



**TO: Members Of The Committee Of The Proposed City Charter**

**FROM: Sunny K. Soltani, City Attorney  
Lum T. Fobi, Deputy City Attorney**

**DATE: May 21, 2018**

**RE: Considerations for Proposed City Charter Provisions**

---

## **INTRODUCTION**

The State Constitution authorizes the City of Carson to adopt a city charter for the purpose of its own government, the provisions of which would have the force and effect of State law. Article XI, section 5, of the Constitution commonly referred to as the “home rule” provision, generally vests charter cities with plenary authority over their municipal affairs, while recognizing state law supremacy over matters of statewide concern. It authorizes cities that have voted to adopt a charter to exercise autonomous rule over their municipal affairs free from state law interference, subject only to the limitations and restrictions contained in the charter itself, and the State and Federal Constitutions.

Based on this constitutional grant of authority, an adopted city charter operates as an instrument of limitation and restriction on the broad power of a city over its municipal affairs. The charter provisions set the standards and guidelines for a city’s exercise of its plenary authority, and a Citizens Committee has been formed to submit recommendations for the provisions to be included in a proposed city charter. The City Attorney’s Office has prepared this memorandum summarizing specific issues that may be significant to the City in the development of a proposed charter.

## **ISSUE SPECIFIC DISCUSSION**

### **A. Form of Government**

The form of government is a municipal affair, subject only to the restrictions provided in the charter. In a charter city, the city’s charter establishes the form of government for that city. Generally, the three forms of government include governing by the city council, a council/city manager form, and a strong mayor form. In a city council form, the council retains authority over the management of the city. Cities governed by the council/manager form generally provide for the council to determine the city’s policies and the city manager to administer the city. The strong mayor form is only available to charter cities, and may generally authorize the mayor to hire and fire the city manager and department heads, to present a budget to the council, and to be more involved in the day-to-day management of

the city.<sup>1</sup> The majority of California cities operate under a council/manager form of government.

The City may use this provision to establish its form of government, as well as to provide restriction or guidelines for the implementation of such form of government. Sample charter provisions establishing a Council/Manager form of government provide:

RPV Draft Charter:

“SECTION 202. Form of Government. The municipal government established by this Charter shall continue to be the form of government known as the "Council-Manager" form of government so that the city council shall establish the laws, the budget and the policies of the City, and the city manager shall implement the laws, budget and policies.”

Torrance Charter:

“900 CITY MANAGER FORM OF GOVERNMENT. The City Manager form of government shall be and the same is hereby established for the City of Torrance, a municipal corporation. The office of City Manager in and for the City of Torrance is hereby established.”

Culver City Charter:

“SECTION 300. FORM OF GOVERNMENT. The municipal government established by this Charter shall be the “Council-Manager” form of government, under which the City Council sets policy and the City Manager administers the government.”

Signal Hill Charter:

“SECTION 202. Form of Government. The municipal government established by this Charter shall be known as the "Council-Manager" form of government.”

**B. City Manager Authority**

The authority of the City Manager is a municipal affair, subject only to the restrictions provided in the charter. A city charter should expressly provide for the position of city manager, and may or may not include provisions as to the selection, qualifications, term, powers and duties, or any other restrictions or guidelines relating to the city manager. Where a council/manager form of government has been established, city charters often contain a prohibition against interference by the council with the city manager’s

---

<sup>1</sup> The city of San Diego has a strong mayor form of government.

performance of certain duties. Alternatively, charter provisions may require the city manager seek out concurrence from the council in the performance of their duties. Some charters also include temporal restrictions from employment as city manager after serve services as a councilmember. Sample charter provisions relating to the authority of the city manager provide:

RPV Draft Charter:

“SECTION 400. City Manager. There shall be a city manager who shall be the chief administrative officer of the City. City council shall appoint, by an affirmative vote of at least three of its members, the person that it believes to be best qualified on the basis of his or her executive and administrative qualifications, with special reference to experience in, and knowledge of, accepted practice in respect to the duties of the office. The city manager shall serve at the pleasure of the city council.

