

CHARTER OF THE CITY OF NEWPORT BEACH

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We, the People of the City of Newport Beach, State of California, do ordain and establish this Charter as the organic law of the City under the Constitution of the State.

Article I Incorporation and Succession

Section 100 Name and Boundaries.

The City of Newport Beach, hereinafter termed the City, shall continue to be a municipal corporation under its present name of "City of Newport Beach." The boundaries of the City shall be the boundaries as established at the time this Charter takes effect, and as such boundaries may be changed thereafter in the manner authorized by law.

Section 101 Succession, Rights and Liabilities.

The City of Newport Beach shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it at the time this Charter takes effect and shall be subject to all its debts, obligations, liabilities and contracts.

Section 102 Ordinances.

All lawful ordinances, resolutions, rules and regulations, and portions thereof, in force at the time this Charter takes effect, and not in conflict or in consistent herewith, are hereby continued in force until the same shall have been duly repealed, amended, changed or superseded by proper authority.

Section 103 Reserved.

(As amended effective January 9, 2013)

Section 104 Continuance of Contracts and Public Improvements.

All contracts entered into by the City, or for its benefit, prior to the taking of effect of this Charter, shall continue in full force and effect. Public improvements for which proceedings have been instituted under

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.

(As amended effective January 9, 2013)

Section 106 Effective Date of this Charter.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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

making of an alteration within the meaning of the foregoing sentence.

Unless a higher vote is required by other provisions of this Charter, the affirmative votes of at least four members of the City Council shall be required for the enactment of any ordinance or resolution, or for the making or approving of any order for the payment of money. All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk.

Any ordinance declared by the City 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 passed by at least five affirmative votes. (As amended effective January 9, 2013)

Section 413 Ordinances. Enactment.

In addition to such other acts of the City Council as are required by this Charter to be 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 Newport Beach does ordain as follows:"

Section 414 Ordinances. Publication.

The City Clerk shall cause each ordinance to be published pursuant to the procedures established in California Government Code Section 36933 or any successor statute thereto. (As amended effective December 20, 2010)

Section 415 Codification of Ordinances.

Any or all ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the City Clerk prior to the adoption thereof. Ordinances codified shall be repealed as of the effective date of the code. Such code may be subsequently revised, recompiled, recodified and indexed, including such restatement and substantive change as is necessary in the interest of clarity, in the same manner as prescribed in this section for the original adoption by reference of an ordinance code. Amendments to the code shall be enacted in the same manner as ordinances.

Detailed regulations pertaining to the construction of buildings, plumbing and wiring, when arranged as a comprehensive code, may likewise be adopted by reference in the manner provided in this Section. Maps, charts and diagrams also may be adopted by reference in the same manner. (As amended effective June 29, 1962)

Section 416 Ordinances. When Effective.

No ordinance shall become effective until thirty days from and after the date of its adoption, except the following, which shall take effect upon adoption:

- (a) An ordinance calling or otherwise relating to an election.
- (b) An improvement proceeding ordinance adopted under some law or procedural ordinance.
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property.
- (d) An emergency ordinance adopted in the manner provided for in this Article.

Section 418 Ordinances. Amendment.

The amendment of any section(s) or subsection(s) of an ordinance may be accomplished by the subsequent adoption of an ordinance which specifically modifies the section(s) or subsection(s). (As amended effective January 9, 2013)

Section 419 Reserved.

(As amended effective December 20, 2010)

Section 420 Reserved.

(As amended effective December 20, 2010)

Section 421 Contracts. Execution.

The City shall not be bound by any contract, except as hereinafter provided, unless the same shall be made in writing, approved by the City Council or employee designated by the City Council and signed on behalf of the City by the Mayor or by such other employee as shall be designated by the City Council, the City Clerk and the City Attorney. Any of said employees shall sign a contract on behalf of the City when authorized or directed to do so by the City Council.

By ordinance or resolution the City Council may authorize the City Manager or other employees to bind the City, with or without a written contract, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the City Council, and may impose a monetary limit upon such authority.

The City Council may by ordinance or resolution provide a method for the sale or exchange of personal property not needed in the City Service or not fit for the purpose for which intended, and for the conveyance of title thereto.

Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the City may be made by the manager of such utility or by the head of the department or City Manager upon forms approved by the City Manager and at rates fixed by the City Council.

The provisions of this Section shall not apply to the services rendered by any person in the employ of the City at a regular salary. (As amended effective January 9, 2013)

Section 422 Freeway and Expressway Agreements; Connection with Freeways; Vote of Electors Required for Approval.

