



# CHARTER COMMITTEE

## AGENDA REPORT

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MEETING DATE: AUGUST 28<sup>TH</sup>, 2013

ITEM NUMBER:

**SUBJECT: GOVERNANCE**  
**DATE: AUGUST 23, 2013**  
**FROM: CHARTER COMMITTEE COUNSEL'S OFFICE**  
**PRESENTATION BY: KIMBERLY HALL BARLOW & YOLANDA M SUMMERHILL**

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In deciding whether to include provisions on governance in the proposed charter, the Charter Committee may wish to consider some of the provisions on governance adopted by the Cities of Newport Beach, Irvine and Huntington Beach. Attached are the relevant provisions of Newport Beach, Irvine and Huntington Beach's Charter on governance.

### CITY

### PROVISIONS

City of Newport Beach

Section 400. Elective Officers.  
Section 401. Eligibility.  
Section 404. The Mayor. Mayor Pro Tempore.  
Section 405. Powers Vested in the City Council.  
Section 406. Interference in Administrative Service.  
Section 407. Regular Meetings.  
Section 408. Special Meetings.

City of Irvine

Section 200. Powers.  
Section 201. Intergovernmental Relations.  
Section 300. Form of Government.  
Section 400. Mayor and City Council.  
Section 401. Eligibility.  
Section 403. Vacancies, Forfeiture of Office. Filling of Vacancies.  
Section 404. Powers Vested in the Council.  
Section 405. Council Organization, Meetings and Rules of Order.  
Section 406. Citizen Participation.

City of Huntington Beach

Section 300. City Council, Attorney, Clerk and Treasurer. Terms  
Section 301. Powers Vested in City Council.  
Section 302. Compensation.  
Section 303. Meetings and Location.  
Section 304. Quorums, Proceedings and Rules of Order.  
Section 305. Presiding Officer.  
Section 306. Mayor Pro Tempore.  
Section 307. Non-interference with Administration.  
Section 308. Official Bonds.  
Section 309. City Attorney. Powers and Duties.  
Section 310. City Clerk. Powers and Duties.  
Section 311. City Treasurer. Powers and Duties.  
Section 312. Vacancies, Forfeitures and Replacement.  
Section 313. Conflict of Interest, Nepotism.  
Section 400. City Manager. Compensation, Term, Eligibility, Removal.  
Section 401. Powers and Duties.

Section 402. Acting City Manager.  
Section 403. Personnel.  
Section 404. Retirement System.  
Section 405. Boards, Commissions and Committees.

NEWPORT BEACH

CHARTER

RE:

GOVERNANCE

## ARTICLE II. POWERS OF CITY

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### Section 200. Powers.

### Section 201. Intergovernmental relations.

#### **Section 200. Powers.**

The City shall have all powers possible for a City to have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter specifically, but not by way of limitation, the City shall have the power to make and enforce all laws and regulations with respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the Constitution of the State of California. It shall also have the power to exercise any and all rights, powers and privileges heretofore or hereafter established, granted, or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise under the Constitution of the State of California. 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.

#### **Section 201. Intergovernmental relations.**

The City may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more cities, counties, states, or civil divisions or agencies thereof, or the United States or any agency thereof. In addition to the foregoing the City may delegate the exercise of its powers or the performance of any of its functions to any city, county, state, civil division or agency thereof or the United States or any agency thereof.

Irvine, California, Code of Ordinances >> CHARTER - CITY OF IRVINE >> ARTICLE III. FORM OF GOVERNMENT >>

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## ARTICLE III. FORM OF GOVERNMENT

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### Section 300. Form of government.

#### **Section 300. Form of government.**

The municipal government established by this Charter shall be known as the "Council-Manager" form of government.

Irvine, California, Code of Ordinances >> CHARTER - CITY OF IRVINE >> ARTICLE IV. THE CITY COUNCIL >>

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## ARTICLE IV. THE CITY COUNCIL

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### Section 400. Mayor and City Council.

Section 401. Eligibility.

Section 402. Compensation.

Section 403. Vacancies, forfeiture of office. Filling of vacancies.

Section 404. Powers vested in the Council.

Section 405. Council organization, meetings and rules of order.

Section 406. Citizen participation.

Section 407. Adoption of ordinances and resolutions.

Section 408. Ordinances. Posting.

Section 409. Adoption of Codes by Reference.

Section 410. Ordinances. When Effective.

## **Section 400. Mayor and City Council.**

The City Council, hereinafter termed "Council," shall consist of a Mayor and four (4) Council members elected to office from the City at large in the manner provided in this Charter. The Mayor shall serve a term of two (2) years. No Mayor shall serve for more than two (2) consecutive full terms in office. Other than as set forth herein, eligibility for office, compensation, vacancies and the filling of vacancies shall be the same for the office of Mayor as provided for the office of Council member by this Charter. The Mayor, in addition to serving as the presiding officer of the Council, shall have all of the rights, powers and duties of a Council member and shall be a member of the Council.

