



# Agenda Item

## Orange City Council

Item #: 10.1.

7/14/2026

File #: 26-0414

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

**FROM:** Jarad Hildenbrand, City Manager

### 1. SUBJECT

Consider two resolutions that would submit to the voters a question adopting a City Charter, establishing priorities for filing written arguments, and directing the City Attorney to prepare an impartial analysis

### 2. SUMMARY

On May 12, 2026, and June 23, 2026, the City Council held public hearings to consider and discuss the possibility of adopting a City Charter as well as the City Charter's content. During the public hearings, the City Council considered public input and discussed several policy matters that could be incorporated into the proposed charter. California Government Code Sections 34450 through 34462 require that the City hold at least two public hearings before the City Council may vote to place a City Charter measure on the General Municipal Election ballot. With the City Council having now held two public hearings and 21 days having passed since the June 23, 2026 public hearing, the City Council may vote to place the City Charter ballot measure on November 3, 2026 General Municipal Election ballot.

### 3. RECOMMENDED ACTION

1. Consider adoption of Resolution No. 11707. A Resolution of the City Council of the City of Orange ordering the submission to the voters a question relating to a proposed City Charter for adoption at the November 3, 2026, General Municipal Election as called by Resolution No. 11669.
2. Consider adoption of Resolution No. 11708. A Resolution of the City Council of the City of Orange setting priorities for filing written arguments regarding a City measure and directing the City Attorney to prepare an impartial analysis for the measure to be submitted to the voters at the General Municipal Election held on Tuesday, November 3, 2026.

### 4. FISCAL IMPACT

There is no direct fiscal impact associated with adoption of the resolutions. Costs associated with placing the measure on the November 3, 2026 General Municipal Election ballot are included in the City's adopted election budget.

### 5. STRATEGIC PLAN GOALS

Goal 3: Enhance Quality of Life Through City Services  
Objective 3.7: City Charter

### 6. DISCUSSION AND BACKGROUND

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.

### *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. However, as it stands today, the two areas where a city charter may produce the greatest benefits include the following two areas:

### *Government Structure and Self-Governance*

Local Government Design: A charter functions as a city's constitution and codifies who has the authority to approve budgets, administer day-to-day operations, how elections are conducted, as well as the role of elected (e.g., the City Council) and appointed positions (e.g., City Manager and City Attorney). By adopting a city charter, a city could potentially reconfigure the governance structure, thereby shifting responsibilities and/or authority to different positions (e.g., adopting a Mayor-strong structure).

Elections: A charter city may establish its own election rules for local offices, including timing, district configurations, ranked-choice voting, and related procedures, subject to minimum constitutional requirements and state elections code where applicable.

### *Public Contracting and Prevailing Wage Benefits*

Prevailing Wage Exemption on Locally Funded Projects: The California Supreme Court has held that locally funded public works projects performed by chartered cities are municipal affairs under the California Constitution, and as a result, the wages paid to workers on charter city projects are not subject to California's prevailing wage law if the projects are solely funded with local City dollars (e.g., General Fund).

Public Contracting Flexibility: Charter cities have more leeway on how public contracts are solicited. This allows a city to tailor its competitive bidding and procurement rules to its local economy and operational needs, rather than rigidly following the state's Public Contract Code, where permitted under charter city authority. Detailed procurement procedures may then be implemented through local ordinances, resolutions, and administrative procedures.

### *Draft Charter for City Council Consideration*

To become a charter city, a majority of Orange voters must approve the charter. However, prior to submitting a proposed charter for voter consideration, two public hearings must be held.

The City held these two public hearings on May 12, 2026, and June 23, 2026. The draft charter presented for the City Council's consideration is a culmination of City Council and public feedback received during both public hearings and includes the following nine articles.

- Article I - Incorporation and Powers (Four Sections)
- Article II - Municipal Affairs and General Laws (Five Sections)
- Article III - Form of Government (Two Sections)
- Article IV - City Council (Four Sections)
- Article V - Term Limits (Four Sections)
- Article VI - Municipal Affairs, Procurement, and Local Control (Seven Sections)
- Article VII - Vacancies in Office (Two Sections)
- Article VIII - Fiscal Responsibility (Five Sections)
- Article IX - Legal Provisions (Five Sections)

As the City discussed the draft charter during the two public hearings, several policy matters were considered. Those specific issues are highlighted in the draft charter attached to this staff report, and the City Council must provide policy direction on these issues before the charter is submitted to the voters.

Provided below is an overview of the highlighted sections including those requiring further City Council direction.

