

Part 4. Modification of Form of Government

§ 160A-101. Optional forms.

Any city may change its name or alter its form of government by adopting any one or combination of the options prescribed by this section:

- (1) Name of the corporation:

The name of the corporation may be changed to any name not deceptively similar to that of another city in this State.
- (2) Style of the corporation:

The city may be styled a city, town, or village.
- (3) Style of the governing board:

The governing board may be styled the board of commissioners, the board of aldermen, or the council.
- (4) Terms of office of members of the council:

Members of the council shall serve terms of office of either two or four years. All of the terms need not be of the same length, and all of the terms need not expire in the same year.
- (5) Number of members of the council:

The council shall consist of any number of members not less than three nor more than 12.
- (6) Mode of election of the council:
 - a. All candidates shall be nominated and elected by all the qualified voters of the city.
 - b. The city shall be divided into single-member electoral districts; council members shall be apportioned to the districts so that each member represents the same number of persons as nearly as possible, except for members apportioned to the city at large, if any; the qualified voters of each district shall nominate and elect candidates who reside in the district for seats apportioned to that district; and all the qualified voters of the city shall nominate and elect candidates apportioned to the city at large, if any.
 - c. The city shall be divided into single-member electoral districts; council members shall be apportioned to the districts so that each member represents the same number of persons as nearly as possible, except for members apportioned to the city at large; and candidates shall reside in and represent the districts according to the apportionment plan adopted, but all candidates shall be nominated and elected by all the qualified voters of the city.
 - d. The city shall be divided into electoral districts equal in number to one half the number of council seats; the council seats shall be divided equally into "ward seats" and "at-large seats," one each of which shall be apportioned to each district, so that each council member represents the same number of persons as nearly as possible; the qualified voters of each district shall nominate and elect candidates to the "ward seats"; candidates for the "at-large seats" shall reside in and represent the districts according to the apportionment plan adopted, but all candidates for "at-large" seats shall be nominated and elected by all the qualified voters of the city.
 - e. The city shall be divided into single-member electoral districts; council members shall be apportioned to the districts so that each member represents the same number of persons as nearly as possible,

except for members apportioned to the city at large, if any; in a nonpartisan primary, the qualified voters of each district shall nominate two candidates who reside in the district, and the qualified voters of the entire city shall nominate two candidates for each seat apportioned to the city at large, if any; and all candidates shall be elected by all the qualified voters of the city.

If either of options b, c, d or e is adopted, the council shall divide the city into the requisite number of single-member electoral districts according to the apportionment plan adopted, and shall cause a map of the districts so laid out to be drawn up and filed as provided by G.S. 160A-22 and 160A-23. No more than one half of the council may be apportioned to the city at large. An initiative petition may specify the number of single-member electoral districts to be laid out, but the drawing of district boundaries and apportionment of members to the districts shall be done in all cases by the council.

- (7) Elections:
- a. Partisan. – Municipal primaries and elections shall be conducted on a partisan basis as provided in G.S. 163-291.
 - b. Nonpartisan Plurality. – Municipal elections shall be conducted as provided in G.S. 163-292
 - c. Nonpartisan Election and Runoff Election. – Municipal elections and runoff elections shall be conducted as provided in G.S. 163-293.
 - d. Nonpartisan Primary and Election. – Municipal primaries and elections shall be conducted as provided in G.S. 163-294.

- (8) Selection of mayor:
- a. The mayor shall be elected by all the qualified voters of the city for a term of not less than two years nor more than four years.
 - b. The mayor shall be selected by the council from among its membership to serve at its pleasure.

Under option a, the mayor may be given the right to vote on all matters before the council, or he may be limited to voting only to break a tie. Under option b, the mayor has the right to vote on all matters before the council. In both cases the mayor has no right to break a tie vote in which he participated.