Unless and until approved by a majority of the city's electors voting at a general or special election, the city shall not enter into an agreement or contract with the State of California or any other government or

department, subdivision, agency or commission thereof (1) allowing construction of a freeway or expressway which would be in whole or in part within the boundaries of the city or (2) to close any city street at or near the point of its interception with any freeway or expressway or to make provision for carrying such city street over or under or to a connection with the freeway or expressway or to do any work on such city street as is necessary therefor. (Added effective April 26, 1971)

Section 423 Protection from Traffic and Density.*

Voter approval is required for any major amendment to the Newport Beach General Plan. A "major amendment" is one that significantly increases the maximum amount of traffic that allowed uses could generate, or significantly increases allowed density or intensity. "Significantly increases" means over 100 peak hour trips (traffic), or over 100 dwelling units (density), or over 40,000 square feet of floor area (intensity); these thresholds shall apply to the total of: 1) Increases resulting from the amendment itself, plus 2) Eighty percent of the increases resulting from other amendments affecting the same neighborhood and adopted within the preceding ten years. "Other amendments" does not include those approved by the voters. "Neighborhood" shall mean a Statistical Area as shown in the Land Use Element of the General Plan, page 89, in effect from 1988 to 1998, and new Statistical Areas created from time to time for land subsequently annexed to the City.

"Voter approval is required" means that the amendment shall not take effect unless it has been submitted to the voters and approved by a majority of those voting on it. Any such amendment shall be submitted to a public vote as a separate and distinct ballot measure notwithstanding its approval by the city council at the same time as one or more other amendments to the City's General Plan. The city council shall set any election required by this Section for the municipal election next following city council approval of the amendment, or, by mutual agreement with the applicant for the amendment, may call a special election for this purpose with the cost of the special election shared by the applicant and the City as they may agree. In any election required by this Section, the ballot measure shall be worded such that a YES vote approves the amendment and a NO vote rejects the amendment; any such election in which the ballot measure is not so worded shall be void and shall have no effect.

This section shall not apply if state or federal law precludes a vote of the voters on the amendment. (Added effective December 15, 2000)

* Note: The statistical divisions/statistical areas map is found in Appendix A to this Charter.

Section 424 Limitations on Use of Eminent Domain.

The City of Newport Beach and/or any City-Affiliated Agency shall not exercise the power of eminent domain to acquire any property from the owner of the property, without the owner's consent, for the sole purpose of transferring the property to another person to further private economic development.

As used in this section of the Charter, the following terms shall have the following ascribed meanings:

"Owner" means the owner of the fee title interest in the property to be acquired, as shown on the last equalized assessment roll, or other more current proof of vesting the City may have.

"Property" shall mean any interest in real or personal property otherwise subject to acquisition through the use of eminent domain.

"City-Affiliated Agency" shall mean the City of Newport Beach and/or any other entity possessing the

power of eminent domain, the governing board of which is solely composed of, or is solely appointed by, the members of the City Council of the City of Newport Beach. (Added effective January 12, 2007)

Section 425 City Hall.

City Hall, including most administrative offices of the City and related parking, shall be located on the City-owned parcel bounded by Avocado Ave. on the west, San Miguel Dr. on the north, MacArthur Blvd. on the east, and the Newport Beach Central Library on the south. (Added effective March 3, 2008, and amended effective January 9, 2013)

Section 426 Prohibition of Automated Traffic Enforcement Systems (Red Light Cameras).

No ordinance shall be adopted by the City Council which would permit or authorize any red light camera or other automated traffic enforcement system in the City of Newport Beach. Any ordinance adopted by the City Council in violation of this section shall be null and void. Neither the City Council, nor any officer or employee of the City when acting in his or her official capacity, shall (i) take any action which would directly or indirectly result in the authorization, approval or installation of any red light camera or other automated traffic enforcement system in the City of Newport Beach; or (ii) acquiesce or concur in any action or decision of any other governmental agency or governmental official having jurisdiction concerning such red light cameras where a protest or objection procedure is available to the City and where failure to so protest or object could result in the authorization, approval, or installation of any red light camera or other automated traffic enforcement system in the City of Newport Beach; or (iii) approve, authorize, execute or enter into any agreement or understanding, or take any other action of any nature whatsoever, which would authorize, approve, or in any way facilitate or result in the installation of any red light camera or other automated traffic enforcement system in the City of Newport Beach, including, but not limited to, any agreement or understanding relating to the installation of any red light camera or automated traffic enforcement system which would result in the receipt by the City. The term "red light camera or other automated traffic enforcement system" as used in this section shall mean and include any automated traffic enforcement system, as that term is used in California Vehicle Code Section 21455.5, or any successor legislation thereto, which is used to enforce any provision of the California Vehicle Code. The prohibition provided in this section shall not apply to any "toll highway" or "toll road," as those terms are defined within California Vehicle Code Section 611. (Added effective January 9, 2013)

Article V City Manager

Section 500 City Manager.