The term of office for a Council member shall be four (4) years. Alternatively, and successively, two (2) four-year terms shall be filled at one general municipal election and two (2) four-year terms at the next such election, consistent with the sequence of terms of Council members existing on the effective date hereof [June 7, 1988]. No Council member shall serve for more than two (2) consecutive full terms in office.

If at any general municipal election, one (1) or more Council member, whose term of office will not expire as of the election, and who would be required to vacate the office of Council member if elected to the office of Mayor, files as a candidate for the office of Mayor, the following procedure will be used to fill the contingent vacancy in the office of Council member that would arise if the sitting Council member were elected Mayor: To the extent legally possible, the ballot for the office of Council member, the official election materials and voter information pamphlet shall notify the voters that they may cast ballots for not more than three (3) candidates for the office of Council member; that at least two (2) Council offices shall be filled by election; and that if a Council member whose term of office will not expire as of the election is elected to the office of Mayor, the vacancy in the office of that Council member shall be filled by the candidate for Council member receiving the third highest number of votes at the same municipal election.

The term of the Mayor and a Council member shall commence at the next regularly scheduled meeting of the Council following certification of the election results by the election official or such earlier other date as may be established by ordinance of the City Council, and he or she shall serve until his or her successor qualifies. Any ties in voting and any determination with respect to which Council member is to fill which office shall be settled by the casting of lots. No person shall hold both the office of Mayor and Council member.

The Mayor and each Council member in the office at the time this Charter amendment takes effect [December 16, 1991] shall continue in office until the end of the term for which he or she was elected or appointed, unless elected to the office of Mayor, and until his or her successor qualifies subject to the right of the people to recall a Council member from office as provided herein.

As used herein the term "qualifies" shall mean, in addition to the provisions of the general law, having taken the oath of office following the election and his or her term of office shall have commenced.

*(Amend. of 9-8-78; Amend. of 6-3-86; Amend. of 6-7-88; Amend. of 3-1-88, § 1, Amend. of 11-5-91)  
Editor's note—*

The amendment of § 400 adopted Sept. 8, 1978, was approved at an election held Nov. 7, 1978. It was filed with the secretary of state by chapter 6 of 1979. A further amendment was approved at an election held June 3, 1986. It was filed with the secretary of state Jan. 2, 1987, as Charter chapter 4, further amendment was adopted at an initiative referendum held Nov. 3, 1987, and filed with the secretary of state Feb. 16, 1988, as Charter chapter 1. The section was further amended at an election held June 7, 1988, and filed with the secretary of state July 15, 1988, as Charter chapter 12. The section was further amended at an election held Nov. 5, 1991, and filed by the secretary of state and became effective Dec. 16, 1991, as Charter chapter 25.

### **Section 401. Eligibility.**

No persons shall be eligible to hold the office of Council member unless he or she is a legally registered voter and resident of the City.

### **Section 402. Compensation.**

Compensation for Council member is hereby set, and from time to time shall be changed, in accordance with the provisions of the Government Code relating to salaries of Council members in general law cities. Such compensation may be increased or decreased other than as set forth above by an affirmative vote of a majority of the voters voting on the proposition at any election.

### **Section 403. Vacancies, forfeiture of office. Filling of vacancies.**

- (a) A vacancy shall exist on the Council, and shall be declared by the Council, upon the occurrence of any of the events enumerated in the provisions of the Government Code pertaining to vacancies in public offices.
- (b) A declaration by the Council of a vacancy resulting from forfeiture of office shall be subject to judicial review, provided that within two weeks after such declaration an appropriate action, or proceeding for review is filed in a court having jurisdiction of the action or proceeding. During the pendency of any such action or proceeding, anyone appointed by the Council or elected by the people to fill such vacancy shall have all the rights, duties, and powers of a Council member and shall continue in such office as provided herein unless and until said court rules the declaration of the Council invalid and such ruling has become final.
- (c) The method of filling vacancies on the City Council shall be as prescribed by ordinance of the City Council.

### **Section 404. Powers vested in the Council.**

All powers of the City shall be vested in the Council except as otherwise provided in this Charter.

### **Section 405. Council organization, meetings and rules of order.**

Officers of the Council (other than the elected Mayor), the time, place and the method of

calling meetings, the rules of order for the conduct of proceedings by the City Council and the order of succession in the event of a vacancy in the office of Mayor shall be as established by ordinance of the City Council.

(Amend. of 3-1-88, § 2)

Editor's note---

An amendment to § 405 was approved at an initiative referendum held Nov. 3, 1987; filed with the secretary of state Feb. 16, 1988, as Charter chapter 1; and was adopted by the council Mar. 1, 1988.

