



**CHICAGO
POLICY
CENTER**

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**A CITY CHARTER COULD
BRING ORDER TO
CHICAGO'S DYSFUNCTION.**

How can it get one?

By Joe Tabor and Ed Bachrach

Chicago has become synonymous with political wrangling and corruption. But a city charter – a municipal constitution that provides for the form and function of city government – could bring order to a city that has seen far too much chaos.

The U.S. Constitution is rightly seen as one of the greatest innovations in governance, explicitly laying out the enumerated powers of the federal government in a single governing document. Likewise, each of the 50 states has adopted its own constitution laying out the limits to its own authority. Most major cities also have their own governing document, called a city charter.

Charters create the core elements, standards and processes needed for an effective, transparent and accountable system of government decision making. Charter creation and revision that is led by community leaders who have no direct interest in government and the requirement that voters approve the charter makes it possible to build good government structures and practices. By laying out the explicit authority and limits of the city government, a charter could provide limits for the many functions within city government.

Of the 15 most-populous cities, Chicago is the only one without a charter. The next most populous city to go without one is Indianapolis, which operates under a unique “unigov” system that combines city and county government into one entity.

But city leaders can’t just decide to create a charter. Chicago needs the help of the Illinois General Assembly before any such governing document can be written. Without it, the result for the city is continued and increased dysfunction.



WHY DOESN'T CHICAGO HAVE A CHARTER?

At one point in its history, Chicago did have a city charter. According to the [Chicago Encyclopedia](#), Chicago received its first city charter in 1837, and had two town charters before that in 1833 and 1835. The most recent charter for Chicago was granted by the State of Illinois in 1867, but the state constitution of 1870 effectively ended the practice in conjunction with the Cities and Villages Act, which governed all municipalities in the state. Despite attempts to establish a charter during the rise of the Progressive Era in 1907, 1909 and 1914 when dissatisfaction with corrupt city government was at a peak, Chicago never adopted another city charter.

Instead of a city charter, Chicago is ruled by the state constitution, state law, the city's own municipal code and the rules of the Chicago City Council. While the city gained limited home rule authority under the 1970 Illinois Constitution, it is still subject to state law on elections, pensions, public education and any law that specifically overrides home rule through a supermajority vote. Most of the form and structure of how the city is governed is determined at the state level. For example, the city cannot change the dates of its own public officials' elections.

There has been little movement toward forming a city charter since the 1970 constitution, but more recently there have been calls [from state and local lawmakers](#), [scholars](#) and even local [faith leaders](#) to revisit the idea.

HOW DOES CHICAGO GET A CITY CHARTER?

The [Illinois Constitution](#) neither explicitly authorizes nor prohibits the creation or revision of a municipal charter. While home rule units are given broad authority, they only have "the power subject to approval by referendum to adopt, alter or repeal a form of government provided by law." That includes any form of government adopted in a city charter.

The most straightforward and most difficult path to adopting a city charter is to amend the state constitution to explicitly lay out the process and remove the provisions outside of that process that would act as roadblocks, such as constitutional home rule powers that citizens might want to limit through the city charter. A constitutional amendment establishing a charter could be enacted by legislation passed with a supermajority vote in both the Illinois House and Senate and approved by the voters in a popular referendum – either three-fifths of those voting on the question or a majority of those voting in the election. It could also be enacted if the state approved another constitutional convention.

But while amending the constitution is the most robust path to a charter, it is not the only one. Another way to get a city charter is by passing a well-drafted statute establishing the charter process.

Here's what would need to happen for the city to create a charter without passing a constitutional amendment.

Step one: The Illinois General Assembly must pass a law

Currently, state law does not provide Chicago a path to adopting a charter to govern the city. The first step would be for the Illinois General Assembly to pass a law establishing the process for a city charter. This law would give the city the authority to initiate the drafting or revision of a charter and lay out the process for doing so.



For example, the law could provide that the charter must be initiated by the city council, or provide for the charter process to be initiated by citizen initiative. Requiring the governing body to approve the initiation of the charter should avoid any claim the charter or process infringes on the city's home rule authority. Approval by the electorate should be considered the same as approval by the mayor or city council. If initiated by citizen petition, the law will have to establish the number of signatures needed, typically a percentage of the electorate in the most recent gubernatorial election.

The authorizing statute should allow some provisions adopted in the city charter to override state law, such as laws establishing when elections are held.

But whatever form lawmakers decide to enact, any law authorizing the city charter should take lessons from the numerous cities that already have charters, and learn the National Civic League's best practices in adopting and periodically reviewing a city charter.

