



Charter Review Commission



Charter Review Commission
June 26, 2019

I was just appointed to the Charter Review Commission, now what do I do?

Charter § 703(b): “The Commission shall **review** the provisions of this Charter and make **recommendations** as to the **necessity** for deleting, adding or amending its contents.”

2 Steps

1. Review Charter
2. Make recommendations
 - a. on necessity for Charter revisions
 - b. in a report to the Council
 - (i) deadline: February 28, 2020
(presentation to County Council:
March 10, 2020)

Maryland Open Meetings (OMA) Act

- Charter Review Commission (CRC) = public body and must comply anytime quorum (4) present

Three requirements for an open meeting:

1. Before: Prepare advance public notice and agenda
2. During: Allow public to attend and observe (OMA does not require public be allowed to speak)
3. After: Minutes timely prepared

- Closed sessions allowed for specific reasons (e.g. personnel, attorney-client) but unlikely for CRC
- If closed session desired, consult County Attorney's Office first
 - Procedures and formalities must be followed

Maryland Public Information Act (MPIA)

- Upon proper request, MPIA requires disclosure of all documents (defined broadly) involving County business
- E-mails and other electronic communications subject to disclosure
 - Includes emails on personal email related to the County
 - Texts
 - Social media, etc.

MPIA has exceptions to disclosure

- Consult with County Attorney's Office if receive MPIA request

LOCAL GOVERNMENT – where does the power come from?

- **LOCAL GOVERNMENTS ARE CREATED BY THE STATE**
 - **Have only those powers granted by the State**



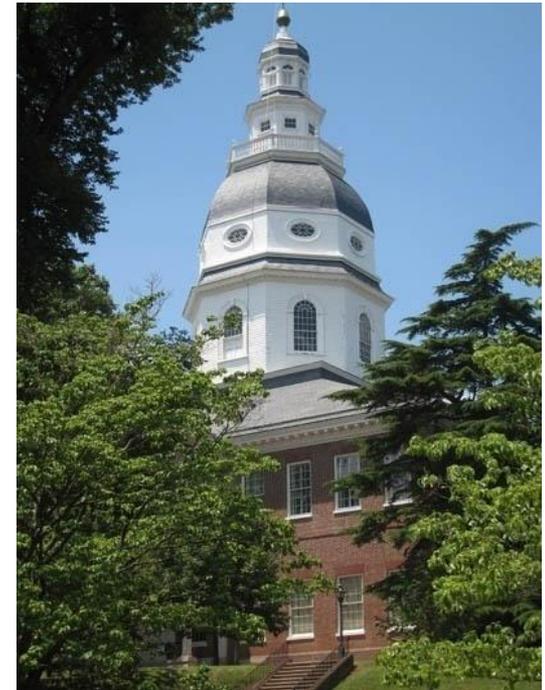
WHAT IS A CHARTER?

- **A CHARTER IS SIMPLY A DOCUMENT THAT SPELS OUT THE AUTHORITY AND STRUCTURE OF A LOCAL GOVERNMENT.**
- **IT'S A LOCAL CONSTITUTION FOR THE COUNTY.**



WHAT IS INCLUDED IN THE CHARTER?

- 1. Authority and functions of elected officials.**
- 2. Elected and Appointed positions.**
- 3. Term limits for elected officials.**
- 4. District and at-large election of Council.**
- 5. Referendum procedures.**
- 6. Compensation amounts for elected officials.**
- 7. Budget process.**
- 8. Process for passing local laws.**



Charter Material

Only “charter material” to be included in the Charter

- All legislative powers vested in Council (§ 202)
 - Detailed legislation for Council, not Charter
- Does it revise the form and structure of government?
 - Does it leave role for legislative body?

Frederick County Council Responsibilities

County Charter – the charter provides the County Council with several express responsibilities including:

1. All **legislative** powers of the County under Maryland law are vested in the County Council (except referendum) § 202 and § 301
 - a. What's a legislative power?
 - (i) power to enact laws as well as amend and repeal laws

Frederick County Council Responsibilities

2. The County Council acts on the budget proposed by the Executive § 506
 - a. may decrease but not increase budget
 - b. Council failure to adopt means Executive Budget adopted.

Frederick County Council Responsibilities

3. The Council has responsibilities for appropriations including
 - a. certain transfers of appropriations (§ 509)
 - b. supplemental appropriations (§ 510)
 - c. emergency appropriations (§ 511)
 - d. What's an appropriation?
 - (i) an authorization for the expenditure of public funds

Frederick County Council Responsibilities

4. Council may amend capital budget upon recommendation of Executive (§ 513)
5. Council confirms Executive appointments (§§ 410, 411, 412, 501)
6. Council engages an independent auditor (§ 704)
7. Council must authorize contracts in excess of \$20,000 that would require appropriations in multiple fiscal years (§ 514(d))

Frederick County Council Responsibilities

8. Council may investigate the affairs of the County and issue certain subpoenas on vote of six members (§ 211)
9. The Council establishes a Salary Review Commission every four years (§ 207) (consider early during 3rd year of term – begins December 2020)
10. Council appoints a Redistricting Committee after decennial census (next one in 2020) (§ 214)
11. Council appoints a Charter Review Commission after the 2018 election (§703)

County Executive Responsibilities in Charter

- Chief Executive Officer of the County (§ 402)
- All executive power vested in the County Executive
 - under Maryland laws and Constitution
 - under Charter (§ 402)

County Executive Duties and Responsibilities

What's an Executive Power?

