

will ask whether there is a need for "paramount state control" in the particular area of law.¹⁰ The Legislature's intent when enacting a specific law is not determinative.¹¹

The concept of "municipal affairs" is fluid and may change over time.¹² Issues that are municipal affairs today could become areas of statewide concern in the future.¹³ Nonetheless, there are some areas that courts have consistently classified as municipal affairs. These include:

- Municipal election matters¹⁴
- Land use and zoning decisions (with some exceptions)¹⁵
- How a city spends its tax dollars¹⁶
- Municipal contracts, provided the charter or a city ordinance exempts the city from the Public Contract Code, and the subject matter of the bid constitutes a municipal affair.¹⁷ Thus, a charter may exempt a city from the State's competitive bidding statutes.

Likewise, there are some areas that courts have consistently classified as areas of statewide concern, including:

- Traffic and vehicle regulation¹⁸
- Tort claims against a governmental entity¹⁹
- Regulation of school systems²⁰

How to Become a Charter City

To become a charter city, a city must adopt a charter. There are two ways to adopt a charter:

- The city's voters elect a charter commission.²¹ The commission has the responsibility of drafting and debating the charter.
- The governing board of the city, on its own motion, drafts the charter.²²

In either case, the charter is not adopted by the city until it is ratified by a majority vote of the city's voters.²³

For more information about charter cities, please visit the "Charter Cities" section of the League's Web site at <http://www.cacities.org/chartercities>.

¹⁰ *Id.* at 400.

¹¹ *Id.* at 405.

¹² *Cal. Fed. Savings & Loan Ass'n v. City of Los Angeles*, 54 Cal. 3d 1, 16 (1991); *Isaac v. City of Los Angeles*, 66 Cal. App. 4th 586, 599 (1998).

¹³ *Isaac*, 66 Cal. App. 4th at 599.

¹⁴ *Mackey v. Thiel*, 262 Cal. App. 2d 362, 365 (1968).

¹⁵ See *Brougher v. Bd. of Pub. Works*, 205 Cal. 426, 440 (1928).

¹⁶ *Johnson*, 4 Cal. 4th at 407.

¹⁷ Pub. Cont. Code § 1100.7; *R & A Vending Services, Inc. v. City of Los Angeles*, 172 Cal. App. 3d 1188, 1191 (1985); *Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.*, 71 Cal. App. 4th 38, 51 (1998).

¹⁸ Cal. Veh. Code § 21.

¹⁹ *Helbach v. City of Long Beach*, 50 Cal. App. 2d 242, 247 (1942).

²⁰ *Whisman v. San Francisco Unified Sch. Dist.*, 86 Cal. App. 3d 782, 789 (1978).

²¹ Cal. Gov't Code § 34451.

²² Cal. Gov't Code § 34458.

²³ Cal. Gov't Code §§ 34457, 34462.

HISTORY OF MUNICIPAL HOME RULE

The desire for home rule is an important part of the history of California. There is a common misconception among even some California city officials that only charter cities possess home rule powers. Both general law and charter cities possess home rule. This document describes the historical evolution of the constitutional municipal home rule doctrine in California in three separate stages. The tension between cities and the state has been with us since the dawn of statehood, and it has manifested itself in various state constitutional amendments over time that reiterate how home rule is really the birthright of every California city.

Before Home Rule — 1850–1879

City governments already existed when California became a state in 1850. In some areas they took the form of the Mexican *alcades* (who embodied the role of mayor, judge, and sheriff) or local legislative bodies like the 15-member assembly created in San Francisco before it was declared illegal by a military governor in June 1849 when he called the first Constitutional Convention.¹ The 1849 California Constitution gave the Legislature the exclusive power to establish cities and to enlarge or restrict city powers.² This naturally led to extensive state involvement in city affairs, including the appointment of special commissions to actually manage the property and funds of Sacramento, San Jose, and San Francisco, as well as other legislation directing cities to pay special claims of parties that provided political inducements to the Legislature.³

All Cities Granted Inherent Home Rule Powers to Legislate Without Legislative Grant of Authority — 1879

State meddling in city affairs in those first 30 years caused the deep resentment throughout the state that ultimately led to the 1879 Constitutional Convention. During that convention, delegates borrowed heavily from the home rule provisions of the constitution of Missouri, the first state to grant home rule powers to its cities. Incorporating that constitution's provisions almost verbatim, the California Constitution of 1879 banned special legislation, banned special act incorporations, and granted the power to frame freeholder charters to communities with at least 100,000 people.⁴ The 1879 Constitution also took the power to impose local taxes away from the Legislature with the intention "to bring matters of a local concern home to the people."⁵

In addition to these changes, the most significant home rule provision in the 1879 amendments was article XI, section 11 (now art. XI, § 7), which provides a general grant of inherent home rule power to every city — general and charter cities alike — to "make or enforce within its limits all local, police, sanitary, and other ordinances or regulations not in conflict with the general laws." Sometimes this provision of the California Constitution is called the police power. The California Supreme Court declared later that the drafters' intent was " ... to emancipate municipal governments from the authority and control formerly exercised over them by the Legislature."⁶

The 1879 home rule amendment finally freed cities from the need to seek specific state legislation to authorize their legislative acts on traditional municipal matters. Since the constitution empowered them to act without prior permission of the Legislature, cities instead simply had to inquire whether a proposed ordinance conflicted with a general state law. Years later the California Court of Appeal described the effect of this amendment: "[t]he constitution has, by direct grant, vested in them [cities] plenary power to

provide and enforce such ... regulations as they determine shall be necessary for the health, peace, comfort and happiness of their inhabitants, provided such regulations do not conflict with the general law. And the Legislature has no authority to limit the exercise of the power thus directly conferred upon cities, counties and towns by the organic law.⁷

Former California Supreme Court Associate Justice and Hastings College of the Law Professor Joseph Grodin, in his authoritative study of the California Constitution, explains how section 7 changed everything for cities and counties:

- Section 7 presents the most widely used of the home rule provisions of the California Constitution. In contrast to sections 4 and 5, it applies equally to all cities and counties, regardless of their charter status. Section 7 empowers cities and counties to use their general authority, called their police power, to control and regulate any matter or activity that is otherwise an appropriate subject for governmental concern.
- The drafters intended that local authorities "ought to be left to do all those things that in their judgment are necessary to be done, and that are not in conflict with the general laws of the state." The decision was made then not to restrict local governments narrowly to those specified powers that are overtly granted to them by the legislature *but to allow them to exercise whatever powers appeared necessary, without the need to request legislative authorization before taking action.*⁸ (Emphasis added.)

In summary, under article XI, section 7, all cities are free to legislate on a matter unless it conflicts with a general law of the state and is, therefore, said to be preempted by the state law. What constitutes a conflict? The California Supreme Court articulated the basic analysis in upholding the validity of a city ordinance banning medical marijuana dispensaries and cultivation. In summary, it said:

- Cities have constitutionally granted powers to regulate land use and other traditional local matters. Absent a clear indication of preemptive intent from the Legislature, local regulations are not preempted.
- A local law conflicts with a general state law if the local legislation (1) duplicates the state law, (2) contradicts the state law (i.e., requires what state law forbids or prohibits what state law requires), or (3) enters an area that is fully occupied by general state law. A local ordinance does not conflict with state law if it is reasonably possible to comply with both the state and local laws.
- The courts are reluctant to infer legislative intent to preempt local regulations, and there is a presumption of validity of the local ordinance against an attack of state preemption when there is a significant local interest to be served that may differ from one locality to another.⁹

Voter Approved Charters Allowed to Trump State Law Over Municipal Affairs — 1896–1914

While the 1879 Constitution gave all cities basic home rule powers subject to conflicting state laws, over the following decade it became clear that cities needed the ability to engage in certain core municipal functions despite the conflicting general laws of the state. The 1896 Constitution introduced the concept of municipal affairs. The authority to adopt a charter is found in section 3 of article XI, which also contains this provision in subparagraph (a) explaining the status of the charter vis-à-vis state law: "The provisions of a charter are the law of the State and have the force and effect of legislative enactments." In 1899, the California Supreme Court explained that provisions relating to charter cities "were enacted upon the principle that the municipality itself knew better what it wanted and needed than the state at large, and to give that municipality the exclusive privilege and right to enact direct legislation which would carry out and satisfy its wants and needs."¹⁰

The 75 years of constitutional history leading to the authorization for voters to approve city charters that could, depending on the subject, supersede the general laws of the state, was explained by the California Supreme Court in 1992:

- [I]n 1896 article XI was amended in two significant respects. Former section 6 was revised to read as follows: "Cities or towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of the constitution, except in municipal affairs, shall be subject to and controlled by general laws." (emphasis added.) In addition, former section 8 was adopted, allowing consolidated charter city and county governments to regulate "the manner in which, the times at which, and the terms for which the several county officers shall be elected ... [and] for their compensation"
- "What was the good to be gained by this amendment? The answer is common, every-day history. It was to prevent existing provisions of charters from being frittered away by general laws. It was to enable municipalities to conduct their own business and control their own affairs to the fullest possible extent in their own way. It was enacted upon the principle that the municipality itself knew better what it wanted and needed than the state at large, and to give that municipality the exclusive privilege and right to enact direct legislation which would carry out and satisfy its wants and needs. ... This amendment, then, was intended to give municipalities the sole right to regulate, control, and govern their internal conduct independent of general laws"
- [A]rticle XI [in 1914] was revised to give charter cities the power "to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in their several charters, and in respect to other matters they shall be subject to and controlled by general laws." (Former section 8 of the same article was likewise amended by the insertion of a similar provision: "It shall be competent in any charter framed under the authority of this section to provide that the municipality governed thereunder may make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in their several charters and in respect to all other matters they shall be subject to general laws."¹¹)

In addition to the jurisdiction granted in subdivision (a) of section 5 of article XI to make and enforce all ordinances and regulations concerning municipal affairs, subdivision (b) of section 5 of article XI specifically identifies four subjects that can be included in a charter: (1) a city police force; (2) subgovernment in all or part of the city; (3) conduct of city elections; and (4) election, appointment, removal, and compensation of municipal officers and employees whose compensation is paid by the city.¹²

The California Constitution provides no definition of what is or is not a municipal affair. The California Supreme Court noted that "the constitutional concept of municipal affairs is not a fixed or static quantity ... [but one that] changes with the changing conditions upon which it is to operate ... our cases display a growing recognition that home rule is a means of adjusting the political relationship between state and local governments in discrete areas of conflict."¹³ What was once a matter of local concern can later become a matter of statewide concern, controlled by the general laws of the state.¹⁴ The Court also made it clear that this is a legal matter of state constitutional interpretation for the courts and not solely a factual one.¹⁵

Home Rule Authority Granted to All Cities over Public Works, Utilities and Public Property, Improvements and Funds — 1911–1970

Until 1911, it was believed that only charter cities could operate a public utility, so the Legislature proposed and the people enacted section 9 (formerly section 19) of article XI, providing broad plenary authority to any city to "establish, purchase, and operate public works to furnish its inhabitants with light, water, power, heat, transportation, or means of communications."¹⁶ The section allows cities to provide similar services in other cities with their consent.

