

CITY CHARTER SUGGESTIONS/COMMENTS (through Jan. 5, 2011)

Since December 6, 2011, the City of Costa Mesa has been soliciting input from residents and other interested parties on the initial draft of a proposed charter, or local constitution, for the City.

The City has compiled the suggestions and comments below for the City Council's consideration.

SUGGESTIONS TO THE CITY COUNCIL

Suggested additions, edits: the Preamble

1. **Suggested amend:** WE THE PEOPLE of the City of Costa Mesa, California, believe fiscal responsibility and the prudent stewardship of public funds is essential for confidence in government, that ethics and integrity are the foundation of public trust and that just governance is built upon these values. Through the enactment of this Charter, we declare our intent...enact and adopt this Charter for the City of Costa Mesa. It is incumbent upon those who govern and make decisions for and on behalf of the City of Costa Mesa to legally, as well as morally, abide by the provisions of this Charter, in its strictest sense, to assure the continued success and well-being of our City.

Suggested additions, edits: Municipal Affairs, Section 100

1. **Suggested amend to Section 101:** Rights and Liabilities of Cityies; Prior Contracts, Liabilities, Etc., Continued in Effect The City of Costa Mesa shall remain vested.... All lawful ordinances, resolutions, rules and regulations and contracts, or portions thereof, in force at the time this Charter takes effect...are hereby continued in force until...superseded by proper authority.
2. **Suggested addition:** Section 101(a). Pending Actions and Proceedings No action or proceeding, civil or criminal, pending at the time when this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by adoption of this Charter or by anything herein contained.
3. **Suggested amend to Section 102:** Municipal Affairs Each of the responsibilities of governance set forth and described in this Charter, ~~and as established~~ to the extent allowed by the Constitutional, statutory and judicially defined law of the State of California, is hereby declared to be a

municipal affair ~~of concern~~, the performance of which is unique to the benefit of the citizens of the city of Costa Mesa. Unless specifically provided for in this Charter, the general laws of the State of California shall apply to the City of Costa Mesa.

Suggested additions, edits: Form of Government, Section 200

1. **Suggested addition to Section 201:** The parts that are here are fine but a specific qualification section should be added. City Council members should be U.S. citizens, at least 18 years old, a registered voter, resident of the City of Costa Mesa for at least 2 years and remain a resident as long as they are on the Council. Include language about City Council's compensation/expenses; include language about Council vacancies, forfeitures (absenteeism); felony convictions; rules for conflict of interest and nepotism.
2. **Suggested addition to Section 201:** The Mayor of the city shall be elected by the qualified voters of the City at a general municipal election. The term of service for the mayor and shall be for a period of two (2) years from the date of election.
3. **Suggested amend to Section 201:** The members of the City Council shall not be eligible to hold any other office or employment with the City during the period of their incumbency, and for a period of two years following the termination of their position on the City Council.
4. **Suggested addition Section 201:** Council Member Qualification - 5 year Minimum Residency requirement.
5. **Suggested amend to Section 202:** Change from requiring 1 public meeting a month to at least 2 public meetings a month. The meetings, many times, end after midnight now. With only one meeting a month public input wouldn't have a chance. Second paragraph, please define and be specific about "state laws," such as "open and public" include specific language about dissemination of information about council meetings.
6. **Suggested addition to Section 202.** Time and Place of Meetings; Rules of Conduct of Proceedings (Add third paragraph) No citizen shall be denied the right, personally or through counsel, to present grievances at any regular meeting of the City Council, or to offer suggestions for the betterment of municipal affairs, subject always to the rules of the City Council, governing the conduct of Council meetings.

