



SEATTLE CITY COUNCIL
CENTRAL STAFF

City Powers and How They Are Exercised

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COUNCIL BRIEFING
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Central Staff Briefing Series

1. City Powers and How They Are Exercised (January 8)
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Modes of Municipal Power

- *Power to provide general governmental services*, such as roads, parks, and fire protection
- *Police Power*, power to regulate activities to protect the public health, safety, and welfare, such as zoning laws and regulatory licenses
- *Proprietary Power*, power associated with sale of commodities or services, such as rate-setting for electricity, water, and sewer services
- **Corporate Power**, procedural authority to exercise the other powers through action like hiring, contracting, and managing property

Outline for Today

- Modes of Municipal Power
- Seattle as a Charter City
- Powers Reserved to the Council
- Examples of How Those Powers are Exercised
- Exercising Those Powers Transparently
- Limitations on Those Powers
- Giving Those Powers Away

Seattle as Charter City – State RCW Framework

- Washington has three categories for municipal corporations: first-class cities, second-class cities, and towns. First-class cities are those with a population over 10,000 and a charter approved by the city's electors. [Ch. 35.01 RCW](#).
- Powers for first-class cities are broad and set out in [Ch. 35.22 RCW](#).
- Form of government for first-class cities are established by charter.
- Seattle is a first-class city with a Mayor-Council form of government established in the [Charter of the City of Seattle](#).

Other Elected Offices

Office	Powers and Duties
Mayor	“The Mayor shall see that the laws in the City are enforced, and shall direct and control all subordinate officers of the City, except in so far as such enforcement, direction and control is by this Charter reposed in some other officer or board, and shall maintain peace and order in the City.” Article V, Section 2.
City Attorney	“The City Attorney shall have full supervisory control of all the litigation of the City, or in which the City or any of its departments are interested, and shall perform such other duties as are or shall be prescribed by ordinance.” Article XIII, Section 3.
Municipal Court Judges	<ul style="list-style-type: none">• “[T]he purpose of the Court is to try violations of City ordinances and all other actions brought to enforce or recover license penalties or forfeitures declared or given by any such ordinances and perform such other duties as may be authorized by law.” SMC 3.33.010.• Seven elected judges.

Powers Reserved to the Council by the Charter, RCW, or Other Authority

Eighteen Powers Enumerated in the Charter, [Article IV, Section 14](#):

- Authority to appoint officers, organize the City departments, and exercise powers vested by the Charter
- Authority to assess and collect taxes, borrow money, and create local improvement districts
- Authority to acquire and dispose of property, including vacating rights-of-way
- Authority to construct and operate public utilities
- Authority to make laws to protect the public health safety and welfare
- Other authority that is primarily historical: acquisition of quarries, changing road grades, cemeteries, sanitoriums...

Powers Reserved to the Council by the Charter, RCW, or Other Authority, contd.

- All powers otherwise exercised by similar municipal corporations or granted by the state, [Article IV, Section 15](#).
- Council authority is enumerated and does not include enforcement and administration. Mayor's Charter-authority is limited to enforcement and implementation. Further authority to the Mayor, consistent with the Charter and state law, is granted by ordinance.
- Council's budget authority is enumerated in the Charter but functionally constrained by state law, which has provisions that are unique to Seattle. [Ch. 35.32A RCW](#). See Central Staff Presentation on the Council and the Budget.

Example 1: Community Assisted Response and Engagement (CARE) and Alternative 911 Response

- **What it is:** Department created “to improve public health and safety services by unifying and aligning the City’s community-focused, non-police public safety investments and services to address behavioral abuse, substance abuse, and non-emergent, low-risk calls for service through diversified programs that are equitable, innovative, evidence-based, compassionate, and effective.”
 - Contains City’s 911 dispatch function, and 911 Community Responders, formerly called the Community Safety Communications Center
 - Created by [Ordinance 126233](#) and renamed in [Ordinance 120707](#)
- **Mode of Power:** Corporate power – creation of a new City department
- **Source of Authority:** “The Legislative Authority of the City may by ordinance create, consolidate and reorganize the departments, divisions and offices of the City for the conduct of municipal functions except as such creation, consolidation or reorganization shall be precluded by other provisions of this Charter.” [Article III, Section 1.](#)

Example 2: Jumpstart Payroll Expense Tax

- **What it is:** A tax on business payrolls of \$7 million or more with different rates determined by the size of the business and levels of compensations. Created to fund affordable housing, equitable development projects, economic resilience programs, and Green New Deal projects.
 - Tax Created by [Ordinance 126108](#). Spending plan created by [Ordinance 126109](#).
- **Mode of Power:** Power to provide general governmental services
- **Source of Authority:** Excise tax on business derived from multiple state statutory authorities, [RCW 35.22.280\(32\)](#), [RCW 35A.82.020](#), and [RCW 35A.11.020](#).

Example 3: Minimum Wage

- ***What it is:*** Increased Seattle's minimum wage to \$15 / per hour phased in over time and required inflationary adjustments
 - Labor standard created by [Ordinance 124490](#).
 - Response to SeaTac minimum wage initiated by the voters
 - Developed by the Mayor and Council
- ***Mode of Power:*** Police Power
- ***Source of Authority:*** Charter and police power authority granted to first-class cities by Ch. 35.22 RCW

Exercising Those Powers Publicly and Transparently

- ***The Council Conducts its Business in Public***
 - Council meetings are subject to the Open Public Meetings Act (OPMA), deliberation and voting must occur in public. [Ch. 42.30 RCW](#).
 - Councilmember communications are disclosable under the Public Records Act. [Ch. 42.56 RCW](#).
- ***Exercise of Legislative Power Must be Transparent***
 - Single subject requirement for legislation. [Article IV, Section 7](#).
 - Agenda posting and circulation of amendments. Council Rules.

Limitations on Those Powers

- ***State Constitutional Limitations***
 - Examples – lending of credit and gifts of public funds
- ***State pre-emption***
 - Examples – residential rent control, statutory maximum on levy lid lifts
- ***Initiatives and referenda***
 - People reserve to themselves the authority to initiate policy and refer for a vote legislative actions of the City

Giving Those Powers Away

Delegation:

- Council can delegate rulemaking authority for some legislative actions to departments.
- Director's Rules have the effect of Law and must be promulgated pursuant to the City's administrative code with notice and opportunity for public comment.
- For the delegation to be effective it cannot be vague or overbroad.

Civil Emergencies:

- Can be declared by the Mayor when social upheaval or natural disaster “occurs in the City and results in or threatens to result in the death or injury of persons or the destruction of property or the disruption of local government to such extent as to require...extraordinary measures to prevent the death or injury of persons and to protect the public peace, safety, and welfare, and alleviate damage, loss, hardship, or suffering.” [SMC 10.02.010](#).
- Mayor assumes powers otherwise reserved to the Council.
- Council can terminate a civil emergency by resolution adopted with 2/3 vote of all members.

Takeaways

- Four modes of municipal power
- Council has broad authority to exercise those powers through legislation, subject to some limitations
- When and how those modes are exercised by the Council depends on authority derived from the Charter, state statute, and the state constitution
- Council's exercise of power must occur in public and be transparent
- The Council can give some power away to the Mayor through delegation
- The Mayor can assume some Council-power in case of emergencies, subject to supermajority termination

Questions?