Agenda Item

Orange City Council

Item #: 10.4. 3/10/2026 **File #:** 26-0092

TO: **Honorable Mayor and Members of the City Council**

FROM: **Jarad Hildenbrand, City Manager**

1. SUBJECT
City Charter Discussion

2. SUMMARY
California Government Code Sections 34450-34462 set forth the procedures to adopt a city charter. There are two approaches. First, the City Council may place a question on a special or general election ballot asking voters to approve the creation of a charter commission. If approved, the charter commission would develop a draft charter that would later be placed on a subsequent ballot for voter consideration. Alternatively, the City Council may draft a charter and submit it directly to voters at a special or general election.

In recent years, several California cities have explored charter status to evaluate potential flexibility in areas such as public contracting, fiscal policy, and local governance. On January 13, 2026, the City Council directed staff to develop a draft City Charter. The draft City Charter is presented for City Council discussion, and staff seeks direction on how to proceed.

3. RECOMMENDED ACTION
Review and discuss the draft City Charter and provide direction to staff.

4. FISCAL IMPACT
None.

5. STRATEGIC PLAN GOALS
Adoption of a City Charter could support or affect multiple goals outlined in the Fiscal Years 2025-2030 Citywide Strategic Plan.

6. DISCUSSION AND BACKGROUND
The following provides an overview of the similarities and differences between general law and charter cities. Additionally, this analysis details the procedures to adopt a city charter.

General Law vs. Charter Cities

California law authorizes two legal structures for municipal organizations - general law or charter law. General law cities (i.e., the City of Orange) draw much of their authority from State of California (State) statutes. Charter cities derive *select* authority from a locally adopted charter as authorized in Article XI of the California Constitution. Cities often pursue charter status to gain greater local control over municipal affairs, particularly in areas such as public contracting, municipal finance, and local governance structures. Charter authority can allow a city to tailor policies to local priorities while remaining subject to state law on matters deemed to be of statewide concern.

It is also important to note that charter authority is not unlimited and has been narrowed over time by legislation and court decisions, particularly in areas such as labor standards and housing policy that are often deemed matters of statewide concern.

General Law Cities

Most cities in California are general law cities. Of the 482 cities in California, 121 have adopted local charters with 10 of those being from Orange County. As a general law city, Orange is bound to State law even if an issue is exclusively local. Under a general law structure, a city's police power comes entirely from the California constitution with all other municipal authority deriving from State statute.

Charter Cities

Alternatively, the California Constitution authorizes municipalities to function as a Charter City. Often referred to as "home rule," the logic underpinning the Charter City concept is that a city is best suited to manage local affairs with the State retaining authority over those matters deemed a Statewide concern. This means that a Charter City's local laws prevail over State laws when the issue at hand is determined to be a "municipal affair."

Municipal Affairs vs. Statewide Concerns

The distinction between municipal and statewide affairs is an important aspect to consider. If an increasing number of City functions are determined to be a matter of Statewide concern, then the benefits of becoming a Charter City are diminished. This points to the crux of the issue and begs the question, *"What is a municipal affair?"*

Generally, two sources have defined municipal affairs - the California Constitution and the courts. In beginning with the former, the term *municipal affair* is referenced in the California Constitution; however, it is not clearly defined. Article XI, section five, subsections (a-b), of the California Constitution discuss the general notion of self-governance while detailing four broad categories of municipal affairs. These four categories include:

1. City Police Force.
2. Subgovernment in all or part of a city.
3. Conduct of city elections; and
4. The manner in which municipal officers and employees are elected or appointed.

Aside from these general categories, the courts determine whether a matter is a municipal affair. When making this determination, the facts of the case are evaluated through a four-part test developed by the California Supreme Court. This has resulted in case law supporting a non-exhaustive and fluctuating list of what are deemed to be municipal affairs.

As an example, charter cities previously retained significant authority over land use matters or could exempt the city from prevailing wage requirements. Charter city authority over these matters has since been reduced through a combination of court actions and legislation that have deemed these matters a Statewide concern, thereby preempting what a city's charter may say on these issues.

For reference, provided below is a general overview of matters categorized as a Statewide concern vs. municipal affair*.

Municipal Affair	**Statewide Concern**

Police authority	Traffic control
Municipal elections	Tort claims against public agencies
Local fiscal matters	Prevailing wage law
Qualifications for local officials	Brown Act, California Public Records Act, Political Reform Act
Public contracting and contractual services	Numerous housing laws

*Attachment 2 details pros and cons of General Law and Charter Cities.

The Process to Adopt a City Charter

There are two pathways for the City to adopt a charter - a City Council-drafted charter process or a Charter Commission process. Each is briefly discussed below:

City Council-drafted charter

1. Initiate: City Council directs staff to prepare a draft charter.
2. Public Review: Publish draft; conduct community outreach and at least two public hearings.
3. Call Election: The City Council adopts a resolution submitting the proposed charter to Orange voters at a regular or special municipal election.
4. Voter Decision: Simple majority approval is required. If approved, the City will file the charter with the Secretary of State, at which point, it will become effective.

Charter Commission-drafted charter

1. Ballot Question: The City Council calls an election asking voters whether to form a charter commission (Commission) and simultaneously elects 15 commissioners.
2. Commission Work: If approved, the top 15 vote-getters serve on the Commission. The Commission would draft the charter, hold public hearings, and submit the proposed charter to the City Council.
3. Second Election: The City Council places the Commission's proposed charter on a subsequent ballot for voter approval.
4. Adoption: Simple majority approval is required. If approved, the City will file the charter with the Secretary of State, at which point, it will become effective.

Draft City Charter and Direction to Staff

On January 13, 2026, the City Council directed staff to develop a draft charter for City Council review and discussion. The draft City Charter (Attachment 1) is presented for discussion purposes only and is intended to begin a policy conversation regarding charter provisions. Staff seeks City Council direction on next steps and on several policy matters that could be addressed in a proposed charter, including which topics should be included, excluded, or deferred.

To become a charter city, the City must adopt a charter by a majority vote of its electorate. If the City Council's goal is to place a proposed charter before voters as soon as practicable, the earliest opportunity would be the November 2026 General Municipal Election. The most expeditious approach would be for the City Council to draft a proposed charter and submit it directly to voters.

Unlike other ballot measures, a proposed city charter requires additional procedural steps prior to placement on the ballot, including multiple public hearings and related noticing requirements.

If the City Council would like to proceed toward a November 2026 ballot, staff will need to begin the process immediately to meet required milestones over the next two months. Attachment 3 provides a draft timeline to support consideration of a November 2026 ballot measure. This timeline is preliminary and subject to change, including based on election deadlines issued by the Orange County Registrar of Voters.

7. ATTACHMENTS

- Attachment 1 - Draft City Charter for discussion and feedback
- Attachment 2 - General Law and Charter City Pros and Cons
- Attachment 3 - City Council Drafted Charter: Draft Ballot Measure Timeframe