



## City Council Agenda Item Staff Report

CITY OF SAN BRUNO

---

**DATE:** June 7, 2022

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

**FROM:** Jovan D. Grogan, City Manager

**SUBJECT:** Conduct First Public Hearing Regarding Proposed City Charter and Commercial Real Property Transfer Tax

**BACKGROUND:** As part of the City Council’s strategic planning sessions, the City Council has discussed becoming a charter city to assure on-going fiscal stability by implementing a commercial real property transfer tax, which only charter cities are authorized to levy. This staff report summarizes the progress to date, including the results of the March 29, 2022 City Council Study Session, outlines the general characteristics of a charter city, and the process that the City Council may use to present a charter to the voters, as required by state law, which contains a commercial real property transfer tax as an integral feature. This meeting also constitutes the first of two public hearings that the City Council is required to conduct before the City Council can place the charter on the ballot.

### 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 corporate powers from the general laws passed by the State legislature. Charter cities, on the other hand, get their corporate powers 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.” Attachment 1 highlights the features of general law and charter cities.

Unfortunately, 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. The League of California Cities created a detailed chart that is attached, which describes various municipal issues and applicability to general law and charter cities.

Courts have found the following to constitute municipal affairs:

- The form of city government.
- Procedural aspects of resolution and ordinance adoption.
- Local elections, including qualifications for office and public funding of campaigns.
- Some aspects of zoning and land use.
- The process of contracting for public works.

- Scope of authority related to taxes and assessments.

Over time, the differences between general law cities and charter cities have been reduced. For instance, the Legislature has extended to general law cities many of the same powers as charter cities. In addition, the Legislature has characterized many laws affecting cities as matters of statewide concern, and hence, applicable to all cities, both general law and charter.

Generally, a matter is of “statewide concern,” as opposed to a “municipal affair,” when its impact is “primarily regional,” even if its impacts are not truly statewide. The following is a list of matters determined by the courts to be matters of “statewide concern” and hence not amenable to modification by charter:

- Educational school systems
- Traffic and vehicle regulations
- Tort claims against a governmental entity
- The Ralph M. Brown Act open meetings law
- The Meyers-Miliias-Brown Act regarding employee organization
- The California Environmental Quality Act
- The exercise of the eminent domain power

One of the primary tangible benefits of becoming a charter city is the ability to implement a real property transfer tax. General law cities are not legally authorized to impose real property transfer taxes.

#### Process 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.) To streamline the process, the City Council has directed staff to propose a charter for consideration and approval by the City Council, which would then be placed before the voters at the November 2022 general election. There is therefore no need to create a charter commission.

After the proposed charter has been drafted by the City Council, 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 twice 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.) If the charter includes a tax, as this charter is proposed to do, then a 2/3 majority of the City Council, or four affirmative votes, are needed to place the charter on the ballot per Government Code section 53734(b). A simple majority of voters must vote in favor of the proposed charter for the charter and tax to be adopted. (Gov. Code, § 34459.)

On April 12, 2022, the City Council appointed a subcommittee consisting of Vice-Mayor Mason and Councilmember Marty Medina to discuss conducting a survey of likely voters regarding the contents of a proposed charter, and specifically a commercial real property transfer tax. The survey results conducted by a polling firm retained by the City revealed support for such a measure.

## **DISCUSSION:**

### Contents of Proposed Charter

#### *General provisions*

While there are no particular 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).)

At the March 29, 2022 study session, the City Council determined that the proposed charter should not include provisions implementing a rotational mayor, term limits, campaign contribution limits, or alternative voting mechanisms. The City Council directed that staff continue working on separate ballot measures for November 2022 to transition to a rotational mayor and to implement term limits. The City Council also directed that staff prepare an ordinance for City Council consideration implementing campaign contribution limits, and that staff should discontinue efforts at this time to explore alternative voting mechanisms.

Accordingly, staff recommends a charter that generally provides that the City will follow California law in all areas except those stated in the charter; and specifically that the charter should authorize the City to implement a commercial real property transfer tax if approved by the voters as an integral part of the charter. A draft charter is provided as Attachment 2. 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. The City of El Cerrito successfully used this strategy in adopting its charter.

However, staff has recently become aware of the possibility that a statewide initiative may qualify for the November 2022 ballot, which if adopted by the voters could substantially affect many taxes, rates, and fees adopted by local agencies. If the initiative does qualify for the ballot, it is unclear whether it would affect the validity of a tax enacted as part of a newly adopted charter. To mitigate this potential risk, the City Council could consider placing a separate tax measure on the ballot, but as explained above, this creates the possibility that voters could adopt the charter but not the tax. Placing the tax on the ballot as a separate measure would require four affirmative votes of the City Council, while placing the charter on the ballot without an integral tax would require three affirmative votes of the City Council. As more information will become available regarding whether the statewide measure will qualify for the November 2022 ballot, staff has proceeded with drafting the charter to include an integral commercial real property transfer tax, as previously directed by the City Council.

### *Prevailing Wage*

One additional topic addressed in the charter is prevailing wage, which state law requires contractors to pay on most public projects. Charter cities are not bound by state prevailing wage requirements when exclusively municipal projects are undertaken and state and federal funds are not involved. (Vial v City of San Diego (1981) 122 CA3d 346; see Labor Code §1771.) The California Supreme Court held that a charter city may exempt itself from the state's prevailing wage requirements on the city's locally funded public works projects because the wage levels of contract workers constructing locally funded public works are a "municipal affair." (State Bldg. & Constr. Trades Council v City of Vista (2012) 54 C4th 547.) However, Labor Code section 1782 prohibits charter cities from receiving or using state funding or financial assistance for construction projects if the charter city has a charter provision or ordinance authorizing noncompliance with state prevailing wage laws, or if it has awarded a public works contract within the prior 2 years that did not require compliance with prevailing wage requirements. Limited exceptions apply to funding or contracts awarded before January 1, 2015, and for certain contracts of \$25,000 or less. Labor Code section 1782 was upheld against a home rule challenge by a number of charter cities. (City of El Centro v Lanier (2016) 245 CA4th 1494.) Because the City has a strong history of supporting prevailing wage on all qualifying public projects, and to avoid uncertainty or legal challenges in the future, staff recommends including a provision in the charter confirming that the City will continue to require payment of prevailing wage per the state law applicable to general law cities.

