



Charter Review Ad Hoc Committee Updates



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City Manager's Office
April 5, 2022

Background



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- In December 2021, Mayor Sarmiento established the 2022 Charter Review Ad Hoc Committee (composed of Councilmembers Mendoza, Penaloza, and Phan).
 - In addition to reviewing the 17 proposed Charter amendments from the 2020 Ad Hoc Committee, the 2022 Charter Review Ad Hoc Committee members will be examining the following topics:
 - (1) a proposal to prohibit the use of all fireworks
 - (2) current City Council policy matters



Initial Recommendations



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- Three sets of recommendations:
 - **Reconsider 16 of 17 Charter amendments from 2020 Ad Hoc Committee (today's discussion)**
 - Prohibition on the use of fireworks (to be discussed at a future meeting)
 - Any new City Council policy matters (to be discussed at a future meeting)



Timeline



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By No Later Than the June 7, 2022 Meeting

- Adopt a resolution calling for the placement of a ballot measure regarding proposed Charter amendment(s).
- Request that the Orange County Board of Supervisors consolidate with the Statewide General Election.
- Authorize the filing of direct arguments and rebuttals designating up to five Councilmembers to author an Argument and Rebuttal statement.
- Direct the City Attorney to prepare an impartial analysis.
- Direct the Clerk of the Council to publish legal notices as required by law.



Options



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1. Concur with the 2022 Ad Hoc Committee regarding the proposed Charter amendments 1 through 16.
 2. Review the proposed Charter amendments 1 through 16 and direct staff to prepare revised proposed Charter amendments 1 through 16 as discussed.
 3. Direct City Attorney and Clerk of the Council to prepare necessary documents to place any of the proposed Charter amendments on the ballot for November 8, 2022 election.





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Proposed Charter Amendments



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Charter Amendment #1

- **Section 400:** Number, Selection and Term of Members
- **Purpose/Reason for Amendment:** Clarifies when new councilmembers are sworn in



Sec. 400. - Number, selection and terms of members.

The City Council shall consist of seven (7) members elected at the times and in the manner provided in this charter, each of whom, except for the mayor, shall serve a term of four (4) years. The term of each member shall begin at 6:00 p.m. on the first regularly scheduled meeting or at a special meeting ~~second Tuesday of December~~ following certification of election results, and each shall serve except as otherwise provided for in this charter, until the member's ~~his or her~~ successor is elected and qualified. Each office of councilmember shall be a separate office and, except for the mayor, one (1) of such offices shall be assigned to each of the wards of the City. Councilmembers shall be residents of their respective wards, and nominated and elected only by the voters of their respective wards. The Mayor shall be elected from the City at large. |



Charter Amendment #2

- **Section 404: Presiding Officer, Mayor**
- **Purpose/Reason for Amendment:**
Moves term limit provisions from this section to Section 401.01 (new)



Sec. 404. - Presiding officer, mayor.

The mayor shall be a member of the City Council and shall preside over the meetings of the City Council. The mayor shall have voice and vote in all of the City Council's proceedings and shall be recognized as head of the City government for all ceremonial purposes. The mayor shall have no administrative duties but shall perform such other duties as may be prescribed by this charter, or imposed by the City Council, consistent with his office.

The mayor shall be elected by the voters of the City at large at each general municipal election in November of even-numbered years for a two-year term commencing on the same date as the terms of other council members elected in such year. No person may be a candidate for mayor and a candidate for any other office on the City Council in the same election. In the event an incumbent City Council member other than the mayor is elected mayor such other office shall become vacant at the time he or she assumes office as mayor and the City Council shall call a special election to fill the vacancy.

To be eligible to be elected to the office of mayor a person must be a qualified voter as provided for in the Elections Code of the State of California. If the mayor is convicted of a crime involving moral turpitude, the office shall immediately become vacant and be so declared by the city council.

