

An aerial night view of a city skyline, likely San Francisco, with numerous skyscrapers and residential areas illuminated. A dark, semi-transparent rectangular overlay covers the lower right portion of the image, containing the title text.

# CHARTER CITIES

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AS COMPARED TO GENERAL LAW CITIES



# INTRODUCTION

- A city may be organized by:
  - the **general laws** of the state
  - OR
  - under a **charter** adopted by local voters (Cal. Gov't Code 34100)
- CA Constitution Article XI, Section 5(a) grants charter cities the power to make and enforce all ordinances and resolutions **concerning municipal affairs** (also known as the “home rule” provision)
- A charter city is subject to the same state laws as general law cities on matters of statewide concern
  - Statewide concerns take precedence** over any local charter provisions



# HOME RULE PROVISION

- Charter city provision of the state Constitution based on principle that **a city will know what it needs and how to satisfy those needs** better than the state
- Allows charter cities to conduct their own business and control their own affairs for **maximum local control**
- Allows cities to adopt a charter and ordinances to replace state laws regarding municipal affairs

These municipal affairs must adhere to any limitations within the charter

- Always subject to the US and CA Constitution, federal laws, and state laws of statewide concern
  - Areas of statewide concern may include traffic and vehicle regulation, tort claims, Brown Act, CEQA and CVRA

# WHAT IS A GENERAL LAW CITY?

- Bound by the state's general law and follows laws beginning with Gov. Code 34000
- May act locally but its acts must be consistent with the CA Constitution, state statutes, and state administrative regulations





# WHAT IS A CHARTER CITY?

- City bound by a written charter document. Charter can be short single issue charter or lengthy multi-issue charter
- Not required to address every issue
- Defines duties of city council and city management
- Additional authority to adopt laws regarding “municipal affairs” that are inconsistent with state statutes.
- Voter approval required for all drafts, ratifications, and amendments

# “MUNICIPAL AFFAIRS”

- Municipal affairs are unaffected by general laws passed by statewide legislature
- “Municipal affairs” is somewhat vague concept that changes over time
- CA Constitution discusses **four core categories of municipal affairs**:
  1. Regulation of the “city police force”
  2. Subgovernment in all or part of a city
  3. “conduct of city elections”
  4. “manner in which... municipal officers [are] elected”
- The courts determine if there is a need for “paramount state control”

ELECTIONS

TAX DOLLAR  
SPENDING

EMPLOYMENT AND  
COMPENSATION

PLANNING AND  
LAND USE

PUBLIC CONTRACTS

PREVAILING WAGES

# HOW DO THE COURTS DECIDE?

➤ Courts decide what is a municipal affair on a **case-by-case basis**

CONSISTENLY DEEMED MUNICIPAL AFFAIRS	CONSISTENLY DEEMED STATEWIDE CONCERN
<ul style="list-style-type: none"><li>• municipal election matters</li><li>• procedures for adopting ordinances</li><li>• compensation of city officers and employees</li><li>• processes associated with city contracts</li><li>• making charitable gifts of public funds for public purposes</li><li>• term limits for council members</li><li>• land use and zoning decisions</li></ul>	<ul style="list-style-type: none"><li>• traffic and vehicle regulation</li><li>• licensing of members of a trade or profession</li><li>• tort claims against a governmental entity</li><li>• open and public meetings</li><li>• exercise of the power of eminent domain</li></ul>



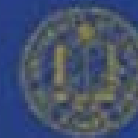
# CHARTER DOCUMENT

- Similar to a Constitution for the city adopting it
- Transfers the power to adopt legislation affecting municipal affairs from the state legislature and instead to the city adopting it
- Still subject to general laws that are not municipal in nature
- Common areas that are usually found in a charter:
  - ✓ Conduct of city elections
  - ✓ Procedures for municipal officials
  - ✓ Budget adoption
  - ✓ Form of government
  - ✓ Constitution, regulation, and government of the local police force

## Charter of the city of Bakersfield, state of California

Ratified and approved January 23, 1915  
by Assembly concurrent resolution no. 3

Bakersfield (Calif.). Charters.



