



City of Arts & Innovation

# Charter Review Committee Memorandum

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**TO:** CHARTER REVIEW COMMITTEE **DATE:** August 12, 2019  
**FROM:** CITY ATTORNEY'S OFFICE **WARDS:** ALL  
**SUBJECT:** CONCEPTUAL APPROVAL OF PROPOSED CITY CHARTER AMENDMENT  
REQUIRING CHARTER REVIEW COMMITTEE TO REVIEW ALL CITY  
COUNCIL PROPOSED CHARTER AMENDMENTS.

## **ISSUE:**

To consider whether to conceptually approve the April 8, 2019, proposal by Committee Member Tom Evans of a City Charter amendment that would require a Charter Review Committee to review all Charter amendments before City Council consideration for ballot placement.

## **RECOMMENDATION:**

That the Charter Review Committee conceptually approve to recommend to City Council an amendment to City Charter section 1404 that would require a Charter Review Committee to review all Charter amendments, except those proposed by voter initiative, before City Council consideration for ballot placement.

## **BACKGROUND:**

On April 8, 2019, Committee Member Tom Evans proposed a City Charter amendment to Section 1403 that would require Charter Review Committee review of all Charter amendments before City Council consideration for ballot placement.

California Constitution, Article 11, Section 3, states:

- (a) For its own government, a county or city may adopt a charter by majority vote of its electors voting on the question. The charter is effective when filed with the Secretary of State. A charter may be amended, revised, or repealed in the same manner. A charter, amendment, revision, or repeal thereof shall be published in the official state statutes. County charters adopted pursuant to this section shall supersede any existing charter and all laws inconsistent therewith. The provisions of a charter are the law of the State and have the force and effect of legislative enactments.
- (b) The governing body or charter commission of a county or city may propose a charter or revision. *Amendment or repeal may be proposed by initiative or by the governing body.* [Emphasis added].
- (c) An election to determine whether to draft or revise a charter and elect a charter commission may be required by initiative or by the governing body.
- (d) If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.

The California Constitution requires either the City Council or the Voters to propose a City Charter amendment. The City cannot require Charter Review Committee review of Voter initiatives; such would unlawfully negate the purpose of a voter initiative. Nothing, however, precludes the City from requiring Charter Review Committee review of City Council proposed Charter amendments. Therefore, this Committee may propose a Charter amendment that would require Charter Review Committee review of Charter amendments except those proposed by voter initiative.

City Charter Sections 1403 and 1404 currently read:

**Sec. 1403. Charter Review Committee.**

In February 2019, and in February every eight years thereafter, the City Council shall appoint and appropriate adequate funds for a Charter Review Committee. The Charter Review Committee shall have the power and duty to:

- (a) Recommend to the City Council which, if any, Charter amendments should be placed on the ballot at the next regular municipal election for Mayor.
- (b) Hold public meetings to receive input on proposed Charter amendments.
- (c) Present a final report with its recommendations to the City Council by the last Tuesday in May preceding the next regular municipal election for Mayor. It may, in its discretion, make interim reports to the City Council.

The City Council shall act upon the recommendations of the Charter Review Committee prior to the last day to place measures on the ballot for the next regular municipal election for Mayor.

The City Council may appoint Charter Review Committees more often if it desires.

**Sec. 1404. Charter, amending.**

This Charter, and any of its provisions, may be amended in accordance with the Constitution and laws of the State of California.

Although a Charter Review Committee can recommend Charter amendments to the City Council every eight years, or sooner, the City Charter currently does not require that a Charter Review Committee review all amendments prior to City Council placing an amendment on the ballot.

Should this Committee decide to amend the City Charter to require Charter Review Committee of City Council proposed Charter amendments, Staff recommends that the following language be added to City Charter Section 1404:

**Sec. 1404. Charter, amending.**

This Charter, and any of its provisions, may be amended in accordance with the Constitution and laws of the State of California. *The City Council must submit any proposed Charter amendment, except for those proposed by voter initiative, to a Charter Review Committee before the City Council places the Charter amendment proposal on a ballot.*

**FISCAL IMPACT:**

None.

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