In 1970, voters further amended this section to effectively allow cities to issue franchises to persons or corporations to provide such services " ... upon conditions and under regulations that the city may prescribe under its organic law." These franchise powers must be construed, however, in conjunction with the broad authority over such activities granted to both the Legislature and the Public Utilities Commission by article XII. On the distribution of powers between the state and cities on this subject, however, article XII, section 8 is quite clear:

- A city, county, or other public body may not regulate matters over which the Legislature grants regulatory power of the Commission. This section does not affect the power over public utilities relating to the making and enforcement of police, sanitary, and other regulations concerning municipal affairs pursuant to a city charter existing on October 10, 1911, unless that power has been revoked by the city's electors, or the right of *any city* to grant franchises for public utilities or other businesses on terms, conditions, and in the manner prescribed by law. (Emphasis added.)

Finally, general law and charter cities alike are protected by the provisions of article XI, section 11, subdivision (a), of the California Constitution that prohibits just the types of special commissions to control local property and funds that so outraged Californians prior to the 1879 Constitutional Convention. It states: "the Legislature may not delegate to a private person or body power to make, control, appropriate, supervise, or interfere with county or municipal corporation improvements, money, or property, or to levy taxes or assessments, or perform municipal functions." This provision was one of the two constitutional limitations on the power of the Legislature over cities and counties that compelled the California Supreme Court to strike down a 2000 state law that attempted to delegate final decisions in public safety labor negotiations to a private arbitration panel.¹⁷

California Home Rule Today

Today the California Constitution authorizes both general law and charter cities to: (1) make and enforce all local laws and regulations not in conflict with general state laws (art. XI, § 7); (2) to establish, purchase, and operate public works and utilities or franchise others to do so (art. XI, § 9); and to be free from state legislation delegating to a private person or body control over city property, funds, tax levies and municipal functions (art. XI, § 11).

Cities with voter-approved charters have additional home rule authority or supremacy over their municipal affairs, police, subgovernments, city elections, and their elected and appointed city officials and employees (art. XI, § 5). The provisions of a city charter and the ordinances adopted by a charter city prevail over general state law in areas that a court determines are municipal affairs, including the specific areas enumerated in section 5, subdivision (b) of article XI.¹⁸ As to matters of statewide concern, however, charter cities remain subject to state law.¹⁹ Therefore, whether a charter city may act independent of state general law in a particular domain, including the specific areas enumerated in section 5, subdivision (b) of article XI, depends upon a court's determination of whether it is a municipal affair or a matter of statewide concern.

Endnotes

- 1 See Detweiler, *Home Rule: An Historical Perspective* (Jan. 1997) Western City, at page 15.
- 2 *Johnson v. Bradley* (1992) 4 Cal.4th 389, 394-395.
- 3 See Thomas, *California Cities and the Constitution of 1879: General Laws and Municipal Affairs* (1980) 7 Hastings Const. L. Q. 642.
- 4 See Detweiler, *supra* note 1, at p. 16.
- 5 *People v. Martin* (1882) 60 Cal. 153; See Cal. Const., art. XIII, § 24, subd. (b).
- 6 *People v. Hoge* (1880) 55 Cal. 612, 618.
- 7 *In re Walter Ackerman* (1907) 6 Cal.App. 5, 9-10.
- 8 Grodin et al., *The Cal. State Constitution: A Reference Guide* (1993) pp. 192 (citing remarks of Mr. Eli Blackmer during debates at the California constitutional convention).
- 9 *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, 742-744. It is worthy of note that this case involves the regulatory legislation of a charter city, the City of Riverside, since charter cities as well as general law cities exercise home rule under the inherent police power granted to all cities by article XI, section 7. In other words, the City of Riverside did not rely on its status as a charter city under article XI, section 5, but rather on its home rule authority under article XI, section 7.
- 10 *Fragley v. Phelan* (1899) 126 Cal. 383, 387.
- 11 *Johnson v. Bradley* (1992) 4 Cal.4th 389, 395-397. (Emphasis in original) Empty brackets [] denote omitted language from the Supreme Court opinion.
- 12 In some cases, the courts have narrowly construed the subject matter described in section 5, subdivision (b) of article XI. See, e.g., *Baggett v. Gates* (1982) 32 Cal.3d 128 (applying the Public Safety Officers Procedural Bill of Rights to charter cities because it was limited to providing "procedural safeguards" to police officers and did not interfere with a charter city's authority to set compensation).
- 13 *State Building and Construction Trades Council of California v. City of Vista* (2012) 54 Cal.4th 547, 557.
- 14 *Bishop v. City of San Jose* (1969) 1 Cal.3d 56, 61, *California Fed. Sav. & Loan Assn. v. City of Los Angeles* (1991) 54 Cal.3d 1, 13 (rejecting static and compartmentalized description of "municipal affairs" in favor of a more dialectical one); *Codding Enterprises v. City of Merced* (1974) 42 Cal.App.3d 375, 377.
- 15 *State Building and Construction Trades Council of California v. City of Vista*, *supra*, 54 Cal.4th at 558.
- 16 *California Apartment Association v. City of Stockton* (2000) 80 Cal.App.4th 699, 707.
- 17 *County of Riverside v. Superior Court* (2003) 30 Cal.4th 278.
- 18 Cal. Const., art. XI, § 5; *Sonoma County Organization of Public Employees v. County of Sonoma* (1979) 23 Cal.3d 296, 315.
- 19 *Bishop v. City of San Jose*, *supra*, 1 Cal.3d at p. 61.

General Law City v. Charter City

Characteristic	General Law City	Charter City
Ability to Govern Municipal Affairs	Bound by the state's general law, regardless of whether the subject concerns a municipal affair.	Has supreme authority over "municipal affairs." Cal. Const. art. XI, § 5(b).
Form of Government	State law describes the city's form of government. For example, Government Code section 36501 authorizes general law cities be governed by a city council of five members, a city clerk, a city treasurer, a police chief, a fire chief and any subordinate officers or employees as required by law. City electors may adopt ordinance which provides for a different number of council members. Cal. Gov't section 34871. The Government Code also authorizes the "city manager" form of government. Cal. Gov't Code § 34851.	Charter can provide for any form of government including the "strong mayor," and "city manager" forms. See Cal. Const. art. XI, § 5(b); Cal. Gov't Code § 34450 <i>et seq.</i>
Elections Generally	Municipal elections conducted in accordance with the California Elections Code. Cal. Elec. Code §§ 10101 <i>et seq.</i>	Not bound by the California Elections Code. May establish own election dates, rules, and procedures. See Cal. Const. art. XI, § 5(b); Cal. Elec. Code §§ 10101 <i>et seq.</i>
Methods of Elections	Generally holds at-large elections whereby voters vote for any candidate on the ballot. Cities may also choose to elect the city council "by" or "from" districts, so long as the election system has been established by ordinance and approved by the voters. Cal. Gov't Code § 34871. Mayor may be elected by the city council or by vote of the people. Cal. Gov't Code §§ 34902.	May establish procedures for selecting officers. May hold at-large or district elections. See Cal. Const. art. XI, § 5(b).
City Council Member Qualifications	<p>Minimum qualifications are:</p> <ol style="list-style-type: none"> 1. United States citizen 2. At least 18 years old 3. Registered voter 4. Resident of the city at least 15 days prior to the election and throughout his or her term 5. If elected by or from a district, be a resident of the geographical area comprising the district from which he or she is elected. <p>Cal. Elec. Code § 321; Cal. Gov't Code §§ 34882, 36502; 87 Cal. Op. Att'y Gen. 30 (2004).</p>	Can establish own criteria for city office provided it does not violate the U.S. Constitution. Cal. Const. art. XI, § 5(b), 82 Cal. Op. Att'y Gen. 6, 8 (1999).

Characteristic	General Law City	Charter City
Public Funds for Candidate in Municipal Elections	No public officer shall expend and no candidate shall accept public money for the purpose of seeking elected office. Cal. Gov't Code § 85300.	Public financing of election campaigns is lawful. <i>Johnson v. Bradley</i> , 4 Cal. 4th 389 (1992).
Term Limits	May provide for term limits. Cal. Gov't Code § 36502(b).	May provide for term limits. Cal. Const. art. XI, § 5(b); Cal Gov't Code Section 36502 (b).
Vacancies and Termination of Office	An office becomes vacant in several instances including death, resignation, removal for failure to perform official duties, electorate irregularities, absence from meetings without permission, and upon non-residency. Cal. Gov't Code §§ 1770, 36502, 36513.	May establish criteria for vacating and terminating city offices so long as it does not violate the state and federal constitutions. Cal. Const. art. XI, § 5(b).
Council Member Compensation and Expense Reimbursement	Salary-ceiling is set by city population and salary increases set by state law except for compensation established by city electors. See Cal. Gov't Code § 36516. If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. See Cal. Gov't Code §§ 53234 - 53235.	May establish council members' salaries. See Cal. Const. art. XI, § 5(b). If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. See Cal. Gov't Code §§ 53234 - 53235.
Legislative Authority	Ordinances may not be passed within five days of introduction unless they are urgency ordinances. Cal. Gov't Code § 36934. Ordinances may only be passed at a regular meeting, and must be read in full at time of introduction and passage except when, after reading the title, further reading is waived. Cal. Gov't Code § 36934.	May establish procedures for enacting local ordinances. <i>Brougher v. Bd. of Public Works</i> , 205 Cal. 426 (1928).
Resolutions	May establish rules regarding the procedures for adopting, amending or repealing resolutions.	May establish procedures for adopting, amending or repealing resolutions. <i>Brougher v. Bd. of Public Works</i> , 205 Cal. 426 (1928).
Quorum and Voting Requirements	A majority of the city council constitutes a quorum for transaction of business. Cal. Gov't Code § 36810. All ordinances, resolutions, and orders for the payment of money require a recorded majority vote of the total membership of the city council. Cal. Gov't Code § 36936. Specific legislation requires supermajority votes for certain actions.	May establish own procedures and quorum requirements. However, certain legislation requiring supermajority votes is applicable to charter cities. For example, see California Code of Civil Procedure section 1245.240 requiring a vote of two-thirds of all the members of the governing body unless a greater vote is required by charter.