7. **Suggested amend to Sections 203/204:** Be consistent. If we aren't having a title of City Manager anymore then change it everywhere to CEO. Paragraph 3, remove "without cause stated or hearing had." This language puts way too much power in the hands of the City Council. What specific power and duties of the City Manager? What about language that explains/describes an "acting" city manager? Line 2 "as prescribed by this Charter" Where? What about language describing personnel, boards, commissions, committees?
8. **Suggested addition to Section 203:** Administrative Officers; Appointment and Removal; Grounds (Add fourth paragraph) The City Manager shall not be removed from office during or within a period of ninety days after any municipal election at which a member of the City Council is elected. No person shall be eligible to receive appointment as City Manager while serving as a member of the City Council or any City commission, board, or committee, nor within one year after such person has ceased to be a member of the City Council.
9. **Suggested amend to Section 203:** Concerned about 4 Council Members being able to dismiss an employee with no hearing and no stated reason.
10. **Suggested amend to Section 204:** Administrative Officers; Qualifications and Duties The City Manager shall be the administrative head...by ordinance of the City Council. The City Manager shall be chosen on the basis of his or her executive and administrative qualifications, with special reference to actual experience in, and knowledge of, accepted principles and practices of organizational design and development, long-range planning, public administration, public financing, municipal budgeting, financial administration, program and policy formulation, purchasing, maintenance of public records, and applicable state and federal laws and regulations governing the administration and operations of a municipal agency.
11. **Suggested amend to Section 205:** Interference With Performance of Duties of City Manager No member of the City Council shall in any manner attempt to influence or coerce the City Manager in the making of any appointment or removal of any officer or employee, in the purchase of supplies or services, or in any other administrative matter ~~in accordance with the Charter, City ordinance, or applicable state and federal law.~~
12. **Suggested clarification to Section 205:** Second line, "in accordance with the Charter," where is this language in the charter about attempt to influence/coerce? What about specific language about a city clerk and city treasurer?

13. **Suggested addition: Section 206:** Code of Ethics and Conduct The City Council shall adopt a Code of Ethics and Conduct for elected officials and members of appointed commissions, boards and committees to assure public confidence in the integrity of local government elected and appointed officials. The City Council shall adopt said Code of Ethics and Conduct by ordinance or resolution within six months of the effective date of this Charter.

14. **Suggested addition:** Should include a Court of Review – akin to the U.S. and California Supreme Courts – to provide local checks and balances on the City Council by splitting governance into three equal branches; the executive, legislative and judicial branches. The Court could be established, for example, with three judges elected by vote of the citizens of Costa Mesa, and hold office for six years in staggered terms. The Court would sit only as needed, when a petition for review is filed. Suitable compensation of judges could be established for their part-time work. The City would provide a venue, materials, and equipment for the Court's operation, and fund it as needed. This Court is needed to supplement the cumbersome and expensive routes of appeal that have been traditionally available – lawsuits and the Referendum. A more rapid response is needed, in case a Council greatly empowered by a charter succumbs to dangerously unfettered activism.

15. **Suggested addition:** City Council may consider organizations (Commission) to participate in decisions affecting the City as a whole, a commission (such as Planning Commission) is given the power to make decisions, or take actions. Some or all such powers may be limited or effectively unlimited. Candidates must be at least 18 and willing to participate for a two-year term. Candidates also should demonstrate a history of participating in community activities, ideally with emphasis on city related activities. The City Council conducting the recruitment program will screen all applications and recommend qualified candidates for membership and their selections will be made by drawing from eligible residents.

16. **Suggested addition:** In the event the Council takes any action that has a significant negative impact upon the City's finances, including causing legal action resulting in fines or penalties, said Council will be held personally financially responsible for said costs.

17. **Suggested addition:** Include a provision that the municipal elections shall continue to be governed by state law, or alternatively, have the charter spell out with specificity the exact manner in which all election matters, including initiatives, referenda and recalls will be conducted. As written the charter leaves the door wide open for the council, by a mere vote of 3, to

alter the local election laws. This includes setting forth qualifications for office, percentage of registered voters' signatures required for an initiative, referendum or recall to be changed (lowered or increased, at the whim of any given council, since any such election ordinances can be enacted and/or repealed by Council and not the voters.

18. **Suggested addition:** All provisions of the general law of the State of California as they now exist or as amended in the future shall govern matters concerning elections including, but not limited to, election dates, initiatives, referenda, recall, eligibility to vote, and qualifications for office, and no other provisions shall apply, except that the time for filing a petition for a referendum shall be ninety days from the final reading of the legislative action, and no such action, other than an urgency ordinance as defined by general law, shall take effect until the time for filing of a referendum petition has expired and no valid petition has been filed.