SECTION 403. City Manager Powers and Duties. The city manager shall be the administrative head of the government of the City under the direction and control of the city council. The city manager shall be responsible for the efficient administration of all the affairs of the City which are under the city manager’s control. In addition to his or her general powers as administrative head, and not as a limitation thereon, the city manager shall have the powers and duties as set forth by ordinance of the city council including the following:

(a) Ordinances. To recommend to the city council for adoption such measures and ordinances as deemed appropriate, and to enforce all laws and ordinances of the city and see that all franchises, contracts, permits and privileges granted by the city are faithfully observed;

(b) Management Authority. To maintain management control, and provide direction to all department heads, subordinate officers and employees of the city. To effect such administrative organization of offices, positions or units in the interest of efficient, effective and economical conduct of the city's business with concurrence of the city council.

(c) Power of Appointment and Removal. To appoint, remove, promote and demote all city officers and employees, except for elected officials and the city attorney, subject to the following, (i) all applicable personnel ordinances, rules and regulations of city; and (ii) all other ordinances of the city council.

(d) Council Meetings. To participate in meetings of the city council unless excused or as otherwise directed by the mayor or city council.

(e) Financial Reports. To keep the city council at all times advised as to the financial condition and needs of the city;

(f) Budget. To prepare and submit the proposed balanced annual budget to the city council for consideration and approval;

(g) Purchasing Agent. To purchase all supplies for all the departments or divisions of the city in accordance with the purchasing ordinance as approved by the city council.

(h) Investigations and Complaints. To make investigations into the affairs of the city and any department or division thereof, and any contract or the proper performance of any obligations of the city; to investigate all complaints in relation to matters concerning the administration of the city government and the service maintained by public utilities in the city; to create processes to receive complaints from citizens, vendors, and other aggrieved persons; to report on any investigative activities and make recommendations to the city council. At the city council's discretion, the council may decide to conduct/oversee specific resident, contractor and/or other non-employee complaints and investigations.

(i) Public Buildings. To exercise general supervision over all public buildings, public parks and all other public property which are under the control and jurisdiction of the city council;

(j) Other Duties. To perform such other duties or exercise such other powers as may be delegated to the city manager from time to time by ordinance, resolution or other official action of the city council.”

Torrance Charter:

“921 Noninterference By City Council With Powers And Duties Of City Manager. Neither the City Council nor any member thereof, shall in any manner, direct or request the City Manager to appoint or remove any person to and/or from any office or position of employment of the City. Neither the City Council nor any member thereof shall give orders or instructions publicly or privately, to any person under the jurisdiction of the City Manager. No member of the City Council shall undertake to coerce the City Manager in respect to any of his duties and/or any municipal contract, and/or in connection with the purchase of any municipal supplies.

930 The Power Of City Manager Over Executive Departments. The City Manager shall have supervision and control over all heads of departments, and shall have the power to direct and control the administrative and executive functions of such departments.

931 Special Powers And Duties Of City Manager. The City Manager shall be specifically charged with the performance of the following duties and shall have the following powers:

...d) He shall make such recommendations to the City Council or the County Board of Equalization regarding taxes, assessments and/or the annual assessment roll as he may deem advisable.

...h) He may examine, without notice, the official conduct or the official accounts or records, of any officer or employee of the City.

i) The City Manager shall devote his entire time to the interests of the City and shall not engage in any private business.

...k) The City Manager may delegate and/or redelegate any of the foregoing duties to any municipal department or to the head or chief official of any such department.”

Signal Hill Charter:

“403 City Manager, Powers and Duties. ... (c) Prepare and submit to the city council as of the end of the fiscal year a comprehensive report on the finances and administrative activities of the City for the preceding fiscal year.

(e) Prepare rules and regulations governing the contracting for, purchasing, storing, distribution, or disposal of all supplies, materials and equipment required by any office, department or agency of the city government and recommend them to the city council for adoption.”

Inglewood Charter:

“Art. XIII Administrative Officer. Section 1: There is hereby created in the service of the City the position of Administrative Officer, who shall be appointed by the City Council and serve directly under the supervision and control of the City Council in an administrative capacity.

