

MODEL CHARTER

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INTRODUCTION

The Charter Cities Institute, in order to aid developers and governments, has drafted this Model Charter. The Model Charter is a starting point for those interested in developing a charter city. It is written in plain language to make both the powers being granted by the government and the responsibilities being taken on by the developer clear to anyone who reads through.

The Model Charter creates the legal framework for a charter city to govern itself. Charter cities are designed to create the conditions necessary for sustained economic development. More specifically, this means ensuring a capable government, an open business environment, and rule of law. The Model Charter is the first building block.

The first distinguishing feature of the Model Charter is defining the relationship to the host country. For this section we borrowed from the Hong Kong charter which defines their approach to one country, two systems. This level of independence is crucial for the charter city to develop institutions to accelerate economic growth without undermining the sovereignty of the host country. Most countries would require legislation, if not constitutional amendments, to achieve the desired level of autonomy.

The second important feature of the Model Charter is the governance mechanism. We specify a city council which selects and oversees the city manager. While we do not specify how this council is chosen in the charter, in most cases we expect the councilors to be selected via negotiation of the city developer and the host country. We suggested a large number of council members (nine) to ensure that developers and the host country accommodate the wide range of interests that are necessary to create a city that meets the needs of its residents and businesses.

The third aspect of the Model Charter empowers the city to regulate itself. The legislation that enables charter cities will devolve authority, including but not limited to business registration, taxes, and labor law. The Model Charter accepts this responsibility and provides guidance on how the city will execute on it.

Lastly, effective dispute resolution is crucial for rule of law. The Model Charter gives the city government authority to establish a court system. We have modeled this section on the Dubai International Financial Center.

Charter cities are an important tool for economic development in low- and middle-income countries. We view this Model Charter as an important facet in the legal framework of charter cities and look forward to helping developers and governments implement it.

PREAMBLE

Talent is equally distributed, opportunity is not. Poverty, often caused by poor governance, limits opportunities for marginalized people across the world. By creating conditions which foster entrepreneurship, stimulate investment, and generate economic growth, opportunity will be more widely distributed. This charter city will help create those conditions.

We enact this charter to enable human flourishing, to bring prosperity and liberty to the people of the host country and the future residents of the city. We are guided to create a city government with the capability to act effectively in the public interest, to create an open business environment, and secure the rule of law. This charter city will create opportunities that are currently non-existent, helping not just those in the city, but in the host country, and region as well.

ARTICLE I.



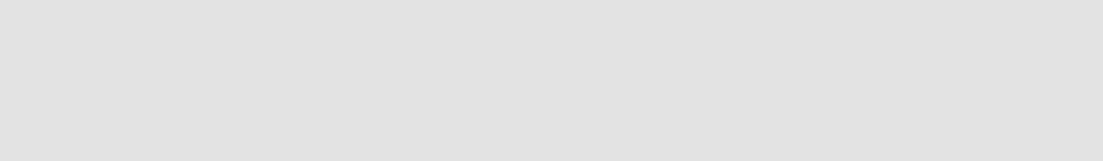
POWERS OF THE CITY

Section 1.1 Inalienability

The city is an inalienable part of the State of X.

Commentary

This Section points out what is arguably the most important aspect of a charter city, particularly in relation to the host country. The charter city is not sovereign and exists as a part of the host country.



Section 1.2 Autonomy

The state of X authorizes the city to exercise a high degree of autonomy and enjoy executive, legislative, and independent judicial power.

Commentary

This Section, like Section 1.1, further defines the relationship between the host country and the charter city. The Section clarifies the powers that each city is being granted by the host country. The clear grant of these powers is to acknowledge the autonomy of the charter city. The Section makes clear to any developer who takes on the task of developing a charter city the responsibilities that must be met.

Section 1.3 Administrative Affairs

The city shall be a local administrative region of the state of X and conduct its administrative affairs on its own.