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# CHARTER CITIES

## PROS

- Has supreme authority under municipal affairs; charter city law trumps state law
- Can adopt procedures for municipal affairs
- More flexibility in elections
- More local control

## CONS

- Transition period
- Legal challenges
- Limited case law
- Charter amendments require vote
- Municipal affairs may erode over time due to state legislation and subsequent judicial review
- Charter cities have not been spared State revenue takeaways

# KEY DIFFERENCES

Characteristic	General Law	Charter City
Governing municipal affairs	<ul style="list-style-type: none"> <li>Bound by the state's general law</li> </ul>	<ul style="list-style-type: none"> <li>Authority over municipal affairs (Cal. Const. art XI 5(b))</li> </ul>
Form of government	<ul style="list-style-type: none"> <li>State law describes the city's form of government</li> </ul>	<ul style="list-style-type: none"> <li>Charter describes the city's form of government</li> </ul>
Elections	<ul style="list-style-type: none"> <li>Bound by CA Elections Code Cal. Elec. Code 10101 <i>et seq.</i></li> </ul>	<ul style="list-style-type: none"> <li>Can establish own dates, rules, and procedures for local elections</li> </ul>
City Council Member Qualifications	<ul style="list-style-type: none"> <li>Minimum qualifications established by Cal. Elec. Code 321; Cal Gov't Code 34882, 36502; 87 Cal. Op. Att'y Gen 30 (2004)</li> </ul>	<ul style="list-style-type: none"> <li>May establish own criteria but often similar to gen law cities</li> </ul>
Public Fund Use in Elections	<ul style="list-style-type: none"> <li>Public officers may not expend money and no candidate shall accept public money (Cal Gov't Code 85300)</li> </ul>	<ul style="list-style-type: none"> <li>May utilize public funding of election campaign (Johnson v. Bradley, 4<sup>th</sup> Cal. 4<sup>th</sup> 389 (1992))</li> </ul>
Council Member Compensation and Expense Reimbursement	<ul style="list-style-type: none"> <li>Salary ceiling set by city population</li> <li>Salary increases set by state law</li> </ul>	<ul style="list-style-type: none"> <li>May establish council members' salaries</li> </ul>




# KEY DIFFERENCES

Characteristic	General Law City	Charter City
Legislative Authority	<ul style="list-style-type: none"><li>• Ordinances cannot be passed within 5 days of introduction (Cal Gov't Code 36934)</li><li>• Ordinances can only be passed at a regular meeting</li></ul>	<ul style="list-style-type: none"><li>• May establish procedures for enacting local ordinances</li></ul>
Quorum and Voting Requirements	<ul style="list-style-type: none"><li>• Majority of the city council constitutes a quorum for transaction of business (Cal Gov't Code 36810)</li></ul>	<ul style="list-style-type: none"><li>• May establish own procedures and quorum requirements.</li></ul>
Public Contracts	<ul style="list-style-type: none"><li>• Competitive bidding required for public works contracts over \$5,000 (Cal. Pub. Cont. Code 20162)</li></ul>	<ul style="list-style-type: none"><li>• Not required to comply with bidding statutes provided the city charter or ordinance exempts the city from such statutes</li></ul>
Payment of Prevailing Wages	<ul style="list-style-type: none"><li>• Must be paid on public works projects over \$1,000 (Cal. Lab. Code 1771)</li></ul>	<ul style="list-style-type: none"><li>• Not bound by state law prevailing-wage requirements if the project is a municipal affair that is not funded by state or federal grants. But required to receive certain state funds. (SB 7)</li></ul>

# KEY DIFFERENCES

Characteristic	General Law City	Charter City
Penalties and Cost Recovery	<ul style="list-style-type: none"><li>Can impose fines, penalties and forfeitures with a fine not exceeding \$1,000 (Cal. Gov't Code 36901)</li></ul>	<ul style="list-style-type: none"><li>Enact ordinances providing for various penalties within charter limitations. May not exceed constitutional prohibition on excessive fines</li></ul>
Zoning	<ul style="list-style-type: none"><li>Must be consistent with general plan (Cal. Gov't Code 65860)</li></ul>	<ul style="list-style-type: none"><li>Not required to be consistent with general plan unless consistency requirement adopted by charter (Cal. Gov't Code 65803)</li></ul>





# PROCESS OF BECOMING A CHARTER CITY

- A city can adopt a charter using one of two methods:

city's voters elect a 15 member **charter commission** who drafts and debates the charter. Charter commission acts independently of Council

OR

the **Council or an advisory committee** drafts the charter with Council maintaining control over final version of charter

- A majority vote is needed to adopt the charter



# PROCESS CONTINUED...

## City Council/Statutory Process

- Complete **draft** of charter
- Hold **two public hearings** each 30 days apart with 21 days' notice of hearings
- Put **charter on ballot** at least 21 days after second public hearing





# GOVERNING BOARD

➤ After an election approving a charter:

➤ Charter must be filed and accepted by:

County Recorder's office

City's archive

Secretary of the State

Any amendments to charter must be approved by the voters



QUESTIONS?