

**FULL TEXT OF MEASURE V
CITY OF COSTA MESA**

**CHARTER
OF THE
CITY OF COSTA MESA**

WE THE PEOPLE of the City of Costa Mesa, California, ("City") declare our intent to restore to our community the historic principles of self-governance inherent in the doctrine of home-rule. We believe that 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, that the rule of law must be followed, and that just governance is built upon these values. We declare our intent to enact and adopt this Charter for the City of Costa Mesa in our firm conviction that the economic and fiscal independence of our local government will better serve and promote the health, safety, and welfare of all the citizens of this City. 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 order to assure the continued success and well-being of our City. 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 Costa Mesa.

**Article I
Municipal Affairs**

Section 100. Name of City; Perpetual Succession; Boundaries

The City of Costa Mesa shall continue to be a municipal corporation known as the City of Costa Mesa. The boundaries of the City of Costa Mesa shall continue as now established until changed in the manner authorized by law.

Section 101. Rights and Liabilities of Cities; Prior Contracts, Liabilities, Etc., Continued in Effect

The City of Costa Mesa 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, and is hereby declared to be the successor of same. It shall be subject to all debts, obligations and liabilities, which exist against the City at the time this Charter takes effect. All existing lawful ordinances, resolutions, rules and regulations, or portions thereof, in force at the time this Charter takes effect and not in conflict with or inconsistent herewith, are hereby continued in force until the same have been duly repealed, amended, changed or superseded by proper authority.

Section 102. Municipal Affairs

Each of the responsibilities of governance set forth and described in this Charter, and those established by the Constitutionally, statutorily and judicially defined laws of the State of California, is hereby declared to be a municipal affair, the performance of which is unique to the benefit of the citizens of the City of Costa Mesa.

Section 103. General Powers; Seal

The City of Costa Mesa, by and through its legislative body and other elected or appointed City officials, as may be applicable, shall have and exercise all powers necessary or appropriate to a municipal corporation and the general welfare of its inhabitants, which are not prohibited to it by the Constitution of the State of California, and which it would be competent for this Charter to set forth particularly or specifically, as fully and completely as though they were specifically enumerated in this Charter. The enumeration in this Charter of any particular power, duty or procedure shall not be held to be exclusive of, or any limitation or restriction upon, this general grant of power. General powers of the City include, but are not limited to, the powers necessary or appropriate to promote the health, welfare and safety of its inhabitants. The City shall have and use a common seal and the official seal hereinbefore adopted and now in use by City shall continue to be the official seal of the City.

**Article 2
Form of Government**

Section 200. Form of Government

The municipal government established by this Charter shall be known as the "Council-Manager" form of government. The City Council will establish the policy of the City, and the City Chief Executive Officer ("CEO") will carry out that policy.

Section 201. Legislative Body

(a) Composition

The legislative body of the City shall consist of five (5) council members elected at large. This legislative body shall be known as the "City Council," and each of its members shall be known as "Council Member."

(b) Term Limits

The number of terms a member of the City Council may serve on the City Council shall be limited to two (2) consecutive terms of four (4) years each.

(c) Mayor and Mayor Pro Tempore

The City Council shall choose one of its members as "Mayor" and one of its members as "Mayor Pro Tempore" at the meeting at which the municipal election results are certified. The term of service for both Mayor and Mayor Pro Tempore shall be for a period of two (2) years from the effective date of appointment.

(d) Selection of Council Member and Terms

The Council Members' terms shall be staggered in the manner existing at the time of the adoption of this Charter. Each shall hold office for the period of four years from and after the date of certification of election results by the City Council, and until his or her successor is elected and qualified, or until his or her death, removal or resignation. For the first general municipal election following the adoption of this Charter, the two candidates receiving the most votes shall be seated in place of the Council Members whose terms would be expiring. In the next general municipal election thereafter, the three candidates receiving the most votes shall be seated in place of the Council Members whose terms would be expiring. This sequence shall continue at each general municipal election thereafter until changed by a vote of the people. Vacancies shall be filled in the manner provided by the general laws of the State.

(e) Qualifications

A candidate for City Council must meet qualifications as set forth in the general laws of the State, as applicable and as may be amended and recodified.

(f) Ineligibility to hold Other Office or Employment with the City

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 term of service, and members of the City Council shall not be eligible to hold any employment for compensation with the City for a period of one year following the termination of their position on the City Council.

Section 202. Time and Place of Meetings; Rules of Conduct of Proceedings

The City Council shall provide by ordinance or resolution for the time and place of holding its meetings. Special and emergency meetings shall be called in

accordance with the provisions of the general laws of the State of California. There shall be at least one regular meeting in each calendar month. Any regular meeting may be adjourned to a date and hour certain, and such adjourned meeting shall be a regular meeting for all purposes.