Commentary

This Section, like Sections 1.1. and 1.2, further clarifies the relationship between the host country and the charter city. Administrative affairs are intentionally separated from the executive, legislative, and judicial powers of Section 1.2 as administrative powers are often deemed to be less than the others. However, in practice, administrative powers have a significant effect on the quality of life of the residents and are worth being considered in the charter.

Section 1.4 Power to Contract

The city may participate by contract or otherwise with any governmental entity of this state or any other state in the performance of any activity which one or more of such entities has the authority to undertake.

Commentary

This Section empowers the city to enter into contracts with other government entities and other sovereigns in furtherance of its duties. Clear permission to contract with other government entities, without the interference of the host country, is a requirement for a successful charter city. The manner of engagement is intentionally not discussed in this section to give the charter city more freedom to effectively meet its obligations.

Section 1.5 Inapplicability of Laws

Laws of the state of X shall not apply in the charter city except constitutional law, international treaties, and criminal law.

Commentary

This Section limits the laws that apply in the charter city. The charter city is granted a high degree of autonomy by each host country. However, that grant of autonomy does not extend to constitutional law, international treaties, and criminal law. It is important to list these clearly for easy reference. In practice the list might be expanded depending on negotiations with the host country. Regardless of the content of that list, it is important that the list be placed either in the body of the charter or in an annex.

Section 1.6 Judicial Power

The city shall be vested with independent judicial power, including that of final adjudication.

Commentary

This Section grants the city the power of final adjudication for disputes. The Dubai International Financial Center, via amendments to existing state law and exemptions, were able to achieve this. It is important that each charter city takes on this task as well. Superior dispute resolution mechanisms will attract investment and create jobs in the charter city.

Section 1.7 Construction

The powers of the city shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.

Commentary

This Section encourages courts to interpret the powers of the city as broadly as possible. It also makes clear to the courts that enumerated powers in the charter are not evidence of an intent to exclude other broader powers.

ARTICLE II.



BOUNDARIES

Section 2.1 Description of Boundaries

The boundaries of the city shall remain fixed and established as they exist on the date this charter takes effect. Changes in boundaries require the consent of the city.

The boundaries are:

Commentary

This Section inserts into the city charter the precise coordinates of the land that the host country is granting to the city. The Section also points out that the boundaries are fixed and cannot be changed arbitrarily by the host country.

ARTICLE III.



CITY COUNCIL

Section 3.1 Form of Government

All legislative powers of the city shall be vested in a council. All powers of the city shall be exercised in the manner prescribed by this charter. If the manner is not prescribed, then the powers shall be exercised in such manner as may be prescribed by ordinances.

Commentary

This Section defines the city council model that is our preferred way of governance. Effective cities which we studied along with the scholarship of the National Civic Council led us to this conclusion.

Section 3.2 Composition

There shall be a council composed of 9 members selected by the process defined in the enabling legislation.

Commentary

This Section states the number of members a model city council should have. We chose a high number to allow for the different interests to be represented at the governance level. The different interests must be accommodated to create a successful city. These interests may include but are not limited to the host country, international organizations, private investors and others. Cities with significant differences in the members of the council are likely to benefit from a wide variety of ideas. Additionally, the charter intentionally refrained from defining the process by which council members will be selected. This gives the different cities the opportunity to experiment with the process and choose the most suitable mechanism to select members of the council.

Section 3.3 Removal

The city council may remove a member by a resolution. The resolution, stating the reasons for the proposed removal, must be served on the member. The member shall have 14 days to reply. After the reply, the city council by majority vote of its total membership may adopt a final resolution of removal.

Commentary

This Section provides an orderly removal process for a member of the city council. The Section allows the member fair hearing to reply, on the record, to the reasons for the removal. However, ultimately, the member can be removed by a majority of his colleagues.

Section 3.4 Action Requiring an Ordinance

Actions which require an ordinance include, but are not limited to:

- a. Adopt or amend an administrative code or establish, alter, or abolish any city department, office, or agency;
- b. Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- c. Levy taxes;
- d. Regulate the rate charged for its services by a public utility;

- e. Authorize the borrowing of money; and
- f. Convey or lease or authorize the conveyance or lease of any lands of the city; Regulate land use and development; Amend or repeal any ordinance previously adopted.