There shall be a City Manager appointed by the City Council who shall be the chief administrative officer of the City. In the selection of a City Manager the City Council shall screen all qualified applicants and other qualified persons known by the Council to be available. It shall appoint by a majority vote, the person that it believes to be best qualified on the basis of his or her executive and administrative qualifications, with special reference to his or her experience in, and his or her knowledge of, accepted practice in respect to the duties of the office as set forth in this Charter. The City Manager shall serve at the pleasure of the City Council. (As amended effective December 20, 2010)

Section 501 Reserved.

(As amended effective December 20, 2010)

Section 502 Eligibility.

No person shall be eligible to receive appointment as City Manager while serving as a member of the City Council nor within one year after he or she has ceased to be a City Councilmember. (As amended effective December 20, 2010)

Section 503 Compensation and Bond.

The City Manager shall be paid a salary commensurate with his or her responsibilities as chief administrative officer of the City. The City Manager shall have a corporate surety bond in such form and in such amount as may be determined by the City Council. (As amended effective December 20, 2010, and January 9, 2013)

Section 504 Powers and Duties.

The City Manager shall be the head of the administrative branch of the City government. He or she shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities and duties, the City Manager shall have power and be required to:

- (a) Appoint, and he or she may suspend or remove, subject to the provisions of this Charter, all department heads and officers of the City except elective officers and those department heads and officers the power of whose appointment is vested by the Charter in the City Council, and approve or disapprove all proposed appointments and removals of subordinate employees by officers or department heads.
- (b) Prepare the budget annually, submit such budget to the City Council and be responsible for its administration after its adoption.
- (c) Prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding fiscal year.
- (d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him or her desirable.
- (e) Establish and maintain a centralized purchasing system for all City offices, departments and agencies.
- (f) Prepare rules and regulations governing the contracting for, purchasing, storing, distribution, or disposal of all supplies, materials and equipment required by any office, department or agency of the City government and recommend them to the City Council for adoption by it.
- (g) See that the laws of the State pertaining to the City, the provisions of this Charter and the ordinances of the City are enforced.
- (h) Exercise control of all administrative offices and departments of the City and of all appointive officers and employees except those directly appointed by the City Council and prescribe such general

rules and regulations as he or she may deem necessary or proper for the general conduct of the administrative offices and departments of the City under his jurisdiction.

(i) Perform such other duties consistent with this Charter as may be required of him or her by the City Council. (As amended December 20, 2010, and January 9, 2013)

Section 505 Meetings.

The City Manager shall be entitled to participate in the deliberations of the City Council and at any meeting of the City's boards, commissions and committees, but shall not have a vote. (As amended effective January 9, 2013)

Section 506 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 votes of a majority of the members of the City Council.

Section 507 Manager Pro Tempore.

The City Manager shall appoint one of the other officers or department heads of the City to serve as Manager Pro Tempore during any temporary absence or disability of the City Manager and notify the City Council of the identity of the Manager Pro Tempore. If he or she fails to make such appointment, the City Council may appoint an officer or department head to serve as such Manager Pro Tempore. (As amended effective January 9, 2013)

Article VI Officers and Employees

Section 600 Officers to be Appointed by the City Council.

In addition to the City Manager, there shall be a City Attorney, and a City Clerk, who shall be appointed by and serve at the pleasure of the City Council and may be removed only upon the affirmative votes of a majority of the members of the City Council. (As amended effective January 20, 1959)

Section 601 Administrative Departments.

The City Council may provide, by ordinance not inconsistent with this Charter, for the organization, conduct and operation of the several offices and departments of the City as established by this Charter, and for the creation of additional departments, divisions, offices and agencies and for their consolidation, alteration or abolition. Each new department created by the City Council shall be headed by an officer as department head who shall be appointed and may be suspended or removed by the City Manager.

The City Council, by ordinance or resolution, may assign additional functions or duties to offices, departments or agencies not inconsistent with this Charter. Where the positions are not incompatible, the City Council may combine in one person the powers and duties of two or more offices created or authorized by this Charter. No office provided in this Charter to be filled by appointment by the City Manager may be consolidated with an office to be filled by appointment by the City Council. The City Council shall provide for the number, titles, qualifications, powers, duties and compensation of all

officers and employees.

Section 602 City Attorney. Powers and Duties.

To become and remain eligible for City Attorney the person appointed shall be an attorney at law duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of law for at least three years prior to his or her appointment. The City Attorney shall have 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. He or she shall prosecute misdemeanor offenses arising under State law if authorized and directed to do so by ordinance or resolution adopted 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 actions or proceedings in which any such officer or employee is concerned or is a party for any act arising out of his or her employment or by reason of his or her official capacity.
- (d) Attend all meetings of the City Council and give his advice or opinion in writing whenever requested to do so by the City Council or by any of the boards, commissions, committees, or officers of the City.
- (e) Approve the form of all contracts made by and all bonds given to the City, endorsing his or her approval thereon in writing.
- (f) Prepare any and all proposed ordinances and resolutions for the City and amendments thereto.
- (g) Devote such time to the duties of his or her office as may be specified in the ordinance or resolution fixing the compensation for such office.
- (h) Surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.