### *Details and Structure of Commercial Real Property Transfer Tax*

A real property transfer tax is a tax on the sale of property that is paid when real property is conveyed, and is based on the value of the property. As noted above, only charter cities are authorized by state law to impose such a tax. This tax is distinguished from the similarly-named documentary transfer tax that the county has adopted, and

which all cities thereby became authorized to impose by ordinance. The City's documentary transfer tax is codified in Municipal Code section 3.36, which since at least since 1980, has imposed the tax at the maximum legally authorized rate of \$.55 per \$1,000 of value.

Charter cities, in enacting their own laws, may enact a real property transfer tax in place of a documentary transfer tax and provide exemptions of certain property sales. The City Council has previously directed that staff consider a real property transfer tax only on the sale of commercial properties and not on the sale of residential properties. Payment of the tax could be negotiated between buyer and seller. The tax would be owed at the time of sale of the commercial real property. The tax would be collected by the City. Both the City Charter and the tax would be approved if the ballot measure receives at least a simple majority vote of affirmative votes.

Charter cities in the Bay Area opt for a wide range of fixed and variable property transfer tax rates. In response to the City Council's direction to consider a real property transfer tax only on the sale of commercial properties, staff has analyzed the potential revenue scenarios under various options. Given the inherent difficulties with projecting the level of commercial sales activity and sale prices going forward, staff has analyzed the potential revenue that the City would have received in each of the prior 5 years based on actual sale transactions in San Bruno based on the transfer tax rates of 1%. The analysis concluded that the City would have collected annual property transfer taxes of approximately \$1.1 million, if adopting the property transfer tax rates of our neighboring cities over the last 5 years.

It is important to note that property transfer tax revenue is an elastic revenue source in that it is highly influenced by economic shifts that affect the real estate market (e.g. interest rates, inflation, recessions, economic growth cycles, consumer confidence, local construction activity, etc.).

The City Council will need to specify a specific definition for commercial properties that will be subject to the proposed transfer tax. The term "commercial property" should not be interpreted to automatically exclude all residential dwellings. In simple terms, commercial real estate is a property that has the potential to generate profit through capital gain or rental income. A commercial property can be anything from an office building to a residential duplex, or even a restaurant or warehouse.

Based on prior City Council direction, and for the purposes of the attached Property Transfer Tax Simulation Analysis, City staff defined a commercial property as any transaction involving:

- Commercial Property (office building, hotel, retail structure, etc.)
- Industrial Property (warehouses, manufacturing building, etc.)
- Multifamily Housing Dwelling of 5 units or greater
- Planned Unit Development by Residential Developers
- Vacant Land

Common property tax exemptions, such as those for religious and government properties, would apply to this definition.

### Next Steps

As noted above, this is the first of two required public hearings regarding the contents of the proposed charter, with the second public hearing scheduled for June 28. Because 30 days must elapse between the second public hearing and the City Council's decision to place the charter on the ballot, the City Council will need to schedule a special meeting on August 2 to take this action. The deadline for submitting ballot measures to the County for the November 8 election is August 12.

In summary, staff requests that the City Council provide direction at this meeting regarding whether at least four members of the City Council want to propose a charter measure to the voters at the November 2022 election, which would include an integral commercial real property transfer tax.

**FISCAL IMPACT:** On March 9, 2022, the County elections office provided staff with an estimated range of \$93,000-\$112,000 for the upcoming municipal election plus one ballot measure. The County estimated that each additional ballot measure would add approximately \$10,000 to the cost of the election.

**ENVIRONMENTAL IMPACT:** There is no environmental impact. The action is not a project subject to CEQA. City Council's action is not considered a "Project" per CEQA Guidelines and therefore no further environmental analysis is required.

**RECOMMENDATION:** Conduct First Public Hearing Regarding Proposed City Charter and Commercial Real Property Transfer Tax

### **ALTERNATIVES:**

1. Propose changes to the timing or recommended focus of the draft charter.
2. Do not move forward with a draft charter.

### **ATTACHMENTS:**

1. League of California Cities Charter Analysis
2. Draft City Charter

# Information from the nonpartisan California League of Cities: <http://www.cacities.org/chartercities>

## Introduction

### Charter Cities

Did you know that, under certain home rule provisions in California's state constitution, voters can exercise a greater degree of local control than that provided by the California Legislature? Becoming a charter city allows voters to determine how their city government is organized and, with respect to municipal affairs, enact legislation different than that adopted by the state.

In 2001, the Institute for Local Government, the League's research arm, teamed up with the Hastings Public Law Research Institute to create an informational resource for those interested in understanding more about this special form of local control. The League is grateful to everyone who helped with this project including Phillip Hall of UC Hastings and the Hastings Public Law Research Institute; Karl Berger of Jenkins & Hogin LLP; Betsy Strauss (Attorney at Law); John Cook (Former City Attorney, Indian Wells); and Harvey Levine (City Attorney, Fremont). In 2007, the League updated these resources and the new documents can be found below. The League would like to thank Hilda Cantú Montoy (Attorney at Law) for her help with the update.

### **Charter Cities: A Quick Summary for the Press and Researchers**

*The following summary was drafted by the League of California Cities' legal staff, in an attempt to give the press and research communities a primer on some frequently asked questions regarding charter cities.*

### **Charter Cities vs. General Law Cities – The Basics**

The California Constitution gives cities the power to become charter cities.<sup>1</sup> The benefit of becoming a charter city is that charter cities have supreme authority over “municipal affairs.”<sup>2</sup> In other words, a charter city's law concerning a municipal affair will trump a state law governing the same topic.<sup>3</sup>

Cities that have not adopted a charter are general law cities. General law cities are bound by the state's general law, even with respect to municipal affairs. Of California's 478 cities, 108 of them are charter cities.

The charter city provision of the State Constitution, commonly referred to as the “home-rule” provision, is based on the principle that a city, rather than the state, is in the best position to know what it needs and how to satisfy those needs.<sup>4</sup> The home-rule provision allows charter cities to conduct their own business and control their own affairs.<sup>5</sup> A charter maximizes local control.

A city charter, in effect a city's constitution, need not set out every municipal affair the city would like to govern. So long as the charter contains a declaration that the city intends to avail itself of the full power provided by the California Constitution, any city ordinance that regulates a municipal affair will govern over a general law of the state.<sup>6</sup>

### **Defining ‘Municipal Affairs’**

Determining what is and is not a “municipal affair” is not always straightforward. The California Constitution does not define “municipal affair.” It does, however, set out a nonexclusive list of four “core”

## Information from the nonpartisan California League of Cities:

<http://www.cacities.org/chartercities>

categories that are, by definition, municipal affairs.<sup>7</sup>

These categories are 1) regulation of the “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 [are] elected.”<sup>8</sup> Beyond this list, it is up to the courts to determine what is and is not a municipal affair.