- Charter addresses in (§ 402)
 - County Executive “shall faithfully execute the laws.”
 - supervise executive branch and its employees § 402 (a)
 - ensure County boards, commissions and employees faithfully perform their duties § 402(a)

County Executive Duties and Responsibilities (continued)

- prepare and submit Annual County Budget to Council § 402(b)
- prepare and submit annual report and comprehensive annual financial report (for each fiscal year by December 31) § 402(c)

County Executive Duties and Responsibilities (continued)

- provide Council information
 - Council requests in writing
 - Executive deems necessary § 402(d)
- recommend to Council legislative action § 402(e)
- sign deeds, contracts, etc. § 402(f)

County Executive Duties and Responsibilities (continued)

- appoint
 - Chief Administrative Officer (§ 410)
 - County Attorney (§ 411)
 - Director of Finance (§ 501)
 - all Division Directors (§ 412)
 - all members of boards and commissions (§ 412) (except Board of Appeals)
- all executive appointments subject to Council confirmation (§ 412)

County Executive Duties and Responsibilities (continued)

- Executive Veto (§ 306)
 - last step in legislative process (unless Referendum)

Chief Administrative Officer (§ 410)

- supervises Executive departments, agencies and offices
- advises Executive on all administrative matters
- other duties as assigned

County Attorney (§ 411)

- “shall be the chief legal officer of the County and conduct all the law business of the county”
- “shall be a legal advisor to”
 - Executive
 - Council
 - “all County departments, agencies, offices and other instrumentalities of the Government”

Director of Finance (§ 501)

- duties prescribed by Executive, law or charter

Non-Interference Provision § 212

2 subsections:

1. Prohibition on Council and its members § 212(a)
2. Duty for County Executive § 212(b)

Non-Interference Provision (continued)

1. Prohibition on Council

The Council and its individual members are prohibited from:

- appointing, dismissing or giving direction to any Executive branch employee
- exception where provided in State law or this Charter

Non-Interference Provision (continued)

2. County Executive Duty

- County Executive duty to provide information requested by Council
 - in writing
 - by Council – not individual Council member
- for purpose of
 - evaluating or introducing legislation
 - reviewing and monitoring Government programs, activities and policy implementation (§ 212(b))

Legislative Process – Charter Requirements

Legislative Sessions (§ 302)

- What must be done in a legislative session?
 - enact legislation
 - introduce legislation

What can be done in a “non-legislative session”?

- any activity within the Council’s powers except:
 - enact legislation
 - introduce legislation (§ 303)
- examples:
 - public hearings
 - fact finding
 - proposing and adopting Bill Amendments
 - deliberating and debating legislation (§ 303)

When are legislative sessions held?

- 1st and 3rd Tuesday of each month (next succeeding Tuesday if legal holiday)
- any additional days Council determines necessary
 - up to total of 45 days in a calendar year (§ 302)
- Note that no legislation may be enacted in November 2018 (election years) (§§ 302 and 305(f))

Legislative Procedures (§ 304)

- 4 council members constitute a quorum
- Legislative sessions open to public
- Journal must be kept
- Voting by roll call
 - except procedural motions
- Voting ayes and nays recorded in minutes
- Council may adopt additional rules of legislative procedures

Enactment of Legislation (§ 305)

- By written Bill
 - must be exact wording of law
- One subject
 - described in title

- Introduced by 1 or more Council members at a legislative session
 - bears name of Council member introducing the Bill and date of introduction
- On date bill is introduced
 - schedule public hearing
 - unless 5 Council members reject
- Copy of Bill must be publicized (County website) within 72 hours

Public hearing notice

- newspaper notice once a week for 2 successive weeks (minimum 14 days)

Enactment of Bill (§ 305)

- after public hearing
- affirmative vote of at least 4 Council members
- Amendments
 - if substantive, require new notice and public hearing
- Bill is void if not enacted within 90 days

Executive Veto (§ 306)

- Council must deliver legislation to the Executive
 - within 10 business days after passage

Executive Veto (continued)(§ 306)

- Executive has 3 options within 10 business days after receipt
 - APPROVE: legislation takes effect as provided in Charter
 - NO ACTION: deemed approved if County Executive fails to act within 10 business days of receipt

- VETO: Executive returns legislation to the Council with written reasons for veto

Executive Veto (continued)

Council override of Executive Veto

- requires affirmative vote of 5 Council members
- no later than next legislative session immediately following receipt of the veto

Executive Veto (continued)

Certain legislative acts may not be vetoed
§ 306(d)

- Annual Budget and Appropriation Ordinance
- Ordinance appointing a Compensation Review Commission

Referendum (§ 308)

- Initiated by Petition signed by 7% of registered voters in County
 - around 12,250
(if 175,000 registered voters)
- Must satisfy state law requirements
- Must be filed with County Board of Elections within 59 days after law enacted

Referendum Continued

- submitted to voters at next Congressional General Election
 - or special election called by Council
 - held 30 – 90 days after petition filed
 - cannot have special election if petition filed within 180 days of Congressional Election

Bill Effective Date (§ 307)

- 60 days after enactment unless
 - later effective date provided
 - Expedited legislation (necessary for the immediate protection of health, safety or welfare) effective on enactment date
 - referendum
- Annual Budget and Appropriation Ordinance effective July 1

Charter Amendments (Md. Constitution Article XI-A, § 5)

2 Methods:

1. County Council Resolution
2. Petition of 10,000 registered voters of Frederick County

Resolution or Petition submitted to County voters at next Congressional election (5 weeks newspaper notice)

- If majority of votes cast are in favor becomes part of Charter in 30 days

County Attorney prepares ballot question

- Deadline for 2020 election: Late July 2020
- Last Council public meeting to enact Charter Amendment Petition: July 7, 2020

Summary

CRC: 1. Reviews Charter

2. Makes recommendation in a report to Council

*Deadline: February 28, 2020

Council Presentation: March 10, 2020