

TITLE III

TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 49-B

HOME RULE-MUNICIPAL CHARTERS

Amendment of Municipal Charter

Section 49-B:5

49-B:5 Charter Amendments, Procedure. –

I. The municipal officers may determine that one or more amendments to the municipal charter are necessary and shall, by order, provide for notice and hearing on them. The notice of the hearing shall be published in a newspaper having general circulation in the municipality at least 7 days prior to the hearing, and shall contain the text of the proposed amendment and a brief explanation. The hearing shall be conducted by the municipal officers or a committee appointed by them. If substantive changes are made to the proposed amendment, a hearing on the modified amendment shall be held. Notice of the hearing and the conduct thereof shall be as provided in this paragraph.

(a) Within 7 days after the last public hearing, the municipal officers or the committee appointed by them shall file with the municipal clerk a report containing the proposed amendment. In the case of a report of an appointed committee, a copy shall be filed with the municipal officers.

(b) Within 7 days after receiving approval from the secretary of state, the attorney general, and the commissioner of the department of revenue administration under RSA 49-B:4-a, the municipal officers may order the proposed amendment to be placed on a ballot at the next regular municipal election. In the case of municipalities with biennial elections, the municipal officers may order amendments to be placed on the ballot at either the next regular municipal election or at a special municipal election that occurs not less than 60 days after the order.

(c) Each amendment shall be limited to a single subject, but more than one section of the charter may be amended as long as it is germane to that subject.

(d) Alternative statements of a single amendment are prohibited.

II. On the written petition of a number of voters equal to at least 15 percent of the number of ballots cast in a municipality at the last regular municipal election, but in no case fewer than 10 voters, the municipal officers shall, by order, provide that proposed amendments to the municipal charter be placed on a ballot in accordance with the procedures set out in paragraphs II-a through V:

(a) Each amendment shall be limited to a single subject but more than one section of the charter may be amended as long as it is germane to that subject.

(b) Alternative statements of a single amendment are prohibited.

II-a. The following procedure shall be used in the alternative method set out in paragraph II:

(a) Any 5 voters of the municipality may file with the municipal clerk an affidavit stating that they shall constitute a petitioners' committee. Such affidavit shall be signed by the members of such committee and an additional 20 voters of the municipality and shall include:

(1) The language of each proposed amendment.

(2) The names and addresses of the committee members.

(3) The address to which all notices to the committee are to be sent.

(b) Each signature on the affidavit required by subparagraph II-a(a) shall be included in the clerk's count of the number of signatures required by paragraph II unless a signatory has signed both the affidavit and the petition, in which case the signature shall be counted only once.

(c) Promptly after the affidavit is filed by the petitioners' committee, the clerk shall file a certified copy of the

affidavit, including the proposed amendment, for review of the proposed amendment in accordance with RSA 49-B:4-a. Promptly after receiving approval of the proposed amendment from the state officials under RSA 49-B:4-a, the clerk shall issue petition form blanks to the committee. The petition forms shall read substantially as follows: "Each of the undersigned voters respectfully requests the municipal officers to provide for the amendment(s) of the municipal charter as set out below. If more than one subject is included in a petition, each subject shall be addressed in a separate amendment".

III. (a) The petitioners' committee, or voters of the municipality designated by the committee, may circulate the petition and file it in proper form. Each signature affixed to a petition shall be in ink or other indelible instrument and shall be followed by the place of domicile of the voter with street and number, if any. No petition shall contain any party or political designation.

(b) The clerk shall note the date of each petition form issued and all petitions, unless sooner filed, shall become null and void for every purpose on the 120th day after the date of issue.

(c) Each petition form shall have printed on its back an affidavit to be executed by the circulator, stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they purport to be, that each signer has signed no more than one petition, and that each signer had an opportunity before signing to read the petition.

(d) Petition forms shall be assembled as one instrument and filed at one time with the clerk. The clerk shall note thereon the date of filing.

IV. Within 20 days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, shall promptly send a copy of the certificate to the petitioners' committee by mail, and shall file a copy with the municipal officers.

(a) A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within 2 days after receiving the copy of his certificate. Within 10 days after the date of filing of the notice of intention, the committee may file a supplementary petition to correct the deficiencies in the original petition. Such supplementary petition shall in form and content comply with the requirements for an original petition under paragraph III.

(b) Within 5 days after the filing of a supplementary petition the clerk shall complete and file a certificate as to its sufficiency in the manner provided for in an original petition.

(c) When an original or supplementary petition has been certified insufficient, the committee may, within 2 days after receiving the copy of the clerk's certificate, file a request with the municipal officers for review. The municipal officers shall inspect the petitions and shall make due certificate thereof, copies of which shall be filed with the municipal clerk and mailed to the committee. The certificate of the municipal officers shall be a final determination of the sufficiency of the petitions.

(d) Any petitions finally determined to be insufficient shall be void. Such petitions shall be stamped void by the clerk and shall be sealed and retained by the clerk in the manner required for secret ballots.

V. (a) Within 10 days of receipt of a report that a petition is sufficient, the municipal officers shall by order provide for and issue notice of a public hearing on the proposed amendment. The notice of the hearing shall be published in a newspaper having general circulation in the municipality at least 7 days prior to the hearing, and shall contain the text of the proposed amendment and a brief explanation. The hearing shall be conducted by the municipal officers and no substantive changes may be made to the amendment.

(b) Within 7 days after the public hearing, the municipal officers shall file with the municipal clerk a report containing the proposed petitioned amendment and shall order the proposed amendment to be placed on the ballot at the next regular municipal election. In the case of municipalities with biennial elections, the municipal officers shall order the amendments to be placed on the ballot at either the next regular municipal election or at a special municipal election that occurs not less than 60 days after the date of the order.

Source. 1979, 241:1. 1988, 223:4, 5. 1991, 304:13. 1992, 96:2, 3. 1995, 53:2. 2005, 38:1. 2008, 230:1, 2, eff. Aug. 19, 2008. 2014, 292:2, eff. Sept. 30, 2014. 2016, 224:1-5, eff. Aug. 8, 2016.