~~RECOMMEND: moving to separate section entitled "Term Limits." A person who has served four (4) consecutive terms of two (2) years each, commencing with the term entered as a result of the November 2012 election, shall be eligible for appointment, nomination for or election to the office of mayor no sooner than for a term beginning eight (8) years after completion of the mayor's fourth consecutive full term. This eight year "cooling off" period shall not apply to eligibility for appointment, nomination for or election to a council member office; provided, however, that any person who has served twenty (20) consecutive years in office, as both a council member and mayor, regardless of the order in which they served, shall not be eligible for appointment, nomination or election as a council member or as mayor, no sooner than for a term beginning eight (8) years after completion of the council member or mayoral term.~~

~~Short or partial terms shall not be considered in determining eligibility for appointment nomination or election as mayor. For purposes of this Charter, short or partial terms shall only be those where the mayor was elected or appointed to replace another mayor who left office before the latter official's term expired. Any mayor who assumed office at the beginning of a term and left office early or before term expires for any reason whatsoever shall be deemed to have served a full term. The provisions of this section related to short or partial terms is deemed to be declaratory of existing law.~~



Charter Amendment #3

- **Section 401.05 : Code of Ethics and Conduct**
- **Purpose/Reason for Amendment:** Clarifies the applicability of the Code of Ethics and Conduct to include, in addition to elected officials (city council, board and commission members), the following:
 - Appointed officials (City Attorney, City Manager, Clerk of Council)
 - Executive Management Team (Police Chief and directors of all City departments)



Sec. 401.05. - Code of ethics and conduct.

The City of Santa Ana shall adopt a Code of Ethics and Conduct for elected officials, the City Attorney, the City Manager, the Clerk of Council, the Police Chief, directors of all City departments, and members of appointed boards, commissions, and committees to assure public confidence in the integrity of local government elected and appointed officials. The City Council shall periodically review ~~adopt~~ the Code of Ethics and Conduct and make any amendments by ordinance or resolution ~~within six months of the effective date of this Charter section.~~

Any person alleging a violation of the Code of Ethics and Conduct by the Police Chief or department director shall provide a written document to the City Manager with their name and contact information and a brief description of the alleged violation. The City Manager shall review and respond to the complaint in writing and report to the City Council every thirty (30) days of the status of the review.

Any person alleging a violation of the Code of Ethics and Conduct by any member of the City Council, the City Manager, the City Attorney, the Clerk of Council, or members of appointed boards, commissions, and committees shall provide a written document to all members of the City Council with their name and contact information and a brief description of the alleged violation. The City Council shall refer the complaint to an ad hoc committee of the Council for review. The Council ad hoc committee may then make a recommendation to the full City Council for further review, investigation or action. When a review or investigation is completed, the City Council may impose sanctions which may include, a reprimand, formal censure or loss of committee assignments or in the case of members of boards, commissions or committees, removal from the board, commission, or committee. A complaint concerning an alleged violation by one of the Council's appointed employees shall be handled as a personnel matter.



Charter Amendment #4

- **Section 405: Mayor Pro Tem**
- **Purpose/Reason for Amendment:** Clarifies when the selection of the mayor pro tem shall occur



Sec. 405. - Mayor pro tem.

~~Each calendar year, at the in the first meeting in January, of the City Council following any general or special election at which members of the City Council are elected,~~ the City Council shall elect a mayor pro tem who shall act as mayor during the absence from the City or disability of the mayor, or during any vacancy in the office of mayor until otherwise filled in accordance with section 403. ~~All members of the City Council, other than the mayor, shall be eligible to serve as mayor pro tem regardless of their seniority or whether they previously served a term or terms as mayor pro tem. The mayor pro tem from the previous year cannot be selected as mayor pro tem the next year. The mayor pro tem shall serve at the will and pleasure of the Council and may be replaced by four affirmative votes of the Council.~~



Charter Amendment #5

- **Section 406: Council Judge of Elections and Qualifications of Members**
- **Purpose/Reason for Amendment: Adds “or at a special meeting”**



Sec. 406. - Council judge of elections and qualifications of members.

The City Council shall be the judge of the election and qualifications of its member(s) as defined in section 401 of this charter and shall meet on the first regularly scheduled meeting or at a special meeting after election returns are certified for any municipal election at which members of the City Council are elected, declare the results thereof, and install elected members, if any.



Charter Amendment #6

- **Section 413: Adoption (Ordinances)**
- **Purpose/Reason for Amendment:**
Adds “resolutions” to title; clarifies effective date and who can sign, and provides that ordinances amended after the first reading must be re-introduced to be consistent with state law



Sec. 413. - Adoption (resolutions and ordinances).