To determine if a matter is a municipal affair, a court will ask whether there are good reasons, grounded on statewide interests, for the state law to preempt a local law.<sup>9</sup> In other words, courts will ask whether there is a need for “paramount state control” in the particular area of law.<sup>10</sup> The Legislature’s intent when enacting a specific law is not determinative.<sup>11</sup>

The concept of “municipal affairs” is fluid and may change over time.<sup>12</sup> Issues that are municipal affairs today could become areas of statewide concern in the future.<sup>13</sup> Nonetheless, there are some areas that courts have consistently classified as municipal affairs. These include:

- Municipal election matters<sup>14</sup>
- Land use and zoning decisions (with some exceptions)<sup>15</sup>
- How a city spends its tax dollars<sup>16</sup>
- Municipal contracts, provided the charter or a city ordinance exempts the city from the Public Contract Code, and the subject matter of the bid constitutes a municipal affair.<sup>17</sup> Thus, a charter may exempt a city from the State’s competitive bidding statutes.

Likewise, there are some areas that courts have consistently classified as areas of statewide concern, including:

- Traffic and vehicle regulation<sup>18</sup>
- Tort claims against a governmental entity<sup>19</sup>
- Regulation of school systems<sup>20</sup>

### How to Become a Charter City

To become a charter city, a city must adopt a charter. There are two ways to adopt a charter:

- The city’s voters elect a charter commission.<sup>21</sup> The commission has the responsibility of drafting and debating the charter.
- The governing board of the city, on its own motion, drafts the charter.<sup>22</sup>

In either case, the charter is not adopted by the city until it is ratified by a majority vote of the city’s voters.<sup>23</sup>

*For more information about charter cities, please visit the “Charter Cities” section of the League’s Web site at <http://www.cacities.org/chartercities>.*

<sup>1</sup> Cal. Const. art. XI, § 3(a).

<sup>2</sup> Cal. Const. art. XI, § 5(a).

<sup>3</sup> *Johnson v. Bradley*, 4 Cal. 4th 389, 399 (1992).

<sup>4</sup> *Fragley v. Phelan*, 126 Cal. 383, 387 (1899).

<sup>5</sup> *Id.*

## Information from the nonpartisan California League of Cities:

<http://www.cacities.org/chartercities>

<sup>6</sup> There are some exceptions to this rule. For example, a charter city is bound by the Public Contract Code unless the city's charter expressly exempts the city from the Code's provisions or a city ordinance conflicts with a provision in the Code. See Cal. Pub. Cont. Code § 1100.7.

<sup>7</sup> Cal. Const. art. XI, § 5(b); *Johnson*, 4 Cal. 4th at 398.

<sup>8</sup> Cal. Const. art. XI, § 5(b).

<sup>9</sup> *Johnson*, 4 Cal. 4th at 405.

<sup>10</sup> *Id.* at 400.

<sup>11</sup> *Id.* at 405.

<sup>12</sup> *Cal. Fed. Savings & Loan Ass'n v. City of Los Angeles*, 54 Cal. 3d 1, 16 (1991); *Isaac v. City of Los Angeles*, 66 Cal. App. 4th 586, 599 (1998).

<sup>13</sup> *Isaac*, 66 Cal. App. 4th at 599.

<sup>14</sup> *Mackey v. Thiel*, 262 Cal. App. 2d 362, 365 (1968).

<sup>15</sup> See *Brougher v. Bd. of Pub. Works*, 205 Cal. 426, 440 (1928).

<sup>16</sup> *Johnson*, 4 Cal. 4th at 407.

<sup>17</sup> Pub. Cont. Code § 1100.7; *R & A Vending Services, Inc. v. City of Los Angeles*, 172 Cal. App. 3d 1188, 1191 (1985); *Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.*, 71 Cal. App. 4th 38, 51 (1998).

<sup>18</sup> Cal. Veh. Code § 21.

<sup>19</sup> *Helbach v. City of Long Beach*, 50 Cal. App. 2d 242, 247 (1942).

<sup>20</sup> *Whisman v. San Francisco Unified Sch. Dist.*, 86 Cal. App. 3d 782, 789 (1978).

<sup>21</sup> Cal. Gov't Code § 34451.

<sup>22</sup> Cal. Gov't Code § 34458.

<sup>23</sup> Cal. Gov't Code §§ 34457, 34462.

## General Law City v. Charter City

Characteristic	General Law City	Charter City
<b>Ability to Govern Municipal Affairs</b>	Bound by the state's general law, regardless of whether the subject concerns a municipal affair.	Has supreme authority over "municipal affairs." Cal. Const. art. XI, § 5(b).
<b>Form of Government</b>	State law describes the city's form of government. For example, Government Code section 36501 authorizes general law cities be governed by a city council of five members, a city clerk, a city treasurer, a police chief, a fire chief and any subordinate officers or employees as required by law. City electors may adopt ordinance which provides for a different number of council members. Cal. Gov't section 34871. The Government Code also authorizes the "city manager" form of government. Cal. Gov't Code § 34851.	Charter can provide for any form of government including the "strong mayor," and "city manager" forms. See Cal. Const. art. XI, § 5(b); Cal. Gov't Code § 34450 <i>et seq.</i>
<b>Elections Generally</b>	Municipal elections conducted in accordance with the California Elections Code. Cal. Elec. Code §§ 10101 <i>et seq.</i>	Not bound by the California Elections Code. May establish own election dates, rules, and procedures. See Cal. Const. art. XI, § 5(b); Cal. Elec. Code §§ 10101 <i>et seq.</i>
<b>Methods of Elections</b>	Generally holds at-large elections whereby voters vote for any candidate on the ballot. Cities may also choose to elect the city council "by" or "from" districts, so long as the election system has been established by ordinance and approved by the voters. Cal. Gov't Code § 34871. Mayor may be elected by the city council or by vote of the people. Cal. Gov't Code §§ 34902.	May establish procedures for selecting officers. May hold at-large or district elections. See Cal. Const. art. XI, § 5(b).
<b>City Council Member Qualifications</b>	<p>Minimum qualifications are:</p> <ol style="list-style-type: none"> <li>1. United States citizen</li> <li>2. At least 18 years old</li> <li>3. Registered voter</li> <li>4. Resident of the city at least 15 days prior to the election and throughout his or her term</li> <li>5. If elected by or from a district, be a resident of the geographical area comprising the district from which he or she is elected.</li> </ol> <p>Cal. Elec. Code § 321; Cal. Gov't Code §§ 34882, 36502; 87 Cal. Op. Att'y Gen. 30 (2004).</p>	Can establish own criteria for city office provided it does not violate the U.S. Constitution. Cal. Const. art. XI, § 5(b), 82 Cal. Op. Att'y Gen. 6, 8 (1999).