### **Section 406. Citizen participation.**

Subject to the rules governing the conduct of Council meetings, any citizen, personally or through counsel, shall have the right to present grievances at any regular meeting of the Council, or offer suggestions for the betterment of municipal affairs.

### **Section 407. Adoption of ordinances and resolutions.**

With the exception of ordinances which take effect upon adoption pursuant to this Article, no ordinance shall be adopted by the Council on the day of its introduction, nor within five days thereafter. An ordinance effective upon adoption as provided herein may be introduced and adopted at the same time. All ordinances shall be read by title only either at the time of introduction or at the time of adoption unless three members of the Council request that the ordinance be read in full. In the event that any ordinance is altered after its introduction, it shall not be finally adopted except at a meeting held not less than five days after the date upon which such ordinance was altered. Correction of a typographical or clerical error shall not constitute an alteration within the meaning of the foregoing sentence.

Unless otherwise required by this Charter, the affirmative votes of at least three members of the Council shall be required for the enactment of any ordinance, resolution or order for the payment of money.

All ordinances and resolutions of the City Council shall be signed by the Chairman of the Council and attested by the City Clerk.

Any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health, or safety and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if it is passed by at least four affirmative votes.

### **Section 408. Ordinances. Posting.**

The City Clerk shall cause each ordinance to be posted in at least three public places in the City in lieu of publication unless publication is requested by the City Council or otherwise required by law.

### **Section 409. Adoption of Codes by Reference.**

Detailed regulations pertaining to any subject, when arranged as a comprehensive code, may be adopted by reference by the passage of an ordinance for such purpose. Such code need not be posted or published in the manner required for the enactment of ordinances. Any or all ordinances of the City may be compiled, consolidated, revised, indexed, including such restatement and substantive

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laws existing at the time this Charter takes effect, in the discretion of the City Council, may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws or may be continued or perfected under this Charter.

**Section 105 Reserved.**

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(As amended effective January 9, 2013)

**Section 106 Effective Date of this Charter.**

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This Charter shall take effect upon its approval by the Legislature and any amendment hereto shall be effective when filed pursuant to the California Constitution. (As amended effective January 9, 2013)

**Article II  
Powers of City**

**Section 200 Powers.**

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The City shall have the power to make and enforce all laws, rules and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter or in the Constitution of the State of California. It shall also have the power to exercise, or act pursuant to any and all rights, powers, privileges or procedures, heretofore or hereafter established, granted or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise, or act pursuant to, under the Constitution of the State of California. The enumeration in this Charter of any particular power shall not be held to be exclusive of, or any limitation upon, the generality of the foregoing provisions. (As amended effective January 9, 2013)

**Article III  
Form of Government**

**Section 300 Form of Government.**

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The municipal government established by this Charter shall be known as the "Council-Manager" form of Government.

**Article IV  
City Council**

**Section 400 Elective Officers.**

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The elective officers of the City shall consist of a City Council of seven members. Candidates for City Council shall be nominated from and by the electors of each of the seven districts referred to in Article X of this Charter and one shall be elected from each of such districts by the voters of the City at large at the times and in the manner provided in this Charter. Ties in voting among candidates for office shall be settled by the casting of lots.

Alternatively, and successively, four four-year terms shall be filled at one general municipal election and three four-year terms at the next such election, consistent with the sequence of terms of Council members existing on the effective date of this amendment.

The term of office shall be four years. The term of each City Council member shall commence on the

date of the City Council meeting, following his or her election, at which the council receives the certification of election results from the City Clerk. (As amended effective April 8, 1980, and November 6, 1984)

### **Section 401 Eligibility.**

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No person shall be eligible to hold office as a member of the City Council unless he or she is, and shall have been for at least thirty (30) days immediately preceding his or her nomination or appointment, a registered elector of the district from which he or she is nominated or appointed, and for at least thirty (30) days immediately preceding his or her election or appointment, a registered elector of the City.

Notwithstanding the provisions of Section 400, no person shall be or remain eligible to hold office as a member of the City Council for more than two (2) consecutive four (4) year terms. Members of the City Council who have served one or more terms prior to their current term shall be entitled to complete such term, but shall not be eligible for re-election except as provided below. Members of the City Council who are serving their first term as of the effective date of this amendment shall be eligible to hold office during a second four year term when the current term expires.