Rules regarding meeting locations, notice and conduct of meetings of the City Council and all subordinate legislative bodies in the City shall comply with all State laws and such rules for procedure as are established by ordinance or resolution of the City Council.

Section 203. Administrative Officers; Appointment and Removal; Grounds

(a) Administrative Officers

The following administrative officers are hereby established, each of whom shall be appointed by the City Council: a City CEO and a City Attorney.

(b) Appointment and Removal of Administrative Officers

Administrative Officers shall be appointed and removed pursuant to the general laws of the State of California.

Section 204. Administrative Officers; Qualifications and Duties

(a) City CEO

The City CEO shall be the administrative head of the City government. The duties of the City CEO shall be as prescribed by this Charter or by ordinance of the City Council. The City CEO shall appoint such other subordinate officers and employees as are authorized in the budget or are required by the general laws of the State of California.

(b) City Attorney

The City Attorney shall be the chief legal advisor to the City and the City Council. The City Attorney shall be an attorney-at-law, admitted to practice before the California Supreme Court, and shall have been in actual practice for at least three (3) years immediately prior to his or her appointment. All other things being equal, an attorney who has had special training or experience in municipal corporation law shall be appointed to the office if practicable. The City Attorney shall, within his or her discretion, prosecute all violations of City ordinances, shall draft or approve all contracts and other legal documents and instruments, and shall perform such other duties as are established by ordinance or resolution.

Section 205. Interference With Performance of Duties of City CEO

No member of the City Council shall in any manner attempt to influence or coerce the City CEO in the making of any appointment or the purchase of supplies in accordance with the Charter, City ordinance, or applicable State and federal law.

Except for such direction that it provides to the City Attorney, the City Council, or any of its members, shall deal with the administrative functions of the City only through the City CEO, except for the purpose of inquiry, and neither the City Council, nor any member thereof, shall give direct orders to any subordinates of the City CEO.

No Council Member, and no officer, board or member of any board or commission, shall recommend the appointment of, appoint, vote for, or elect, to any office or position of employment, in any department of the City government, any person related within the third degree by consanguinity or marriage with such Council Member or other elected or appointed City officer.

Article 3 Legislative Authority

Section 300. Ordinances

The City Council shall act by ordinance, resolution, or by minute order. Except as otherwise stated herein, ordinances and resolutions shall be adopted pursuant to the California Government Code and in accordance with any other applicable law, as may be amended and recodified.

Nothing herein shall be construed as prohibiting minor changes, amendments, or modifications of a proposed ordinance between the time of its introduction and final passage, providing its general scope and original purpose are retained. The affirmative vote of three (3) members shall be necessary for the passage of any ordinance or resolution. All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk.

The enacting clause of all ordinances, except those enacted by vote of the people, shall be, "The City Council of the City of Costa Mesa does ordain as follows." All ordinances, with the exception of the annual appropriations ordinance, shall contain but one subject, which shall clearly be stated in the title.

Fines and other penalties for the violation of City ordinances shall be in such amounts as are established by the City Council in the City's Municipal Code or in a properly adopted Resolution, but no civil fine or penalty shall exceed an amount set by ordinance or Resolution of the City Council for each day of the same violation. However, in the case where a State or federal agency has imposed a civil fine or penalty upon the City for violations of statutes or regulations adopted by the State or federal government, to the extent that such violations are caused by the actions of a person(s), entity(ies), or organization(s) in violation of those same statutes or regulations, the City may recover any costs or expenses related to the civil fine or penalty imposed upon the City from such person(s), entity(ies), or organization(s). The amount the City may recover includes, but is not limited to, the cost of the civil fine or penalty itself in addition to any associated attorneys' fees and costs. The maximum amount of any civil fines or penalties shall not be limited to any amounts established by State law for criminal fines or penalties.

Section 301. General Plan Consistency

Pursuant to the general laws of the State, as they may be amended or recodified, zoning ordinances adopted by the City Council shall be consistent with the General Plan of the City.

Article 4 Fiscal Matters

Section 400. Economic and Community Development

The City shall encourage, support, and promote economic development and community development in the City.

Section 401. Purchasing and Contracts

(a) Definitions

- (1) "Municipal Public Works Contract," as used in this section, means an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind, which is paid for solely with city sources of revenue (local funds not derived from state or federal government agencies).
- (2) "Other Municipal Contract" as used in this section means any contract, purchase order, or other agreement used to procure services, equipment, and supplies of any kind, which is paid for solely with city sources of revenue (local funds not derived from state or federal government agencies).

