

Structure of Municipal Government

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June 27, 2011

Ocean City, Maryland

Course Objectives

Upon completion of the **Structure of Municipal Government**, participants will be able to:

- Describe municipal home rule and key intergovernmental relationships
- Understand the nature of municipal charters and municipal powers
- Describe the various forms of municipal government

Municipal Charters

- Charter: your local constitution, the local rules under which your government operates, and an outline of how it operates
- The people's document – or is it? The top down and bottom up amendment process
- Don't play the game without knowing the rules – it's your job to know them
- Comply with your charter or face legal consequences

Municipal Charters

Typical Charter Material

- Major components (who runs the government)
 - * Commission or Council
 - * Size of body, qualifications, term, duties
 - * Mayor (if any), qualifications, term, duties
 - * Administrator/Manager duties
- Major processes
 - * Election process – frequency, by wards, at-large?
 - * Legislative process
 - * Budgeting process
- Major policies
 - * Debt – can you acquire?

Municipal Charters

- Proper charter material vs. legislation
- As the people's document, the people ultimately control the basic rules under which the government operates - the charter
- Governing body controls the details of government – the code of ordinances and the legislation found therein
- No legislation should be in a charter – it's improper charter material

Municipal Charters

- Proper Charter Material – How can you tell?
 - * Average voter would care about a charter topic and be able to form an opinion about it
 - * Expert knowledge of the subject should not be required for a charter topic
 - * Ask: is the topic fundamental to how government operates or is it a detail of government

Forms of Municipal Government

- Forms revolve around the relationship of the legislative function to the executive function
- Form is determined from charter provisions describing executive and legislative duties – don't expect to see a clear statement of the form of government employed
- Change of form usually is triggered by dissatisfaction with the working relationships among members of the governing body
- Change of form usually requires a charter amendment, which in turn requires sufficient

Forms of Municipal Government

- Commission
- Weak Mayor
- Strong Mayor
- Council-Manager
- Hybrid

Forms of Municipal Government

- **Commission form:** No separation between legislative and executive functions: all elected officials perform both roles
- Often each elected official is responsible for management/oversight of a particular department (e.g., police commissioner or public works commissioner)
- **Strength:** accountability; traditional; easy to explain
- **Weakness:** leadership; conflict with professional managers; questionable ability of commissioners to manage/oversee a particular department, especially on a part-time basis

Forms of Municipal Government

- **Weak Mayor form:** Limited separation between legislative and executive functions: all elected officials perform both roles except mayor is deemed head of government for ceremonial purposes
- **Strength/Weaknesses:** generally the same as Commission form but the role of the mayor often is misunderstood by both municipal residents and officials, which can lead to confusion about the proper role of other elected and appointed officials

Forms of Municipal Government

- **Strong Mayor form:** Separation between legislative and executive functions. Mayor is chief executive and manages government operations; all other elected officials perform legislative functions, set policies, and provide oversight of the executive function; Council operates at arms-length from daily affairs
- **Strength:** clear accountability for functions of government; excellent division of labor
- **Weaknesses:** government vulnerable to disruption when mayor – council relations are strained; mayor may not be a competent manager

Forms of Municipal Government

- **Council-Manager form:** Professional manager hired as chief executive to manage municipal operations. Council performs legislative functions, sets policies, and provides oversight of the executive function; Council operates at arms-length from daily affairs
- **Strength:** professional management; decoupling of politics from daily administration and management; excellent division of labor
- **Weaknesses:** accountability to the voters for all government functions encourages elected officials to interfere in management decisions, making this form difficult to sustain

Forms of Municipal Government

- **Hybrid:** Elements of one form combined with elements of another (e.g., elements of the strong-mayor form combined with elements of a council-manager form)
- **Strength:** Ability to pick and choose exactly what elements are best suited to solve local problems
- **Weakness:** care must be shown in the selection of elements. Certain elements may not support one another resulting in conflicting structures (e.g. a strong mayor element housed in a council-manager form may prove challenging to the mayor, to the manager or to both parties)

Municipal – State Relations

- The four rules that shape municipal-state relations:
 - (1) No inherent power for local government: all power must be delegated
 - (2) Power must be delegated in a particular fashion (Dillon’s Rule)
 - (3) Must be the “right” type of community to receive the powers: an incorporated community
 - (4) Only the state (the General Assembly) can incorporate
- Creature of the state and dominance by the state

Municipal – State Relations

Prior to Home rule

- Municipalities incorporated directly by the General Assembly
- General Assembly drafted and amended all charters
- General Assembly exercised pervasive power to interfere in any and all municipal matters

Municipal – State Relations

- Home Rule: an attempt to modernize state government
- Motivation: General Assembly overwhelmed by local legislation
- Municipal Home Rule Amendment, Article XI-E, Maryland Constitution (ratified 1954)

Municipal – State Relations

- Home rule: three essential facts
 - 1) No direct incorporation by the General Assembly
 - 2) Charter creation and charter amendments are purely local matters
 - 3) Broad authority to control purely local matters and prohibition on the General Assembly from interfering in home rule affairs

Municipal Powers

- Three sources of power for governing municipal corporations

- 1) Constitutional powers, Article XI-E, MD
Constitution

- 2) Statutory powers, Article 23A, Annotated Code of
Maryland

- 3) Municipal charter powers

Municipal Powers

- *Constitutional powers*: the ultimate power for municipal government, Article XI-E, Section 3
- Authorizes a municipal government to control matters relating to its
 - * incorporation
 - * organization
 - * government
 - * affairs
- Sufficient authority to control most matters that are purely local in nature

Municipal Powers

- *Statutory powers* (Article 23A, Section 2): cannot contradict constitutional powers
- Statutory powers illustrate the powers delegated under the Maryland Constitution: they do not expand or contract constitutional powers
- An enumerated list of powers, giving authority to control dozens of subjects relating to municipal services, financial management, and general operations

Municipal Powers

- *Charter powers*: They determine which powers delegated by the state are available for use within your municipality. All of them? Some of them? The charter decides which powers are available for local use
- If the state permits the exercise of a power, but the municipal charter does not permit its exercise, the power cannot be exercised
- Charters **almost always** state that all powers delegated by the state can be used within the municipality

Municipal – County Relations

- A relationship between equals when governing purely local affairs: both exercise roughly equal powers of self government
- Municipal and county governments originally were created to do different things: municipals to provide local services and counties to provide state services
- County government are evolving and now provide municipal-type services and state services

Municipal – Municipal Relations

- Prior to home rule, no legal relationship existed between one municipality and another
- After home rule, municipalities related to one another by class, established on the basis of population
- Only one class established, so that each municipality is legally related to every other municipality in Maryland
- Consequence: whenever one municipality is intentionally affected by state action, all municipalities are equally affected. System is

Wrap Up

- The state dominates the affairs of municipal corporations, but home rule provides a measure of self-government
- The amount of self-government is determined by constitutional, statutory, and charter powers
- The municipal charter is the blueprint for using municipal powers. You must follow your charter
- Today all municipal governments are legally related to one another. No hierarchy exists between county and municipal governments.