...Section 4: No person shall be eligible to receive appointment as Administrative officer while serving as member of the City Council nor within one year after he has ceased to be a City Councilman.”

**C. Selection of City Clerk and City Treasurer**

The method of selecting a City Clerk and/or City Treasurer is a municipal affair, subject only to the restrictions provided in the charter. General law requires a vote of the electorate in order to change the selection process for the city clerk and treasurer. However, in charter cities, such selection process may be established by the terms of the charter. A charter may vest in the city manager the power to appoint the city clerk and/or city treasurer, or it may provide for appointment by the council or some other body. Sample charter provisions relating to the selection of the city clerk and/or city treasurer provide:

RPV Draft Charter:

“SECTION 501. City Clerk; Powers and Duties. There shall be a city clerk who shall be appointed by the city manager, and the city manager shall have the authority to discipline or dismiss the city clerk.

SECTION 502. Director of Finance and Treasurer. There shall be a director of finance who shall also be the city treasurer who shall be appointed by the city manager, and whose appointment, suspension or removal by the city manager shall be subject to the advice and consent of the city council.”

Torrance Charter:

“600 ELECTIVE OFFICERS. The elective officers of the City shall be the Mayor, six members of the City Council, five members of the Board of Education, the City Clerk and the City Treasurer.

640 ELECTION AS TO MAKING CLERK OR TREASURER APPOINTIVE OFFICES. The City Council may submit to the electors at any special or general municipal election, the question as to whether the City Clerk or City Treasurer, or either of them, shall be appointed by the City Council instead of being elected, as provided in this Charter. If a majority of votes cast on any such proposition are in favor of the appointment of such officers, or either of them, then at the expiration of any such official's term of office, or on the occurrence of a vacancy in such office, such office shall be filled by appointment by the City Council and the appointee shall hold office in the same manner as other appointive officers.”<sup>2</sup>

Inglewood Charter:

“Art. IV, Section 6: The city clerk shall be elected from the city at large, and shall hold office for four years and until his successor is elected and qualified.

Section 7: The city treasurer shall be elected from the City at large, and shall hold office for four years, and until his successor is elected and qualified..”

**D. Council Compensation**

---

<sup>2</sup> It should be noted that the Torrance Charter authorizes the council to submit a change in the city clerk/city treasurer selection process to the voters. This is significant in that, the provision provides for a change without requiring amendment to the charter, which is Constitutionally required to be conducted in the same manner as the adoption of the charter.

The method of determining council compensation is a municipal affair, subject only to the restrictions provided in the charter. A city charter may provide the manner, method, timing by which the city council may be compensated. The plenary grant of authority over compensation extends not just to council members, but to all municipal officers and employees, and may be vested in the council itself or simply included in the charter. Alternatively, the charter may require that council compensation be set and adjusted in the manner provided by general law, and may or may not provide for a departure from state law should the council determine that such departure is in the best interest of the city. Sample charter provisions relating to the compensation of city council members provide:

RPV Draft Charter:

“SECTION 304. Compensation and Expenses. All members of the city council, including the mayor, shall receive as compensation for their services a monthly salary which is the lesser of either the amount established by city council ordinance or the in an amount established in accordance with, and limited by, the provisions of law applicable to the salaries of city council members in general law cities as set forth in Section 36516 of the Government Code of the State of California or any successor provision thereto. The City shall not provide any additional compensation to members of the city council for attendance at other meetings of City or City-affiliated commissions, committees, subcommittees, and boards of directors.

All of the members of the city council, including the mayor, shall continue to be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties as stated in, and limited by, the provisions of law applicable to the reimbursement for expenses city council members in general law cities as set forth in Section 36514.5, 53232.2 and 53232.3 of the Government Code of the State of California or any successor provision thereto. The city manager shall be responsible for collecting any receipts from the members of the city council for reimbursable expenses within sixty days of the incurrence of any eligible expense, and shall submit quarterly reports to the city council regarding said expenses.”

