



City Council Agenda Report

Meeting Date: January 14, 2025

Prepared By: Jolie Houston
& Nick Zornes

Approved By: Gabe Engeland

Subject: Charter City and City Council Term Limit Considerations

COUNCIL PRIORITY AREA

- Business Communities
- Circulation Safety and Efficiency
- Environmental Sustainability
- Housing
- Neighborhood Safety Infrastructure
- General Government

RECOMMENDATION

Provide direction on process and next steps regarding consideration of becoming a Charter City and City Council term limits.

FISCAL IMPACT

No fiscal impact has been incurred in the preparation of this agenda item. If a ballot initiative were to be placed on the November 2026 ballot additional costs will be incurred by the City. Exact costs are not provided by the County elections office. The City Council may also consider retaining a firm to poll for this and other potential ballot measures, at a cost to be determined.

ENVIRONMENTAL REVIEW

This action is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378 and 15061(b)(3) as it pertains to organizational structure change that will not result in any direct or indirect physical change in the environment.

PREVIOUS COUNCIL CONSIDERATION

On October 22, 2024, the City Council requested future agenda items for discussion regarding City Council term limits, and consideration of becoming a Charter City.

CHARTER CITY BACKGROUND

Cities generally obtain their authority from the California Constitution, which provides that "a city may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws." This is commonly known as the "police power." A city's police power may be preempted by federal or state laws.

There are two types of cities in California: general law cities and charter cities. General law must comply with the constitution and all state laws. A charter city's authority comes from the constitution; however, this authority is also limited by the charter itself and may only extend to matters concerning municipal affairs. A charter is a voter approved document and may only be amended by voter approval.

The City of Los Altos is currently a general law city subject to State restrictions even in municipal affairs. In recent times, the City of Los Altos has wanted to pursue certain initiatives that are only available to charter cities. Most recently, residents and the City Council have expressed a desire to examine other types of voting systems (such as Rank Choice Voting) currently not available to general law cities, other local election regulations, or other key benefits afforded to charter cities.

CITY COUNCIL TERM LIMITS BACKGROUND

The Los Altos Municipal Code (LAMC) of the City of Los Altos (“City”) limits Councilmembers from serving more than two consecutive terms. However, the LAMC does not prohibit a City Councilmember from taking a “break in service” and then being elected to the Council if he or she desires. This is supported by Measure G, adopted by the voters on November 2, 1999, as well as prior City ordinances. City Council Term Limits can be taken up as a separate topic as it was previously done in prior actions, or it can be included within a charter city ballot measure.

Voter Approved 1999 – Measure G. On November 2, 1999, Measure G was adopted by the voters and approved Ordinance No. 99-370 (Attachment #2). Ordinance No. 99-370 was adopted on June 8, 1999. It was to apply to persons elected to the City Council or appointed thereto on November 2, 1999, and thereafter, “provided that a majority of the voters voting in said election pass and adopt the proposition approving the above ordinance.” Measure G complied with state law that allowed the City Council to enact an ordinance restricting the number of terms a person may serve on the City Council.

Existing Los Altos Municipal Code

2.04.020 - Limitation of terms for councilmembers.

*No person shall serve more than two consecutive terms on the Los Altos city council, plus the completion of any unexpired term to which such person was elected or appointed. [Emphasis added] *Prior code § 2-2.02, renumbered as § 2.04.020.*

CHARTER CITY ANALYSIS

General Law Cities vs. Charter Cities. In California, there are two types of cities: general law cities and charter cities. General law cities get their authority from the general laws passed by the State legislature. Charter cities get their authority from the California Constitution’s home rule provision, which allows them to preside over all municipal affairs, limited only by their own charters and State law on “matters of statewide concern.”

The California Constitution does not define “municipal affairs.” What constitutes a municipal affair has been interpreted by the courts on a case-by-case basis. Courts have found the following to constitute municipal affairs:

- Form (structure) of Government.

- Procedural aspects of resolution and ordinance adoption.
- Local elections, including qualifications for office and campaign funding.
- Term limits, vacancies and termination of office.
- Public Contracting Policy.
- Aspects of Local Zoning and Land Use.
- Scope of authority related to taxes and assessments.

Differences between general law cities and charter cities have been reduced in recent years. The Legislature has extended to general law cities many of the same powers as charter cities; a benefit to general cities. Additionally, the Legislature has established many laws affecting cities as matters of statewide concern, and applicable to all cities (general law and charter).

Generally, a matter that is of statewide concern as opposed to a municipal affair is when its impact is primarily regional. The following are matters determined to be of statewide concern and not subject to modification by local charter:

- Educational school systems.
- Traffic and vehicle regulations.
- Ralph M. Brown Act (open meeting laws).
- Meyers-Milias-Brown Act (employee organization).
- California Environmental Quality Act (CEQA)
- Housing Accountability Act & Housing Crisis Act

CITY COUNCIL TERM LIMITS ANALYSIS

The City of Los Altos does currently have limitation of terms for councilmembers pursuant to section 2.04.020 of the Los Altos Municipal Code, as approved Voter Approved 1999 – Measure G. The existing provisions regarding term limits however only limit a maximum of two consecutive terms, not a cumulative maximum of two terms.