The City Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein. (As amended effective April 28, 1966, December 20, 2010, and January 9, 2013)

Section 603 City Clerk. Powers and Duties.

The City Clerk shall have power and 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 books that shall bear appropriate titles and be devoted to such purpose.
- (b) Maintain separate books, 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; keep all books properly indexed and open to public inspection when not in actual use.

- (c) Maintain separate books, in which a record shall be made of all written contracts and official bonds.
- (d) Be the custodian of the seal of the City.
- (e) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.
- (f) 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.
- (g) Have charge of all City elections.
- (h) Perform such other duties consistent with this Charter as may be required of him or her by ordinance or resolution of the City Council. (As amended effective December 20, 2010)

Section 605 Director of Finance.

There shall be a Director of Finance appointed by the City Manager and subject to suspension or removal by the City Manager who shall have power and shall be required to:

- (a) Have charge of the administration of the financial affairs of the City under the direction of the City Manager, and be head of the Finance Department of the City.
- (b) Compile the budget expense and income estimates for the City Manager.
- (c) Maintain a general accounting system for the City government and each of its offices, departments and agencies.
- (d) Receive all taxes, assessments, license fees and other revenues of the City, or for whose collection the City is responsible, and receive all taxes or other money receivable by the City from the County, State or Federal Government, or from any Court, or from any office, department, or agency of the City.
- (e) Have 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 all funds coming into his or her 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.
- (f) Supervise and be responsible for the disbursement of all moneys and have control of all expenditures to insure, that budget appropriations are not exceeded; audit all purchase orders before issuance; audit, approve and provide for the payment of all bills, invoices, payrolls, demands or charges against the City and, with the advice of the City Attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges.

(g) See that all taxes, assessments, license fees and other revenues of the City, or for whose collection the City is responsible, and all other money receivable by the City from the County, State or Federal Government, or from any court, office, department or agency of the City are collected.

(h) Through the City Manager submit to the City Council and to the certified public accountant employed by the City as an independent auditor a monthly statement of all receipts, disbursements and fund balances in sufficient detail to show the exact financial condition of the City; and, as of the end of each fiscal year, submit a complete financial statement and report.

(i) Supervise the keeping of current inventories of all property of the City by all City departments, offices and agencies.

(j) Assume the title of and act as City Treasurer and with the approval of the City Manager appoint deputies as necessary to act under the provisions of any law requiring or permitting action by a City Treasurer.

(k) Perform such other duties consistent with this Charter as may be required of him or her by ordinance or resolution of the City Council. (As amended effective January 20, 1959, and December 20, 2010)

Section 606 Administering Oaths.

Each department head and his or her deputies shall have the power to administer oaths and affirmations in connection with, any official business pertaining to his department. (As amended effective December 20, 2010)

Section 607 Department Heads. Appointment Powers.

Each department head and appointive officer shall have the power to appoint, suspend and remove such deputies, assistants, subordinates and employees as are provided for by the City Council for his or her department or office, subject to the provisions of this Charter and of any personnel, merit or civil service system adopted hereunder. Any such appointment or removal by a department head appointed by the City Manager shall be subject to approval by the City Manager. (As amended effective December 20, 2010)

Section 608 Illegal Contracts. Financial Interest.

No member of the City Council, department head or other officer of the City (except, a member of any board, commission, or committee), shall be financially interested in any contract, sale or transaction made by them in their official City capacity.

No member of any board, commission, or committee shall participate in any decision when the member has a financial interest in any contract, sale or transaction to which the City is a party and which comes before the board, commission, or committee of which such person is a member for approval or other official action.

Any contract, sale or transaction in which there shall be such financial interest, as specified in this Section, shall become void at the election of the City when so declared by resolution of the City Council.

No member of the City Council, department head or other officer of the City, or member of any board, commission, or committee shall be deemed to be financially interested, within the meaning of the foregoing provisions: (1) in any contract made with a corporation where his or her only interest in the corporation is that of a stockholder and the stock owned by him or her shall amount to less than three percent (3%) of all the stock of such corporation issued and outstanding; and (2) if an exception under California Government Code Sections 1090 et seq., or any successor statute, is applicable.

If any member of the City Council, department head or other officer of the City, or member of a board, commission, or committee shall be financially interested as aforesaid, upon conviction thereof he or she shall forfeit his or her office in addition to any other penalty which may be imposed for such violation of this Charter. (As amended effective December 20, 2010, and January 9, 2013)

Section 609 Acceptance of Other Office.