Characteristic	General Law City	Charter City
<p>Rules Governing Procedure and Decorum</p>	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i></p>	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i></p> <p>May provide provisions related to ethics, conflicts, campaign financing and incompatibility of office.</p>
<p>Personnel Matters</p>	<p>May establish standards, requirements and procedures for hiring personnel consistent with Government Code requirements.</p> <p>May have "civil service" system, which includes comprehensive procedures for recruitment, hiring, testing and promotion. See Cal. Gov't Code § 45000 <i>et seq.</i></p> <p>Meyers-Milias-Brown Act applies. Cal. Gov't Code § 3500.</p> <p>Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, § 10(b).</p>	<p>May establish standards, requirements, and procedures, including compensation, terms and conditions of employment for personnel. See Cal. Const. art. XI, § 5(b).</p> <p>Procedures set forth in Meyers-Milias-Brown Act (Cal. Gov't Code § 3500) apply, but note, "[T]here is a clear distinction between the <i>substance</i> of a public employee labor issue and the <i>procedure</i> by which it is resolved. Thus there is no question that 'salaries of local employees of a charter city constitute municipal affairs and are not subject to general laws.'" <i>Voters for Responsible Retirement v. Board of Supervisors</i>, 8 Cal.4th 765, 781 (1994).</p> <p>Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, section 10(b).</p>
<p>Contracting Services</p>	<p>Authority to enter into contracts to carry out necessary functions, including those expressly granted and those implied by necessity. See Cal. Gov't Code § 37103; <i>Carruth v. City of Madera</i>, 233 Cal. App. 2d 688 (1965).</p>	<p>Full authority to contract consistent with charter.</p> <p>May transfer some of its functions to the county including tax collection, assessment collection and sale of property for non-payment of taxes and assessments. Cal. Gov't Code §§ 51330, 51334, 51335.</p>

Characteristic	General Law City	Charter City
Public Contracts	<p>Competitive bidding required for public works contracts over \$5,000. Cal. Pub. Cont. Code § 20162. Such contracts must be awarded to the lowest responsible bidder. Pub. Cont. Code § 20162. If city elects subject itself to uniform construction accounting procedures, less formal procedures may be available for contracts less than \$100,000. See Cal. Pub. Cont. Code §§ 22000, 22032.</p> <p>Contracts for professional services such as private architectural, landscape architectural, engineering, environmental, land surveying, or construction management firms need not be competitively bid, but must be awarded on basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of services. Cal. Gov't Code § 4526.</p>	<p>Not required to comply with bidding statutes provided the city charter or a city ordinance exempts the city from such statutes, and the subject matter of the bid constitutes a municipal affair. Pub. Cont. Code § 1100.7; see <i>R & A Vending Services, Inc. v. City of Los Angeles</i>, 172 Cal. App. 3d 1188 (1985); <i>Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.</i>, 71 Cal. App. 4th 38 (1998).</p>
Payment of Prevailing Wages	<p>In general, prevailing wages must be paid on public works projects over \$1,000. Cal. Lab. Code § 1771. Higher thresholds apply (\$15,000 or \$25,000) if the public entity has adopted a special labor compliance program. See Cal. Labor Code § 1771.5(a)-(c).</p>	<p>Historically, charter cities have not been bound by state law prevailing-wage requirements so long as the project is a municipal affair, and not one funded by state or federal grants. <i>Vial v. City of San Diego</i>, 122 Cal. App. 3d 346, 348 (1981). However, there is a growing trend on the part of the courts and the Legislature to expand the applicability of prevailing wages to charter cities under an analysis that argues that the payment of prevailing wages is a matter of statewide concern. The California Supreme Court currently has before them a case that will provide the opportunity to decide whether prevailing wage is a municipal affair or whether it has become a matter of statewide concern.</p>

Characteristic	General Law City	Charter City
Finance and Taxing Power	<p>May impose the same kinds of taxes and assessment as charter cities. See Cal. Gov't Code § 37100.5.</p> <p>Imposition of taxes and assessments subject to Proposition 218. Cal. Const. art. XIII C.</p> <p>Examples of common forms used in assessment district financing include:</p> <ul style="list-style-type: none"> • Improvement Act of 1911. Cal. Sts. & High. Code § 22500 <i>et seq.</i> • Municipal Improvement Act of 1913. See Cal. Sts. & High. Code §§ 10000 <i>et seq.</i> • Improvement Bond Act of 1915. Cal. Sts. & High. Code §§ 8500 <i>et seq.</i> • Landscaping and Lighting Act of 1972. Cal. Sts. & High. Code §§ 22500 <i>et seq.</i> • Benefit Assessment Act of 1982. Cal. Gov't Code §§ 54703 <i>et seq.</i> <p>May impose business license taxes for regulatory purposes, revenue purposes, or both. See Cal. Gov't Code § 37101.</p> <p>May not impose real property transfer tax. See Cal. Const. art. XIII A, § 4; Cal. Gov't Code § 53725; <i>but see</i> authority to impose documentary transfer taxes under certain circumstances. Cal. Rev. & Tax. Code § 11911(a), (c).</p>	<p>Have the power to tax.</p> <p>Have broader assessment powers than a general law city, as well as taxation power as determined on a case-by case basis.</p> <p>Imposition of taxes and assessments subject to Proposition 218, Cal. Const. art. XIII C, § 2, and own charter limitations</p> <p>May proceed under a general assessment law, or enact local assessment laws and then elect to proceed under the local law. See <i>J.W. Jones Companies v. City of San Diego</i>, 157 Cal. App. 3d 745 (1984).</p> <p>May impose business license taxes for any purpose unless limited by state or federal constitutions, or city charter. See Cal. Const. art. XI, § 5.</p> <p>May impose real property transfer tax; does not violate either Cal. Const art. XIII A or California Government Code section 53725. See <i>Cohn v. City of Oakland</i>, 223 Cal. App. 3d 261 (1990); <i>Fielder v. City of Los Angeles</i>, 14 Cal. App. 4th 137 (1993).</p>
Streets & Sidewalks	<p>State has preempted entire field of traffic control. Cal. Veh. Code § 21.</p>	<p>State has preempted entire field of traffic control. Cal. Veh. Code § 21.</p>
Penalties & Cost Recovery	<p>May impose fines, penalties and forfeitures, with a fine not exceeding \$1,000. Cal. Gov't Code § 36901.</p>	<p>May enact ordinances providing for various penalties so long as such penalties do not exceed any maximum limits set by the charter. <i>County of Los Angeles v. City of Los Angeles</i>, 219 Cal. App. 2d 838, 844 (1963).</p>

Characteristic	General Law City	Charter City
Public Utilities/Franchises	<p>May establish, purchase, and operate public works to furnish its inhabitants with electric power. See Cal. Const. art. XI, § 9(a); Cal. Gov't Code § 39732; Cal. Pub. Util. Code § 10002.</p> <p>May grant franchises to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city to allow use of city streets for such purposes. The grant of franchises can be done through a bidding process, under the Broughton Act, Cal. Pub. Util. Code §§ 6001-6092, or without a bidding process under the Franchise Act of 1937, Cal. Pub. Util. Code §§ 6201-6302.</p>	<p>May establish, purchase, and operate public works to furnish its inhabitants with electric power. See Cal. Const. art. XI, § 9(a); <i>Cal. Apartment Ass'n v. City of Stockton</i>, 80 Cal. App. 4th 699 (2000).</p> <p>May establish conditions and regulations on the granting of franchises to use city streets to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city.</p> <p>Franchise Act of 1937 is not applicable if charter provides. Cal. Pub. Util. Code § 6205.</p>
Zoning	<p>Zoning ordinances must be consistent with general plan. Cal. Gov't Code § 65860.</p>	<p>Zoning ordinances are not required to be consistent with general plan unless the city has adopted a consistency requirement by charter or ordinance. Cal. Gov't. Code § 65803.</p>

Charter Cities

Adelanto	Lemoore
Alameda	Lindsay
Albany	Loma Linda
Alhambra	Long Beach
Anaheim	Los Alamitos
Arcadia	Los Angeles
Bakersfield	Marina
Bell	Marysville
Berkeley	Merced
Big Bear Lake	Modesto
Buena Park	Monterey
Burbank	Mountain View
Carlsbad	Napa
Cerritos	Needles
Chico	Newport Beach
Chula Vista	Norco
Compton	Oakland
Culver City	Oceanside
Cypress	Oroville
Del Mar	Pacific Grove
Desert Hot Springs	Palm Desert
Dinuba	Palm Springs
Downey	Palmdale
El Cajon	Palo Alto
El Centro	Pasadena
Eureka	Petaluma
Exeter	Piedmont
Folsom	Placentia
Fortuna	Pomona
Fresno	Port Hueneme
Gilroy	Porterville
Glendale	Rancho Mirage
Grass Valley	Redondo Beach
Hayward	Redwood City
Huntington Beach	Richmond
Indian Wells	Riverside
Industry	Roseville
Inglewood	Sacramento
Irvine	Salinas
Irwindale	San Bernardino
King City	San Diego
Kingsburg	San Francisco
Lancaster	San Jose
La Quinta	San Leandro

San Luis Obispo
San Marcos
San Mateo
San Rafael
San Ramon
Sand City
Santa Ana
Santa Barbara
Santa Clara
Santa Cruz
Santa Maria
Santa Monica
Santa Rosa
Santee
Seal Beach
Shafter
Signal Hill

Solvang
Stockton
Sunnyvale
Temple City
Torrance
Truckee
Tulare
Vallejo
Ventura
Vernon
Victorville
Visalia
Vista
Watsonville
Whittier
Woodlake

Total Cities: 121

Council Meeting of
July 23, 2019

SUPPLEMENTAL #1

Honorable Mayor and Member
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Supplemental Material to Council Agenda Item 9D

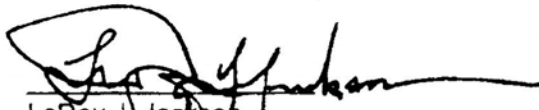
This supplemental was prepared at the request of Councilmember Goodrich to provide a summary of pay and benefits for Mayor and City Council members at cities with population of 100,000 to 200,000 and comparable cities which are cities used for salary surveys during labor negotiations. The comparable cities are similar in size and scope of services to the City of Torrance.