Commentary

This Section enumerates types of actions that can only be taken after an ordinance is passed. This is to serve as a check on arbitrary action by the city council on certain issues which we deemed to be of utmost importance. While the requirements in the city to pass an ordinance need not be cumbersome, the minimum publication requirement and the other requirements discussed in Section 3.5 are necessary.

Section 3.5 Ordinances in General

Every proposed ordinance shall be introduced in writing and in the form required for final adoption.

Any ordinance which repeals or amends an existing ordinance or part of the city code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics.

Any member at any regular or special meeting of the council may introduce an ordinance.

Commentary

This Section retains some simple requirements for ordinances such as they must be published. The Section avoids listing certain specific ways through which ordinances may be introduced such as whether they can be introduced remotely and passed remotely. However, we believe cities should adopt the most modern technological approaches to govern the city effectively.

Section 3.6 Emergency Ordinances

To meet a public emergency affecting life, health, property, or the public peace, the council may adopt one or more emergency ordinances. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing said emergency in clear and specific terms.

Commentary

This Section states how emergency ordinances must be passed. The Section refrains detailing requirements such as extraordinary majority and instead permits the city to pass emergency ordinances in the same manner as regular ordinances. We believe modern technology, specifically the internet, allows for emergency ordinances to be passed quickly.

ARTICLE IV.



CITY MANAGER

Section 4.1 Appointment, Qualifications, and Compensation

The city council by a majority vote of its total membership shall appoint a city manager who shall report to the council for a renewable five-year term and fix the manager's compensation. The city manager shall be appointed solely on the basis of merit.

Commentary

This Section discusses the term, reporting, and compensation of the city manager. Appointment of the city manager is limited to simply a majority vote of the council as opposed to a supermajority in order to make the process easier to accomplish. The renewable five-year term is intentional. A lengthy term in our view will be a benefit to the city as the knowledge of a competent city manager will compound over time. Although we refrain from listing annual reports and other specific deliverables which the city manager must provide to the council, we believe that individual city council's, as part of their oversight function, will require the city manager to submit reports. Furthermore, the Section requires the city manager to be appointed on the basis of merit.

Section 4.2 Removal

The city council may remove the manager by a resolution. The resolution, stating the reasons for the proposed removal, must be served on the city manager. The city manager shall have 14 days to reply. After the reply, the city council by majority vote of its total membership may adopt a final resolution of removal.

Commentary

This Section provides an orderly removal process for a city manager. The Section allows the city manager fair hearing to reply, on the record, to the reasons for the removal. However, ultimately, the city manager serves at the pleasure of the city council and thus can be removed by a majority of the members.

ARTICLE V.



DEPARTMENTS

Section 5.1 Creation of Departments

The city council may establish city departments, offices, or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices, and agencies.

Commentary

This Section intentionally avoids enumerating the different departments and agencies that will make up the city. Instead, it grants the power to the council to create these departments. The number of departments will vary in accordance with local needs as well as the distribution of functions among the departments. Different cities will determine for themselves how large or small the departments need to be in order to deliver services to the residents. Effective cities will also monitor the departments and be willing to defund or consolidate agencies that are deemed redundant.

Section 5.2 Direction by City Manager

All departments, offices, and agencies under the direction and supervision of the city manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of council, the city manager may serve as the head of one or more such departments, offices, or agencies or may appoint one person as the head of two or more of them.

Commentary

This Section states who directs the departments. Despite the departments being created by the city council, the city manager, who has the expertise in local government management, directs the departments. The city manager is permitted to select competent persons to administer the different departments within the city. Furthermore, the city manager is permitted to serve as the head of a department with the permission of the city council.

ARTICLE VI.



PUBLIC SERVANTS

Section 6.1 Appointment

The appointment and promotion of public servants shall be on the basis of merit.

