



<b>TO:</b>	<b>MEMBERS OF THE COMMITTEE OF THE PROPOSED CITY CHARTER</b>
<b>CC:</b>	<b>KENNETH C. FARFSING, CITY MANAGER</b>
<b>FROM:</b>	<b>SUNNY K. SOLTANI, CITY ATTORNEY LUM T. FOBI, DEPUTY CITY ATTORNEY</b>
<b>DATE:</b>	<b>MAY 14, 2018, amended MAY 15, 2018</b>
<b>RE:</b>	<b>BENEFITS AND DISADVANTAGES TO BECOMING A CHARTER CITY</b>

**INTRODUCTION**

A Committee of Carson community members has been formed at the direction of the City Council to investigate whether it would be beneficial to become a Charter City under the home rule authority of the California Constitution (Article XI § 5(b)) and to consider and recommend to the Council the contents of a proposed city charter for the City of Carson. This memorandum summarizes significant benefits and disadvantages of becoming a Charter City.

**ANALYSIS**

**I. Benefits to Becoming a Charter City**

- The state Constitution grants charter cities control over “municipal affairs,” which includes land use and zoning decisions. Local control over land use was one of the primary reasons Carson incorporated in 1968 and a motivating factor in the Council’s decision to explore the option of becoming a Charter City. General law cities must follow all state statutes.
- The state has “borrowed” local funds in the past to balance its budget shortfalls. A city charter could constrain the state from doing so again in the future. For instance, protecting the City’s transient occupancy tax, provided for in CMC § 6400 *et seq.*
- Charters can include provisions to prevent abuses of power, such as limiting council and staff compensation, regulating gifts of public funds, providing expanded public review of new ordinances, etc.
- Charter provisions can provide specific requirements and/or a general set of guidelines and an opportunity to make community-specific decisions regarding different issues deemed to be “municipal affairs.” For example, a City Charter may establish:
  - any form of government;
  - dates, rules, and procedures for elections, and allow for public financing of election campaigns;
  - broader assessment powers and a different real property transfer tax rate;

- standards for amending and implementing General Plan;
  - procedures for granting franchises;
  - standards for public contracting;
  - standards for Council meetings and Council actions;
  - qualifications and compensation of City officials and some employment rules; and
  - penalties for Code violations in excess of state law limit of \$1,000.
- Charter cities will always have an independence from the state (home rule) that is not available to general law cities.
  - The state cannot force charter cities to disincorporate.
  - The people can amend a charter to curb abuses, and a charter cannot be amended without voter approval.

## **II. Disadvantages to Becoming a Charter City**

- Depending on the complexity of the charter adopted, formulating a charter and educating the public may require a significant expenditure of time and effort.
- The charter amendment process by initiative could be used by special interest groups to attempt to undermine the city charter. However, a charter may establish minimum signature requirements for initiative by voters.
- Uncertainties may arise as to whether specific matters are municipal affairs governed by the charter or statewide concerns governed by state law. This could result in exposure to legal challenges in “gray” areas where the charter and general law differ.
- In order to rely on case law from other charter cities, a city’s charter must include the same language. To minimize the risk, it is prudent to include provisions that are similar to established and successful charter cities.

## **III. Neutral Impact to Becoming Charter City**

Charter cities are still subject to state law on non-municipal affairs that are of statewide concern. Statewide concerns include, among others:

1. California Vehicle Code
2. The Brown Act
3. The Public Records Act
4. Franchises for Telephone
5. Claims Against a Public Entity
6. Exercise of Power of Eminent Domain