Any elective officer of the City shall comply with California Government Code Section 1099, or any successor statute, relating to incompatible offices. (As amended effective December 20, 2010, and January 9, 2013)

Section 610 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 any department head or other officer having appointive power appoint any relative of his or her within such degree to any such position. (As amended effective April 28, 1966, and December 20, 2010)

Section 611 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.

There shall be no personal liability upon, or any right to recover against, a superior officer, or his or her bond, for any wrongful act or omission of his or her subordinate, unless such superior officer was a party to, or conspired in, such wrongful act or omission. (As amended effective December 20, 2010)

Article VII Appointive Boards and Commissions

Section 700 In General.

There shall be the following named boards and commissions which shall have the powers and duties herein stated. In addition, the City Council may create by ordinance or resolution such additional advisory boards or commissions as in its judgment are required, and may grant to them such powers and duties as are consistent with the provisions of this Charter. (As amended effective January 9, 2013)

Section 701 Appropriations.

The City Council shall include in its annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of such boards and commissions.

Section 702 Appointment. Terms.

The members of each of such boards or commissions shall be appointed by the City Council from the qualified electors of the City, none of whom shall hold any paid office or employment in the City government. They shall be subject to removal by motion of the City Council adopted by at least four affirmative votes. The members thereof shall serve for a term of four years and until their respective successors are appointed and qualified.

The initial term of any board or commission member shall be established by the City Council at the time the board or commission is created. This revision shall not affect the term of any board or commission existing prior to November 1, 2012. (As amended effective April 1, 1955, and January 9, 2013)

Section 703 Reserved.

(As amended effective January 9, 2013)

Section 704 Meetings. Chairperson.

Boards and commissions shall organize by electing one of its members to serve as presiding officer at the pleasure of such board or commission. Each board or commission shall hold regular meetings at such frequency as required by its workload and such special meetings as such board or commission may require. All proceedings of a board or commission shall be conducted pursuant to the Ralph M. Brown Act, or any successor law.

Except as may be otherwise provided in this Charter, a secretary shall be designated for the recording of minutes for each of such boards and commissions, who shall keep a record of its proceedings and transactions. Each board or commission may prescribe its own rules and regulations which shall be consistent with this Charter and copies of which shall be kept on file in the office of the City Clerk where they shall be available for public inspection. Each board or commission shall have the same power as the City Council to compel the attendance of witnesses, to examine them under oath, to compel the production of evidence before it and to administer oaths and affirmations. (As amended effective December 20, 2010, and January 9, 2013)

Section 705 Compensation. Vacancies.

The members of boards and commissions shall serve without compensation for their services as such, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the City Council. In addition, the City Council may by resolution fix an amount as reimbursement of other expenditures incurred by the members of boards and commissions while in the performance of their official duties.

Any vacancies in any board or commission, from whatever cause arising, shall be filled by appointment by the City Council. If a vacancy occurs within six (6) months from the expiration of the term, the City Council has the discretion to appoint a replacement to serve the balance of the unexpired term plus one (1) full term of four (4) years. If a member of a board or commission absents himself or herself from three consecutive regular meetings of such board or commission, unless by permission of such board or commission expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a registered elector of the City, his or her office shall become vacant and shall be so declared by the City Council. (As amended effective June 6, 1974, December 20, 2010, and January 9,

2013)

Section 706 Planning Commission. Members.

There shall be a Planning Commission consisting of seven members. (As amended effective April 1, 1955, April 28, 1966, and June 6, 1974)

Section 707 Planning Commission. Powers and Duties.

There shall be a Planning Commission consisting of seven members which shall have the power and be required to:

- (a) After a public hearing thereon, recommend to the City Council the adoption, amendment or repeal of a General Plan, or any part thereof, for the physical development of the City.
- (b) Exercise such control over land subdivisions as is granted to it by ordinance not inconsistent with the provisions of this Charter.
- (c) Exercise such functions with respect to zoning and land use as may be prescribed by ordinance not inconsistent with the provisions of this Charter. (As amended effective January 9, 2013)

Section 708 Board of Library Trustees. Powers and Duties.

There shall be a Board of Library Trustees consisting of five members which shall have the power and duty to:

- (a) Have charge of the administration of City libraries and make and enforce such by-laws, rules and regulations as may be necessary therefor.
- (b) Designate its own secretary.
- (c) Consider the annual budget for library purposes during the process of its preparation and make recommendations with respect thereto to the City Council and City Manager.
- (d) Purchase and acquire books, journals, maps, publications and other supplies peculiar to the needs of the library, subject, however, to the limitations of the budget for such purposes. The expenditure and disbursement of funds for such purchases shall be made and approved as elsewhere in this Charter provided.
- (e) Approve or disapprove the appointment, suspension or removal of the Librarian, who shall be the department head.
- (f) Accept money, personal property or real estate donated to the City for library purposes, subject to the approval of the City Council.
- (g) Contract with schools, county or other governmental agencies to render or receive library services or facilities subject to the approval of the City Council.

