

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: SUE GALLAGHER, CITY ATTORNEY
CITY ATTORNEY'S OFFICE
SUBJECT: CHARTER REVIEW – ESTABLISHMENT OF CHARTER REVIEW
COMMITTEE, PROCESS AND ISSUES FOR 2022 CHARTER
REVIEW

AGENDA ACTION: RESOLUTION

RECOMMENDATION

In accordance with Council direction, it is recommended by the City Attorney that the Council, by resolution: 1) direct that a Charter Review Committee be formed, comprised of 21 city residents, with each Council Member appointing three members to the Committee; 2) establish a method for appointment of the Chair of the Committee; 3) direct that the Committee commence its work as soon as feasible; 4) identify topics to be included for the Committee's consideration; and 5) make such other recommendations regarding the Charter review process as the Council deems appropriate.

EXECUTIVE SUMMARY

The City of Santa Rosa is a Charter City formed pursuant to the provisions of the California Constitution. The City's Charter provides the fundamental framework for the City's governance. It is, in essence, the City's "constitution." The City Charter is subject to periodic review for possible revision or refinement. Any proposed amendments to the City Charter are subject to approval by the City's voters.

Section 12 of the City Charter requires review of the Charter not less than every 10 years, with the review to be conducted by a committee to be appointed by the City Council. The last Charter review began in 2011 and resulted in proposed revisions placed on the November 2012 ballot. In accordance with Section 12, the City Council has directed that a new Charter review begin this fall.

On June 8, 2021, and again on August 3, 2021, the Council held study sessions to consider the timing, process and scope of the Charter review. Council gave direction to the City Attorney to move forward with Charter review and asked staff to return to the Council on August 17th for formal action to establish the Charter Review Committee and

to set forth the process and issues for Charter review in accordance with the Council's direction.

BACKGROUND

This Background section will briefly outline (a) the legal significance of a city charter, (b) the current contents of the Santa Rosa City Charter, and (c) the issues addressed in the two most recent past Charter reviews (2002 and 2012). Although this information has been provided in past staff reports, it is included here for those members of the public who may not have had the opportunity to participate in the earlier study sessions.

In the Analysis section that follows below, beginning on page 5, the staff report will outline the direction that has been provided by the Council and highlight the key elements of the proposed resolution. With the adoption of the resolution, the 2022 Charter review process will formally begin.

A. What is a City Charter?

There are two classes of cities under California law – charter cities and general law cities. The City of Santa Rosa is a charter city.

Charter cities derive their powers directly from the California Constitution and enjoy significant autonomy on matters of municipal affairs. The Constitution, Article XI, allows any city to adopt a charter by majority vote of its electors. Once approved by the voters, the charter becomes the city's local "constitution." With a charter in place, the city enjoys "home rule." It has supreme authority over its own municipal affairs and is free to regulate its own governance and operations.

A city charter sets the general framework for the city's governance. The details -- the rules and regulations of daily operations -- are generally set forth in ordinances and resolutions adopted by the city council. Because any revisions to the charter require voter approval, keeping the city charter at this higher level allows the city to more easily respond to changing conditions.

A charter city's local authority, however is not without limits. On matters of statewide or federal concern, the provisions of the local charter, ordinances and resolutions will be preempted and required to give way to state or federal law.

Cities that do not have a voter-approved charter are "general law" cities, governed by the provisions of state law. California's general law cities derive their powers from the general laws enacted by the State legislature and must operate within the parameters of those general laws even with respect to municipal affairs.

As of 2017, California had 481 incorporated cities and towns, 121 of which were charter cities.

B. Key Elements of the Santa Rosa City Charter

The City of Santa Rosa was incorporated in 1867 and adopted its first City Charter soon thereafter. The Charter has been updated periodically over the years, most recently in 2002 and 2012.

The Charter includes 58 sections and addresses a variety of subjects, including the following. The full City Charter is attached as Attachment 1.