- (9) Form of government:
- a. The city shall operate under the mayor-council form of government in accordance with Part 3 of Article 7 of this Chapter.
 - b. The city shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of this Chapter and any charter provisions not in conflict therewith. (1969, c. 629, s. 2; 1971, c. 698, s. 1; c. 1076, s. 1; 1973, c. 426, s. 19; c. 1001, ss. 1, 2; 1975, c. 19, s. 64; c. 664, s. 6; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

§ 160A-102. Amendment by ordinance.

By following the procedure set out in this section, the council may amend the city charter by ordinance to implement any of the optional forms set out in G.S. 160A-101. The council shall first adopt a resolution of intent to consider an ordinance amending the charter. The resolution of intent shall describe the proposed charter amendments briefly but completely and with reference to the pertinent provisions of G.S. 160A-101, but it need not contain the precise text of the charter amendments necessary to implement the proposed changes. At the same time that a resolution of intent is adopted, the council shall also call a public hearing on the proposed charter amendments, the date of the hearing to be not more than 45 days after adoption of the resolution. A notice of the hearing shall be published at least once not less than 10 days prior to the date fixed for the public hearing, and shall contain a summary of the proposed amendments. Following the public hearing, but not earlier than the next regular meeting of the council and not later than 60 days from the date of the hearing, the council may adopt an ordinance amending the charter to implement the amendments proposed in the resolution of intent.

The council may, but shall not be required to unless a referendum petition is received pursuant to G.S. 160A-103, make any ordinance adopted pursuant to this section effective only if approved by a vote of the people, and may by resolution adopted at the same time call a special election for the purpose of submitting the ordinance to a vote. The date fixed for the special election shall be the next date permitted under G.S. 163-287(a) that is more than 70 days after adoption of the ordinance.

Within 10 days after an ordinance is adopted under this section, the council shall publish a notice stating that an ordinance amending the charter has been adopted and summarizing its contents and effect. If the ordinance is made effective subject to a vote of the people, the council shall publish a notice of the election in accordance with G.S. 163-287, and need not publish a separate notice of adoption of the ordinance.

The council may not commence proceedings under this section between the time of the filing of a valid initiative petition pursuant to G.S. 160A-104 and the date of any election called pursuant to such petition. (1969, c. 629, s. 2; 1971, c. 698, s. 1; 1973, c. 426, s. 20; 1979, 2nd Sess., c. 1247, s. 11; 2014-111, s. 18; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

§ 160A-103. Referendum on charter amendments by ordinance.

An ordinance adopted under G.S. 160A-102 that is not made effective upon approval by a vote of the people shall be subject to a referendum petition. Upon receipt of a referendum petition bearing the signatures and residence addresses of a number of qualified voters of the city equal to at least 10 percent of the whole number of voters who are registered to vote in city elections according to the most recent figures certified by the State Board of Elections or 5,000, whichever is less, the council shall submit an ordinance adopted under G.S. 160A-102 to a vote of the people. The date of the special election shall be fixed on a date permitted by G.S. 163-287. A referendum petition shall be addressed to the council and shall identify the ordinance to be submitted to a vote. A referendum petition must be filed with the city clerk not later than 30 days after publication of the notice of adoption of the ordinance. (1969, c. 629, s. 2; 1971, c. 698, s. 1; 1979, 2nd Sess., c. 1247, ss. 13, 15; 2013-381, s. 10.27; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

§ 160A-104. Initiative petitions for charter amendments.

The people may initiate a referendum on proposed charter amendments. An initiative petition shall bear the signatures and resident addresses of a number of qualified voters of the city equal to at least ten percent (10%) of the whole number of voters who are registered to vote in city elections according to the most recent figures certified by the State Board of Elections or 5,000, whichever is less. The petition shall set forth the proposed amendments by describing them briefly but completely and with reference to the pertinent provisions of G.S. 160A-101, but it need not contain the precise text of the charter amendments necessary to implement the proposed changes. The petition may not propose changes in the alternative, or more than one integrated set of charter amendments. Upon receipt of a valid initiative petition, the council shall call a special election on the question of adopting the charter amendments proposed therein, and shall give public notice thereof in accordance with G.S. 163-287. The date of the special election shall be fixed on a date permitted by G.S. 163-287. If a majority of the votes cast in the special election shall be in favor of the proposed changes, the council shall adopt an ordinance amending the charter to put them into effect. Such an ordinance shall not be subject to a referendum petition. No initiative petition may be filed (i) between the time the council initiates proceedings under G.S. 160A-102 by publishing a notice of hearing on proposed charter amendments and the time proceeding under that section have been carried to a conclusion either through adoption or rejection of a proposed ordinance or lapse of time, nor (ii) within one year and six months following the effective date of an ordinance amending the city charter pursuant to this Article, nor (iii) within one year and six months following the date of any election on charter amendments that were defeated by the voters.