Section 709 Parks, Beaches and Recreation Commission. Powers and Duties.

There shall be a Parks, Beaches and Recreation Commission consisting of seven members which shall have the power and be required to:

- (a) Act in an advisory capacity to the City Council in all matters pertaining to parks, beaches, recreation, parkways and street trees.
- (b) Assist in the planning of parks and recreation programs for the inhabitants of the City, promote and stimulate public interest therein, and to that end solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein.
- (c) Establish policies for the acquisition, development and improvement of parks, beaches and playgrounds and for the planting, care and removal of trees and shrubs in all parks, playgrounds and streets, subject to the rights and powers of the City Council.
- (d) Perform such other duties as may be prescribed by ordinance not inconsistent with the provisions of this Charter. (As amended effective April 28, 1966, June 6, 1974, and January 9, 2013)

Section 710 Civil Service Board.

The Civil Service Board shall consist of five members, none of whom while a member of the board, or for a period of one year after he or she has ceased for any reason to be a member, shall occupy or be eligible for appointment to any salaried office or employment in the service of the City.

The members of the Civil Service Board shall be nominated and appointed in the following manner. Two members shall be appointed by the City Council from a list of five persons to be nominated by vote of the employees in the Classified Service, two members shall be appointed by the City Council directly, and the fifth shall be appointed by the City Council from a list of three persons nominated by a majority of the four thus appointed. The successor of any member of the board shall be nominated and appointed in the same manner as such member was nominated and appointed. (As amended effective January 9, 2013)

Section 711 Civil Service Board. Powers and Duties.

The Civil Service Board shall have the power and duty to:

- (a) Recommend to the City Council, after a public hearing thereon, the adoption, amendment or repeal of civil service system rules and regulations. The rules and regulations, as may be adopted from time-to-time by the City Council, shall have the force and effect of law.
- (b) Act in an advisory capacity to the City Council on problems concerning personnel administration.
- (c) Receive and hear appeals submitted by any person employed by the City relative to any appointment, promotion, suspension, demotion, dismissal or other disciplinary action and to make determinations thereon. The Board's determinations shall be final for persons included in the Civil Service System. The Board may modify or revoke a disciplinary action only upon the following three grounds:
 - 1. The facts do not justify the action taken, the action taken is unlawful or the action taken is superseded by local, state or federal law; or
 - 2. Substantive violation or omission of procedure was made; or
 - 3. The action taken was unreasonable, capricious or arbitrary in view of the offense, the circumstances surrounding the offense and the past employee record of the employee.

(d) Make any investigation concerning the administration of personnel in the municipal service and report its findings to the City Council and City Manager when requested to do so by the City Council, the City Manager or by any organized City Employees' association.

(e) Perform such other duties as may be prescribed by ordinance. (As amended effective December 20, 2010)

Section 712 City Arts Commission.

There shall be a City Arts Commission with the number of members to be established by ordinance or resolution and it shall have the power and duty to:

(a) Act in an advisory capacity to the City Council in all matters pertaining to artistic, aesthetic and cultural aspects of the City.

(b) Recommend to the City Council the adoption of such ordinances, rules and regulations as it may deem necessary for the administration and preservation of fine arts, performing arts, historical, aesthetic and cultural aspects of the community.

(c) On behalf of the City, actively encourage programs for the cultural enrichment of the community.

(d) Perform such other duties relating to the Arts as the City Council may require. (Added effective June 6, 1974, and amended effective December 15, 1992)

Article VIII Civil Service System

Section 800 Civil Service System.

There shall be a Civil Service System to establish an equitable and uniform procedure for handling personnel matters; to attract to the City service the most competent persons available, to assure that the appointment and promotion of employees will be based on merit and fitness, and to provide reasonable security for employees.

The City Council shall by ordinance continuously maintain this system for the employment, classification, advancement, suspension and discharge of those appointive officers and employees who shall be included in the system. The system shall comply with all other provisions of this Charter. (As amended effective December 20, 2010)

Section 801 Positions Included in the System.

The civil service system shall include all full time, regular and permanent positions or employment on the Police and Fire Departments of the City and may, by ordinance, include any other appointive officers or positions in the service of the City except the following:

1. All elective officers.
2. City Manager, Assistant City Manager, if any, one executive assistant to the City Manager, City Attorney, Assistant City Attorney, if any, City Clerk, Director of Finance, City Engineer, all Department Heads, and Assistant Chiefs in the Police and Fire Departments.

3. All members of boards and commissions.
4. Positions in any class or grade created for a special or temporary purpose and which may exist for a period of not longer than six months in any one calendar year.
5. Persons employed to render professional, scientific, technical or expert service.
6. Persons who render part-time service without pay or who are paid on an hourly or per diem basis. (As amended effective January 20, 1959, and December 20, 2010)

Section 802 Withdrawal From System.