### **Section 204 - Open Space Reserve**

At the June 23, 2026 public hearing, the draft charter included open space preservation language specifically for the Sully-Miller site. The City Council expressed interest in expanding the preservation language to other natural areas of interest. This section was modified to create an Open Space Reserve (OSR). The purpose of the OSR is to ensure the preservation of all significant open lands, parks, hillsides, canyons, creek corridors, wildlife habitat, scenic vistas, equestrian character, trails, and other natural resources. The revised section clarifies these areas must be designated as a part of the OSR by ordinance or resolution. If classified as part of the OSR, the affected properties will be

subject to restricted uses like open space preservation, passive recreation, and park uses.

Once included in the OSR, the subject property cannot be removed without voter approval. If voters approve of a property's removal, the City Council shall replace OSR property.

### **Section 400 - Composition**

Several policy options are available for City Council selection before the draft charter can be submitted to the voters.

Option 1 - Establishes district-based elections in the City Charter while leaving all operational details in the Orange Municipal Code (i.e., established by ordinance).

Option 2 - Authorizes the City Council to determine the method of election by ordinance subject to applicable state and federal law.

Option 3 - Similar to Option 2 in that it allows the City Council to determine the method of election by ordinance. The language in Option 3 is largely organizational, and leaves the details to be further defined by ordinance.

### **Section 403 - Eligibility**

At the June 23, 2026 public hearing, the City Council expressed interest in setting a minimum amount of time that a resident must reside in Orange before they can become an eligible City Council candidate. In researching this matter, court cases have found that residency-requirements exceeding 30 days are unconstitutional. To align with these findings, the proposed eligibility language includes a 30-day Orange residency requirement.

### **Section 503 - Application of Term Limits**

Pursuant to California Government Code Section 36502, the City Council or the residents of a general or charter law City may propose to limit or repeal City Council term limits. However, any proposal to limit the number of terms a member may serve on the City Council must apply prospectively. In consideration of this California Government Code section, the draft language included with Section 503 confirms that the term limits described in Article V shall apply only after the effective date of the charter. In practice, this means that unexpired terms existing after the effective date of the charter shall not apply to the term limits. Only those terms commencing after the effective date of the charter shall apply to the limitations detailed in this article.

### **Section 603 - Protection of Private Property Rights**

The City Council may select between two versions of this section. Option 1 retains language substantially similar to provisions adopted by other California charter cities. Option 2 restates the same policy in a more concise format while clarifying the relationship between the Charter, state and federal law, the City's land use authority, voluntary development agreements, and conflicting provisions of the Orange Municipal Code.

### **Sections 800 through 804 - Fiscal Responsibility**

At the June 23, 2026 public hearing, the City Council expressed interest in adding sections relevant to fiscal responsibility. Where the previous version included four sections focusing on balanced budgets, independent audits, and tax measures, the revised sections include the following:

- Section 800 - Fiscal Policy: Commits the City to operating in a prudent manner that promotes long-term financial sustainability.
- Section 801- Structurally Balanced Budget: Requires the City Council to adopt a budget where recurring operating revenues are sufficient to fund recurring expenditures. The section clarifies that the City may appropriate from dedicated funds for capital improvements, infrastructure, equipment, or other one-time expenditures so long as the City's operating budget remains structurally balanced.
- Section 802 - Independent Audit: Requires that an annual audit be conducted and presented to the City Council.
- Section 803 - Supermajority Vote Required to Submit New Taxes: Requires that three-fourths (as opposed to 2/3) of the City Council must approve submitting a City-sponsored measure to the voters to impose, extend, or increase any local tax.
- Section 804 - Fiscal Priorities for Additional General Fund Revenues: Establishes General Fund spending priorities in the following order:
  1. Reducing unfunded pension and other post-employment benefit liabilities.
  2. Repairing, replacing, and maintaining public infrastructure and capital assets
  3. Reducing outstanding debt and other long-term financial obligations
  4. Replenishing prudent financial reserves; and
  5. Funding one-time capital improvements, equipment, technology, and other non-recurring investments

In considering the County Registrar of Voters deadline to submit the necessary election materials, the City Council must **1)** select a policy option under Sections 400 and 603; and **2)** vote to determine if all remaining sections can proceed to the voters for consideration.

Since this ballot measure does not involve the imposition or extension of a tax, a majority vote of the City Council is required (4/7) to submit the charter ballot question to the voters at the November 3, 2026, election.

## **7. ATTACHMENTS**

- Resolution No. 11707 with attached Exhibit A (Final Draft Charter)
- Resolution No. 11708