Suggested additions, edits: Legislative Authority, Section 300

1. **Suggested addition to Section 300:** add specific language about special elections article.
2. **Suggested amend to Section 300.** Ordinances (Amend first paragraph) The City Council shall act by ordinance, resolution, or motion. Except for urgency ordinances,...nor at any time other than at a regular meeting, and no ordinance shall become effective until thirty (30) days from and after the date of its final passage. Nothing herein...signed by the Mayor and attested by the City Clerk.
3. **Suggested addition:** Section 301. Initiative, Referendum and Recall The provisions of the Elections Code of the State of California, as the same now exists or may hereafter be amended, governing the initiative and referendum and the recall of municipal officers, shall apply to the use thereof in the City of Costa Mesa.
4. **Suggested addition:** Section 302. Planning and Zoning The Zoning Code, land use designations of properties as shown on the official Zoning Map, and land use decisions (including, but not limited to, subdivisions, variances, conditional use permits, and administrative zoning approvals) shall be consistent with the General Plan and any applicable Specific Plan. In the event that a zoning ordinance or zoning map becomes inconsistent with the General Plan or Specific Plan by reason of amendment to the General Plan or Specific Plan, the zoning ordinance or zoning map shall be amended within a reasonable time so that it is consistent with the General Plan or Specific Plan as amended.

5. **Suggested addition:** City Council powers limited, not to be liberally or broadly interpreted, with all other Charter rights/powers reserved for the Citizens of Costa Mesa.
6. **Suggested addition:** Include the manner for the enactment of ordinances to remain the same as under state law, and for the charter to specifically so provide.

Suggested additions, edits: Fiscal Matters, Section 400

1. **Suggested amend to Section 400:** Economic and Community Development The City shall encourage, support, and promote economic development and community development in the City, while balancing the benefits of such development with potential impacts on residents, in terms of traffic, noise, pollution and other factors that affect the quality of life.
2. **Suggested amend to Section 401:** Public works contracts should not be exempt from public bidding. Prevailing wage should be paid even with “fair and open competition.” Bids lower than the prevailing wage allow the bidder to pay employees much less than the going rate for the work an employee is doing. This would allow the owner of the business to make a larger profit on the backs of his workers. This kind of language encourages the contractor to hire undocumented workers at minimum wage or even lower than minimum wage.
3. **Suggested amend to 401 section:** Council shall be required to maximize contracting out all City services, except above Police/Fire/EMT minimum Street Patrol services, to most qualified bidder that provides best value to City over the life of each such contract.
4. **Suggested amend to Section 401:** Retain all language to Project Labor Agreements and the ability to keep the City protected from strikes by unions. PLA's give the City the chance to ensure the most qualified bidder gets the award.
5. **Suggested addition amend to Section 401:** Competitive bids shall be solicited for all contracts with public or private entities, and contracts shall be awarded to the lowest responsible and responsive bidder. No changes to an Invitation to Bid or Request for Proposal shall be made after the Invitation or Request has been issued, and non-responsive bids shall be rejected; provided, however, that after a contract has been awarded, the City Council, at a regular public meeting, may modify the contract by adding or deleting specific items of work within the general scope of the contract and adjusting compensation accordingly. Contracts for legal, accounting, engineering or architectural services shall be awarded with

due consideration for the specific skills and expertise required, in addition to the financial and other aspects of the proposals.