- **Establishment of the City:** The Charter sets forth the name, boundaries, powers of the City (Sections 1-3).
- **City Council:** The Charter: (a) establishes a seven member City Council, (b) provides four year terms, (c) authorizes compensation consistent with general law cities, (d) requires regular Council meetings to be held on Tuesdays and at least twice a month, and (e) requires the affirmative vote of four Council members for passage of any ordinance or resolution (Sections 4-7). The Charter also sets forth procedures for filling a Council vacancy (Section 31).
- **Mayor:** The Charter provides that the Mayor and Vice Mayor are selected by vote of the Council, that the Mayor will serve a two year term and the Vice Mayor a one-year term, and it sets forth the roles and responsibilities of both positions (Section 15).
- **Ordinances:** The Charter sets forth the basic procedures for adoption of ordinances, including emergency ordinances (Section 8).
- **Boards and Commissions and Community Engagement:** The Charter contains provisions to bolster city and neighborhood participation in City government and to increase resident participation and diversity in the City's boards and commissions (Sections 10 and 11).
- **City Officers and Employees:** The Charter defines the roles and responsibilities of various City officers, including City Manager, City Attorney, City Clerk, Chief of Police, Chief of the Fire Department, City Engineers, and Chief Financial Officer (Sections 14 -24, and 36-39). The Charter also provides for a strong City Manager model, precluding Council interference with City Manager operations. Council shall address employees appointed by the City Manager only through the City Manager (Section 40).
- **Budget and Finance:** The Charter establishes the fiscal year as July 1 – June 30, provides an outline of the City budget process, limits the use of bond monies, and requires an annual independent financial audit (Sections 13, 27-28 and 48).

- **Utilities:** The Charter establishes the roles and responsibilities of the Board of Public Utilities and authorizes the setting of water and sewer rates and fees (Sections 25-26).
- **Elections:** The Charter sets the timing and procedures for municipal elections, and authorizes local initiatives, referendums and recalls in accordance with state law (Sections 30 and 32).
- **Public Records:** The Charter confirms that the City’s public records are subject to California Public Records Act (Section 34).
- **Procurement and Contracting:** The Charter sets forth basic standards for public works contracting (including emergency contracting), provides basic standards for franchises and authorizes the use of design build procurement by competitive negotiation (Sections 44-46 and 58).
- **Labor and Employees:** The Charter authorizes the Council to adopt personnel rules and regulations, authorizes the Council to include City employees in the Social Security Act and CalPERS or similar retirement system, and provides for binding arbitration for Police and Fire Department employee disputes (Sections 49-50 and 56).
- **Employee Ethics:** The Charter sets forth basic ethical standards for employees, including no gratuities, no conflicts of interest and personal liability for payment of any illegal claims (Sections 41-43).
- **Campaign Finance Reform:** The Charter provides for campaign finance reform measures to reduce the cost of Council election campaigns and increase the accessibility of Council candidates to the electorate (Section 57).

In addition to these specifics, Section 51 of the Charter acknowledges the City’s intent to exercise the authority granted by the California Constitution, giving the City Council broad authorization to adopt ordinances in relation to municipal affairs and providing that such ordinances will control over the general laws of the state. Section 51 provides that general laws of the state will govern, but *only* to the extent that those general laws are not in conflict with the Charter or the ordinances and resolutions adopted by the Council. The provisions of Section 51 allow state law to fill in the gaps, while retaining maximum City control.

