the state's bidding. This is true, but there are options. Towns do not have to abide by general state law. Any town in Vermont has the authority to adopt a charter that can change the general state law for that community, provided it is ratified by the legislature. The good news is that the legislature is usually very willing to accommodate towns with new ideas on how government should work at the local level.

This pamphlet is designed as an introduction to the process of reforming government by local charter. It is only a seed. The hard work of developing a charter belongs to you.

Process is our subject. Here we give you an idea of how creative you can be with a charter. We describe how to draft the basic document, how to prepare a proper petition, what to expect at public hearings—both those at home and in Montpelier—and describe in detail each of the steps you must take to make your charter the law of

your community. Democracy—the principle that the people rule—is a radical idea. Of course, it's not so radical if we sleep on our rights and let representative government control us. That's why it's so important to stay involved. Too often we become frustrated and alienated and we just give up. The good news is that the process is in place for us to reassume control of local government through a proper charter. All we need to do is organize.

What Can a Charter Do?

One town wants a conflict of interest rule that will prevent elective and appointive officers from self-dealing. Another wants to guarantee that any decision the selectboard makes could be put to a confirming vote of the electorate if petitioned by a percentage of the checklist. Another wants a three-year term for delinquent tax collector or to abolish the office of road commissioner, centralizing the power in the selectboard's hands. Another would like to charge penalties for late payments of installment taxes. Another wants an express vote at an annual meeting before any further paving of highways is done.

Most towns are governed by general state law. Bits and pieces of this are found throughout the various titles of the Vermont Statutes Annotated, but principally in Titles 1, 17, 24, and 32. These laws change incrementally each year, usually for the better. But substantive reform of

WARNING

This is a subversive document. It contains instructions on how to change your government. In the wrong hands, it can be a dangerous weapon. Used properly, it can bring many years of productive life to town government.

local government doesn't come by the annual amendment of general state law. When a community wants to address its own, immediate needs, the best way for this to happen is to adopt a charter.

When Charters Are Voted

A charter or a charter amendment is voted at the annual Town Meeting, or at the next primary or general election, whichever election comes first. It cannot be voted at a special meeting of the town. The idea is to guarantee as large a turnout as possible for an important question like a charter.

Where to Find Examples of Charters

Find the Vermont Statutes Annotated. The easiest way is through legislature.vermont.org. Click "Vermont Laws" and scroll down to Title 24 Appendix. If you prefer paper, there is a set of Vermont Statutes Annotated in every town clerk's office. Find Title 24 Appendix.

Some people think a charter is something only a city can have, but more than two dozen Vermont towns have them as well. In Brattleboro, the charter and other special legislation has created Vermont's only Representative Town Meeting system to date, where each geographic area of the town is represented in a Town Meeting assembly by an elected member (although a charter is no longer needed to switch to Representative Town Meeting—towns can now do this by popular vote). Other towns have provided by charter for public recall of elected officers, where a certain percentage of voters can petition for a vote to recall an officer who is not performing satisfactorily. Another has reserved powers of voters to propose ordinances directly to the voters at Town Meeting.

How Far Can You Go?

There are limits to the legislature's willingness to share power and allow a municipality to do things other towns can't by special charter. You must not expect, for instance, that by charter you could relinquish your town's responsibilities to the state to pay taxes, but you could, like Burlington and Rutland, have special authority to charge businesses 120 percent of fair market value on property while residents pay at the usual 100 percent. You couldn't make the speed limit 80 mph in your town, for obvious reasons.

In other words, be reasonable. The effect of your charter cannot grant your residents an exemption or advantage not enjoyed by other residents of Vermont. It cannot invade any of the rights and responsibilities of citizenship.

Above all, the proposed change must be local in scope. Ideally, it is designed to respond to an actual problem that general law doesn't address. Consider, for example, the business of defining conflict of interest. General state law is very poor on this subject. Some towns, seeing how conflicts destroy the fragile sense of trust between elected officials and the voters, have written very severe rules to guard against even the appearance of a conflict, and the legislature has been very willing to accommodate the towns by enacting these provisions.

Another town wanted to set term limits on its selectboard several years ago, and duly adopted it as part of the formal adoption process. When the proposal arrived at the legislature, it was immediately questioned. The attorney general confirmed that term limits were unconstitutional, and the provision was struck from the proposed charter.

That is the risk of anyone coming to the legislature with a hope of having new ideas made into law—that the legislature will balk, and either refuse to enact it or change it in a way that no longer suits the purposes of the petitioners. To avoid this, ask for pre-review by the Legislative Council, through your representative or senator, and by the Attorney General if you can persuade that office to get involved, before something is presented to the voters. The more advice you get, the more precedent you can cite, and the more you can name the need that creates the problem, the more likely your proposal will find acceptance at the legislature.

The Process of Drafting a Charter

First you need an idea, and then you will want to put it into writing. This is best done by committee, with one articulate member serving as scribe or drafter. The best way to start is to review the problem succinctly. Then look at other charters for model provisions. Look at city charters or those of the larger towns. You can find copies of all charters at the Secretary of State's Office.

Deciding what you want to change is a good place to start. In starting out, dare to dream about a town government that is just to your liking. Try to imagine how you could improve the way things are. Talk to town officers, current and former, about what they think ought to be changed.

Don't expect everything you propose to be zealously ratified by the voters of the town. Voters are inherently conservative bodies, but reasonable proposals clearly drafted are usually given a fair hearing and serious consideration.

Pitch the idea to the selectboard and see if you can obtain the members' support. Perhaps the effort to draft a charter starts with the selectboard, for that matter. In that case the board appoints the committee, and the committee reports back to the board with the draft.