Respectfully submitted,

LeROY J. JACKSON
CITY MANAGER

By 
Aram Chaparyan
Assistant City Manager

CONCUR:


LeRoy J. Jackson
City Manager

Attachment:

- A) Survey of Cities with Population of 100,000 to 200,000 and Comparable Cities

SUPPLEMENTAL MATERIAL

9D

Cities with Population of 100k to 200k

Survey Agency	Population	Classification	Charter or General Law City?	Regular Pay (Year)	TOTAL PAY (2017)	TOTAL BENEFITS (2017)	TOTAL PAY + TOTAL BENEFITS (2017)
Burbank	107,149	Councilmember	Charter	\$15,480	\$15,480	\$12,775	\$28,255
Norwalk	107,546	Councilmember	General Law	\$7,900	\$7,900	\$6,810	\$14,710
West Covina	108,245	Councilmember	General Law	\$9,180	\$9,180	\$2,167	\$11,347
Inglewood	113,559	Councilmember	Charter	\$60,660	\$60,660	\$48,061	\$108,721
Downey	114,146	Councilmember	Charter	\$9,406	\$9,406	N/A	\$9,406
El Monte	117,204	Councilmember	General Law	\$8,784	\$8,784	\$25,567	\$34,351
Pasadena	144,388	Councilmember	General Law	\$17,619	\$17,619	\$23,516	\$41,135
Pomona	155,687	Councilmember	Charter	\$9,732	\$9,732	\$9,182	\$18,914
Palmdale	158,905	Councilmember	Charter	\$11,628	\$11,628	\$17,207	\$28,835
Lancaster	161,485	Councilmember	Charter	\$7,338	\$7,338	\$28,574	\$35,912
Glendale	205,536	Councilmember	Charter	\$18,562	\$18,562	\$37,154	\$55,716
Santa Clarita	216,589	Councilmember	General Law	\$24,190	\$24,190	\$1,814	\$26,004
Long Beach	478,561	Councilmember	Charter	\$35,197	\$35,197	\$26,143	\$61,340
Torrance	149,245	Councilmember	Charter	\$1,200	\$1,200	\$5,411	\$6,611
			Median	\$11,628	\$11,628	\$20,362	\$28,835
			Average	\$18,129	\$18,129	\$19,914	\$36,511
				Regular Pay (Year)	TOTAL PAY (2017)	TOTAL BENEFITS (2017)	TOTAL PAY + TOTAL BENEFITS (2017)
Burbank	107,149	Mayor	Charter	\$15,480	\$15,480	\$1,611	\$17,091
Norwalk	107,546	Mayor	General Law	\$11,411	\$11,411	\$8,704	\$20,115
West Covina	108,245	Mayor	General Law	\$7,360	\$7,360	\$20,986	\$28,346
Inglewood	113,559	Mayor	Charter	\$111,303	\$111,303	\$17,057	\$128,360
Downey	114,146	Mayor	Charter	\$9,406	\$9,406	N/A	\$9,406
El Monte	117,204	Mayor	General Law	\$8,784	\$8,784	\$19,233	\$28,017
Pasadena	144,388	Mayor	General Law	\$26,426	\$26,426	\$22,088	\$48,514
Pomona	155,687	Mayor	Charter	\$19,476	\$19,476	\$4,820	\$24,295
Palmdale	158,905	Mayor	Charter	\$17,700	\$17,700	\$21,837	\$39,537
Lancaster	161,485	Mayor	Charter	\$7,932	\$7,932	\$1,879	\$9,811
Glendale	205,536	Mayor	Charter	\$18,537	\$18,537	\$37,154	\$55,691
Santa Clarita	216,589	Mayor	General Law	\$24,190	\$24,190	\$19,503	\$43,693
Torrance	149,245	Mayor	Charter	\$1,200	\$1,200	\$1,193	\$2,393
			Median	\$16,590	\$16,590	\$19,233	\$28,181
			Average	\$23,167	\$23,167	\$15,897	\$37,740
				Regular Pay (Year)	TOTAL PAY (2017)	TOTAL BENEFITS (2017)	TOTAL PAY + TOTAL BENEFITS (2017)

Comparable Cities

Survey Agency	Population	Classification	Charter or General Law City?	Regular Pay (Year)	TOTAL PAY (2017)	TOTAL BENEFITS (2017)	TOTAL PAY + TOTAL BENEFITS (2017)
Burbank	107,149	Councilmember	Charter	\$15,480	\$15,480	\$12,775	\$28,255
Glendale	205,536	Councilmember	Charter	\$18,562	\$18,562	\$37,154	\$55,716
Long Beach	478,561	Councilmember	Charter	\$35,197	\$35,197	\$26,143	\$61,340
Pasadena	144,388	Councilmember	General Law	\$17,619	\$17,619	\$23,516	\$41,135
Pomona	155,687	Councilmember	Charter	\$9,732	\$9,732	\$9,182	\$18,914
Santa Monica	92,416	Councilmember	Charter	\$17,507	\$17,507	\$35,456	\$52,963
Torrance	149,245	Councilmember	Charter	\$1,200	\$1,200	\$5,411	\$6,611
			Median	\$17,507	\$17,507	\$23,516	\$41,135
			Average	\$16,471	\$16,471	\$21,377	\$37,848
				Regular Pay (Year)	TOTAL PAY (2017)	TOTAL BENEFITS (2017)	TOTAL PAY + TOTAL BENEFITS (2017)

Burbank	107,149	Mayor	Charter	\$15,480	\$15,480	\$1,611	\$17,091
Glendale	205,536	Mayor	Charter	\$18,537	\$18,537	\$37,154	\$55,691
Long Beach	478,561	Mayor	Charter	\$140,770	\$140,770	\$43,498	\$184,268
Pasadena	144,388	Mayor	General Law	\$26,426	\$26,426	\$22,088	\$48,514
Pomona	155,687	Mayor	Charter	\$19,476	\$19,476	\$4,820	\$24,295
Santa Monica	92,416	Mayor	Charter	\$17,963	\$17,963	\$36,037	\$54,000
Torrance	149,245	Mayor	Charter	\$1,200	\$1,200	\$1,193	\$2,393
			Median	\$18,537	\$18,537	\$22,088	\$48,514
			Average	\$34,264	\$34,264	\$20,914	\$55,179
				Regular Pay (Year)	TOTAL PAY (2017)	TOTAL BENEFITS (2017)	TOTAL PAY + TOTAL BENEFITS (2017)

Council Meeting of
October 1, 2019

PUBLIC HEARING

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

**SUBJECT: City Attorney — Conduct Second Public Hearing on the Proposed
Amendments to the City Charter
Expenditure: None.**

RECOMMENDATION:

Recommendation of the City Attorney that the City Council:

- 1) Conduct the second Public Hearing on Proposed Amendments to the City Charter; and
- 2) Direct staff on potential amendments to the City Charter; and
- 3) Direct staff on the date of the City Council meeting to decide whether to submit the City Charter amendments to the voters

BACKGROUND:

On July 23, 2019, the City Council decided to have the City Council review proposed amendments to the City Charter. The City Council directed staff to: (1) notice a public hearing for either August 20, 2019 or August 27, 2019, (2) to consider various proposed amendments to the City Charter for the March 3, 2020 election and (3) to consider other proposed amendments to the City Charter for the November 5, 2020 election.

On August 27, 2019, the City Council gave direction to staff to bring back three proposed amendments to be considered for the March 3, 2020 election. The proposed amendments that will be discussed during this second Public Hearing are (using the numbers from the list in Item 9D on July 23, 2019):

1. City Charter section 603 requires the City Council to fill a vacancy in an elective office within 30 days or call an election. This is a very tight timeline to announce a vacancy, receive applications, conduct interviews, and then schedule an appointment for a City Council meeting. Government Code section 36512 allows 60 days for an appointment. The City Council could choose to follow the Government Code or choose its own time period to fill vacancies.
2. (A) City Charter section 640 allows an election to be held to make the City Clerk

- an appointed official instead of an elected official
- (B) City Charter section 640 allows an election to be held to make the City Treasurer an appointed official instead of elected officials.

Additionally, the City Council directed staff to work on Charter section 1310 (#5 from the list in Item 9D on July 23, 2019). The City Council had the power to appoint the Appointed Officers in the 1947 Charter. But, the 1949 City Charter amendment gave the power to appoint Department Heads to the City Manager, with the exception of the City Attorney and elected officials. This clean-up will require a revision to this section to make it consistent with prior City Charter amendments, but it will not require a vote of the people since that was already done in 1949.