This section is intended to prevent persons from serving more than two (2) consecutive terms, and shall not be construed to render ineligible any person who would not, by virtue of his or her election, serve more than two consecutive terms. (As amended effective April 23, 1958, June 19, 1968, June 6, 1974, April 8, 1980, and December 15, 1992)

### **Section 402 Compensation.**

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The members of the City Council shall receive as compensation for their services in the amount of \$1,227.35 per month, which amount shall reimburse the City Councilmember for expenditures imposed upon him or her in serving as a City Councilmember. The Mayor shall receive as compensation an additional amount of \$513.96 per month to reimburse the Mayor for the additional expenses incurred in serving in that capacity. In addition, each member of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling expenses when on official duty. The compensation set forth in this Section shall be adjusted each July 1 in accordance with the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers (CPI-U), Los Angeles-Riverside-Orange County region, or five percent (5%) whichever amount is lesser. Absence of a Councilmember from all regular and special meetings of the Council during any calendar month shall render such Councilmember ineligible to receive compensation for such calendar month. (As amended effective April 23, 1958, April 28, 1966, June 6, 1974, and January 9, 2013)

### **Section 403 Vacancies.**

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A vacancy in the City Council from whatever cause arising, shall be filled by appointment by the City Council of a qualified person from the district in which the vacancy has occurred, such appointee to hold office until the first Tuesday following the next general municipal election and until his or her successor qualifies. At the next general municipal election following any vacancy, a Councilmember shall be elected from the district in which the vacancy exists to serve for the remainder of the unexpired term.

If a member of the City Council absents himself or herself from all regular meetings of the City Council for a period of sixty days consecutively from and after the last regular City Council meeting attended by

such member, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector of his or her district, his or her office shall become vacant and shall be so declared by the City Council.

In the event the City Council shall fail to fill a vacancy by appointment within thirty days after such office shall have been so declared vacant, it shall forthwith cause an election to be held to fill such vacancy from the proper district. (As amended effective December 20, 2010)

#### **Section 404 The Mayor. Mayor Pro Tempore.**

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On the date of any meeting of the City Council at which time the Council receives the certification of the results of any general or special municipal election at which any member of Council is elected, the City Council shall, after swearing and qualifying any newly elected member, elect one of its members as its presiding officer, who shall have the title of Mayor. The Mayor shall have a voice and vote in all its proceedings. The Mayor shall have the primary but not exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and, as occasion requires, the Mayor may inform the people of any change in policy or program. The Mayor shall perform such other duties consistent with the office as may be prescribed by this Charter or as may be imposed by the City Council. The Mayor shall serve in such capacity at the pleasure of the City Council.

The City Council shall at the same time the Mayor is elected also designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability. (As amended effective April 28, 1966, June 6, 1974, April 8, 1980, November 6, 1984, and January 9, 2013)

#### **Section 405 Powers Vested in the City Council.**

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All powers of the City shall be vested in the City Council except as otherwise provided in this Charter.

#### **Section 406 Interference in Administrative Service.**

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Neither the City Council nor any of its members shall interfere with the execution by the City Manager of his or her powers and duties, or order, directly or indirectly, the appointment by the City Manager or by any of the department heads in the administrative service of the City, of any person to an office or employment or his or her removal therefrom. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service under the City Manager solely through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. (As amended effective December 20, 2010)

#### **Section 407 Regular Meetings.**

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The City Council shall hold two meetings per month except in the months of August and December when there shall be at least one regular meeting in August and one regular meeting in December. The City Council shall hold regular meetings at such times as it shall fix by ordinance or resolution. All regular meetings shall be publicly noticed according to the Ralph M. Brown Act, or any successor law. (As amended effective January 9, 2013)

#### **Section 408 Special Meetings.**

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Special meetings may be called at any time by the Mayor, or by four members of the City Council, by

written notice sent to each member and publicly noticed according to the Ralph M. Brown Act, or any successor law. (As amended effective June 6, 1974, and January 9, 2013)

#### **Section 409 Place of Meetings.**

All regular meetings shall be held in the Council Chambers of the City Hall, however other types of meetings shall be at locations allowed by the Ralph M. Brown Act, or any successor law. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the Mayor, or, if he or she should fail to act, by four members of the City Council. (As amended effective January 9, 2013)

#### **Section 410 Quorum. Proceedings.**

A majority of the members of the City Council shall constitute a quorum to do business but a less number may adjourn from time to time. In the absence of all the members of the Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. Notice of a meeting adjourned by less than a quorum or by the Clerk shall be given by the Clerk or may be waived by consent in the same manner as specified in this Charter for the giving or waiving of notice of special meetings of the City Council; but need not specify the matters to be acted upon. The City Council shall judge the qualifications of its members as set forth by the Charter. It shall judge all election returns. It may establish rules for the conduct of its proceedings and evict or prosecute any member or other person for disorderly conduct at any of its meetings.

Each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.