Step two: The city must approve the initiation of a charter

Once the state passes a law authorizing the city to adopt a charter, the city must approve the initiation of a new charter or revision of an existing charter. The form that approval takes would depend on the state law authorizing the charter, as outlined above. Depending on the law authorizing the charter, the authorizing statute, the city government, or the petition drafters may have the responsibility to establish the commission's makeup, the qualifications for membership on the charter commission, such as age and residency requirements, and the manner of their selection, when and how commissioners may be removed, and how to fill vacancies in the commission.

For example, the National Civic League recommends public officeholders be barred from membership on the commission. Further, even former officeholders should be required to have had a minimum period pass before they can serve on the commission.

If not already determined by the authorizing statute, the party initiating the charter (e.g. citizens or the city council) may determine how much funding must be appropriated for the commission's work, the scope of subject matter to be considered by the commission and the requirements for adopting recommendations.

Step three: A charter commission must be selected

Once the creation or revision of the charter has been approved by the city government or its citizens, the commission to draft a charter proposal must be selected. Members of the commission can be appointed, elected or ratified by voters.

Step four: The charter commission adopts its recommendations

The charter commission will propose and then vote on recommended provisions to be included in the final charter. The process should provide for numerous public hearings, in line with best practices established by the National Civic League, and the commission should publish one or more tentative charter drafts for public comment before a final draft is adopted.

Ideally the commission would be set up to adopt a single set of provisions by majority or supermajority vote, and the recommendations along with the arguments from dissenting members would be published in a final charter commission report. The commission would then promote its recommendations to voters.

Step five: The voters must approve

Once the city passes the ordinance, the question should be put to Chicago voters in the form of a ballot referendum. This could require a simple or supermajority vote, depending on the requirements set out by state law or the initiating referendum question. The vote could be held at a regularly held election or a special election established specifically for the adoption of the city charter. If the voters approve the question, the city will have adopted its charter.



WHAT TOPICS ARE APPROPRIATE FOR A CITY CHARTER?

Not all matters of local government should be covered by a charter. Most are appropriately handled by either the city's legislative or executive functions.

The National Civic League's Guide for Charter Commissions considers at length what a city charter is designed to accomplish. The guide asks the following questions when considering charter reform:

- Can this problem be solved by passing an ordinance?
- Can this problem be addressed with an administrative measure (such as amending an existing department, or citywide administrative policy or procedure)?
- Does the mayor or city manager already have the authority to make changes that might address this problem?
- Should a solution to this problem be sought by getting new leaders in office?
- Might state legislation address this problem more effectively than a change to the local charter?

The guide also lists what a charter change can and cannot do.

Charter changes can:

- Alter a form of government so the new form is better aligned with the preference of citizens.
- Restrict or increase options available to government leaders.
- Alter electoral representation.
- Clarify ambiguity or confusion caused by existing charter language.
- Redistribute powers among elected leaders, appointed officials and governing bodies, as well as between city leaders and citizens.
- Set the stage for governmental leaders to achieve desired changes.
- Convert elected government positions to appointed positions and vice versa.

Charter changes cannot:

- Automatically increase the quality of government products and services.
- Automatically decrease crime.
- Automatically improve the school system.
- Jump-start the local economy.
- Eliminate political in-fighting and make elected leaders achieve consensus (although the form of government can affect the likelihood of conflict).
- Stop a controversial public project.
- Change or eliminate state-mandated activities.

Participants in the charter process should recognize its power and limitations. But there is no assurance they will. The state legislation that spells out the charter process must try to address this issue, but how?

For one, the above guidelines should be incorporated in the authorizing legislation. The charter process legislation should outline what measures are appropriate for a charter to address, and what are not appropriate. This wording could be drafted carefully to act more as a guide than as hardened law – Illinois already has an overly restrictive provision to change its state constitution by citizen initiative. And charter legislation should avoid repeating this mistake.

CONCLUSION

Having a charter will not automatically solve Chicago's problems, but it will be a step toward establishing the ground rules for the mayor and city council and hopefully limiting the corruption that has been so endemic to city government. It will also send a strong signal that community leaders are serious about better governance.

On paper, Chicago should be one of the greatest cities in the world. But the city has been misgoverned for decades, and its dysfunction has grown to a breaking point. With a 100-year low in population, ballooning debt and little chance of aid forthcoming from the state or federal government, Chicago needs to forge another path. A city charter establishing the ground rules of city government would go a long way toward correcting the course.





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