Every ordinance shall be introduced in writing. A copy of each ordinance and written resolution shall be available in the council's chambers for public inspection during any council meeting at which the same is to be passed or adopted. No ordinance shall be passed finally on the day it is introduced, except for emergency ordinances as hereinafter defined in [Section 415](#), nor within six (6) days thereafter, nor at any time other than at a regular or adjourned regular meeting. A proposed ordinance may not be amended or modified between the time of its first reading introduction and the time of its second reading final passage, except for clerical errors or corrections as discussed by the Council providing its general scope and original purpose are retained. The rights and powers conferred on the City Council shall be exercised by ordinance, resolution or motion as may be prescribed by the Constitution or Laws of the State of California, and the provisions of this Charter; provided, that each act of the City Council establishing a fine or other penalty or granting a franchise shall be by ordinance.

No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting, except when a state of emergency has been declared or at an emergency meeting properly convened.

All ordinances and written resolutions shall be signed by the mayor and attested by the Clerk of the Council as soon as possible, but no later than 72 hours from its adoption by the Council If the mayor is not available or does not sign an ordinance or resolution, the Clerk of Council shall first ask the mayor pro tem to sign and then any Councilmember who voted to approve the ordinance or resolution.



Charter Amendment #7

- **Section 613: Claims—Formalities; Treasury Warrants**
- **Purpose/Reason for Amendment:**
Staff recommends revising this section to streamline the process for paying invoices. The prescribed process in the Charter is outdated.



Sec. 613. - Claims—Formalities; treasury payment warrants.

Any claim against the City shall be in writing and may be in the form of a bill, invoice, payroll, or formal demand. The director of finance, with approval of the City Manager, may prescribe the form at, or forms, on in which claims against the City shall be presented. ~~to him~~. Each such claim shall be presented to the ~~director of finance~~ department. The director of finance shall prescribe internal controls for examination and audit of each claim, who shall examine and audit it. If the claim is correct in all respects, has not previously been paid nor certified for payment, is provided for by an appropriation or legally enforceable court or administrative order for the purpose or object that gave rise to it, and if sufficient funds for the payment thereof remain unencumbered in such appropriation if applicable, and if the claim is otherwise legally due and payable, the director of finance ~~shall so certify on the original form evidencing the claim and~~ shall authorize payment from ~~draw his warrant on~~ the treasury, and against the proper fund, for the payment thereof.

All claims certified for payment by the director of finance, and payments warrants drawn by ~~the finance director him~~ for the payment thereof, shall be transmitted by ~~the finance director him~~ to the City Manager together with a list of such payments warrants payable from each fund, showing for each ~~payment warrant~~ the number, date, and amount of the payment warrant and the name of the payee. The City Manager may approve or disallow any of the claims so certified for payment. Any person dissatisfied with the refusal of the director of finance and/or the City Manager to approve any claim, in whole or in part, may present such claim to the City Council. The City Council, after examination into the matter, may approve or disapprove the claim in whole or in part, and, if properly payable under an existing appropriation, may order the director of finance to make payment of the claim or portion thereof ~~draw his warrant on the treasury in payment thereof~~. For any such claim for which no provision, by way of appropriation, exists, but which is approved for payment by the City Council, appropriation by the City Council shall be made therefor before the director of finance is ordered to make payment ~~draw his warrant in payment~~ thereof.

Payment due ~~Warrants~~ on the City treasury which are not paid for lack of funds shall be registered. All registered payments warrants shall be paid in the order of their registration when funds therefor are available and shall bear interest from date of registration at such rate as shall be fixed by the City Council by resolution.



Charter Amendment #8

- **Section 1000: Civil Service System**
- **Purpose/Reason for Amendment:** Revises equal opportunity provisions; adds “with concurrence of the City Council” relating to any recommendations for changes to the civil service rules by the Personnel Board



Sec. 1000. - Civil service system.

A civil service system shall be as follows in addition to necessary rules of implementation to be established by ordinance: and as may be recommended by the personnel board:

- (a) That the most qualified and competent employees shall be appointed and promoted, based upon fair and equitable competition for the positions to ensure the highest quality City government.
- (b) That no political or other outside influences shall affect appointments or promotions.
- (c) That there shall be equal opportunity for all persons regardless of ~~membership in a protected class as specified in state or federal law. -age, sex, race, religion, creed, marital status, physical handicap, or national origin.~~
- (d) That there is equitable treatment of all civil service employees in matters of discipline, layoff or dismissal from the City service.

The system should be established in such a manner to ensure the accomplishment of the foregoing standards in appointments, promotions, discipline, layoffs or dismissals of civil service employees.