Torrance Charter:

“604 COMPENSATION. The members of the City Council shall receive compensation in the amount of One Hundred Dollars (\$100.00) per month, payable on the same dates as City employees, and in addition thereto shall receive their actual and necessary expenses while engaged on City business at the direction of the City Council. Any member of the City Council making demand for reimbursement for traveling or other expenses shall provide the Director of Finance with vouchers covering such expenses, together with a sworn statement to the effect that such expenses were actually incurred in good faith by said party while on official City business. The compensation of any member of the City Council appointed or

elected to fill a vacancy shall be the same as that payable to such member whose office was vacated.”

Inglewood Charter:

“Art. V, Section 4: The initial compensation of the four members of the City Council shall be set by ordinance and shall not exceed the average household income in Los Angeles County as determined by the 1990 U.S. Census. The compensation of the Mayor shall be not less than the compensation of a member of the City Council and not more than twice the compensation of a member of the City Council.

Thereafter, the compensation established pursuant to this Section may be increased from time to time in the manner provided for and subject to the limitations contained in general law relating to increases in compensation.

Until such time as the City Council enacts an ordinance establishing the compensation provided herein, the City Council shall receive the same compensation to which each and every member was entitled at the time of the adoption of this provision of the Charter.”

Signal Hill:

“SECTION 304. Compensation. The members of the city council shall receive such compensation for their services as may be established by ordinance. Those members of city council in office on the effective date of this Charter shall continue to be compensated at the level of compensation effective immediately prior to the effective date of this Charter, and shall continue to be compensated at such level for the remainder of their terms. No ordinance of the city council shall increase the compensation of any member of the council during that member's term of office, provided that nothing herein shall prevent the adjustment of the compensation of all members of a council serving staggered terms whenever one or more members of such council becomes eligible for a salary increase by virtue of beginning a new term of office. Each member of the city council shall receive reimbursement on order of the city council for council-authorized traveling and other expenses when on official duty.”

**E. Taxing Powers**

All cities, whether charter or general law, have the power to tax, subject to Constitutional limitations on taxation. The state legislature has authorized general law cities to impose taxes for local purposes; however, charter authority is comprehensive enough to provide for the levying of taxes for municipal purposes. Matters relating to municipal finance have been historically identified as municipal affairs, subject to charter city enactments under the home rule provision. Technically, general law cities may levy any tax that a

charter city may levy; however, state law may exempt certain matters from taxes levied by general law cities, or by both charter and general law cities for matters of statewide concern.

Generally, charters will provide for a taxation system in accordance with general law, or include charter provision that specify the methods by which the charter city may levy taxes. Charter provisions that require compliance with general law taxation restrictions may also provide for departure from the general law where the council determines such departure is in the best interest of the city. Regardless, there are Constitutional constraints on a charter city's power to tax, including on the voting requirements for special taxes (Prop 13), requirements for voter approval before the imposition of a new tax or the increase of an existing tax (Prop 26), and restrictions of property-related fees and assessments (Prop 218), though not all the restrictions will apply to charter cities. For instance, Prop 62's prohibition of transaction or sales tax on the sale of real property probably does not apply to charter cities. City charters may include these restrictions or other guidelines that do not conflict with constitutional or state law constraints. Sample charter provisions relating to the taxing authority of a charter city provide:

RPV Draft Charter:

"SECTION 907. Limits on Tax Authority. City shall have the full power to enact any taxes, assessments, fees, or any other measures for the purpose of raising revenue which charter cities in the State of California may enact.

(a) General Tax. The City Council shall not impose, extend, or increase any general tax for general government purposes unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

(b) Special Tax. The City Council shall not impose, extend, or increase any special tax for specific purposes unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

(c) Property Tax. The maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value of such property as provided by the State Constitution, except for the City with respect to bonded indebtedness for the acquisition or improvement of real property, approved by two-thirds of the votes cast by the voters voting on the proposition or except as may be permitted by the California Constitution with respect to water, storm water and wastewater facilities. (allows future changes to 2/3 voter for water facilities).