At the demand of any member, the City Clerk shall call the roll and shall cause the ayes and nays taken on an issue which is the subject of the demand to be entered in the minutes of the meeting. (As amended effective January 9, 2013)

#### **Section 411 Citizen Participation.**

No citizen shall be denied the right, personally or through counsel, to present grievances at any regular meeting of the City Council, or offer suggestions for the betterment of municipal affairs.

#### **Section 412 Adoption of Ordinances and Resolutions.**

With the sole exception of ordinances which take effect upon adoption, referred to in this Article, no ordinance shall be adopted by the City Council on the day of its introduction, nor within five days thereafter. At the time of its introduction an ordinance shall become a part of the proceedings of such meeting in the custody of the City Clerk. At the time of adoption of an ordinance it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the Councilmen present. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a meeting held not less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the

HUNTINGTON BEACH

CHARTER

RE:

GOVERNANCE

### ARTICLE III ELECTIVE OFFICES

**Section 300. CITY COUNCIL, ATTORNEY, CLERK AND TREASURER. TERMS.** The elective officers of the City shall consist of a City Council of seven members, a City Clerk, a City Treasurer and a City Attorney, all to be elected from the City at large at the times and in the manner provided in this Charter and who shall serve for terms of four years and until their respective successors qualify. Subject to the provisions of this Charter, the members of the City Council in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. Four members of the City Council shall be elected at the general municipal election held in 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in 1968, and each fourth year thereafter. No person shall be elected as a member of the City Council for more than two consecutive terms and no person who has been a member for more than two years of a term to which some other person was elected a member shall be elected to the City Council more than one further consecutive term. Subject to the provisions of this Charter, the City Clerk, City Treasurer and City Attorney in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and the qualification of their successors. A City Clerk and City Treasurer shall be elected at the general municipal election held in 1968, and each fourth year thereafter. A City Attorney shall be elected in 1966, and each fourth year thereafter.

The term of each member of the City Council, the City Clerk, the City Treasurer and the City Attorney shall commence on the first Monday following the certification of the election. Ties in voting among candidates for office shall be settled by the casting of lots.

If no candidate meets the qualifications for office of the City Clerk, City Treasurer, or City Attorney, the City Council shall fill that position by appointment until the next municipal general election in which a qualified candidate is elected.

**Section 301. POWERS VESTED IN CITY COUNCIL.** All powers of the City shall be vested in the City Council except as otherwise provided in this Charter.

**Section 302. COMPENSATION.** The members of the City Council including the Mayor shall receive as compensation for their services as such a monthly salary in the sum of One Hundred Seventy-five Dollars per month. In addition, each member of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling and other expenses when on official duty upon submission of itemized expense accounts therefor. In addition, members shall receive such reasonable and adequate amounts as may be established by ordinance, which amounts shall be deemed to be reimbursement to them of other routine and ordinary expenses, losses and costs imposed upon them by virtue of their serving as City Councilpersons.

**Section 303. MEETINGS AND LOCATION.**

(a) **Regular Meetings.** The City Council shall hold regular meetings at least twice each month at such time as it shall fix by ordinance or resolution and may adjourn or re-adjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment, such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.

(b) **Special Meetings.** A special meeting may be called at any time by the Mayor, or by a majority of the members of the City Council, by written notice to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such

notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice.

The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting. If any person entitled to such written notice files a written waiver of notice with the City Clerk, it may be dispensed with. This notice requirement shall be considered fulfilled as to any person who is actually present at the meeting at the time it convenes. In the event of an emergency affecting the public peace, health or safety, a special meeting may be called as provided in this section with less than twenty-four hours written notice by the Mayor Pro Tem in the Mayor's absence or by any member of the City Council in the absence of both the Mayor and Mayor Pro Tem provided that the nature of the emergency is set forth in the minutes of the meeting.

(c) **Place of Meetings.** All regular meetings shall be held in the Council Chambers of the City or in such place within the City to which any such meeting may be adjourned. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place within the City as is designated by the Mayor, or, if he should fail to act, by a majority of the members of the City Council.

(d) **Open Meetings.** All regular and special meetings of the City Council shall be open and public, and all persons shall be permitted to attend such meetings, except that the provisions of this section shall not apply to executive sessions. Subject to the rules governing the conduct of City Council meetings, no person shall be denied the right to be heard by the City Council.

(e) **Dissemination of Information.** The City Council shall adopt rules to ensure thorough and timely dissemination of information via current technology by resolution.

#### **Section 304. QUORUMS, PROCEEDINGS AND RULES OF ORDER.**

(a) **Quorum.** A majority of the members of the City Council shall constitute a quorum to do business but a lesser number may adjourn from time to time. In the absence of all the members of the City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. The City Clerk shall cause written notice of a meeting adjourned by less than a quorum or by the City Clerk to be delivered personally or by mail to each Council member at least twenty-four hours before the time to which the meeting is adjourned, or such notice may be dispensed with in the same manner as specified in this Charter for dispensing with notice of special meetings of the City Council.