The civil service rules and regulations shall provide for such matters as the City Council and the personnel board, ~~with the concurrence of the City Council,~~ may deem necessary, proper or expedient to carry out the intent and purpose of the civil service provisions of this charter. These rules and regulations shall provide:

- (a) Preference for veterans for appointment to civil service positions consistent with the principle of merit.
- (b) Vacancies in positions of the higher classes in the civil service of the City shall be filled with preference to employees occupying positions of lower classes having duties and responsibilities which can reasonably be considered as affording training and experience for the performance of the duties of the higher class.
- (c) That persons achieving eligibility for a position in the civil service shall retain that eligible status for a time sufficient to offer an opportunity to be appointed to a position in the civil service.



Charter Amendment #9

- **Section 1002: Civil Service and Excepted Service**
- **Purpose/Reason for Amendment:**
Administrative clean-up; revisions to ensure compliance with CalPERS rules and other applicable laws and regulations



Sec. 1002. - Civil service and excepted service.

The civil service system of the City shall cover all employees of the City not excepted by this section.

- (a) The excepted service shall comprise the following offices and positions:
 - (1) The individual offices held by all elective officers;
 - (2) The City Manager and ~~the City Manager's~~ his assistants, if any;
 - (3) The City Attorney and ~~the City Attorney's~~ his legal assistants, if any;
 - (4) The Clerk of the Council; ~~(5) The director of finance;~~
 - ~~(6) The director of personnel, if any;~~
 - (57) The head of each department of the City as specified by ordinance or resolution not otherwise specified herein, and the chief administrative officer of the community redevelopment agency of the City of Santa Ana, and of the housing authority of the City of Santa Ana, but not including the police chief or the fire chief;
 - (68) One private secretary to the City Manager;
 - (79) All members of boards and commissions;
 - (84) Positions occupied by persons employed to render professional, scientific, technical, or expert service of an occasional and exceptional nature;
 - (94) Positions in any class or grade created for a special or temporary purpose; ~~and which are to exist for a period of not longer than ninety (90) days;~~
 - ~~(12) Positions of any class or grade exempted from the civil service for a maximum of six (6) months in any calendar year provided that the personnel board upon application of the City Manager and after public notice and hearings recommends to the City Council such exemption and the City Council grants such exemption by motion adopted by two thirds (2/3) of its members. Any such exemption shall not affect the tenure of any person whose appointment has become final under civil service;~~
 - (103) Part-time positions or employments; ~~requiring less than twenty (20) regular hours of employment per week;~~
 - ~~(14) School crossing guards;~~
 - (115) All positions occupied by persons employed to replace employees ordered to active duty, enlisted, or drafted for military service during a

national emergency or when this country has declared war and until the expiration of the time when such replaced employee could demand his former position of employment under federal or state statutes.

- (b) The civil service shall comprise all positions not specifically included by this section in the excepted service.

- (c) In the event an officer or employee of the City holding a position in the civil service is appointed to a position in the excepted service and should subsequently be removed therefrom within twelve (12) months of the employee's appointment to the excepted service, the employee shall revert to the employee's his former position in the civil service without loss of any rights or privileges and upon the same terms and conditions as if the employee had remained in said position continuously.



Charter Amendment #10

- **Section 1010: Prohibitions**
- **Purpose/Reason for Amendment:** Updates anti-discrimination provision and adds a provision requiring that the City Council adopt an anti-nepotism policy



Sec. 1010. - Prohibitions.

- (a) No officer or employee of the City shall in any way favor or discriminate against any employee of the City or any applicant for employment with the City because of the employee's his or her race, age, color, religion, sex or national origin. Membership in a protected class under state or federal law.
- (b) No officer or employee of the City shall engage in any political activities in violation of Chapter 9.5 of Division 4 of Title 1 of the California Government Code (commencing with Section 3201) as the same exists on the date of adoption of this section or as the same may be thereafter amended, or in violation of any other provisions of applicable law.
- (c) No officer or employee of the City and no candidate for any City office shall, directly or indirectly, solicit any assessment, subscription, or contribution, whether voluntary or involuntary, for any political candidate, for Santa Ana municipal office from anyone on an eligible list, or, with the exception of elective officers and members of appointive boards and commissions, anyone holding a position in the service of the City.
- (d) No person shall willfully or through culpable negligence make any false statement, certificate, mark, rating, or report in regard to any application, test certification, or appointment held or made under the provisions of this article or in any manner commit or attempt any fraud preventing the impartial execution of such provisions of this article or of the rules and regulations made hereunder.
- (e) No officer or employee shall use nepotism in contracting, hiring, promotion, discipline or any other employment decision. The City Council shall adopt an anti-nepotism policy.