6. **Suggested addition to Section 401:** Every contract awarded by the City of Costa Mesa which is not limited by its terms to one year or less shall include a specific amount of maximum compensation, per year and overall. The maximum compensation shall not be exceeded or increased except by a vote of at least three members of the City Council at a regular public meeting, before goods or services in excess of the maximum are provided to the City.
7. **Suggested addition to Section 401:** All construction and maintenance contracts awarded by the City shall provide that all persons providing services under the contract shall be legally entitled to perform the work and shall possess all required licenses and permits needed for the work. The contracts shall require the contractor to provide adequate proof of compliance prior to the start of the work and monthly thereafter until the work is completed.
8. **Suggested addition:** Fiscal matters need language about annual budget preparation, submission, public hearing, public consideration, City tax rates, and audits.
9. **Suggested addition:** Council will minimize hiring Consultants, but in no event to exceed 0.5% of GF.
10. **Suggested addition:** Section 403. Conflict of Interest No member of the City Council shall be financially interested, as that term is defined at Government Code Section 87103, as it is presently worded or may hereafter be amended, in any contract, sale or transaction to which the City is a party, and neither shall any member of any City commission, board, or committee, or any City official or employee be financially interested in any contract, sale or transaction to which the City is a party and which comes before said commission, board, committee or said official or employee or department of the City with which he or she is connected, for official action.

Suggested additions, edits: General Laws, Section 600

1. **Suggested amend to Section 601:** Council Member Compensation now includes salary benefits, medical benefits and pension benefits. Since Council members are only here part-time, they should only receive a part-time salary. Council members should pay for their own medical insurance. Councilmember Total Compensation- \$150 per member per Council meeting.

2. **Suggested amend to Section 601:** Council Member Compensation Notwithstanding the previous paragraph, salary of the Mayor and Council Members will continue to be set by California Government Code §36516, as that statute provides as of the date of the adoption of this Charter, where the formula considers city population and state law. Elected Council members are not entitled to city benefits' benefits, employment benefits, or employer contributions without the majority approval of qualified voters of the City at a general municipal election.
3. **Suggested addition:** Section 602.1 – The City is a right to work City. No employee is required to join a union or the OC Employee Assn.
4. **Suggested deletion** to Section 602: Delete the last sentence. If voters must approve increases they should also have to approve decreases. Add that sentence to the section. The way it reads the City Council has too much power in their hands.
5. **Suggested addition to Section 602:** Retirement age for each new City employee will be 65 years of age, except for active Police/Fire/EMT on street patrol, whose Retirement Age will be 59 years of age.
6. **Suggested addition:** Section 602.2 – Total benefits (retirement, health, +) contributions shall be shared 50% by the City and the employee. The City's total contribution shall not exceed 10% of the employees pay.
7. **Suggested deletion to Section 603:** Delete. City employees should make that change within their own union or association. They have the power to make that change themselves if they are unhappy with the way their dues are being spent.
8. **Suggested deletion to Sections 602 & 603.** Delete entirely. They are punitive and unnecessary.
9. **Suggested addition:** Taxpayer Payroll Committee would establish rates of compensation for all employees. The compensation would be based on the Bureau of Labor Statutes for private employers (not union wages). Local benefits shall not be greater than those provided by Social Security (rate of contribution by employee and employer, age of retirement).
10. **Suggested addition:** Need General Fund Appropriate limits specific in Charter – e.g., maximum 50% of GF for Salaries/Benefits; Minimum 10% of GF for Reserve; Minimum of 10% of GF for Infrastructure; Minimum of 5% of GF for Telecommunications; Minimum of 5% of GF for Police/Fire Vehicles. Total City employee headcount not to exceed 200, including

FTEs, of those, minimums of 100 Police Street Patrol, 40 Firefighters, and 5 EMTs, with a maximum 55 in other City jobs.

11. **Suggested addition:** Except for the City Manager, and a Public Safety Administrator (to head up Police/Fire/EMT), maximum annual salary for any City employee not to exceed \$150K, including all incentives and bonuses, excluding City PERS contribution.
12. **Suggested addition:** City's Contribution to PERS for each new City employee not to exceed 20%.
13. **Suggested addition:** Each new City employee to pay 100% of City-offered medical/hospital plans.
14. **Suggested addition:** Council will minimize Overtime, but in no event exceed 0.5% of GF.
15. **Suggested addition:** Add language that protects our status as a "Rule of Law" City and continues to oppose illegal immigration violations and so-called "Safe Harbor" cities.
16. **Suggested addition:** In any doctrine reinforcing the historic principles of self governance and home-rule, it is of the utmost importance to include the right of law abiding citizens to keep and bear arms. Laws can come and go depending on the elected officials but it is crucial that no law can be passed that would infringe on that primal right for law abiding citizens.
17. **Suggested addition:** Include a provision that spells out exactly how the zoning and land use laws will be changed and have them contained in the charter, or have the charter provide that state law will continue to govern zoning and land use (including use of public parklands).
18. **Suggested addition:** The charter to specifically prohibit Council from seeking voter approval to impose a real property transfer tax.
19. **Suggested addition:** All zoning ordinances and zoning variances shall conform to and be consistent with the general plan in effect at the time of adoption or approval and to any applicable specific plan, and to general law in regard to the rules governing general and specific plans and zoning.
20. **Suggested addition:** All provisions of the general law of the State of California pertaining to conflict of interest, including but not limited to Government Code Section 1090, shall apply to and be binding upon the City Council and all officers and employees of the City of Costa Mesa.