Characteristic	General Law City	Charter City
<b>Public Funds for Candidate in Municipal Elections</b>	No public officer shall expend and no candidate shall accept public money for the purpose of seeking elected office. Cal. Gov't Code § 85300.	Public financing of election campaigns is lawful. <i>Johnson v. Bradley</i> , 4 Cal. 4th 389 (1992).
<b>Term Limits</b>	May provide for term limits. Cal. Gov't Code § 36502(b).	May provide for term limits. Cal. Const. art. XI, § 5(b); Cal Gov't Code Section 36502 (b).
<b>Vacancies and Termination of Office</b>	An office becomes vacant in several instances including death, resignation, removal for failure to perform official duties, electorate irregularities, absence from meetings without permission, and upon non-residency. Cal. Gov't Code §§ 1770, 36502, 36513.	May establish criteria for vacating and terminating city offices so long as it does not violate the state and federal constitutions. Cal. Const. art. XI, § 5(b).
<b>Council Member Compensation and Expense Reimbursement</b>	Salary-ceiling is set by city population and salary increases set by state law except for compensation established by city electors. See Cal. Gov't Code § 36516. If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. See Cal. Gov't Code §§ 53234 - 53235.	May establish council members' salaries. See Cal. Const. art. XI, § 5(b). If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. See Cal. Gov't Code §§ 53234 - 53235.
<b>Legislative Authority</b>	<p>Ordinances may not be passed within five days of introduction unless they are urgency ordinances. Cal. Gov't Code § 36934.</p> <p>Ordinances may only be passed at a regular meeting, and must be read in full at time of introduction and passage except when, after reading the title, further reading is waived. Cal. Gov't Code § 36934.</p>	May establish procedures for enacting local ordinances. <i>Brougher v. Bd. of Public Works</i> , 205 Cal. 426 (1928).
<b>Resolutions</b>	May establish rules regarding the procedures for adopting, amending or repealing resolutions.	May establish procedures for adopting, amending or repealing resolutions. <i>Brougher v. Bd. of Public Works</i> , 205 Cal. 426 (1928).
<b>Quorum and Voting Requirements</b>	<p>A majority of the city council constitutes a quorum for transaction of business. Cal. Gov't Code § 36810.</p> <p>All ordinances, resolutions, and orders for the payment of money require a recorded majority vote of the total membership of the city council. Cal. Gov't Code § 36936. Specific legislation requires supermajority votes for certain actions.</p>	May establish own procedures and quorum requirements. However, certain legislation requiring supermajority votes is applicable to charter cities. For example, see California Code of Civil Procedure section 1245.240 requiring a vote of two-thirds of all the members of the governing body unless a greater vote is required by charter.

Characteristic	General Law City	Charter City
<p><b>Rules Governing Procedure and Decorum</b></p>	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i></p>	<p>Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a).</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 <i>et seq.</i></p> <p>May provide provisions related to ethics, conflicts, campaign financing and incompatibility of office.</p>
<p><b>Personnel Matters</b></p>	<p>May establish standards, requirements and procedures for hiring personnel consistent with Government Code requirements.</p> <p>May have "civil service" system, which includes comprehensive procedures for recruitment, hiring, testing and promotion. See Cal. Gov't Code § 45000 <i>et seq.</i></p> <p>Meyers-Milias-Brown Act applies. Cal. Gov't Code § 3500.</p> <p>Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, § 10(b).</p>	<p>May establish standards, requirements, and procedures, including compensation, terms and conditions of employment for personnel. See Cal. Const. art. XI, § 5(b).</p> <p>Procedures set forth in Meyers-Milias-Brown Act (Cal. Gov't Code § 3500) apply, but note, "[T]here is a clear distinction between the <i>substance</i> of a public employee labor issue and the <i>procedure</i> by which it is resolved. Thus there is no question that 'salaries of local employees of a charter city constitute municipal affairs and are not subject to general laws.'" <i>Voters for Responsible Retirement v. Board of Supervisors</i>, 8 Cal.4th 765, 781 (1994).</p> <p>Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, section 10(b).</p>
<p><b>Contracting Services</b></p>	<p>Authority to enter into contracts to carry out necessary functions, including those expressly granted and those implied by necessity. See Cal. Gov't Code § 37103; <i>Carruth v. City of Madera</i>, 233 Cal. App. 2d 688 (1965).</p>	<p>Full authority to contract consistent with charter.</p> <p>May transfer some of its functions to the county including tax collection, assessment collection and sale of property for non-payment of taxes and assessments. Cal. Gov't Code §§ 51330, 51334, 51335.</p>

Characteristic	General Law City	Charter City
<p><b>Public Contracts</b></p>	<p>Competitive bidding required for public works contracts over \$5,000. Cal. Pub. Cont. Code § 20162. Such contracts must be awarded to the lowest responsible bidder. Pub. Cont. Code § 20162. If city elects subject itself to uniform construction accounting procedures, less formal procedures may be available for contracts less than \$100,000. See Cal. Pub. Cont. Code §§ 22000, 22032.</p> <p>Contracts for professional services such as private architectural, landscape architectural, engineering, environmental, land surveying, or construction management firms need not be competitively bid, but must be awarded on basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of services. Cal. Gov't Code § 4526.</p>	<p>Not required to comply with bidding statutes provided the city charter or a city ordinance exempts the city from such statutes, and the subject matter of the bid constitutes a municipal affair. Pub. Cont. Code § 1100.7; see <i>R &amp; A Vending Services, Inc. v. City of Los Angeles</i>, 172 Cal. App. 3d 1188 (1985); <i>Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.</i>, 71 Cal. App. 4th 38 (1998).</p>
<p><b>Payment of Prevailing Wages</b></p>	<p>In general, prevailing wages must be paid on public works projects over \$1,000. Cal. Lab. Code § 1771. Higher thresholds apply (\$15,000 or \$25,000) if the public entity has adopted a special labor compliance program. See Cal. Labor Code § 1771.5(a)-(c).</p>	<p>Historically, charter cities have not been bound by state law prevailing-wage requirements so long as the project is a municipal affair, and not one funded by state or federal grants. <i>Vial v. City of San Diego</i>, 122 Cal. App. 3d 346, 348 (1981). However, there is a growing trend on the part of the courts and the Legislature to expand the applicability of prevailing wages to charter cities under an analysis that argues that the payment of prevailing wages is a matter of statewide concern. The California Supreme Court currently has before them a case that will provide the opportunity to decide whether prevailing wage is a municipal affair or whether it has become a matter of statewide concern.</p>