(b) **Proceedings.** The City Council shall judge the qualification of its members as set forth by the Charter. It shall judge all election returns. Each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. They shall be served and complied with in the same manner as subpoenas in civil actions. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable. The City Council shall have control of all legal business and proceedings and all property of the legal department, and may employ other attorneys to take charge of or may contract for any prosecution, litigation or other legal matter or business.

(c) **Rules of Order.** The City Council shall establish rules for the conduct of its proceedings and evict or prosecute any member or other person for disorderly conduct at any of its meetings. Upon adoption of any ordinance, resolution, or order for payment of money, or upon the demand of any

member, the City Clerk shall call the roll and shall cause the ayes and noes taken on the question to be entered in the minutes of the meeting.

**Section 305. PRESIDING OFFICER.** At the Council meeting at which any Council member is installed following any general or special municipal election, and at any time when there is a vacancy in the office of Mayor, the City Council shall meet and shall elect one of its members as its presiding officer, who shall have the title of Mayor. The Mayor may make and second motions and shall have a voice and vote in all its proceedings. The Mayor shall be the official head of the City for all ceremonial purposes; shall have the primary but not the exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and as occasion requires, may inform the people of any major change in policy or program; and shall perform such other duties consistent with the office as may be prescribed by this Charter or as may be imposed by the City Council. The Mayor shall serve in such capacity at the pleasure of the City Council.

**Section 306. MAYOR PRO TEMPORE.** The City Council shall also designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability or at the Mayor's request.

**Section 307. NON-INTERFERENCE WITH ADMINISTRATION.** Except as otherwise provided in this Charter, no member of the City Council shall order, directly or indirectly, the appointment by the City Manager, or by any of the department heads in administrative service of the City, of any person to any office or employment, or removal therefrom. Except for the purpose of investigation and inquiry, the members of the City Council shall deal with the administrative service under the jurisdiction of the City Manager solely through the City Manager, and no member of the City Council shall give orders to any subordinate of the City Manager, either publicly or privately.

No elected department head or staff of the Office of the elected department head shall be a member of the management negotiation team for the purposes of negotiations of memorandums of understanding with the employee bargaining units.

**Section 308. OFFICIAL BONDS.** The City Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by this Charter or by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City. A blanket bond may be used if it provides the same protection as the required separate bond would provide.

In all cases wherein an employee of the City is required to furnish a faithful performance bond, there shall be no personal liability upon, or any right to recover against, the employee's superior officer or other officer or employee or the bond of the latter, unless such superior officer, or other officer or employee is a party to the act or omission, or has conspired in the wrongful act directly or indirectly causing the loss.

**Section 309. CITY ATTORNEY. POWERS AND DUTIES.** To become and remain eligible for City Attorney the person elected or appointed shall have graduated from a law school accredited by the American Bar Association, be an attorney at law, duly licensed as such under the laws of the State of California, shall have been engaged in the practice of law in this State for at least five years prior to their election or appointment. The City Attorney shall have the power and may be required to:

(a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.

(b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or of City ordinances and such state misdemeanors as the City has the power to prosecute, unless otherwise provided by the City Council.

(c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all civil actions or proceedings in which such officer or employee is concerned or is a party for any act arising out of their employment or by reason of their official capacity.

(d) Attend all regular meetings of the City Council, unless excused, and give their advice or opinion orally or in writing whenever requested to do so by the City Council or by any of the boards or officers of the City.

(e) Approve in writing the form of all contracts made by and all bonds and insurance given to the City.

(f) Prepare any and all proposed ordinances and City Council resolutions and amendments thereto.

(g) Devote such time to the duties of their office and at such place as may be specified by the City Council.

(h) Perform such legal functions and duties incident to the execution of the foregoing powers as may be necessary.

(i) Surrender to their successor all books, papers, files, and documents pertaining to the City's affairs.

(j) Assist and cooperate with the City Manager consistent with Section 403 of the City Charter.

(k) Provide advice related to compliance with the City Charter to all elected and appointed officials of the City.

**Section 310. CITY CLERK. POWERS AND DUTIES.** To become and remain eligible for City Clerk, the person elected or appointed shall have a Bachelor's Degree in business, public administration, or a related field, and hold a certification as a Municipal Clerk or obtain such certification within the first three years in office. The City Clerk shall have the power and shall be required to:

(a) Attend all meetings of the City Council, unless excused, and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the City Council in records that shall bear appropriate titles and be devoted to such purpose.

(b) Maintain separate records, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter.

(c) Maintain separate records of all written contracts and official bonds.

(d) Keep all records in their possession properly indexed and open to public inspection when not in actual use.

(e) Be the custodian of the seal of the City.