SECTION 908. Tax Procedure.

The procedure for the assessment, levy and collection of taxes upon property, taxable for municipal purposes, or establishment of property assessments or imposition of fees may be prescribed by ordinance of the city council, subject to applicable provisions of the State Constitution.”

Torrance Charter:

“1420 TAXATION SYSTEM. Unless otherwise provided by ordinance of the City Council, the City shall continue to use, for purposes of municipal taxation, the county system of assessment and tax collection.”

Culver City Charter:

“SECTION 1601. TAX SYSTEM. Unless otherwise provided by ordinance, the City shall continue to use, for the purpose of ad valorem municipal taxation, the County system of assessment and tax collection, as such system is now in effect or may hereafter be amended and insofar as such provisions are not in conflict with this Charter.

If the City Council fails to fix the rate and levy taxes on or before August 31st in any year, the rate for the next preceding fiscal year shall thereupon be automatically adopted and a tax at such rate shall be deemed to have been levied on all taxable property in the City for the current fiscal year.”

Signal Hill Charter:

“SECTION 906. Tax Authority and Limits.

(a) Except as may be otherwise specifically provided in this Charter, the City shall have the full power to enact any taxes, assessments, fees, or any other measures for the purpose of raising revenue which charter cities in the State of California may enact, including, but not limited to business and license tax, franchise tax, sales and use tax, property tax, oil barrel tax, hazardous waste facility tax, and transient occupancy tax. The City may levy assessments on property for special benefits, capital construction and maintenance. The City may impose fees and charges for services and benefits received, including franchise fees, or to mitigate impacts caused by any activity, business, enterprise or development.

(b) The city council shall not levy a property tax for municipal purposes, except as otherwise provided in this section, in excess of the maximum amount permissible to the City on the effective date of this Charter, unless authorized by the affirmative votes of two thirds of those electors voting on a proposition to increase such levy at any election at which the question of such additional levy for municipal

purposes is submitted to the electors, or unless authorized for general law cities under the general laws of the State of California.

(c) There may be levied and collected at the same time and in the same manner as other property taxes for municipal purposes are levied and collected, in addition to the above limit, a tax sufficient to meet all liabilities of the City for principal and interest of all bonds and judgments due and unpaid, or to become due during the ensuing fiscal year, which constitute general obligations of the City.

(d) Special levies, in addition to the above limits, may be made annually for the purposes, within the limits, and to the extent that cities may make special levies in addition to their general tax limit, under the codes and statutes of the State as they may exist from time to time. The proceeds of any such special levy shall be used only for the respective purposes for which it is levied.

(e) The city council is specifically authorized to regulate municipal finance and adopt ordinances, resolutions and orders within the municipal affairs of the City, and to void enactments of the State of California contrary thereto, except as otherwise provided by the State Constitution.

SECTION 907. Tax Procedure. All such taxes, assessments and fees shall be imposed, levied, and collected As prescribed by ordinance of the city council, and in accordance with the State Constitution.”

Inglewood Charter:

“Art. IX, Section 2: The system of municipal taxation now in effect in the city of Inglewood, California, shall continue under this charter until otherwise expressly and definitely provided for by ordinance, and the officials of the county of Los Angeles, California, shall continue to assess and collect such municipal taxes, levies and assessments in and for said city in the same manner in all particulars in every way whatsoever as at present.

Should the city, however, at any time resume the work of assessment and tax collection in that case the system, mode and manner of assessing property for purposes of municipal taxation, and the levying and collecting of taxes for municipal purposes, the nature of the lien therefor and the manner and method of enforcing the same, and of the redemption of property sold for non-payment of taxes, and all proceedings relating to said matters shall be fixed by ordinance, and so far as applicable, shall be substantially the same as may be provided at the time by law for such matters in relation to county taxes in the county of Los Angeles, except that in relation to the city taxes the proper officers of the city shall discharge the duties imposed by law upon the corresponding officers of said county. The council may enact such ordinances as may be necessary to carry out the provisions of this section and may by ordinance fix the time or times of the collection of said taxes within each fiscal year.