(b) Exemption from the Public Contracts Code

The City is exempt from the provisions of all California statutes regulating public contracting and purchasing insofar as such contracting and purchasing are solely within local control and are municipal affairs, except as provided by this Charter, City ordinance, by agreement approved by the City Council, or as

otherwise required by applicable law.

(c) Annual Value of Exempted Contracts

Annually, the City Council shall set a value at which Municipal Public Works Contracts shall be exempt from formal public bidding and such contract awards shall follow such procedures as are set by ordinance or resolution of the City Council. Such procedures shall include safeguards to ensure that the best value and quality of work is being obtained for the City, and compliance with Government Code section 1090 and the California Political Reform Act.

(d) Establishment of Procedures

The City Council shall establish, by ordinance or resolution, all standards, procedures, rules, or regulations to regulate all aspects of the bidding, award, and performance of any Municipal Public Works Contract or Other Municipal Contract greater than the annual value of formal bidding exempt contracts set by the City Council.

(e) Other Municipal Contracts

The City may, without exception, enter into Other Municipal Contracts. Other Municipal Contracts shall follow such standards, procedures, rules, and regulations as set by ordinance or resolution of the City Council.

(f) Prevailing Wages

No Municipal Public Works Contract or Other Public Contract shall require payment of a prevailing wage unless:

- (1) Prevailing wages are legally required to be paid by the requirements of federal grants, State grants, or other federal or State law;
- (2) The project is considered by the City Council, by resolution, not to be a municipal affair of the City; OR
- (3) Payment of prevailing wages is authorized by resolution of the City Council. If payment of a prevailing wage is authorized hereunder, then a prevailing wage schedule for municipal public works contracts shall be established by City Council resolution or ordinance.

(g) Fair & Open Competition

The City shall promote fair and open competition for all City public works construction projects so that all contractors and workers, whether union or non-union, are treated equally in the bidding and awarding of Municipal Public Works Contracts and Other Public Contracts.

(h) Contracting for Construction Services

In determining whether to use the City's own workforce for any public works construction or to contract for such services, the sole considerations shall be worker availability, quality of work, and costs savings to the City. No municipal law or rule shall require the use of employees rather than contract providers for any construction service.

Section 402. Miscellaneous Provisions Relating to Appropriations

Upon the request of the City CEO, the City Council may, by resolution, transfer any part of an unencumbered balance of any appropriation to another purpose or object, or may, by resolution, authorize a transfer to be made between items appropriated to the same office or department. At the close of each fiscal year, the unexpended balance of each appropriation, against which no contracts for works or supplies are outstanding, shall revert to the City's general fund. Any money in the general fund otherwise unappropriated may be appropriated by the City Council at any time by resolution.

Section 403. Prohibition against Property Transfer Tax

There shall be no transaction tax, sales tax, or any other kind of tax imposed upon any sale, grant, transfer, assignment, or other conveyance of real property from one party, or parties, to another party, or parties, within the City. This section does not affect "Documentary Transfer Tax" as described in Part 6.7 (commencing with section 11901) of Division 2 of the Revenue and Taxation Code of the State of California, as it may be amended or recodified.

Section 404. Prohibition against Gift of Public Funds

The City shall comply with the laws of the State of California that are applicable to general law cities with respect to the prohibition against gifts of public funds.

**Article 5
Revenue Retention**

Section 500. Reductions Prohibited

Revenues raised and collected by the City shall not be subject to subtraction, retention, attachment, withdrawal, or any other form of involuntary reduction by any other level of State government.

Section 501. Mandates Limited

No person whether elected or appointed, acting on behalf of the City, shall be required to perform any function which is mandated by any other level of State government, unless and until funds sufficient for the performance of such function are provided by said mandating authority.

**Article 6
General Laws**

Section 600. General Law Powers

The City shall have the power and authority: to adopt and enforce all legislation, laws, and regulations; and to take all actions necessary 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 the provisions of this Charter and the provisions of the general laws of the State of California, the provisions of this Charter shall control as they apply to municipal affairs.

Section 601. Council Member Compensation

Notwithstanding the previous section, the salary of the Mayor and Council Members will continue to be limited in accordance with California Government Code §36516, as it may be amended and recodified.

Section 602. Employee Retirement Benefits

Upon this Charter's adoption, no action increasing any employee's, legislative officer's or elected official's existing retirement benefits, other post-employment benefits, or employer contributions, with the exception of Cost of Living Adjustments, shall be adopted without the assent of the majority of the voters voting upon such an ordinance at an election at which such an ordinance has been duly submitted to the registered voters of the City.

Section 603. Voluntary Participation in Employee Organizations

Except as otherwise provided by the State Legislature, City employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. City employees also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment

relations with the City.