After inclusion in the system, any departments or appointive officers or employees shall not be withdrawn therefrom, either by an outright repeal of the civil service ordinance or otherwise, unless such withdrawal has been submitted to the city electors at a special or regular municipal election and approved by a majority of two-thirds of those electors voting on the proposition. (As amended effective December 20, 2010)

Article IX Retirement

Section 900 Retirement System.

Plenary authority and power are hereby vested in the City, its City Council and its several officers, agents and employees to do and perform any act, and to exercise any authority granted, permitted, or required under the provisions of the Public Employees' Retirement Act, as it now exists or hereafter may be amended, to enable the City to continue as a contracting City under the Public Employees' Retirement System. The City Council may terminate any contract with the Board of Administration of the Public Employees' Retirement System only under authority granted by ordinance adopted by a majority vote of the electors of the City, voting on such proposition at an election at which such proposal is presented. (As amended effective June 6, 1974)

Article X Elections

Section 1000 General Municipal Elections.

Commencing with the election of November 2, 1982, General Municipal elections for the election of officers and for such other purposes as the City Council may prescribe shall be held in the City on the first Tuesday after the First Monday of November in each even-numbered year, and consolidated with the Statewide general election in the manner provided in the California Elections Code. (As amended effective April 8, 1980)

Section 1001 Special Municipal Elections.

All other municipal elections that may be held by authority of this Charter, or of any law, shall be known as special municipal elections.

Section 1002 Procedure for Holding Elections.

Unless otherwise provided by ordinance hereafter enacted, all elections shall be held in accordance

with the provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, for the holding of municipal elections so far as the same are not in conflict with this Charter.

Section 1003 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 the same now exist or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, 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.

Section 1004 Voters Signing Nomination Petitions.

The voters signing any petition for the nomination of any person to the office of Councilmember shall be residents and registered voters of the district from which such person is to be nominated. (As amended effective June 19, 1968, and December 20, 2010)

Section 1005 Districts.

The City is hereby divided into seven districts, the names and respective boundaries of which shall be as established by ordinance. No ordinance changing and redefining the boundaries of any district shall be enacted within six months prior to any regular Councilmanic election.

Following the national census and each tenth year thereafter the City Council shall appoint a committee to study and report to the City Council on the advisability of redistricting the City. Upon receipt of any such committee report, and at any other time deemed necessary or desirable in order that the district boundaries be fair and logical, the City Council may by ordinance change and redefine the boundaries of any or all of the seven districts herein established. The boundaries so defined shall be established in such manner that the districts shall, as nearly as practicable, constitute natural areas of contiguous and compact territory and provide fair representation on the City Council. Notwithstanding the provisions of Section 401, no redistricting shall disqualify any Councilmember from serving as Councilmember from the district from which he or her was nominated or appointed for the remainder of his or her term, if elected, or until the next general municipal election, if appointed. Any territory hereafter annexed to or consolidated with the City shall, at the time of such annexation or consolidation, be added by ordinance of the City Council to an adjacent district or districts. (As amended effective May 4, 1964, April 28, 1966, June 19, 1968, and December 20, 2010)

Section 1006 Territory Not Specifically Described.

Any territory constituting a part of the City and not specifically included in any district shall be deemed included in the district with which it has the longest common boundary line. If there is no common boundary line with any district, then such territory shall be deemed included in the nearest district to it. (As amended effective April 28, 1966)

Article XI Fiscal Administration

Section 1100 Fiscal Year.

The fiscal year of the City government shall begin on the first day of July of each year and end on the thirtieth day of June of the following year.

Section 1101 Annual Budget. Preparation by the City Manager.

At such date as the City Manager shall determine, each department head shall furnish to the City Manager estimates of revenue and expenditures for his or her department for the ensuing fiscal year, detailed in such manner as may be prescribed by the City Manager. In preparing the proposed budget, the City Manager shall review the estimates, hold conferences thereon with the respective department heads, and may revise the estimates as he or she may deem advisable. (As amended effective December 20, 2010, and January 9, 2013)

Section 1102 Budget. Submission to City Council.

At least thirty-five days prior to the beginning of each fiscal year, the City Manager shall submit to the City Council the proposed budget as prepared by him. After reviewing same and making such revisions as it may deem advisable, the City Council shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than ten days prior to said hearing, by at least one insertion in the official newspaper. Copies of the proposed budget shall be available for inspection by the public in the office of the City Clerk at least ten days prior to said hearing.

Section 1103 Budget. Public Hearing.

At the time so advertised or at any time to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the proposed budget, at which interested persons desiring to be heard shall be given such opportunity.

Section 1104 Budget. Adoption.