The City Council may consider changing the terms for Council members. However, if an initiative is adopted by the Council, or adopted by the voters, it can be repealed or amended only by the voters, unless the ballot language provides otherwise. Govt. Code § 9217; *Mobilepark W. Homeowners Ass’n v. Escondido Mobilepark W.* (1995) 35Cal.App.4th 32.

CHARTER CITY DISCUSSION

Steps to Become a Charter City. To become a charter city, a city must adopt a charter. The California Constitution authorizes the voters to adopt a city charter. There are two ways to draft a charter: (1) the City Council drafts the charter; or (2) the City’s voters elect a charter commission to draft the charter. (Gov. Code, §§ 34451, 34458.) In either case, the charter is not adopted by the City until it is ratified by a majority vote of the City’s voters at a statewide regular election. (Gov. Code, §§34457, 34458.) The next possible time for the City of Los Altos to consider becoming a Charter City is on the November 2026 ballot during the statewide regular election.

After the proposed charter has been drafted, it may be sent to the voters for ratification at the next established statewide general election, provided there are at least 88 days remaining before the election. (Gov't Code § 34458.) Before a proposal to adopt a charter is submitted to the voters, the City Council must hold at least two public hearings on the proposal of a charter and the content of the proposed charter. Notice of the public hearings shall be given by publication in a newspaper designated by the City Council and circulated throughout the city, and by posting notice in three public places within the city at least 21 calendar days prior to the date of each public hearing. The second public hearing shall be held at least 30 days after the first public hearing. At least one of the public hearings shall be held outside of normal business hours to facilitate public participation. The City Council shall not conduct a vote on whether to approve the submission to the voters of the proposal to adopt a charter until 21 days after the second public hearing. (Gov. Code, § 34458.) The majority of voters must vote in favor of the proposed charter for the charter to be adopted. (Gov. Code, § 34459.)

Contents of Proposed Charter. While there are no provisions required to be in a city charter, cities often reserve the greatest amount of power possible when they adopt charters. Under the California Constitution, it is sufficient to provide in any city charter that the city governed under it may make and enforce all ordinances and regulations regarding municipal affairs, subject only to restrictions and limitations provided in the charter. (Cal. Const. art. XI, § 5, subd. (b).)

Generally, many charter cities adopt a charter that generally provides that the City will follow California law in all areas except those stated in the charter; specifically, the City could include local term limits for elected officials and create new funding mechanisms for the establishment of new public safety facilities as necessary, such as a real property transfer tax. This procedure links the required voter approval of the charter to the required voter approval of the tax, so that both would be approved or disapproved in one ballot measure, avoiding the problem of inconsistent votes on two separate ballot measures. However, separate ballot measures can be proposed for specific components afforded to charter cities. Additionally, separate ballot measures can be proposed in proceeding years which update the initial charter.

CITY COUNCIL TERM LIMITS DISCUSSION

If the Council wishes to proceed with a ballot measure changing the Council Term Limits, it will apply prospectively. Govt. Code § 36502. The Council may wish to explore the following options:

- Adopt a ballot measure repealing Term Council Limits (Repeal Measure G)
- Adopt a ballot measure repealing Term Limits (Measure G) and prohibiting any person from serving on the Los Altos City Council for no more than two terms, or no more than eight consecutive years total.
- Actual ballot language would need to be developed.

City Council Term Limits can be included in the initial City Charter ballot measure, or it can be done separately, and/or it can be done separately and at a later date.

RANK CHOICE VOTING DISCUSSION

Should the City proceed with a transition to charter city status, if the City Council wishes to change to implement Rank Choice Voting (RCV) in its local elections, the City Attorney recommends that the ballot measure related to the charter also have an option for RCV. The City Attorney proposes

that the elections section of the charter include language allowing the City to have the power to adopt ordinances establishing procedures, rules, or regulations concerning the election of the City's officials, including allowance for alternative election methods such as RCV. By including an alternative such as RCV within the charter itself, it is clear to voters what they are voting for when voting for a charter, but it does not commit the City to RCV should there be legal risks with this electoral system.

Alternatively, after the charter is adopted in November of 2026, RCV may be implemented by (a) a citizens' initiative; (b) the City Council's adoption of an ordinance establishing same; or (c) residents may vote on a measure to establish RCV in the March or June of 2027 special elections.

In California, counties oversee the printing, mailing, verifying, and counting of ballots. As Los Altos is in Santa Clara County, the County's Registrar of Voters administers the election ballots and elections process for the City. Currently, all cities in the County utilize either an at-large or district-based elections system. When the City elects to transition to a RCV elections system, the County will remain the implementing entity. According to Mr. Mitchell of Redistricting Partners, if the County is unable or refuses to administer RCV elections for the City, the City would have to run its own elections.

There are many complexities associated with administering a RCV electoral system. As a general matter, the County has struggled with RCV for more than two decades. The County has been attempting to utilize RCV in its own elections since 1997, but only with the passage of AB 1227 in the Fall of 2023 did the State Legislature allow the County to use RCV to elect county officers. (Even with the passage of AB 1227, the County Assessor still maintains that it cannot administer RCV elections in the County.)

ATTACHMENTS

- 1. League of California Cities Reference Document**
- 2. Ordinance No. 99-370**