(f) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.

(g) Be ex officio Assessor, unless the City Council, has availed itself, or does in the future avail itself, of the provisions of the general laws of the State relative to the assessment of property and the collection of City taxes by county officers, or unless the City Council by ordinance provides otherwise.

(h) Have charge of all City elections.

(i) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

(j) Assist and cooperate with the City Manager consistent with Section 403 of the City Charter.

The City Clerk may, subject to the approval of the City Council, appoint such deputy or deputies to assist them or act for them, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

**Section 311. CITY TREASURER. POWERS AND DUTIES.** To become and remain eligible for City Treasurer, the person elected or appointed shall have a minimum of five years of financial and/or treasury experience, and have either:

A Master's Degree in accounting, finance, business, or public administration; or

A Bachelor's Degree in accounting, finance, business, or public administration with certification by the California Municipal Treasurer's Association, or their successor, within three years of election or appointment.

The City Treasurer shall have the power and shall be required to:

(a) Receive on behalf of the City all taxes, assessments, license fees and other revenues of the City, or for the collection of which the City is responsible, and receive all taxes or other money receivable by the City from the County, State or Federal governments, or from any court, or from any office, department or agency of the City.

(b) Have and keep custody of all public funds belonging to or under control of the City or any office, department or agency of the City government and deposit or cause to be deposited all funds coming into their hands in such depository as may be designated by resolution of the City Council, or, if no such resolution be adopted, then in such depository designated in writing by the City Manager, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.

(c) Pay out moneys only on proper orders or warrants in the manner provided for in this Charter.

(d) Prepare and submit to the Director of Finance monthly written reports of all receipts, disbursements and fund balances, and shall file copies of such reports with the City Manager and City Council.

(e) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

(f) Assist and cooperate with the City Manager consistent with Section 403 of the City Charter.

The City Treasurer may, subject to the approval of the City Council, appoint such deputy or deputies to assist them or act for them, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

#### **Section 312. VACANCIES, FORFEITURES AND REPLACEMENT.**

(a) **Vacancies.** A vacancy in the City Council or in any other office designated as elective by this Charter, from whatever cause arising, shall be filled by appointment by the City Council.

(b) **Forfeiture.** If a member of the City Council is absent from all regular meetings of the City Council for a period of thirty consecutive days from and after the last regular City Council meeting attended by such member, unless by permission of the City Council expressed in its official minutes, the office shall become vacant. If an elected City officer pleads guilty or no contest to or is convicted of a felony or any crime of moral turpitude, or ceases to be an elector of the City, the office shall become vacant. The City Council shall declare the existence of such vacancy. Any elective officer of the City who shall accept or retain any other elective public office, except as provided in this Charter, shall be deemed thereby to have vacated the office under the City Government.

(c) **Replacement.** In the event it shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall forthwith cause an election to be held to fill such vacancy for the remainder of the unexpired term.

#### **Section 313. CONFLICT OF INTEREST, NEPOTISM.**

(a) **Conflict of Interest.** The City Council shall adopt or approve rules and regulations regulating conflicts of interest and promoting fair dealing in all City business.

(b) **Nepotism.** The City Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the third degree of any one or more of the members of such City Council, nor shall the City Manager or any department head or other officer having appointive power appoint any relative of such person or of any Council member within such degree to any such position.

This provision shall not affect the employment or promotional status of a person who has attained a salaried position with the City prior to the existence of a situation contemplated by this provision; however, Council members or officers with appointive powers in such a situation shall disqualify themselves from all decisions affecting the employment and promotional status of such person.

### **ARTICLE IV APPOINTIVE OFFICES AND PERSONNEL**

#### **Section 400. CITY MANAGER. COMPOSITION, TERM, ELIGIBILITY, REMOVAL.**

(a) **Composition.** There shall be a City Manager who shall be the chief administrative officer of the City.

(b) **Term.** The City Manager shall be appointed by the affirmative vote of at least a majority of the members of the City Council and shall serve at the pleasure of the City Council; provided, however, that the person occupying the office shall not be removed from office except as herein provided.

(c) **Eligibility.** The City Manager shall be chosen on the basis of executive and administrative qualifications, with special reference to actual experience in and knowledge of accepted practice as regards the duties of the office as herein set forth. No person shall be eligible to be appointed City Manager or Acting City Manager while serving as a member of the City Council nor within one year following the termination of membership on the City Council.