21. **Suggested addition:** Whenever a valid petition for a referendum has been filed, the City Council shall either vacate the action that is the subject of the referendum or submit the matter to a vote of the electorate at the next general election.
22. **Suggested addition:** Any citizen initiative for which a valid petition has been filed shall be submitted to a vote of the electorate at the next general election.
23. **Suggested addition:** No proposed amendment to this charter shall be adopted unless approved by a majority of those voting on the matter at a general election held in an even-numbered year.
24. **Suggested addition:** All matters not expressly included in this charter shall be governed by the general law of the State of California.
25. **Suggested addition:** All communications concerning City of Costa Mesa business between a Council member and any individual or organization other than City of Costa Mesa employees shall be disclosed at the next regular Council meeting. The disclosure shall include the names of all persons participating, the dates of such communications, the form of communication, the subject of the communication and a summary of the substance of the communication.

Suggested additions, edits: Amendment, Section 800

1. **Suggested amend to Section 800:** Amendment to Charter, Revised or Repealed This Charter, and any of its provisions, may be amended by a majority two thirds vote of the electors voting on the question. Amendment or repeal may be proposed by initiative or by the governing body.
2. **Suggested amend Section 800:** Replace with: A volunteer Charter Revision, Amendment and Oversight Committee (CRAOC) will be established. The city is to remain a General Law city until the CRAOC is established. The CRAOC will consist of a number of individuals elected by the voters of Costa Mesa and will have service terms and limits. Committee members will be elected/re-elected by the voters of Costa Mesa every TBD years. The CRAOC can propose revisions, amendments, and all other form of changes to the charter or repeal it. The CRAOC provides oversight by having the authority, through majority CRAOC vote, to approve for placement on the ballot any proposal for power or authority that is outside of that specifically defined in the charter. If placed on the ballot, a majority of Costa Mesa voters must approve the proposal. The proposed changes or proposal for repeal can be put on the ballot without the city council's approval if 60% or more of CRAOC committee members

agree. All other CRAOC rules for selecting a leader of the CRAOC, and for operation and approval of proposals will be established by the CRAOC. If the charter changes or proposal for repeal are approved by the CRAOC for the ballot, the changes must be approved by a majority of the Costa Mesa electors voting on the issue before they become effective.

3. Suggested addition: Section 801. Charter Review The City Council shall hold a public hearing to determine if there is a need to convene a citizens' Charter Review Commission to conduct a review of the City Charter no less frequently than every ten years.

SUMMARY OF GENERAL COMMENTS

Slow down - 19

No charter – 11

The draft charter should be written by a citizen commission that is elected by the citizens of Costa Mesa – 8

Yes charter – 1

Don't use other cities' charters-1

Possible day meetings scheduled for those who do not drive at night-1

Please schedule more town hall meetings at various places and times, so more people can be educated.-1

Public funding of election campaigns should be unlawful. Could not find where that was included-1

There are huge problems allowing Council to establish their own salaries.-1
[Note: The proposed Charter prevents this under Section 601.]

Very concerned about the clause regarding the public financing of election campaigns as being "lawful.-1

Needs more detailed information. Charters from other OC cities: Anaheim, 50 pages; Cypress, 29; Huntington Beach, 20; Irvine, 10; NB (contracts for services only) 6; Placentia, 24; Santa Ana, 5; Seal Beach, 24.