Characteristic	General Law City	Charter City
<b>Finance and Taxing Power</b>	<p>May impose the same kinds of taxes and assessment as charter cities. See Cal. Gov't Code § 37100.5.</p> <p>Imposition of taxes and assessments subject to Proposition 218. Cal. Const. art.XIIIC.</p> <p>Examples of common forms used in assessment district financing include:</p> <ul style="list-style-type: none"> <li>• Improvement Act of 1911. Cal. Sts. &amp; High. Code § 22500 <i>et seq.</i>.</li> <li>• Municipal Improvement Act of 1913. See Cal. Sts. &amp; High. Code §§ 10000 <i>et seq.</i>.</li> <li>• Improvement Bond Act of 1915. Cal. Sts. &amp; High. Code §§ 8500 <i>et seq.</i>.</li> <li>• Landscaping and Lighting Act of 1972. Cal. Sts. &amp; High. Code §§ 22500 <i>et seq.</i>.</li> <li>• Benefit Assessment Act of 1982. Cal. Gov't Code §§ 54703 <i>et seq.</i>.</li> </ul> <p>May impose business license taxes for regulatory purposes, revenue purposes, or both. See Cal. Gov't Code § 37101.</p> <p>May not impose real property transfer tax. See Cal. Const. art. XIII A, § 4; Cal. Gov't Code § 53725; <i>but see</i> authority to impose documentary transfer taxes under certain circumstances. Cal. Rev. &amp; Tax. Code § 11911(a), (c).</p>	<p>Have the power to tax.</p> <p>Have broader assessment powers than a general law city, as well as taxation power as determined on a case-by case basis.</p> <p>Imposition of taxes and assessments subject to Proposition 218, Cal. Const. art. XIIIC, § 2, and own charter limitations</p> <p>May proceed under a general assessment law, or enact local assessment laws and then elect to proceed under the local law. See <i>J.W. Jones Companies v. City of San Diego</i>, 157 Cal. App. 3d 745 (1984).</p> <p>May impose business license taxes for any purpose unless limited by state or federal constitutions, or city charter. See Cal. Const. art. XI, § 5.</p> <p>May impose real property transfer tax; does not violate either Cal. Const art. XIII A or California Government Code section 53725. See <i>Cohn v. City of Oakland</i>, 223 Cal. App. 3d 261 (1990); <i>Fielder v. City of Los Angeles</i>, 14 Cal. App. 4th 137 (1993).</p>
<b>Streets &amp; Sidewalks</b>	State has preempted entire field of traffic control. Cal. Veh. Code § 21.	State has preempted entire field of traffic control. Cal. Veh. Code § 21.
<b>Penalties &amp; Cost Recovery</b>	May impose fines, penalties and forfeitures, with a fine not exceeding \$1,000. Cal. Gov't Code § 36901.	May enact ordinances providing for various penalties so long as such penalties do not exceed any maximum limits set by the charter. <i>County of Los Angeles v. City of Los Angeles</i> , 219 Cal. App. 2d 838, 844 (1963).

Characteristic	General Law City	Charter City
<b>Public Utilities/Franchises</b>	<p>May establish, purchase, and operate public works to furnish its inhabitants with electric power. See Cal. Const. art. XI, § 9(a); Cal. Gov't Code § 39732; Cal. Pub. Util. Code § 10002.</p> <p>May grant franchises to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city to allow use of city streets for such purposes. The grant of franchises can be done through a bidding process, under the Broughton Act, Cal. Pub. Util. Code §§ 6001-6092, or without a bidding process under the Franchise Act of 1937, Cal. Pub. Util. Code §§ 6201-6302.</p>	<p>May establish, purchase, and operate public works to furnish its inhabitants with electric power. See Cal. Const. art. XI, § 9(a); <i>Cal. Apartment Ass'n v. City of Stockton</i>, 80 Cal. App. 4th 699 (2000).</p> <p>May establish conditions and regulations on the granting of franchises to use city streets to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city.</p> <p>Franchise Act of 1937 is not applicable if charter provides. Cal. Pub. Util. Code § 6205.</p>
<b>Zoning</b>	<p>Zoning ordinances must be consistent with general plan. Cal. Gov't Code § 65860.</p>	<p>Zoning ordinances are not required to be consistent with general plan unless the city has adopted a consistency requirement by charter or ordinance. Cal. Gov't. Code § 65803.</p>

## Information from the nonpartisan California League of Cities:

<http://www.cacities.org/chartercities>

### **Foundational aspects of charter cities**

#### **What is the Constitutional Framework for Charter Cities?**

Article XI, section 3(a) of the California Constitution authorizes the adoption of a city charter and provides such a charter has the force and effect of state law. Article XI, section 5(a), the "home rule" provision, affirmatively grants to charter cities supremacy over "municipal affairs." However, the California Constitution does not define the term "municipal affair."

#### **What are "Municipal Affairs?"**

The home rule provision of the California Constitution authorizes a charter city to exercise plenary authority over municipal affairs, free from any constraint imposed by the general law and subject only to constitutional limitations. See Cal. Const. art. XI § 5(a); *Ex Parte Braun*, 141 Cal. 204, 209 (1903); *Bishop v. City of San Jose*, 1 Cal. 3d 56, 61 (1969); *Comm. of Seven Thousand v. Super. Ct. (City of Irvine)*, 45 Cal.3d 491 (1988).