Prior to submitting the City Charter amendment to the voters, the City Council must hold at least two public hearings. The City must publish notice in the newspaper once a week for two successive weeks. Additionally, the City must post the notice in three public places within the jurisdiction at least 21 calendar days prior to the date of each public hearing. The second public hearing must be held at least 30 days after the first public hearing. One of the public hearings must be held outside of normal business hours. The City Council cannot vote on whether to submit the City Charter amendment to the voters until 21 days after the second hearing. For most City Charter amendments, the City Council may submit the City Charter amendment to the voters at the next regularly scheduled general municipal election pursuant to Section 1301, or at any established statewide general or statewide primary election pursuant to Section 1200 or 1201, occurring not less than 88 days after the date of the order of election. Government Code § 34457, Elections Code § 1415. But, any City Charter amendment that proposes to alter any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree or of any local government employee organization must be held at the statewide general election. Elections Code § 1415.

Tonight will be the second of two noticed Public Hearings and fulfills the requirements of California Government Code section 34458(b). A Notice of Public Hearing was published in the Daily Breeze on September 17, 2019 and September 24, 2019. On September 3, 2019, a Notice of Public Hearing was posted on the City Clerk's Bulletin Board. On September 4, 2019, a Notice of Public Hearing was posted on the Katy Geissert Civic Center Library Bulletin Board and the Torrance Cultural Arts Center Kiosk. The purpose of the this Public Hearing is for the City Council to consider and discuss potential amendments to the City Charter and for the public to comment on potential amendments to the City Charter.

ANALYSIS:

Vacancy in Elective Office (#1 on list from July 23, 2019)

City Charter section 603 (Attachment A) requires the City Council to fill a vacancy in an elective office within 30 days or call an election. This is a very tight timeline to announce a vacancy, receive applications, conduct interviews, and then schedule an appointment for a City Council meeting. Government Code section 36512 (Attachment B) allows 60 days for an appointment to fill a vacancy. The City Council could choose to follow the Government Code or choose its own time period to fill vacancies.

Section 603 of the City Charter provides that vacancies in any City elective office "shall be filled by appointment by the City Council." If the City Council fails "to fill a vacancy by appointment within thirty (30) days after such vacancy occurs, the City Council ... must immediately, after the expiration of said thirty (30) days, cause an election to be held to fill such vacancy." Any person appointed or elected to fill a vacancy holds office only until the next regular municipal election when a person will be elected to serve the remainder of any unexpired term.

Government Code section 36512 provides in the event of vacancy in an elective office a city council "shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy." Unlike the City Charter, the Government Code has a different provision for how long the person holds office. If there is a special election, the person elected holds office for the unexpired term of the former incumbent. If the city council fills the vacancy by appointment, there are two different options:

- (1) if the vacancy occurs in the first half of the term of office and at least 130 days prior to the next general municipal election, then the person appointed shall hold office until the next general municipal election that is 130 days or more after the date the council is notified of the vacancy and thereafter until the person who is elected has been qualified. The person elected shall hold office for the unexpired balance of the term of office.
- (2) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general municipal election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall hold office for the unexpired balance of the term of office.

The advantage to the appointment process is that it is quicker and cheaper than calling for a special election. The disadvantage is that it does not allow the residents of Torrance to elect a new member of the City Council.

The Government Code also provides that a city can enact an ordinance that requires a special election to be called for every city council vacancy and the office of mayor. The advantage to this process is that it allows for the residents of Torrance to elect a new member of the City Council. The disadvantage to this procedure is the cost of a special election, which can be very expensive if it is a stand-alone elections.

City Clerk and City Treasurer as Appointed Officials (#2 on list from July 23, 2019)
 City Charter section 640 (Attachment C) allows an election to be held to make the City Clerk or City Treasurer, or either of them, appointed officials instead of elected officials. Section 640 provides that the City Clerk or City Treasurer, or either of them, would be appointed by the City Council. If the voters were to approve this amendment, then at the expiration of the official's term of office or upon a vacancy in that office, the office "shall be filled by appointment of the City Council and the appointee shall hold office as other appointive officers."

The City Clerk and City Treasurer were elected to a four-year term in June 2018. The current terms of the City Clerk and City Treasurer run through March 2022.

CONCLUSION:

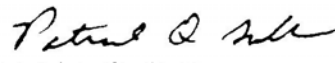
Recommendation of the City Attorney that the City Council:

- 1) Conduct the second Public Hearing on Proposed Amendments to the City Charter
- 2) Direct staff on potential amendments to the City Charter
- 3) Direct staff on the date of the City Council meeting to decide whether to submit the City Charter amendments to the voters


Since the second public hearing is tonight on October 1, 2019, then the City Council must wait 21 days prior to voting on whether to put the amendments on the ballot, which would be Tuesday, October 22, 2019. The City Council is dark on October 29, 2019.

The Los Angeles County Registrar-Recorder/County Clerk has set a deadline of Monday, November 5, 2019 for a city to adopt an election resolution to call a general or special municipal election for March 3, 2020. This deadline means that the City Council would need to call the election at its regular meeting on Tuesday, October 22, 2019 or call a special meeting sometime between Wednesday, October 23, 2019 and Monday, November 5, 2019.

Respectfully submitted,


Patrick Q. Sullivan

NOTED:


LeRoy J. Jackson
City Manager

Attachments:

- A. City Charter section 603
- B. Government Code section 36512
- C. City Charter section 640
- D. Proof of Publication
- E. Affidavits of Posting
- F. Agenda Item 10B from City Council Meeting of August 27, 2019 (includes Agenda Item 9D from City Council Meeting of July 23, 2019 as Attachment T) - Limited Distribution

ATTACHMENT A

City Charter section 603 VACANCIES.

- a) Any vacancies occurring in any of the elective offices provided for in this Charter, other than of members of the Board of Education, shall be filled by appointment by the City Council. Vacancies in the Board of Education shall be filled by appointment by the Board of Education.
- b) In the event of the City Council or the Board of Education, respectively, failing to fill a vacancy by appointment within thirty (30) days after such vacancy occurs, the City Council or the Board of Education, as the case may be, must immediately, after the expiration of said thirty (30) days, cause an election to be held to fill such vacancy.
- c) Any person appointed or elected to fill any vacancy on the City Council shall hold office only until the next regular municipal election at which time a person shall be elected to serve for the remainder of such unexpired term. Any person appointed or elected to fill a vacancy on the Board of Education shall hold office for the remainder of the unexpired term.
- d) In the election of member of the City Council or members of the Board of Education, where full terms and one (1) or more unexpired terms are to be filled, no distinction shall be made in nomination or voting between the full terms and the unexpired terms but the person or persons elected by the highest number of votes shall be elected for the full terms or term and the persons receiving the next highest vote shall be elected for the unexpired terms or term, as the case may be.

ATTACHMENT B**Government Code section 36512**

(a) If a vacancy occurs in an appointive office provided for in this chapter, the council shall fill the vacancy by appointment. A person appointed to fill a vacancy holds office for the unexpired term of the former incumbent.

(b) If a vacancy occurs in an elective office provided for in this chapter, the council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy.

(1) If the council calls a special election, the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person elected to fill a vacancy holds office for the unexpired term of the former incumbent.

(2) If the council fills the vacancy by appointment, the person appointed to fill the vacancy shall hold office pursuant to one of the following:

(A) If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general municipal election, the person appointed to fill the vacancy shall hold office until the next general municipal election that is scheduled 130 or more days after the date the council is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

(B) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general municipal election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall hold office for the unexpired term of the former incumbent.

(c) Notwithstanding subdivision (b) and Section 34902, a city may enact an ordinance that does any of the following:

(1) Requires that a special election be called immediately to fill every city council vacancy and the office of mayor designated pursuant to Section 34902. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election.

(2) Requires that a special election be held to fill a city council vacancy and the office of mayor designated pursuant to Section 34902 when petitions bearing a specified number of verified signatures are filed. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 114 days from the filing of the petition. A governing body that has enacted such an ordinance may also call a special election pursuant to subdivision (b) without waiting for the filing of a petition.

(3) Provides that a person appointed to fill a vacancy on the city council holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. The special election may be held on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the city not less than 114 days from the call of the special election.

(d)

(1) Notwithstanding subdivision (b) and Section 34902, an appointment shall not be made to fill a vacancy on a city council if the appointment would result in a majority of the members serving on the council having been appointed. The vacancy shall be filled in the manner provided by this subdivision.

(2) The city council may call an election to fill the vacancy, to be held on the next regularly established election date not less than 114 days after the call.

(3) If the city council does not call an election pursuant to paragraph (2), the vacancy shall be filled at the next regularly established election date.

(e)

(1) If the city council of a city that elects city council members by or from districts elects to fill a vacancy on the city council by appointment as a result of a city council member resigning from office, the resigning city council member may cast a vote on the appointment if the resignation will go into effect upon the appointment of a successor. A city council member shall not cast a vote for a family member or any other person with whom the city council member has a relationship that may create a potential conflict of interest.

(2) If a city council member elects to cast a vote under this subdivision, the city council member shall be prohibited from the following actions for a period of two years after the appointment of a successor:

(A) Advocating on any measure or issue coming before the city council in which the city council member may have a personal benefit.

(B) Entering into a contract of any kind with the city or a city vendor.

(C) Accepting a position of employment with the city or a city vendor.

(D) Applying for a permit that is subject to the approval of the city council.

(3) This subdivision shall not apply to any city council member who is resigning from the city council due to charges of, or conviction for, corruption or criminal behavior, or who is subject to a recall election.

ATTACHMENT C**City Charter section 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.

Daily Breeze

400 Continental Blvd, Suite 600
El Segundo, CA 90245
310-543-6635
Fax: 310-316-6827

5007865

CITY OF TORRANCE
FINANCE DEPT.ACCOUNTS PAYABLE
3031 TORRANCE BLVD
TORRANCE, CA 90503

**PROOF OF PUBLICATION
(2015.5 C.C.P.)**

**STATE OF CALIFORNIA
County of Los Angeles**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of THE DAILY BREEZE, a newspaper of general circulation, printed and published in the City of Torrance*, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of County of Los Angeles, State of California, under the date of June 10, 1974, Case Number SWC7146. The notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

09/17/2019, 09/24/2019

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated at Torrance, California
On this 24th day of September, 2019.