Commentary

This Section states that public servants, such as the heads of departments who will be appointed by the city manager, must be appointed based on merit. The Section intentionally does not define merit by educational background. Instead, cities should consider the wider set of requirements necessary for public servants.

Section 6.2 Classification

The city shall provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies necessary for the effective administration of the employees of the city’s departments, offices and agencies, including but not limited to classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

Commentary
This Section requires the city to enshrine the merit system policies in an ordinance that prospective and current employees of the city can refer to. This Section helps ensure that the city has access to the best working practices which will in turn attract the best talent. The Section also serves as a check on the city manager and city council and reduces the potential for nepotism.

ARTICLE VII.



THE JUDICIARY

Section 7.1 Independence

There shall be courts which exercise the judicial power of the city independently, free from any interference.

Commentary

This Section states that the charter city shall have courts to exercise the judicial power that it has been granted by the host country.

Section 7.2 Final Adjudication

The power of final adjudication of the city courts shall be vested in the city courts.

Commentary

This Section states that the charter city courts shall have the power of final adjudication. Granting this power to the charter city is of utmost importance as judicial independence is one of the key determinants of economic success. The decisions by the judges in the city not being subject to external challenges in the host country will serve as an assurance to investors. However, it is important to note that although the power of final adjudication will reside in the local courts, their jurisdiction can still be limited by the host country in the enabling legislation.

Section 7.3 Appointment

Judges shall be appointed by the majority of the council on the recommendation of the city manager for a renewable term of five years.

Commentary

This Section states how the judges are appointed and their term. Both the council and the city manager work together for the appointment of judges. The city manager recommends and the majority of the council approves the recommendation. This is to ensure that neither the council nor the manager exerts too much influence on the process.

Section 7.4 Removal

A judge may only be removed for inability to discharge his or her duties, or for misbehavior, by a 2/3 majority of the council on the recommendation of the highest judicial officer of the city.

Commentary

This Section limits the manner in which judges can be removed. Although judges are originally appointed by the council on the recommendation of the city manager, once appointed they must be independent. This Section permits their independence by requiring the recommendation of the highest judicial officer in the city for a judge to be removed by the council.

Section 7.5 Other Jurisdictions

Judges shall be chosen on the basis of their judicial and professional qualities and may be recruited from other jurisdictions.

Commentary

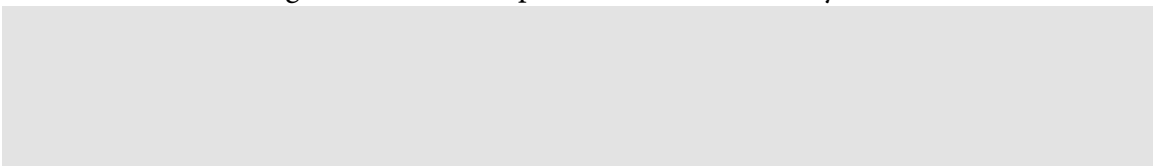
This Section permits charter cities to choose competent judges from all over the world. Charter cities are not limited to judges from the host country. However, it is important that the judges understand the local language cases will be presented in.

Section 7.6 Local Lawyers

The city shall make provisions for local lawyers and lawyers from outside the city to work and practice in the city.

Commentary

This Section authorizes charter cities to permit competent lawyers from all over the world to practice in the city. It is included in the charter to prevent legal barriers to the practice of law in the city.

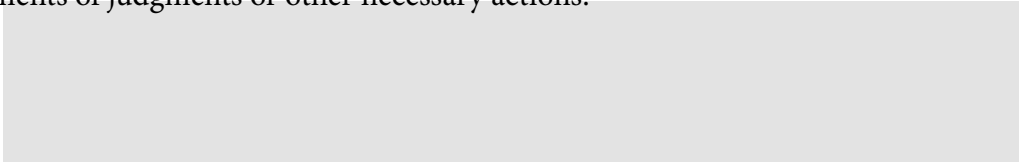


Section 7.7 Juridical Relations

The city shall, through consultations and in accordance with law, maintain juridical relations with the judicial organs of other parts of the host country, and they may render assistance to each other.