#### **How Do the Courts Distinguish Between Municipal and Statewide Concerns?**

Whether a given activity is a municipal affair over which a city has sovereignty, or a statewide concern, over which the legislature has authority, is a legal determination for the courts to resolve. Thus, the determination of whether a given activity is a municipal affair or statewide concern is done on a case-by-case basis. The court's determination will depend on the particular facts and circumstances of each case. See *In Re Hubbard*, 62 Cal. 2d 119, 128 (1964). Keep in mind that the concept of "municipal affairs" is a fluid one that changes over time as local issues become statewide concerns. See *Issac v. City of Los Angeles*, 66 Cal. App. 4th 586 (1998).

#### **What Activities Have the Courts Classified As Municipal Affairs?**

There are some areas that the courts have consistently classified as municipal affairs. Examples include the following:

- Municipal Election Matters. See *Mackey v. Thiel*, 262 Cal. App. 2d 362 (1968).
- Procedures for Initiative, Referendum and Recall. See *Lawing v. Faul*, 227 Cal. App. 2d 23, 29 (1964).
- Procedures for Adopting Ordinances. See *Brougher v. Board of Public Works*, 205 Cal. 426 (1928).
- Compensation of City Officers and Employees. Cal. Const. art. XI, § 5(b); See *Sonoma County Organization of Public Employees v. County of Sonoma*, 23 Cal. 3d 296 (1979); but see *San Leandro Police Officers Association v. City of San Leandro*, 55 Cal. App. 3d 553 (1976) (labor relations is not a municipal affair; Charter cities are subject to the Meyers-Milias Brown Act. Cal. Gov't Code § 3500).
- Processes Associated with City Contracts. See *First Street Plaza Partners v. City of Los Angeles*, 65 Cal. App. 4th 650 (1998); but see *Domar Electric, Inc. v. City of Los Angeles*, 41 Cal. App. 4th 810 (1995) (state law establishing employment policy may preempt local regulation of bidding criteria).

## Information from the nonpartisan California League of Cities:

<http://www.cacities.org/chartercities>

- Financing Public Improvements. See *City of Santa Monica v. Grubb*, 245 Cal. App. 2d 718 (1996).
- Making Charitable Gifts of Public Funds for Public Purposes. See Cal. Const. art. XVI, § 6; *Tevis v. City and County of San Francisco*, 43 Cal. 2d 190 (1954).
- Term Limits for Council Members. See *Cawdrey v. City of Redondo Beach*, 15 Cal. App. 4th 1212 (1993); but see Cal. Gov't Code § 36502(b) (regulating term limits).
- Land Use and Zoning Decisions (with a few exceptions). See *Brougher v. Bd. of Pub. Works*, 205 Cal. 426 (1928).

### **What Activities Have the Courts Classified as Statewide Concerns?**

The following have consistently been classified by the courts as matters of statewide concern:

- School Systems. *Whisman v. San Francisco Unified Sch. Dist.*, 86 Cal. App. 3d 782, 789 (1978).
- Traffic and Vehicle Regulation. Cal. Veh. Code § 21.
- Licensing of Members of a Trade or Profession. *City and County of San Francisco v. Boss*, 83 Cal. App. 2d 445 (1948).
- Tort Claims Against a Governmental Entity. *Helbach v. City of Long Beach*, 50 Cal. App. 2d 242, 247 (1942).
- Open and Public Meetings. Ralph M. Brown Act. Cal. Gov't Code §§ 54951, 54953(a).
- Exercise of the Power of Eminent Domain. *Wilson v Beville*, 47 Cal. 2d 852, 856 (1957).

## Information from the nonpartisan California League of Cities:

<http://www.cacities.org/chartercities>

### **What is a charter?**

A city charter is a unique document that, in many ways, acts like a constitution for the city adopting it. It can only be adopted, amended or repealed by a majority vote of a city's voters. The primary advantage of a charter is that it allows greater authority for a city's governance than that provided by state law. For example, a city may tailor its organization and elective offices, taking into account the unique local conditions and needs of the community.

A charter transfers the power to adopt legislation affecting municipal affairs from the state legislature to the city adopting it. A city operating under a charter can acquire full control over its municipal affairs. These affairs are unaffected by the general laws passed by the state legislature on the same subject matters. This, in effect, gives the local voters more control over their local government and the affairs of the city. However, a city operating under a charter is still subject to the general laws, as passed by the state legislature, on affairs that are not municipal in nature, and are of statewide concern (e.g., California Vehicle Code).

It is the scope of the term "municipal affairs" that provides the opportunity for uncertainty. No easy analytical test exists. The threshold issue is whether there is a conflict between state law and a charter city enactment. The next issue is whether the state regulation addressed an issue of "state wide concern." Courts analyze these conflicts on a case-by-case basis.

## Information from the nonpartisan California League of Cities: <http://www.cacities.org/chartercities>

### **What is in a charter?**

While a city charter is not required to have any particular provisions in it, a city will often reserve for itself the greatest amount of power it can when it adopts a charter. To accomplish this goal, the charter must include a declaration that it is the intention of the city to avail itself of the full power provided by the state constitution to charter cities. However, the city is not required to extend the breadth of its charter any further than it wishes.

Some of the common areas that are explicitly regulated in a charter are:

- The date and conduct of city elections;
- Regulations on the appointment of municipal officials;
- The terms and payment of municipal officials;
- The process for removal of municipal officials;
- Form of government;
- Budget adoption;
- The number, pay, qualifications, and appointment of deputies, clerks, and other employees that each municipal officer will have;
- Sub-government in all or part of the city;
- The tenure of office for deputies, clerks, and other employees;
- The process for removal of such deputies, clerks, and other employees; and
- The constitution, regulation, and government of the local police force.

A number of California cities' charters are available online. The National Civic League also has a model charter project.

## Information from the nonpartisan California League of Cities: <http://www.cacities.org/chartercities>

### **Process used to adopt a charter**

There are two ways to draft and adopt a city charter. The first is to elect a charter commission. The commission then has the responsibility of debating over the provisions and the drafting of the charter. The other alternative allows the governing board of the city, on its own motion, to draft the charter. In either case, the charter is not adopted by the city until it is ratified by a majority vote of the city's voters.

When using the charter commission approach, the first step is to elect the commission. The vote to elect a charter commission is called for by either a majority vote of the city's governing body or by a petition signed by not less than fifteen percent of the registered voters within the city. If the formation of a charter commission is requested by a petition, the authority in charge of the city's registration records must verify the signatures on the petition. The expense of this verification must be paid for by the city's governing board. If the petition is verified, the city's governing board must call for an election in accordance with sections 1000 and 10403 of the California Elections Code. See Cal. Gov't Code section 34452.

