

GENERAL LAW VS. CHARTER GOVERNMENT

INTRODUCTION

Most incorporated communities in Arizona are general law cities or towns. The term “general law” means that the city or town exists and operates under the general laws of the state. A general law municipality, the mayor and council must look to the state for authority to pass local laws.

Charter cities operate not only under state law and the State Constitution but also under a home rule charter adopted by the people in the community. Arizona has constitutional home rule rather than statutory home rule, because the authority to adopt a charter and to be governed by a home rule charter is in the State Constitution rather than simply in state law. Therefore local determination is incorporated into the State Constitution and cannot be altered solely by the Legislature.

Cities adopting charters are actually adopting constitutions setting out the basic governing procedure for local government. There are three primary advantages of home rule charter government. First, a city charter strengthens the ability of a community to deal with public concerns without continually having to request the aid of the Legislature. Next, a charter allows a city to adopt the kind of government the community desires and not one prescribed by another level of government. Finally, a charter provides cities with the power needed to meet the growing demands on local government.

The State Constitution allows cities with a population of more than 3,500 to frame and adopt their own charters. There are currently 19 charter cities in Arizona. The City of Tombstone operates under a territorial charter, originally granted in 1881. The other 18 charter cities have adopted their charters through procedures established in the State Constitution and state statutes.

The charter may not be inconsistent with the constitution or state laws, and provisions of local charter regarding matters of statewide concern give way to state law when there is a conflict. According to the League of Arizona Cities and Towns, some of the specific powers that may be included in a charter adopted by a city are the right to:

- Structure its governmental organization in any that it desires;
- Exercise additional authority over the investment of city funds;
- Sell or dispose of city property without advertising;
- Control its own municipal elections;
- Levy taxes not expressly authorized by state law; and
- Raise and use funds for advertising purposes over and above the state law limitations.

To frame and adopt a charter, a city must hold an election on the question “Shall the city adopt a charter form of government?”, and elect a 14 member board of freeholders. This election may be called either by the city council or by the mayor when petitioned to do so. The petition must be signed by a number of qualified voters equal to 25 percent of the number voting in the preceding municipal election. If a majority of the voters favor adopting a charter, the board of freeholders proceeds to frame a charter. They must complete their work within 90 days after the election. When the charter is completed, it must be published in the local newspaper for at least 21 days, if the paper is a daily or in three consecutive issues if it is a weekly. Within 30 days, and not less than 20 days after publication, an election is held on the question of ratifying the charter. If a majority of the voters favor the charter, it is then submitted to the Governor for approval.

ADDITIONAL RESOURCES

League of Arizona Cities and Towns
(602) 258-5786
www.azleague.com