Section 604. Voluntary Municipal Employee Political Contributions

Unless otherwise required by law, a City employee labor union, City contractor, or City employee association ("Organization") may only make expenditures for political activities if the Organization establishes a separate segregated fund for such purposes ("Fund") that meets the requirements of this section. The Organization shall ensure that: (a) Any fees or dues collected from the members of the Organization are not used for political activities, transferred to the Fund, or intermingled in any way with Fund moneys; (b) The cost of administering the Fund is paid from Fund contributions and not from any of the fees or dues collected for non-political purposes; (c) no political contribution may be deducted from the member or employee's paycheck using the City's payroll system; and, (d) The solicitations are designed such that the Organization is in compliance with California Government Code Section 84304, as it may be amended or recodified.

Article 7 Elections

Section 700. General Municipal Elections

General municipal elections for the election of officers and for such other purposes as the City Council may prescribe shall be scheduled pursuant to general law.

Section 701. Special Municipal Elections

All other municipal elections shall be known as special municipal elections, and shall be scheduled pursuant to general law.

Section 702. Procedure for Holding All Elections

All elections shall be held in accordance with the provisions of the Elections Code of the State of California and any other applicable general law, as may be amended or recodified, for the holding of municipal elections.

Section 703. Initiative, Referendum, and Recall

There are hereby reserved to the electors of the City the powers of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code of the State of California, as they may be amended or recodified, governing the initiative, referendum, and the recall of Council Members, shall apply to the use thereof in the City so far as such provisions of the Elections Code are not in conflict with the provisions of this Charter.

Article 8 Interpretation

Section 800. Construction and Interpretation

Except as otherwise provided by this Charter, the language contained in 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 which is a municipal affair.

Section 801. 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.

Article 9 Amendment

Section 900. Amendment to Charter, Revised or Repealed

This Charter, and any of its provisions, may be amended by a majority vote of the qualified voters voting on the question. Amendment or repeal may be proposed by initiative or by the City Council.

Section 901. Review of the Charter

The City Council shall hold a public hearing during the second meeting of every tenth year after this Charter is adopted to determine if a Charter Review Commission is needed to review the City Charter, and report to the City Council suggested amendments, if any, for consideration and possible action. This section in no way limits the provisions of Section 900.

EXHIBIT A

Ballot Description, Summary, and Enumeration of Powers:

A vote in favor of Measure V changes the City of Costa Mesa from a general law city to a charter city. If passed, Costa Mesa will have authority over municipal affairs as defined by California's Constitution and courts. This includes:

1. Form of Government: The Proposed Charter requires that the City continue to use the "council-manager" form of government, just as general law cities do.
2. Purchasing and Contracting: The Proposed Charter allows the City to engage in contracting/purchasing different from general law cities (e.g. prevailing wages *not* required for Public Works Projects funded solely with City funds; city may elect to use own forces or contract for public works projects based on enumerated criteria).
3. Voluntary Employee Political Contribution: The Proposed Charter does not allow the city to collect political contributions through payroll deductions from city employees.
4. Public Employee Pension Benefits: The Proposed Charter requires City voter approval before any increase of employees' or officers' retirement or post-retirement benefits, except cost of living adjustments.
5. Council Compensation: The Proposed Charter requires that the City continue to follow general law regulating and capping Councilmember compensation.
6. Elections: The Proposed Charter requires that elections continue to be governed by general law.
7. Management of Administrative Officers: The Proposed Charter requires that the City follow general law for the appointment/removal of the Chief Executive Officer and City Attorney.
8. Interference with City CEO's duties: The Proposed Charter prohibits Councilmembers from attempting to influence/coerce the City CEO in conducting his/her duties under applicable law. Except for the City Attorney, City Council members must deal with the administrative functions of the City through the City CEO, except for making inquiries. City Councilmembers, are prohibited from giving direct orders to subordinates of the City CEO. This codifies a provision of the City's municipal code into the Charter. No Councilmember, or any officer, or member of any board or commission, is permitted to participate in the appointment to any office or employment of the City if the candidate is related by blood, or by marriage, to that officer or member.

9. Adoption of Ordinances: The Proposed Charter requires the City to continue to follow general law in considering ordinances for adoption.
10. Taxes and Assessments: The Proposed Charter prohibits taxation of property sales.
11. Charter Powers: The Proposed Charter also authorizes the City to take actions and pass ordinances consistent with the City's status as a charter city in connection with its municipal affairs.

If the Charter is approved, no changes can be made to the Charter without a majority vote of the voters voting at a subsequent election.

IF YOU DESIRE A COPY OF THE PROPOSED CHARTER, PLEASE CALL THE CITY CLERK'S OFFICE AT (714) 754-5221, AND A COPY WILL BE MAILED AT NO COST TO YOU.