Don't be reluctant to hold a special hearing on the issues either, while the proposal is in the planning stages. Try to engage as many people as possible in your cause. Write up an explanation in everyday language. Publish an article or letter to the editor to the local paper. Make what you want to do widely known, and then start the petitioning process.

Petitioning

There are two ways of getting the question on the ballot. The selectboard decides it likes the idea and agrees to put it on a warning for the election, or petitioners force a vote by a petition. If the board is unwilling to put it on a warning, then the petition is the solution. It requires 5 percent of the checklist to sign it, and the board cannot prevent it from being submitted to the electorate.

A petition ought to have a heading. Call it "Charter Petition." Then explain your purpose. "We, the undersigned voters of the Town of _____, hereby petition the selectboard to add this article to the warning of the annual meeting [or primary or general election] for the purpose of voting on the proposed charter." Include a copy of the proposal with the petition (printed on the back of the petition, for instance), underlining all new words.

Make the petition with three columns, plainly marked—one each for signature, printed name, and address. Collect more than you need to avoid the embarrassment of a short list because some don't remember whether they are registered to vote or not or whether they even reside in your town. It happens. Of course, if you don't have enough signatures on the first submission, you can always supplement.

Try to keep track of deadlines. For a petitioned article such as a charter question to be added to the warning for the election, it must be submitted early enough to be properly warned. Because of the time required to schedule public hearings, eight weeks before the vote isn't too early.

You can't do this all yourself, of course. You need help circulating petitions and making the rest of the community aware of what you are trying to do. It takes hard work and many hours of preparation to do it right.

Once the Petition is Submitted

Now the petition is submitted or the selectboard has agreed to warn the proposed charter or amendment on its own motion. Now what?

The next move belongs to the board. It must warn the public hearings and the vote. The process is different from any other type of question, because the law provides special rules for the process.

A Model Schedule for Warnings

1. Charter is submitted to selectboard.
2. Warning posted.
3. First public hearing (no less than thirty days after warning).
4. Second public hearing (no less than thirty days after warning, and not more than ten days before election day).
5. The election (no less than thirty days after warning). Post the warning forty days before the election. Call the first hearing on the Monday evening a week and a day before the election. Hold the second hearing on the Monday that is the night before Town Meeting. Calling all public hearings and the election on the same page makes sense, and include a copy of the proposed charter with the warning or clear instructions where a copy can be obtained.

Every charter proposal requires two public hearings. Each hearing must be warned at least thirty days in advance, by posted and published notice. The election vote also requires similar warning of at least thirty days.

Votes on charter proposals or amendments can only be taken at the annual Town Meeting, at a state primary, or at a general election.

The Election Process

The vote is by Australian ballot, which means you can vote by absentee ballot. The law allows anyone to vote absentee, so if you are interested in ensuring that as many as possible of your supporters actually vote, you will need to ensure that everybody knows how to order one. All it takes is the voter's consent to request a ballot.

You can also have supporters standing outside the polling place, greeting voters and encouraging them to vote for the charter. Signs, bumper stickers, letters to the editor—all of these things help in getting the word out. The status quo is seriously impacted, and change is hard. People fear things they don't understand. Help them by giving them clear explanations. Be ready with answers to basic questions.

Remain respectful of the voter who doesn't want to talk or reacts poorly to your presentation. Don't try to force anyone to stop or take literature from you.

You cannot enter the polling place, except to vote yourself, until the polls close. Then you may observe the counting process. Try to get good figures on turnout (ask for the checklist totals) and the vote. If you've won, celebrate. If you've lost, leave quietly and regroup. If it's a close vote, you might consider a petition to reconsider, which must be filed within thirty days signed by 5 percent of the checklist.

Let's remain optimistic. Say your proposal passed. Now what can you expect?

How a Charter Reaches the Legislature

Once a vote is taken and a proposed charter or amendment passes, the town clerk is required to prepare a packet for the Secretary of State. This includes a copy of the minutes of the selectboard approving the warning, the warning itself, a copy of the ballot, and a certified return of votes of the election.

Since the charter has to come before the legislature as a bill, it will need a sponsor, usually one of the representatives or senators for your district. Don't expect this will happen by itself. Stay involved, and make sure the bill is submitted. Then keep asking about its progress. Once introduced, it will be referred to a committee, usually the House Government Operations Committee, if it's a house bill, or the Senate Government Operations Committee in the other chamber. Call the committee and leave your name and number, so you can be called whenever the bill is going to be discussed. Attend the hearing, and ask to be heard. You don't need to hire a lobbyist, but you won't waste your time by following the charter through the legislative process. After all, all your hard work is for nothing if it isn't ratified by the legislature.

A Final Word on the Process

Democracy rewards dedication. If you are persistent, you can change the way your town is governed. There are few monuments in the town square that will outweigh that contribution to your community.

The Vermont Institute for Government

The Vermont Institute for Government (VIG) is a nonprofit organization dedicated to ensuring that government remains responsive, accessible, and competent, by improving educational opportunities for local officials and the public regarding how government works. Since 1989, VIG has been creating educational materials, offering

workshops, and collaborating on a variety of trainings and educational events for Vermont's town officers and citizens.

This pamphlet is one in a series of VIG publications on Vermont local issues. For more information and additional resources, please visit the Vermont Institute for Government website: vtinstituteforgovt.org.

Please note: This pamphlet was revised and updated in the spring of 2020. Changes in the law subsequent to that date may make some of what is written here no longer valid. Always check the latest versions of the law before proceeding.