Pauline Fernandez

Signature

*The Daily Breeze circulation includes the following cities: Carson, Compton, Culver City, El Segundo, Gardena, Harbor City, Hawthorne, Hermosa Beach, Inglewood, Lawndale, Lomita, Long Beach, Manhattan Beach, Palos Verdes Peninsula, Palos Verdes, Rancho Palos Verdes, Rancho Palos Verdes Estates, Redondo Beach, San Pedro, Santa Monica, Torrance and Wilmington.

(Space below for use of County Clerk Only)

Legal No. **0011310445**

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held before the Torrance City Council in the City Council Chambers of City Hall at 3031 Torrance Blvd., Torrance, California on Tuesday, October 1, 2019, no earlier than 7:00 p.m. on the following matter:

A PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE CITY CHARTER. THE CITY COUNCIL WILL CONSIDER AND RECEIVE COMMENTS FROM THE COMMUNITY ON THE PROPOSED AMENDMENTS TO THE CITY CHARTER.

The City Charter can be viewed in the City Clerk's Office or online at <https://www.codepublishing.com/CA/Torrance/#!/TorranceCH.html>. Background information on the City Charter and proposed amendments can be found in City Council Agenda Item 9D from the City Council Meeting of July 23, 2019, which can be viewed in the City Clerk's Office or online at:

https://torrance.granicus.com/MetaViewer.php?view_id=8&clip_id=13584&meta_id=304563. Additional information can be found in City Council Agenda Item 10B from the City Council Meeting of August 27, 2019, which can be viewed at the City Clerk's Office or online at: https://torrance.granicus.com/MetaViewer.php?view_id=8&clip_id=13606&meta_id=305997

This Public Hearing fulfills the requirements of California Government Code § 34458(b) for the second public hearing to consider the amendment of the City Charter. If the City Council approves proposed amendments to the City Charter, then the City Council will have another meeting on October 22, 2019 to decide whether to submit the proposed amendments to the voters at the general municipal election on March 3, 2020.

Pursuant to California Public Resources Code section 21065 and California Environmental Quality Act Guidelines section 15061(b)(3) this action is exempt from the California Environmental Quality Act.

All interested persons have the right and are invited to attend this meeting and express their opinion. You may provide verbal or written testimony at the public hearing. You may also submit written testimony in advance of the public hearing to the City Clerk if you are unable to attend.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the City Manager's Office at (310) 618-5880. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

For further information, contact the Office of the City Attorney at (310) 618-5810.

REBECCA POIRIER
CITY CLERK

Pub Sep 17, 24, 2019(21)DB(11310445)

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF TORRANCE)

I, Michelle Pena, DO HEREBY AFFIRM that a copy of the Notice of Public Hearing to consider proposed amendments to the City Charter for October 1, 2019, was conspicuously posted on the City Clerk's bulletin board, 3031 Torrance Boulevard, Torrance, California at the time and date indicated below.

POSTED:

Time: 1:08 p.m.

Date: September 3, 2019

By: M. Peña

Michelle Pena
Deputy City Clerk I

AFFIDAVIT OF POSTING


STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF TORRANCE)

I, Leallani Stewart, DO HEREBY AFFIRM that a copy of the Notice of Public Hearing to consider proposed amendments to the City Charter for October 1, 2019, was conspicuously posted on the Katy Geissert Civic Center Library's bulletin board, 3301 Torrance Boulevard, Torrance, California at the time and date indicated below.

POSTED:

Time: 9:16 a.m.

Date: September 4, 2019

By: 

Leallani Stewart
Administrative Assistant

AFFIDAVIT OF POSTING

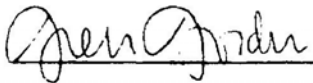
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) **ss**
CITY OF TORRANCE)

I, Jean Jordan, DO HEREBY AFFIRM that a copy of the Notice of Public Hearing to consider proposed amendments to the City Charter for October 1, 2019, was conspicuously posted in the Torrance Cultural Arts Center kiosk, 3330 Civic Center Drive, Torrance, California at the time and date indicated below.

POSTED:

Time: 10:00 am

Date: September 4, 2019

By: 

Jean Jordan
Box Office Manager

Council Meeting of
August 27, 2019

PUBLIC HEARING

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

**SUBJECT: City Attorney – Conduct First Public Hearing on the Proposed Amendments to the City Charter
Expenditure: None.**

RECOMMENDATION:

Recommendation of the City Attorney that the City Council:

- 1) Conduct the first Public Hearing on Proposed Amendments to the City Charter
- 2) Direct staff on potential amendments to the City Charter
- 3) Direct staff on the date of the second noticed Public Hearing

BACKGROUND:

On July 23, 2019, the City Council decided to have the City Council review proposed amendments to the City Charter. The City Council directed staff to: (1) notice a public hearing for either August 20, 2019 or August 27, 2019, (2) to consider various proposed amendments to the City Charter for the March 3, 2020 election and (3) to consider other proposed amendments to the City Charter for the November 5, 2020 election.

The proposed amendments being considered for the March 3, 2020 election and that will be discussed during this Public Hearing are (using the numbers from the list in Item 9D on July 23, 2019):

1. City Charter section 603 requires the City Council to fill a vacancy in an elective office within 30 days or call an election. This is a very tight timeline to announce a vacancy, receive applications, conduct interviews, and then schedule an appointment for a City Council meeting. Government Code section 36512 allows 60 days for an appointment. The City Council could choose to follow the Government Code or choose its own time period to fill vacancies.
2. City Charter section 640 allows an election to be held to make the City Clerk or City Treasurer appointed officials instead of elected officials.

5. City Charter section 1310 lists Appointive Officers, which are appointed by the City Council. Except for the City Manager and City Attorney, the City Council no longer appoints any employees. This section should be updated.
6. City Charter section 604 sets City Council compensation at \$100.00 per month. The City Council could amend this section to change the amount of City Council compensation.
7. Another possibility is consolidating the positions of City Treasurer and Finance Director. There are many cities that combine the two positions.
8. Any other areas of the City Charter that the City Council wants to modify.

Also, the City Council added a proposed amendment regarding if the Mayor becomes incapacitated.

The proposed amendments being considered for the November 5, 2020 election are as follows, and will not be discussed during this Public Hearing (using the numbers from the list in Item 9D on July 23, 2019):

3. City Charter section 910 deals with the City Manager. There are a couple of provisions in Section 910 that the City Council could look at amending. First, the removal process in the City Charter is very complicated. If this City Charter section was amended, then the City Council would need to look at entering into an employment contract with the City Manager. Second, the City Charter provides that the City Manager can only accumulate 30 days of vacation leave and sick leave. This requires the City Manager to cash out or defer (into deferred compensation or a retirement health savings plan) all hours of vacation leave and sick leave over 30 days. This restriction requires the City of Torrance to carry a disability insurance plan for the City Manager. This could be an issue for recruitment in the future.
4. The City Attorney is covered by the Civil Service System. This is very unusual in California local government. The City Council could amend this section and make the City Attorney an at-will employee. If this City Charter section was amended, then the City Council would need to look at entering into an employment contract with the City Attorney.

The proposed amendments that need to be researched further are:

9. The City Clerk and the City Attorney have noticed that there are some previous amendments to the City Charter that were adopted by the voters, but do not seem to be codified. We will need to research whether those City Charter Amendments were just not codified correctly or if the election results were not sent to the legislature.

Prior to submitting the City Charter amendment to the voters, the City Council must hold at least two public hearings. The City must publish notice in the newspaper once a week for two successive weeks. Additionally, the City must post the notice in three public places within the jurisdiction at least 21 calendar days prior to the date of each public hearing. The second public hearing must be held at least 30 days after the first public hearing. One of the public hearings must be held outside of normal business hours. The City Council

cannot vote on whether to submit the City Charter amendment to the voters until 21 days after the second hearing. For most City Charter amendments, the City Council may submit the City Charter amendment to the voters at the next regularly scheduled general municipal election pursuant to Section 1301, or at any established statewide general or statewide primary election pursuant to Section 1200 or 1201, occurring not less than 88 days after the date of the order of election. Government Code § 34457, Elections Code § 1415. But, any City Charter amendment that proposes to alter any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree or of any local government employee organization must be held at the statewide general election. Elections Code § 1415.

Tonight will be the first of two noticed Public Hearings and fulfills the requirements of California Government Code section 34458(b). A Notice of Public Hearing was published in the Daily Breeze on August 13, 2019 and August 20, 2019. On August 5, 2019, a Notice of Public Hearing was posted on the City Clerk's Bulletin Board and the Katy Geissert Civic Center Library Bulletin Board. On August 6, 2019, a Notice of Public Hearing was posted on the Torrance Cultural Arts Center Kiosk. The purpose of this Public Hearing is for the City Council to consider and discuss potential amendments to the City Charter and for the public to comment on potential amendments to the City Charter.

ANALYSIS:

Vacancy in Elective Office (#1 on list from July 23, 2019)

City Charter section 603 (Attachment A) requires the City Council to fill a vacancy in an elective office within 30 days or call an election. This is a very tight timeline to announce a vacancy, receive applications, conduct interviews, and then schedule an appointment for a City Council meeting. Government Code section 36512 (Attachment B) allows 60 days for an appointment to fill a vacancy. The City Council could choose to follow the Government Code or choose its own time period to fill vacancies.

Section 603 of the City Charter provides that vacancies in any City elective office "shall be filled by appointment by the City Council." If the City Council fails "to fill a vacancy by appointment within thirty (30) days after such vacancy occurs, the City Council ... must immediately, after the expiration of said thirty (30) days, cause an election to be held to fill such vacancy." Any person appointed or elected to fill a vacancy holds office only until the next regular municipal election when a person will be elected to serve the remainder of any unexpired term.

Government Code section 36512 provides that in the event of vacancy in an elective office, a city council "shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy." Unlike the City Charter, the Government Code has a different provision for how long the person holds office. If there is a special election, the person elected holds office for the unexpired term of the former incumbent. If the city council fills the vacancy by appointment, there are two different options:

- (1) if the vacancy occurs in the first half of the term of office and at least 130 days prior to the next general municipal election, then the person appointed shall hold office until the next general municipal election that is 130 days or more after the date the council is notified of the vacancy and thereafter until the person who is elected has been qualified. The person elected shall hold office for the unexpired balance of the term of office.
- (2) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general municipal election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall hold office for the unexpired balance of the term of office.