Commentary
This Section permits the city to maintain juridical relations with other parts of the host country to ensure a good working relationship and facilitate enforcements of judgments or other necessary actions.



ARTICLE VIII.



TAXES AND FEES

Section 8.1 Authority

The council shall have full power and authority to levy taxes and reasonable business, professional, and occupational fees on businesses, professions, and occupations.



Commentary
This Section grants the city the power to levy taxes and collect fees. The Section intentionally refrains from attempting to list all the types of taxes and fees that may be collected. However, the power granted in this Section is limited by Section 3.4 which requires that all taxes be backed by an ordinance.

ARTICLE IX.



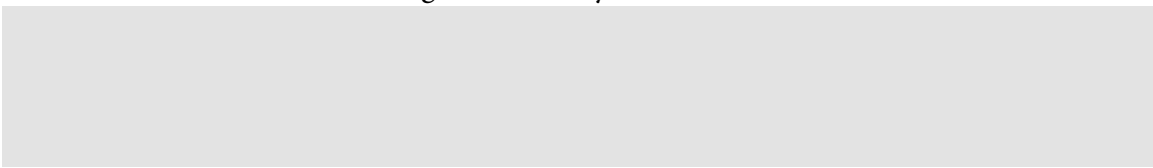
CITY BORROWING

Section 9.1 Authority to Borrow

The council may borrow money, contract loans, and issue notes and bonds as the council deems necessary.

Commentary

This Section grants the city the power to borrow money. However, the power granted in this Section is limited by Section 3.4 which requires that all borrowing be backed by an ordinance.



Section 9.2 Bond Issues

The council may authorize the issuance of bonds and notes by ordinance.



Commentary
This Section grants the city the power to issue bonds and notes by ordinance. Although municipal bonds are common and can sometimes be deemed a form of borrowing, it is an important tool that must be listed and authorized to permit functional city governance.

ARTICLE X.



MISCELLANEOUS PROVISIONS

Section 10.1 Charter Review Commission

The council may, on the vote of two thirds of the members, appoint a charter review commission at any other time when deemed appropriate. This commission shall review and recommend to the council any additions or deletions to this charter as in its judgement it deems advisable. The recommendation may, on the vote of two thirds of the members, be accepted.

Commentary

This Section permits the council to appoint a charter review commission on the vote of two thirds of the members. Although the charter is in our view a document that need not be changed often, it is important that the city council retains the ability to make such changes when necessary.

Section 10.2 Boards, Committees, and Commissions

The council shall establish such boards, committees or commissions, and appoint members, as it deems advisable to make recommendations regarding the general welfare of residents and to ensure planned orderly growth and development of the city.

Commentary

This Section permits the council to put together teams to recommend innovative ideas that will improve the lives of residents. These committees may be experts in new fields which council members and the existing departments wish to learn from.

ARTICLE XI.



CONFLICT

Section 11.1 Conflicting Laws and Ordinances

Any section of an ordinance, or regulation, insofar as it conflicts with or is inconsistent with the provisions of this charter, is not applicable within the charter city.

Commentary

This Section is to prevent the city from passing ordinances or regulations that are inconsistent with the charter.

ARTICLE XII.



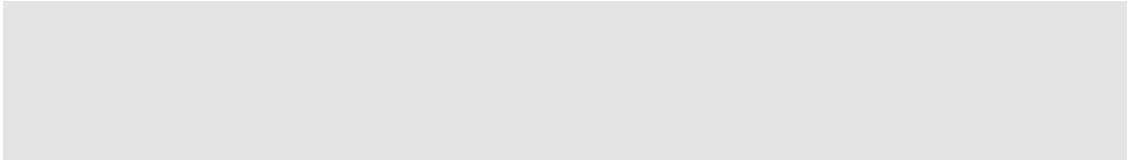
SEVERABILITY

Section 12.1 Severability Clause

If any article of this charter is found to be unenforceable, the remaining provisions shall not be affected.



Commentary
This is a precautionary clause to protect the city in the event of a dispute.



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