(d) **Removal.** The City Manager shall not be removed from office during or within a period of ninety days next succeeding any municipal election at which a member of the City Council is elected. At any other time the City Manager may be removed only at a regular meeting of the City Council and upon the affirmative vote of a majority of the members of the City Council. At least thirty days prior to the effective date of removal, the City Manager shall be furnished with a written notice stating the Council's intentions and, if requested by the City Manager, the reasons therefor. Within seven days after receipt of such notice, the City Manager may by written notification to the City Clerk request a public hearing before the City Council, in which event the Council shall fix a time for a public hearing which shall be held at its regular meeting place before the expiration of the thirty-day period above referred to. The City Manager shall appear and be heard at such hearing. After furnishing the City Manager with written notice of the intended removal, the City Council may suspend the City Manager from duty, but his compensation shall continue until removal as herein provided. In removing the City Manager, the City Council shall use its uncontrolled discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the City Council and the City Manager to present to each other and to the public all pertinent facts prior to the final action of removal.

**Section 401. POWERS AND DUTIES.** Except as otherwise provided in this Charter, the City Manager shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting this general grant of powers and responsibilities, the City Manager shall have the power and be required to:

(a) Appoint, promote, demote, suspend or remove department heads, officers and employees of the City except elective officers and the Chief of Police. The Chief of Police shall not be appointed or removed until the City Manager shall first have reviewed such appointment or removal with the City Council and have received approval for such appointment or removal by a majority vote of the full City Council.

(b) Prepare the budget annually, submit it to the City Council, and be responsible for its administration upon adoption.

(c) Prepare and submit to the City Council as of the end of each fiscal year, a complete report on the finances of the City, and annually or more frequently, a current report of the principal administrative activities of the City.

(d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.

(e) Maintain a centralized purchasing system for all City offices, departments and agencies.

(f) Prepare, administer and enforce rules and regulations recommended to and adopted by the City Council governing the contracting for, purchase, inspection, storage, inventory, distribution and disposal of all supplies, materials and equipment required by any office, department or agency of the City government.

(g) Be responsible for the compliance by the City with the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City.

Subject to policy established by the City Council, exercise control of all administrative offices and departments of the City and of all appointive officers and employees, and prescribe such general rules and regulations as deemed necessary or proper for the general conduct of the administrative offices and departments of the City under their jurisdiction.

(h) Perform such other duties consistent with this Charter as may be required by the City Council.

**Section 402. ACTING CITY MANAGER.** During any temporary absence or disability of the City Manager, the City Manager shall appoint one of the other officers or department heads of the City to serve as Acting City Manager. In the event the City Manager fails to make such appointment, such appointment may be made by the City Council.

**Section 403. PERSONNEL.** In addition to the City Council, a City Clerk, a City Treasurer, a City Attorney and City Manager, the officers and employees of the City shall consist of such other officers, assistants, deputies and employees as the City Council may provide by ordinance or resolution. The City Council shall establish such reasonable compensation and fringe benefits as are appropriate by ordinance or resolution for such offices, officials and employees except as herein provided.

The City Council shall maintain by ordinance a comprehensive personnel system for the City. The City Manager and any officers designated as elective by the Charter shall be exempt. The system shall consist of the establishment of minimum standards of employment and qualifications for the various classes of employment and procedures to be followed in advancement, demotion, suspension and discharge of employees included within the system, as the City Council shall determine to be for the best interest of the public service. The ordinance shall designate the appointive officers and employees who shall be included within the system. By subsequent ordinances the City Council may amend the system or the list of appointive officers and employees included within the system. The system shall comply with all other provisions of this Charter.

It shall be the duty of all department heads, whether appointed or elected, to assist and cooperate with the City Manager in administering the affairs of the City in the most efficient, fiscally responsible, and harmonious manner consistent with the duties as prescribed by law, City Charter, or by ordinance.

**Section 404. RETIREMENT SYSTEM.** The City shall participate in a retirement system.

**Section 405. BOARDS, COMMISSIONS AND COMMITTEES.** The City Council shall establish such boards, commissions and committees as are deemed necessary for the orderly functioning of the City. All such boards, commissions and committees shall report directly to the City Council.

## ARTICLE V ORDINANCES AND RESOLUTIONS

### **Section 500. REGULAR ORDINANCES. ENACTMENT, ADOPTION, PUBLICATION, AMENDMENT, WHEN EFFECTIVE AND CODIFICATION.**

(a) **Enactment.** In addition to such other acts of the City Council as are required by this Charter to be taken by ordinance, every act of the City Council establishing a fine or other penalty, or granting a franchise, shall be by ordinance. The enacting clause of all ordinances shall be substantially as follows: "The City Council of the City of Huntington Beach does ordain as follows:" No order for the payment of money shall be adopted or made at other than a regular or adjourned regular meeting. Upon introduction, an ordinance shall be read by title only. Unless a higher vote is required by other provisions of this Charter, the affirmative vote of at least four of the City Council shall be required for the enactment of any ordinance or for the making or approving of any order for the payment of money. All ordinances shall be signed by the Mayor and attested by the City Clerk.