Charter Amendment #11

- **Section 1011:** Contract for Performance of Administrative Functions
- **Purpose/Reason for Amendment:** Changes “personnel” to “human resources”



Sec. 1011. - Contract for performance of administrative functions.

The City Council, upon recommendation of the City Manager, may contract with the governing body of any other City or of any county within this state, or with any state department or other state agency for the preparing or conducting of competitive examinations for positions in the service of the City or for the performance of any other human resources ~~personnel~~ administration service.



Charter Amendment #12

- **Section 1014: Work Stoppages**
- **Purpose/Reason for Amendment:**
Removes this section in its entirety to comply with State law



Sec. 1014. -- Reserved. ~~Work stoppages.~~

~~Any officer or employee of the City who engages in any strike, sickout, or other partial or total stoppage of work shall be summarily subject to suspension, demotion or dismissal by the appointing authority without right of appeal to the personnel board.~~



Charter Amendment #13

- **Section 1208: Enforcement**
- **Purpose/Reason for Amendment:**
Allows that the City to contract with a State or County entity to enforce the campaign contribution provisions of the Charter



Sec. 1208. - Enforcement.

-(a) Any person who knowingly or willfully violates sections [1206](#) or [1207](#) of this charter is guilty of a misdemeanor.

(b) Any resident of the City may bring an action, at a time during an election period or thereafter, in a court of competent jurisdiction to enjoin actual or threatened violations of, or to compel compliance with, or to obtain a judicial declaration regarding compliance with, [section 1206](#), [1206.01](#) or [1207](#).

(c) The City Attorney may maintain, in the name of the City, or a resident of the City may maintain, in his or her own name, a civil action to recover from a candidate or a committee controlled by a candidate any contributions received by such candidate or committee in excess of the contribution limitations established by [section 1206](#). Any money recovered in any such action shall be deposited in the City's general fund.

(d) The City may contract with a State or County entity to enforce the provisions of this Section.



Charter Amendment #14

- **Section 1400: Employees' Retirement System**
- **Purpose/Reason for Amendment:**
Revisions to be consistent with revisions in Section 1002 (Civil Service and Excepted Service)



Sec. 1400. - Employees' retirement system.

(a) *Duty to provide retirement system.* Except as hereinafter otherwise provided, the council shall provide, by ordinance or ordinances, for the creation, establishment and maintenance of a retirement plan or plans for all officers and employees of the City. Such plan or plans need not be the same for all officers and employees. Subject to other provisions of this article, the council may at any time, or from time to time, amend or otherwise change any retirement plan or plans or adopt or establish a new or different plan or plans for all or any officers or employees.

(b) *Authority to join other systems.* Subject to other provisions of this article, the City, by and through its council, is hereby empowered, but not required, to join or continue as a contracting agency in any retirement or pension system or systems existing or hereafter created under the laws of the State of California or of the United States of America to which municipalities and municipal officers or employees are eligible for membership.

(c) *Continuance of existing retirement system.* Until otherwise provided by ordinance, the City shall continue to participate in the Public Employees' Retirement System of the State of California, as the same now exists or may hereafter be amended. The City Council may not terminate any such contract with the Public Employees' Retirement System of the State of California, and may not amend any such contract in a manner which would decrease or eliminate any benefit accruing to persons employed by the City at the time of such contract termination or amendment, unless such amendment shall substitute a retirement system or systems providing equal or greater benefits for said persons.

(d) *Exclusions.* The council in its discretion may exclude all or any of the following persons from any or all retirement plans, to wit:

Persons mentioned in subsections (a)(1), (5)-(10)(b) of Charter Section 1002. ~~[(a)(1), (6), (7), (8), (9), (10), (11) and (13) of section 1002 of this charter;~~

Persons in City service primarily for training, study or educational purposes;

Persons employed or paid on a part-time, per diem, per hour or any basis other than a monthly basis.



Charter Amendment #15

- **Sections:** [various]
- **Purpose/Reason for Amendment:** Replaces gender-specific language with gender-neutral language



Charter Amendment #16

- **Sections:** [various]
- **Purpose/Reason for Amendment:** Replaces "clerk of the council" with "city clerk"

