

## CITIZEN RELIEF MECHANISMS IN MASSACHUSETTS CHARTERS

There are four procedural devices charters can include which increase the access of voters to local government decision-making: **free petition, initiative, referendum, and recall**. These enable residents to request actions, compel action, reverse unpopular decisions, or remove a person from office.

Initiative and referendum are utilized in respect to actions/lack of action of a city/town council or a school committee.

Some charters require a minimum percentage of voters (e.g., 20%, 30%) to participate in initiative, referendum, and recall elections for the results to be valid.

### FREE PETITION

**Allows an individual or group to present a measure to the city/town council or school committee for action.** The council or school committee may take discretionary action on *individual* petitions. For group petitions (number of signatures determined in the charter), the council or school committee must hold a public hearing within three months of receiving the petition. Notice must be posted. Signature requirements for group petitions range from 50 (Gloucester) to 150 (Watertown).

Steps:

1. Certain number or percentage of voters submit petition to council or school committee
2. Clerk mails notice to certain number of petitioners as stated in the charter
3. Council or school committee holds a hearing within specified amount of time

Decision points for charter commission:

1. Number or percentage of voters required for petition
2. Whether there will be similar procedures (submission to clerk, attorney, etc.) as with other relief mechanisms
3. Specify timeline for council or school committee to take action

## **INITIATIVE**

**Allows a certain number or percentage of voters by signing a petition (number of signatures determined in the charter) to require the city/town council or school committee to take action.** If the council/school committee does not act and voters collect additional signatures, the substance of the petition will appear on the municipal election ballot. If enacted by the voters, the action proposed by the petition will take effect. This is a multi-step process, usually taking months to complete.

Steps:

1. Filing petition with city clerk
2. Signatures by certain percentage (%) or number of the voters
3. Clerk certifies signatures
4. Petition referred to city solicitor for review
5. Council may hold public hearing and/or allow for public inspection of petitions.
6. Council or school committee takes action on petition; if enacted, process ends here.
7. Possible supplemental initiative petition if council fails to pass measure, or substitutes a measure in lieu of the measure as proposed by petition
  - a. Collect signatures from an additional percentage or number of voters
  - b. Special election for voters to consider the petition unless a regularly scheduled election will be held within 90-125 days OR petition can appear on ballot at the next regular municipal election.

Decision points for charter commission:

1. Percentage or number of voter signatures to commence
  - a. Potentially minimum number from each ward
2. Number of voters on "petitioners committee"
3. Percentage or number of voters' signatures on petition
4. Number of days to certify signatures (e.g., 5,7,10 days)
5. Allow public inspection of petition?
6. Number of days council or school committee has to act on initiative (e.g., 20,30 days)
7. Require a public hearing?
8. Require a supplemental petition?
9. Number of days to collect signatures for potential supplemental initiative petition
10. Percentage or number of voters required to sign supplemental initiative petition
11. Require a special election to be held?
12. Timeline for initiative to appear on the ballot

*Most Massachusetts city charters include an initiative process, although it has not been used frequently.*

## **REFERENDUM**

**Allows voters to petition for the repeal of a measure enacted by the city/town council, or require that a certain council action be affirmed by the voters before taking effect.** The measure is put on “pause” until the vote.

Steps:

1. Council or school committee approves a measure
2. Within certain time period, percentage or number of voters submit signed petition opposing the measure
3. Measure is temporarily suspended
4. Council or school committee “immediately reconsiders” its vote
5. If not rescinded:
  - a. Council provides for submission of question to voters either at a special election or a next regular election
  - b. Until such election, measure is suspended

Decision points for charter commission:

1. Time available to initiate referendum
2. Percentage or number of voters to petition for referendum vote
3. Time limit for the collection of such signatures (e.g., 5,14,20,21 days)
4. Whether to allow reconsideration by council or school committee
5. Whether to require a special election to be held

The charter may include a listing of items which **cannot** be subject to a referendum. Examples:

- Emergency measure adopted in conformity with the charter
- Town budget or school committee budget as a whole
- Revenue loan orders
- Appropriation for debt service
- Appropriation to implement collective bargaining agreement
- Proceedings relating to personnel actions (appointment, removal, discharge, etc.)
- Repeal of measure which is subject of referendum proceedings
- Measures enacted by the council which include a referendum provision within the measure itself (i.e., you can't have a referendum on whether or not to allow a referendum)
- Measures relating to internal organization of council or school committee

*Most Massachusetts city charters include a referendum provision, although it has not been used frequently.*

## **RECALL**

**The recall procedure allows voters to consider the removal of an elected official from office prior to the completion of his or her term.** A recall provision requires very careful consideration of numerous factors to assure that it will not be used frivolously, but can be used if the need arises.

Steps:

1. Only applicable if officer has more than a certain amount of time remaining in his or her term; may be times in the term (e.g., 1<sup>st</sup> 6 months, final 6 months) when recall cannot be used.
2. Percentage or number of voters to submit signed affidavit. Affidavit states the specific “grounds” for recall; there are no defined standards and/or conditions relating to “grounds.” Each recall is based on individual community factors and concerns.
3. Clerk gives petitioners blanks to collect signatures on “recall petition.”
4. Recall petition with additional percentage or number of voter signatures must be returned within certain time period (e.g., 21, 28 days)
5. Clerk verifies signatures within given time frame
6. City council gives notice to officer
7. Officer has opportunity to resign within certain period, if he or she doesn’t resign, recall election is scheduled.
8. Recall election is scheduled unless recall provision provides that regular municipal election may be used if within a certain number of days after recall election is scheduled
9. If voters recall officer, office is vacated. Special election held to fill vacancy pursuant to charter provisions.\*

\*some earlier recall provisions provided that the vote to recall and the vote to fill the vacancy be held at the same election. This approach is now not favored.

Decision points for charter commission:

1. Will any elected officials be exempt from recall?
2. How many signatures to require for a recall affidavit (first step in the process)?
3. How many signatures to require for a recall petition?
4. Should provision require that a minimum number of signatures come from each ward/precinct in the city/town if the officer is elected by the voters at large?
5. How much time to allow for the collection of petition signatures (e.g., 20 days is most popular)?
6. How will the recall election be scheduled (within 65, 90, 120 days unless another municipal election will be held within 100 -120 days)? Note: state election law requires a minimum of 64 days after a recall election has been scheduled.
7. Will provision give opportunity for the officer to resign?
  - a. If officer resigns will recall election still go forward?
8. Will recall be prohibited at certain times (e.g., first three months, last six months of the term)?

9. Will provision require participation of a minimum percentage of voters in the recall election for its results to be valid?

If recall election and election to fill potential resulting vacancy held simultaneously:

1. Can the officer subject to recall be allowed to be a candidate in the recall election?
2. Will a potential vacancy be filled during the recall election?

*Recall has not been used often in cities.*

## **OTHER OPTIONS**

### **Non-Binding Public Opinion Advisory Questions**

In addition to these four procedures, the charter could also include a provision allowing the council and/or the school committee to include non-binding public opinion advisory questions on the ballot at regular city elections to assess voter response to certain issues. It is probably best to limit the number of such questions to two or three so that voters will be able to focus on the major issues on which the council or school committee would appreciate voter guidance. See also: MGL, c. 53, s. 18A.