Once it has been decided that a charter commission election will take place, candidates for commissioners must be nominated. Candidates for the office of charter commissioner are nominated either in the same manner as officers of the city or by petition. A candidate for charter commissioner must be a registered voter of the city. After the election of commissioners, any vacancy on the commission will be filled by a mayoral appointment. See Cal. Gov't Code section 34452.

At an election for charter commission members, the voters will vote first on the following question: "Shall a charter commission be elected to propose a new charter?" After voting on this question, the voters will then vote for the charter commission candidates. If a majority of the voters vote for the formation of a charter commission, then the top fifteen candidates for the office of charter commissioner will be organized as the city's charter commission. No commission will be formed if a majority of voters vote against the election of a charter commission. See Cal. Gov't Code section 34453.

Once formed, the charter commission will have the responsibility of developing the city's charter. After a simple majority of commissioners have decided that the proposed charter is appropriate, they file the charter with the city's clerk in preparation for a vote by the city's electorate. See Cal. Gov't Code section 34455. However, instead of sending the whole charter at once, periodically the commission may send portions of the charter to the city's electorate for a vote. See Cal. Gov't Code section 34462.

After the charter (or portions of it) has been filed, it must be copied in type greater than 10 point and either mailed to all the voters of the city or made available to those citizens who wish to review it before the election. The city may show the difference between existing provisions of law and the new charter through the use of distinguished type styles, but this is not required. See Cal. Gov't Code section 34456.

After the charter has been filed with the city clerk, the city's governing board must decide whether to call a special election or to wait until the next established municipal election to submit the charter to the voters. If the city's governing board determines that a

## Information from the nonpartisan California League of Cities: <http://www.cacities.org/chartercities>

special election should be held, then they must call for that special election within 14 days of the charter being filed. The special election must be set at least 95 days after the date from which the special election was called. See Cal. Gov't Code section 34457. In any case, the charter commission must send the charter to the voters within two years of the vote that formed the commission. Upon the expiration of the two-year time period, the commission is abolished. See Cal. Gov't Code section 34462.

The alternative to electing a charter commission is to have the city's governing board develop and draft the charter. An election to decide on the adoption of a charter may be called by initiative or the city council. See Cal. Const. art. XI, § 3. On its own motion, the city's governing board may propose a charter and submit it to the voters for adoption. See Cal. Gov't Code section 34458. With this option, the governing board can call a special election or allow the charter to be voted on at any established election date, as long as that election date is at least 88 days after the proposed charter was filed with the city clerk. See Cal. Gov't Code section 34458. As a practical matter, an election may have to be called sooner than 88 days before the election in order to meet certain notice and ballot printing deadlines.

In either case, the majority of voters must vote in favor of the proposed charter for it to be ratified. The charter will not go into effect until it has been filed and accepted by the Secretary of State. See Cal. Gov't Code section 34459. After a charter is approved by a majority vote of the voters, the mayor and city clerk shall certify that the charter was submitted to the voters of the city and that it was approved by a majority vote. See Cal. Gov't Code section 34460. One copy of the approved charter shall be filed with the County Recorder's office and one shall be kept in the City's archive. See Cal. Gov't Code section 34460. A third copy of the charter must be submitted to the Secretary of State with (1) copies of all publications and notices in connection with the calling of the election; (2) certified copies of any arguments for or against the charter proposal which were mailed to the voters; (3) a certified abstract of the vote at the election on the charter. See Cal. Gov't Code section 34460.

Information from the nonpartisan California League of Cities:  
<http://www.cacities.org/chartercities>

### **How to amend or repeal a charter**

If a citizens group, or the city's governing body, wishes to amend or repeal a portion of the city's charter, the steps remain largely the same as they are for drafting a charter. There are, however, two notable exceptions. First, the petition calling for the repeal or amendment needs only ten percent of the electorate's signatures, instead of the previous fifteen percent. See Cal. Elec. Code sections 9215 and 9255. The other notable difference has to do with the charter itself. A city charter may establish different rules for the municipal elections process than those laid out by the state legislature in the Elections Code. If this is the case, the city's charter will govern the elections process used to appeal or amend the city's charter, instead of the general laws laid out in the Elections Code.

## Information from the nonpartisan California League of Cities:

<http://www.cacities.org/chartercities>

### Charter Cities

Adelanto	Lemoore
Alameda	Lindsay
Albany	Loma Linda
Alhambra	Long Beach
Anaheim	Los Alamitos
Arcadia	Los Angeles
Bakersfield	Marina
Bell	Marysville
Berkeley	Merced
Big Bear Lake	Modesto
Buena Park	Monterey
Burbank	Mountain View
Carlsbad	Napa
Cerritos	Needles
Chico	Newport Beach
Chula Vista	Norco
Compton	Oakland
Culver City	Oceanside
Cypress	Oroville
Del Mar	Pacific Grove
Desert Hot Springs	Palm Desert
Dinuba	Palm Springs
Downey	Palmdale
El Centro	Palo Alto
Eureka	Pasadena
Exeter	Petaluma
Folsom	Piedmont
Fortuna	Placentia
Fresno	Pomona
Gilroy	Port Hueneme
Glendale	Porterville
Grass Valley	Rancho Mirage
Hayward	Redondo Beach
Huntington Beach	Redwood City
Indian Wells	Richmond
Industry	Riverside
Inglewood	Roseville
Irvine	Sacramento
Irwindale	Salinas
King City	San Bernardino
Kingsburg	San Diego
Lancaster	San Francisco
La Quinta	San Jose

Information from the nonpartisan California League of Cities:

<http://www.cacities.org/chartercities>

San Leandro	Signal Hill
San Luis Obispo	Solvang
San Marcos	Stockton
San Mateo	Sunnyvale
San Rafael	Temple City
San Ramon	Torrance
Sand City	Truckee
Santa Ana	Tulare
Santa Barbara	Vallejo
Santa Clara	Ventura
Santa Cruz	Vernon
Santa Maria	Victorville
Santa Monica	Visalia
Santa Rosa	Vista
Santee	Watsonville
Seal Beach	Whittier
Shafter	Woodlake

Total Cities: 120

# **CHARTER OF THE CITY OF SAN BRUNO**

## **STATEMENT OF PURPOSE**

The City of San Bruno was incorporated as a general law city in 1914 by residents seeking the right to manage local affairs. Since then, the authority of general law cities over local affairs has diminished. Furthermore, the State has continually added mandates for cities that require local resources to address State concerns, increased its control over local matters, and redirected much needed local revenue for its own purposes. Changes in State law have limited the ability of San Bruno to decide how to use local dollars for local needs. The power of home rule, granted by the California Constitution, makes available to charter cities a variety of tools to use to implement local policy and address local concerns. With this Charter, San Bruno will reclaim more local autonomy and expand the economic and fiscal independence of our City government to promote the health, safety, and welfare of all its residents. Therefore, we do hereby exercise the express right granted by the Constitution of the State of California to enact and adopt this Charter for the City of San Bruno.