The restrictions imposed by this section on filing initiative petitions shall apply only to petitions concerning the same subject matter. For example, pendency of council action on amendments concerning the method of electing the council shall not preclude an initiative petition on adoption of the council-manager form of government.

Nothing in this section shall be construed to prohibit the submission of more than one proposition for charter amendments on the same ballot so long as no proposition offers a different plan under the same option as another proposition on the same ballot. (1969, c. 629, s. 2; 1971, c. 698, s. 1; 1973, c. 426, s. 21; 1979, 2nd Sess., c. 1247, ss. 12, 14; 2013-381, s. 10.28; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

§ 160A-105. Submission of propositions to voters; form of ballot.

A proposition to approve an ordinance or petition shall be printed on the ballot in substantially the following form:

"Shall the ordinance (describe the effect of the ordinance) be approved?

YES

NO"

The ballot shall be separate from all other ballots used at the election.

If a majority of the votes cast on a proposition shall be in the affirmative, the plan contained therein shall be put into effect as provided in this Article. If a majority of the votes cast shall be against the proposition, the ordinance or petition proposing the amendments shall be void and of no effect. (1969, c. 629, s. 2; 1971, c. 698, s. 1.)

§ 160A-106. Amendment of charter provisions dependent on form of government.

The authority conferred by this Article to amend charter provisions within the options set out in G.S. 160A-101 also includes authority to amend other charter provisions dependent on the form of city government to conform them to the form of government amendments. By way of illustration and not limitation, if a charter providing for a five-member council is amended to increase the size of the council to seven members, a charter provision defining a quorum of the council as three members shall be amended to define a quorum as four members. (1971, c. 698, s. 1.)

§ 160A-107. Plan to continue for two years.

Charter amendments adopted as provided in this Article shall continue in force for at least two years after the beginning of the term of office of the officers elected thereunder. (1969, c. 629, s. 2; 1971, c. 698, s. 1.)

§ 160A-108. Municipal officers to carry out plan.

It shall be the duty of the mayor, the council, the city clerk, and other city officials in office, and all boards of election and election officials, when any plan of government is adopted as provided by this Article or is proposed for adoption, to comply with all requirements of this Article, to the end that all things may be done which are necessary for the nomination and election of the officers first to be elected under the new plan so adopted. (1969, c. 629, s. 2; 1971, c. 698, s. 1.)

§ 160A-109. Effective date.

The council may submit new charter amendments proposed under this Article at any regular or special municipal election, or at a special election called for that sole purpose. Any amendment affecting the election of city officers shall be finally adopted and approved at least 90 days before the first election for mayor or council members held thereunder. (1969, c. 629, s. 2; 1971, c. 698, s. 1.)

§ 160A-110. Charters to remain in force.

The charter of any city that adopts a new form of government as provided in this Article shall continue in full force and effect notwithstanding adoption of a new form of government, except to the extent modified by an ordinance adopted under the authority conferred and pursuant to the procedures prescribed by this Article. (1969, c. 629, s. 2; 1971, c. 698, s. 1.)

§ 160A-111. Filing certified true copies of charter amendments.

The city clerk shall file a certified true copy of any charter amendment adopted under this Part with the Secretary of State and the Legislative Library. (1985 (Reg. Sess., 1986), c. 935, s. 2; 1989, c. 191, s. 2.)