The advantage to the appointment process is that it is quicker and cheaper than calling for a special election. The disadvantage is that it does not allow the residents of Torrance to elect a new member of the City Council.

The Government Code also provides that a city can enact an ordinance that requires a special election to be called for every city council vacancy and the office of mayor. The advantage to this process is that it allows for the residents of Torrance to elect a new member of the City Council. The disadvantage to this procedure is the cost of a special election, which can be very expensive if it is a stand-alone election.

City Clerk and City Treasurer as Appointed Officials (#2 on list from July 23, 2019)
City Charter section 640 (Attachment C) allows an election to be held to make the City Clerk or City Treasurer, or either of them, appointed officials instead of elected officials. Section 640 provides that the City Clerk or City Treasurer, or either of them, would be appointed by the City Council. If the voters were to approve this amendment, then at the expiration of the official's term of office or upon a vacancy in that office, the office "shall be filled by appointment of the City Council and the appointee shall hold office as other appointive officers."

The City Clerk and City Treasurer were elected to a four-year term in June 2018. The current terms of the City Clerk and City Treasurer run through March 2022.

Revisions to Appointive Officers (#5 on list from July 23, 2019)
City Charter section 1310 (Attachment D) lists Appointive Officers, which are appointed by the City Council. Except for the City Manager and City Attorney, the City Council no longer appoints any employees. But, this could change if the voters approve amending the City Charter to make the City Clerk or City Treasurer appointed officials.

The current City Charter has a conflict between Section 1310 and Section 930 (Attachment E). Section 1310 appears to give the City Council power to appoint a list of Appointive Officers. But, Section 930 gives the City Manager power to appoint all Department Heads, except for the City Attorney and Elected Officials. The one exception to this is the Finance Director who, pursuant to Section 1100 (Attachment F), is appointed by the City Council upon recommendation of the City Manager. But, the Finance Director is responsible to and under the supervision of the City Manager and is a member of the Civil Service system.

Resolving the conflict between Section 930 and Section 1310 requires an analysis of the City Charter and its amendments. The City Charter dated January 7, 1947 (Attachment G), sets up the Civil Service system in Article VII. Section 3 of Article VII lists the Appointive Officers as "a City Judge, a City Attorney, a City Engineer, a Street Superintendent, a Park Superintendent, a Transportation Superintendent, a Chief of Police, a Chief of Fire Department, a Building Inspector." The second paragraph of Section 3 provides that the "City Council shall have the power of appointment of all appointive officers"

The City Charter dated January 7, 1949 (Attachment H), amends the City Charter to provide for a City Manager form of government by Amending Article VII adding a new Section 5 with subsections (a) through (h). Subsection (e) is entitled "The Power of City Manager over Executive Departments." It provides that the "City Manager shall have the supervision and control over all heads of Departments, except the City Attorney, City Auditor, City Judge, and elective officials of the City, and shall have the power to direct and control the administrative and executive functions of such Departments and shall have the power to appoint from the Civil Service eligible list, all heads of departments except said City Attorney, City Auditor, City Judge and elective officials of said City" The most important part of Section 5 is found in subsection (e) that provides "All ordinances or parts of ordinances of the City of Torrance and all sections, subsections or parts of sections of this Charter, in conflict herewith, are hereby amended or repealed as the case may be."

The City Charter dated April 26, 1962 (Attachment I), amends Section 1 of Article 5 of the City Charter in its entirety. It essentially restates the civil service system. It is important to note that the last sentence provides that "Nothing contained in this section 1 shall repeal or modify any of the provisions of section 5 of article VII of this charter which established the city manager form of government."

The City Charter dated August 20, 1973 (Attachment J), recodifies and renumbers the Charter. The Civil Service system is found in Section 1300. Appointive Officers are found in Section 1310. It does delete the City Judge from the list of Appointive Officers. The Power of City Manager Over Executive Departments is found in Section 930. It deletes the City Auditor and City Judge from the list of positions that are excepted from his control. It just leaves City Attorney and elected officials that he does not have control over.

The City Council had the authority to appoint the Appointed Officers in the 1947 Charter. But, the 1949 City Charter amendment gave the power to appoint the Department Heads to the City Manager, with the exception of the City Attorney and elected officials. Additionally, the 1949 City Charter amendment repealed inconsistent provisions of the City Charter and Municipal Code. Unfortunately, the City did not go back in and clean up the Civil Service section of the City Charter to reflect the change and the language carried forward to the present even though it had been repealed back in 1949.

All of the positions, with the exception of the City Attorney, in the first line of Section 1310 should be deleted since it was amended by the City Charter dated January 7, 1949. Depending upon what happens with the proposed amendment to the positions City Clerk and City Treasurer, the last line of this section may need to be revised as well.

Council Compensation (#6 on list from July 23, 2019)

City Charter section 604 (Attachment K) sets City Council compensation at \$100.00 per month or \$1,200 per year. This amount was set by the voters at the election on April 10, 1956. The City Council could amend this section to change the amount of City Council compensation.

There are many ways to look at how to set City Council compensation. One method is to look at Government Code section 36516 (Attachment L). Government Code section 36516 has a couple of different ways of setting compensation. Government Code section 36516(a) allows the City Council to adopt an ordinance that sets the compensation based upon the population in the last census. The City of Torrance's population in the 2010 census was 145,438. For cities with a population over 75,000 up to and including 150,000, the monthly salary is \$600 per month or \$7,200 per year. If the population were to exceed 150,000, then the monthly salary would be \$800 per month or \$9,600 per year. Additionally, Government Code section 36516(a)(4) allows the amount to be increased 5% per calendar year and the ordinance cannot provide for future automatic increases in salary.

Another method allowed under Government Code section 36516(b) allows the matter of the amount to be submitted to the voters. The amount may be higher or lower than allowed in Government Code section 36516(a).

Another method would be to look at other cities. The voters in the City of Carson recently adopted their City Charter on November 6, 2018. Carson City Charter section 304 sets the City Council compensation at the "Low Income Limits" for a family of four as set forth by the U.S. Department of Housing and Urban Development ("HUD") for the area including Los Angeles County for the year 2018. The Low Income Limits for for a family of four in FY 2018 in the Los Angeles-Long Beach-Glendale, CA HUD Metro FMR Area is \$77,500. For a single person, the amount would be \$54,250. For Very Low Income Limits, a family of four would be \$48,450 and a single person would be \$33,950. For Extremely Low Income Limits, a family of four would be \$29,050 and a single person would be \$20,350. A chart of HUD's FY 2018 Income Limits Summary can be found at <https://www.huduser.gov/portal/datasets/il/il2018/2018summary.odn> and is attached as Attachment M.

Another option is to survey similar cities. The City Manager's Office conducted a survey of Mayor and City Council salaries that was attached as Supplemental #1 to Agenda Item 9D on July 23, 2019. Many cities, but not all, provide a differential between the Mayor and City Council salaries where the Mayor gets an increased salary amount over the City Council.

The City Council may also suggest other methods of setting City Council compensation.

Consolidation of City Treasurer and Finance Director Positions (#7 on list from July 23, 2019)

Another potential amendment is consolidating the positions of City Treasurer and Finance Director. There are many cities that combine the two positions. Some cities have a City Treasurer and a Finance Director. Other cities have consolidated the duties of the City Treasurer into the position of the Finance Director. This proposed amendment would

require an amendment of Section 1100 dealing with the Finance Director and a repealing of Section 630 (Attachment N) dealing with the City Treasurer.

Other Sections that City Council Wants to Modify (#8 on list from July 23, 2019)

Any other areas of the City Charter that the City Council wants to modify. This section is provided for any other areas of the City Charter that the City Council would like to suggest amending.

Mayor Incapacitation or Vacancy (Suggested by City Council on July 23, 2019)

During the meeting of July 23, 2019, the City Council added a proposed amendment regarding if a Mayor becomes incapacitated or otherwise vacates office. There was some concern that the language regarding vacancies in Section 603 was ambiguous. In Section 603(a), it provides any vacancies occurring in any of the elective offices provided for in this Charter, other than of members of the Board of Education, shall be filled by appointment by the City Council. Any elective office clearly includes the office of Mayor. But, Section 603(c) only discusses any person appointed or elected to fill any vacancy on the City Council. The concern is that it is silent as to the Mayor.

City Charter section 610 (Attachment O) provides that "the Mayor shall be a member of the City Council for all purposes and shall have all the rights, powers and duties of a member of the City Council in addition to those powers and duties conferred upon him by virtue of his office as Mayor. Unless otherwise expressly provided to the contrary, any provision in this Charter which relates to the City Council or to members of the City Council shall be interpreted to include the Mayor as a member of the City Council." This section clarifies that anything that relates to members of the City Council includes the Mayor.

However, the City Council may decide that it wants to clarify Section 603 so that it expressly includes the Mayor in its provisions. If the City Council decides to pursue this, then they may also want to look at amending Section 601 (Attachment P) since that has a provision regarding a member of the City Council missing meetings for 60 consecutive days resulting in an automatic vacancy.

CONCLUSION:

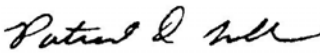
Recommendation of the City Attorney that the City Council

- 1) Conduct the first Public Hearing on Proposed Amendments to the City Charter
- 2) Direct staff on potential amendments to the City Charter
- 3) Direct staff on the date of the second noticed Public Hearing

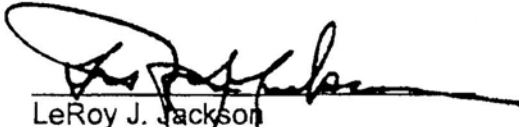
The second noticed Public Hearing must be at least 30 days after the first noticed Public Hearing. This means that the first date the City Council could conduct the second noticed Public Hearing would be Thursday, September 26, 2019. The first regular City Council meeting date would be Tuesday, October 1, 2019. If City Council were to proceed on October 1, 2019, then the City Council must wait 21 days prior to voting on whether to put the amendments on the ballot, which would be Tuesday, October 22, 2019. The City Council is dark on October 29, 2019.