## **ARTICLE I. ESTABLISHMENT OF HOME RULE, POWER OVER MUNICIPAL AFFAIRS, GENERAL LAW POWERS**

Section 100. Powers of the City. The City of San Bruno (the "City") shall have full power and authority to adopt, make, exercise, and enforce all legislation, laws, ordinances, resolutions, and regulations with respect to municipal affairs, subject only to the limitations and restrictions imposed on that power by this Charter, the Constitution of the State of California, and the laws of the United States.

Section 101. Municipal Affairs. Municipal affairs encompass all matters of local concern as determined by the City Council consistent with the meaning of "municipal affairs" under the constitutional, statutory, and judicially defined law of the State of California. Each of the matters set forth in this Charter are declared to be municipal affairs, consistent with the laws of the State of California. The municipal affairs set forth in this Charter are not intended to be an exclusive list of municipal affairs over which the City Council may govern. The exercise of home rule over each matter set forth in this Charter uniquely benefits the residents of the City and addresses local concerns within the City.

Section 102. Powers under State Law.

- (a) In addition to the power and authority granted by this Charter and the Constitution of the State of California, the City shall have the power and authority to adopt, make, exercise, and enforce all legislation, laws, ordinances, resolutions, and regulations and to take all actions and to exercise any and all rights, powers, and privileges heretofore or hereafter established, granted or prescribed by any law of the State of California or by any other lawful authority. In the event of any conflict between this Charter and the general laws of the State of California related to a municipal affair, this Charter shall control.

- (b) Nothing in this Charter is intended to restrict the City in exercising any right, power or authority granted under the general laws of the State of California. However, the provisions of this Charter shall prevail in the event of any conflict with the general laws of the State of California, unless preempted by state law on matters of statewide concern.

**ARTICLE II. CONTINUATION OF BOUNDARIES, FORM OF GOVERNMENT, AND EXISTING LAW**

Section 200. Incorporation and Succession. The City shall continue to be a municipal corporation known as the City of San Bruno. The boundaries of the City shall continue as established prior to this Charter taking effect until changed in the manner authorized by law. The City shall remain vested with and shall continue to own, have, possess, control, and enjoy all property rights and rights of action of every nature and description owned, had, possessed, controlled, or enjoyed by it at the time this Charter takes effect. The City shall be subject to all debts, obligations, and liabilities of the City at the time this Charter takes effect.

Section 201. Form of Government. The government of the City shall continue to be the Council-Manager form of government as established by the San Bruno Municipal Code at the time that this Charter takes effect and by the laws of the State of California. The Council-Manager form of government of the City may be changed in the same ways and using the same procedures as a general law city.

Section 202. City Council, City Manager, and City Attorney.

- (a) The City Council shall establish the policy of the City. The City Manager shall carry out that policy.
- (b) The City Council shall appoint the City Manager.
- (c) The City Manager, as the chief administrative officer of the City, shall appoint all department heads other than the City Attorney.
- (d) The City Council shall appoint the City Attorney. The City Attorney may be an employee of the City or an independent contractor providing legal services pursuant to a contract.

Section 203. Continuation of Existing Local Laws. All ordinances, codes, resolutions, regulations, rules, and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, shall continue in force until repealed, amended, changed, or superseded in the manner provided by this Charter and any other applicable laws.

Section 204. General State Laws. Except as provided in this Charter and in any ordinance, code, resolution, or other law adopted by the City Council regarding a matter

that is a municipal affair, the City shall be governed by the general laws of the State of California.

### **ARTICLE III. MUNICIPAL REVENUE**

Section 300. Revenue Raising Power. The City may exercise all powers of a charter city to generate revenue, including but not limited to taxes, fees, assessments, and other charges.

Section 301. Real Property Transfer Tax. Without limiting the general power of the City, as expressed in Section 300 above, to generate revenue, the City may impose a tax on the conveyance of real property, based upon the price paid for the real property (“real property transfer tax”). Any real property transfer tax imposed by the City shall be in addition to any similar tax authorized by the general laws of the State of California.

### **ARTICLE IV. PREVAILING WAGES FOR PUBLIC WORKS AND PUBLIC CONTRACTING**

Section 400. State Prevailing Wage Law. The City shall comply with the laws of the State of California applicable to general law cities regarding the payment of prevailing wages for public works projects.

Section 401. Contracting for Public Works. The City shall comply with the laws of the State of California applicable to general law cities regarding contracting for public works. The City’s laws, ordinances, codes, resolutions, and policies implementing State laws regarding contracting for public works shall continue to apply when this Charter takes effect and may be amended thereafter.

### **ARTICLE V. ELECTIONS**

Section 500. State Elections Law. The City shall comply with the laws of the State of California applicable to general law cities regarding elections. The City’s laws, ordinances, codes, resolutions, and policies implementing State laws regarding elections shall continue to apply when this Charter takes effect and may be amended thereafter.

Section 501. Initiative, Referendum, and Recall. Without limiting the general applicability of Section 500 of this Charter, the City shall comply with the laws of the State of California applicable to general law cities regarding initiative, referendum, and recall.

### **ARTICLE VI. INTERPRETATION, SEVERABILITY, AND AMENDMENT**

Section 600. Construction and Interpretation. The language of this Charter is intended to be permissive rather than exclusive or limiting and shall be liberally and broadly construed in favor of the exercise by the City of its power to govern with respect to any matter that is a municipal affair. Every reference in this Charter to state or federal law shall mean that law as it exists when this Charter takes effect or as it may thereafter be amended.

Section 602. Severability. If any provision of this Charter should be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law.

Section 603. Amendment of Charter. As provided by state law, this Charter, and any of its provisions, may be amended by a majority vote of the electors voting on the question. Amendment or repeal may be proposed by initiative or by the City Council.