C. Recent Charter Amendments

To further set the stage for this year’s Charter review, it is also helpful to briefly note the revisions proposed in the two most recent past Charter reviews, those undertaken in 2002 and 2012. In each of these recent reviews, the review was administered and

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overseen by a Charter Review Committee comprised of 21 members appointed by the City Council. Each review resulted in ballot measures as follows:

Charter Review 2012: Four ballot measures – Three passed

- Measure Q: District Council Member Elections. Failed
- Measure R: Binding Arbitration for Police and Fire Department employee disputes. Passed – Added as a new Charter Section 56
- Measure S: Design Build Procurement. Passed – Added as a new Charter Section 58
- Measure T: Reorganization, update and clarification of certain Charter provisions, including amendments to encourage diversity in Charter Review Committee, amendments to refine provisions for Council vacancies, revision to the date of the budget public hearing and others. Passed – Incorporated by amendments to various Charter Sections

Charter Review 2002: Three ballot measures – Two passed

- Measure L: Combined Charter Amendments, including establishment of a District Commission, additional provisions for community participation, revised provisions for Charter review, deletion of provision for City health officer, revisions to budget process, and other miscellaneous amendments. Passed – Incorporated by amendments to various Charter Sections
- Measure M: Council Compensation. Failed
- Measure O: Campaign Finance Reform. Passed – Added as a new Charter Section 57

ANALYSIS

A. 2022 Charter Review

At its study sessions on June 8th and August 3rd, the City Council gave direction on the timing, process and scope of the 2021-2022 Charter Review. The attached resolution reflects the Council's direction and provides as follows:

- Charter Review Committee: The Charter review will be undertaken by a Charter Review Committee comprised of 21 residents of the City. Each Council member

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will appoint three Committee members. The Council expressed its strong interest in a Committee membership that includes a variety of ages, races, ethnicity, gender, geography, interests and backgrounds. Applications for membership of the Committee may be filed on-line or in the Office of the City Clerk.

- Charter Review Committee Chair: A majority of the Council directed that the Mayor appoint the Chair of the Committee, subject to approval by the full Council.
- Timing: Council directed that the review begin this fall and supported a September start date. The proposed resolution provides for a start date in September “or as soon as feasible” to give some flexibility for logistics.
- Topics for Consideration: Council identified several issues for consideration by the Charter Review Committee, as listed below. The Council also continues to encourage input from the broader community as well as recommendations from those who work most closely with the current Charter, including City employees, unions and department heads.

The Charter Review Committee will ultimately determine the issues to be considered for Charter amendment. The Council members recommended consideration of the following:

- A restructuring of the Council to provide for six district-based Council members and an at-large Mayor elected by the city as a whole
- Ranked choice voting for Council member elections
- Independent police auditor and/or a citizen oversight commission
- Council compensation
- Climate change
- Diversity, equity and inclusion
- Taxation
- Regulation of rental properties
- Procurement policy reforms
- Board and Commission quorums

- Removal of Mayor or Council members for misconduct

Prioritization of issues is left in the good hands of the Charter Review Committee. The Council recommended that the City consider undertaking polling to assist in that prioritization.

B. Critical Logistics

The Charter Review Committee will be a working group, actively engaged in researching, drafting and evaluating potential Charter amendments. The extent of the Committee's work will depend upon the number and nature of proposals to be explored. The Committee will be staffed and supported by the Office of the City Attorney and other Departmental staff.

The Committee's work may result in proposals for revisions, additions or deletions to the existing City Charter. Any proposed Charter amendments will be brought to the Council for approval and, if approved by the Council, will be placed on the November 2022 ballot for voter consideration. Pursuant to the California Elections Code, August 12, 2022 is the final date for Council approval of ballot measures for the November 2022 election.

The Sonoma County Registrar of Voters estimates that the cost of a ballot measure placed on the November 2022 ballot will be between \$175,883 and \$410,393. Each additional measure would be an estimated \$56,628.

FISCAL IMPACT

The 2021-2022 budget includes \$100,000 for support of the Charter review process. No additional fiscal impact is anticipated this fiscal year. The number and cost of any future ballot measures is uncertain at this time.

ENVIRONMENTAL IMPACT

The proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Sections 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment, and that no further environmental review is required.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

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NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – City Charter
- Resolution / Exhibit A – Charter Committee Items to Review

CONTACT

Sue Gallagher, City Attorney, sgallagher@srcity.org