The Los Angeles County Registrar-Recorder/County Clerk has set a deadline of Monday, November 5, 2019 for a city to adopt an election resolution to call a general or special municipal election for March 3, 2020. This deadline means that the City Council would need to call the election at its regular meeting on Tuesday, October 22, 2019 or call a special meeting sometime between Wednesday, October 23, 2019 and Monday, November 5, 2019.

Respectfully submitted,


Patrick Q. Sullivan

NOTED:


LeRoy J. Jackson
City Manager

Attachments:

- A. City Charter section 603
- B. Government Code section 36512
- C. City Charter section 640
- D. City Charter section 1310
- E. City Charter section 930
- F. City Charter section 1100
- G. City Charter dated January 7, 1947
- H. City Charter dated January 7, 1949
- I. City Charter dated April 26, 1962
- J. City Charter dated August 20, 1973
- K. City Charter section 604
- L. Government Code section 36516
- M. HUD's FY 2018 Income Limits Summary
- N. City Charter section 630
- O. City Charter section 610
- P. City Charter section 601
- Q. Proof of Publication
- R. Affidavits of Posting
- S. Correspondence
- T. Agenda Item 9D from City Council Meeting of July 23, 2019

ATTACHMENT A**City Charter section 603 VACANCIES.**

- a) Any vacancies occurring in any of the elective offices provided for in this Charter, other than of members of the Board of Education, shall be filled by appointment by the City Council. Vacancies in the Board of Education shall be filled by appointment by the Board of Education.
- b) In the event of the City Council or the Board of Education, respectively, failing to fill a vacancy by appointment within thirty (30) days after such vacancy occurs, the City Council or the Board of Education, as the case may be, must immediately, after the expiration of said thirty (30) days, cause an election to be held to fill such vacancy.
- c) Any person appointed or elected to fill any vacancy on the City Council shall hold office only until the next regular municipal election at which time a person shall be elected to serve for the remainder of such unexpired term. Any person appointed or elected to fill a vacancy on the Board of Education shall hold office for the remainder of the unexpired term.
- d) In the election of member of the City Council or members of the Board of Education, where full terms and one (1) or more unexpired terms are to be filled, no distinction shall be made in nomination or voting between the full terms and the unexpired terms but the person or persons elected by the highest number of votes shall be elected for the full terms or term and the persons receiving the next highest vote shall be elected for the unexpired terms or term, as the case may be.

ATTACHMENT B

Government Code section 36512

(a) If a vacancy occurs in an appointive office provided for in this chapter, the council shall fill the vacancy by appointment. A person appointed to fill a vacancy holds office for the unexpired term of the former incumbent.

(b) If a vacancy occurs in an elective office provided for in this chapter, the council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy.

(1) If the council calls a special election, the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person elected to fill a vacancy holds office for the unexpired term of the former incumbent.

(2) If the council fills the vacancy by appointment, the person appointed to fill the vacancy shall hold office pursuant to one of the following:

(A) If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general municipal election, the person appointed to fill the vacancy shall hold office until the next general municipal election that is scheduled 130 or more days after the date the council is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

(B) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general municipal election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall hold office for the unexpired term of the former incumbent.

(c) Notwithstanding subdivision (b) and Section 34902, a city may enact an ordinance that does any of the following:

(1) Requires that a special election be called immediately to fill every city council vacancy and the office of mayor designated pursuant to Section 34902. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election.

(2) Requires that a special election be held to fill a city council vacancy and the office of mayor designated pursuant to Section 34902 when petitions bearing a specified number of verified signatures are filed. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 114 days from the filing of the petition. A governing body that has enacted such an ordinance may also call a special election pursuant to subdivision (b) without waiting for the filing of a petition.

(3) Provides that a person appointed to fill a vacancy on the city council holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. The special election may be held on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the city not less than 114 days from the call of the special election.

(d)

(1) Notwithstanding subdivision (b) and Section 34902, an appointment shall not be made to fill a vacancy on a city council if the appointment would result in a majority of the members serving on the council having been appointed. The vacancy shall be filled in the manner provided by this subdivision.

(2) The city council may call an election to fill the vacancy, to be held on the next regularly established election date not less than 114 days after the call.

(3) If the city council does not call an election pursuant to paragraph (2), the vacancy shall be filled at the next regularly established election date.

(e)

(1) If the city council of a city that elects city council members by or from districts elects to fill a vacancy on the city council by appointment as a result of a city council member resigning from office, the resigning city council member may cast a vote on the appointment if the resignation will go into effect upon the appointment of a successor. A city council member shall not cast a vote for a family member or any other person with whom the city council member has a relationship that may create a potential conflict of interest.

(2) If a city council member elects to cast a vote under this subdivision, the city council member shall be prohibited from the following actions for a period of two years after the appointment of a successor:

(A) Advocating on any measure or issue coming before the city council in which the city council member may have a personal benefit.

(B) Entering into a contract of any kind with the city or a city vendor.

(C) Accepting a position of employment with the city or a city vendor.

(D) Applying for a permit that is subject to the approval of the city council.

(3) This subdivision shall not apply to any city council member who is resigning from the city council due to charges of, or conviction for, corruption or criminal behavior, or who is subject to a recall election.

ATTACHMENT C

**City Charter section 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.

ATTACHMENT D**City Charter section 1310 APPOINTIVE OFFICERS.**

Appointive officers of the City shall be a City Attorney, a City Engineer, a Street Superintendent, a Park Superintendent, a Transportation Superintendent, a Chief of Police, a Chief of the Fire Department, a Building Inspector. The City Council may also provide by ordinance for such additional appointive boards, commissions, officers, assistants, deputies and employees as it deems necessary. The Council may also provide for the holding by one (1) person of several offices, providing that such offices are not incompatible with one another.

The City Council shall have the power of appointment of all appointive officers with the exception of such deputies as it may provide for in the office of the City Clerk and City Treasurer, as to which deputies the heads of the respective departments shall have the power of appointment.

ATTACHMENT E**City Charter section 930 THE POWER OF CITY MANAGER OVER EXECUTIVE DEPARTMENTS.**

The City Manager shall have supervision and control over all heads of departments, except the City Attorney, and elective officials of the City, and shall have the power to direct and control the administrative and executive functions of such departments and shall have power to appoint from the civil service eligible list, all heads of departments except the City Attorney, and elective officials of said City, and shall have power to prefer charges against such heads of such departments as are appointed by him in the manner prescribed by and in accordance with the provisions of any civil service ordinance of said City applicable to suspension, discipline or removal of such heads of such departments, but any decision of the Civil Service Board or the Trial Board, as the case may be, upon any such charges may be overruled by an affirmative vote of four members of the City Council.

The City Manager may recommend to the City Council, setting forth reasons therefor, the abolition, suspension or consolidation of the duties and functions of any of the heads of departments, chief officials, subordinate officers and employees of the City. The City Council may thereafter, at any time, abolish, suspend or consolidate any such duties or functions in accordance with such recommendations or as it may determine, and thereafter remove the person or persons affected from the employment of the City, whose duties are thus abolished, suspended or consolidated.

ATTACHMENT F

City Charter section 1100 POWERS AND DUTIES.

There is hereby created and established the office of Director of Finance of the City of Torrance. The Director of Finance shall be appointed by the City Council upon the recommendation of the City Manager and shall be responsible to and under the supervision of the City Manager and shall be a member of the classified service of the City. The duties and functions of said Director of Finance shall be to:

- a) Maintain and operate the general accounting system of the City and of the respective departments, offices and agencies thereof.
- b) Keep and maintain, or to prescribe and require the keeping and maintaining of inventory records of municipal properties.
- c) Cooperative with the City Manager and City Treasurer in establishing and maintaining sufficient and satisfactory procedures and controls over municipal revenues and expenditures in all departments of the City.
- d) To assume and perform all municipal functions and duties relating to the preparation, auditing, presenting and disbursement of claims and demands against the City, including payrolls.
- e) Assist the City Manager in the preparation of the annual budget and in the administration thereof.
- f) Prepare and present to the City Council through the City Manager, in sufficient detail to show the exact financial condition of the City, an annual statement and report of the financial condition of the City and such other financial reports as may be required by the City Council or the City Manager.
- g) Supervise such subordinate employees or assistants as may be authorized by the City Council.
- h) Perform such additional duties as may be hereafter required by the City Council or the City Manager.

ATTACHMENT G

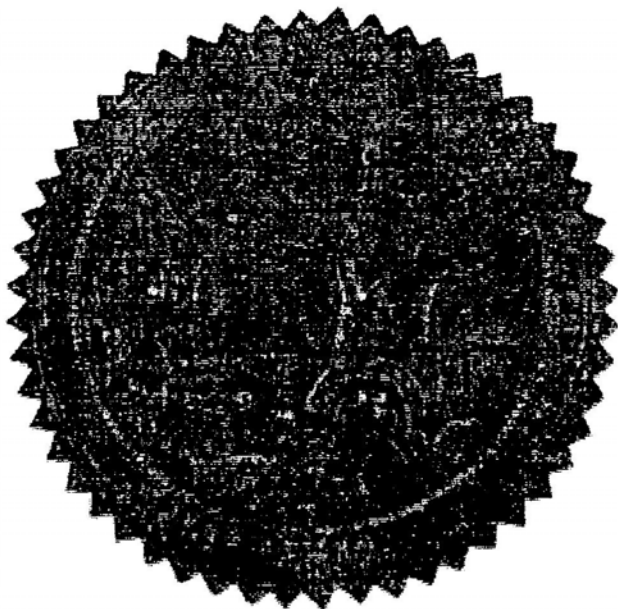

State of California
 Office of the
Secretary of State

I, FRANK M. JORDAN, Secretary of State of the State of California, hereby certify:

That I have compared the annexed transcript with the RECORD on file in my office, of which it purports to be a copy, and that the same is a full, true and correct copy thereof.

IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of the State of California

this 7th day of January, 1949



Frank M. Jordan
 Secretary of State

By *John G. Sayat*
 Deputy