After the conclusion of the public hearing the City Council shall make any revisions of the proposed budget that it may deem advisable and on or before June 30, it shall adopt the budget. A copy thereof, certified by the City Clerk, shall be filed with the person retained by the City Council to perform auditing functions for the Council and a further copy shall be placed, and shall remain on file, in the office of the City Clerk where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the City.

Section 1105 Budget. Appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes therein named. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

At any meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by the affirmative votes of at least four members so as to authorize the transfer of unused balances appropriated for one purpose to another purpose or to appropriate available funds not included in the budget or to cancel any appropriation not expended or encumbered.

Section 1106 Centralized Purchasing.

Under the control and direction of the City Manager there shall be established a centralized purchasing system for all City departments and agencies, except as otherwise in this Charter provided.

Section 1107 Reserved.

(As amended effective April 28, 1966, and December 20, 2010)

Section 1108 Tax Procedure.

The procedure for the assessment, levy and collection of taxes upon property, taxable for municipal purposes, may be prescribed by ordinance of the City Council.

Section 1109 Bonded Debt Limit.

The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of fifteen percent of the total assessed valuation, for purposes of City taxation, of all the real and personal property within the City.

No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative votes of two-thirds of the electors voting on such proposition at any election at which the question is submitted to the electors and unless in full compliance with the provisions of the State Constitution and of this Charter.

Section 1110 Contracts on Public Works.

Every project for the construction or improvement of public buildings, works, streets, drains, sewers, utilities, parks or playgrounds, and every purchase of supplies or materials for any such project, when the total expenditures required for the project exceed One Hundred and Twenty Thousand Dollars (\$120,000.00), or such lesser amount as may be established by ordinance, shall be let by the City Council by contract to the lowest responsible bidder after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least ten (10) days before the time for opening bids. This formal bid dollar amount shall be adjusted annually pursuant to an index specified by City Council resolution. Projects for the maintenance or repair of such facilities are excepted from the requirements of this paragraph if the City Council determines that such work can be performed more economically by a City department than by contracting for the doing of such work.

All bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City. Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein, or if no amount be so specified then in an amount not less than ten percent (10%) of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, within the time specified in the notice inviting bids or in the specifications referred to therein, the amount of his or her bidder's security shall be declared forfeited to the City and shall be collected and paid into its general fund, and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

The City Council may reject any and all bids presented and may readvertise in its discretion.

The City Council, without advertising for bids, or after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the work

in question may be performed better or more economically by the City with its own employees or the supplies or materials may be purchased more economically on the open market, and after the adoption of a Resolution to this effect by at least five (5) affirmative votes of the Council may proceed to have said work done or said supplies or materials purchased in the manner stated, without further observance of the provisions of this Section. Such contracts likewise may be let without advertising for bids, if such work or supplies or materials shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by Resolution passed by at least five (5) affirmative votes of the Council and containing a declaration of the facts constituting such urgency.

The City Council shall have the power to establish standards, procedures, rules or regulations in order to implement the provisions of this section. (As amended effective April 28, 1966, June 6, 1974, November 4, 1986, and December 20, 2010)

Section 1111 Purchasing Supplies.

The City Council may prescribe by ordinance rules and regulations for the purchasing of supplies, materials and equipment. When making purchases for the City, merchants maintaining an established place of business within the City shall be given the preference, quality and prices being equal.

Section 1112 Cash Basis Fund.

The City Council may maintain a revolving fund, to be known as the "Cash Basis Fund," for the purpose of placing the payment of the running expenses of the City on a cash basis. A balance may be built up in this fund from any available sources in an amount which the City Council deems sufficient with which to meet all lawful demands against the City for the first five months, or other necessary period, of the succeeding fiscal year prior to the receipt of ad valorem tax revenues. Transfers may be made by the City Council from such fund to any other fund or funds of such sum or sums as may be required for the purpose of placing such funds, as nearly as possible, on a cash basis. All money so transferred from the Cash Basis Fund shall be returned thereto before the end of the fiscal year.

Section 1113 Capital Improvement Fund.

A fund for capital improvement generally is hereby created, to be known as the "Capital Improvement Fund." The City Council may create by ordinance a special fund or funds for a special capital improvement purpose. The City Council may transfer to any such fund any unencumbered surplus funds remaining on hand in the City at any time.

Once created, such fund shall remain inviolate for the purpose for which it was created; if for capital improvement generally, then for any such purposes, and if for a special capital improvement, then for such purpose only, unless the use of such fund for some other capital improvement purpose is authorized by the affirmative votes of a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted.

If the purpose for which any special capital improvement fund has been created has been accomplished, the City Council may transfer any unexpended or unencumbered surplus remaining in such fund to the fund for capital improvement generally, established by this Charter. (As amended effective April 28, 1966, and December 20, 2010)

Section 1114 Claims and Demands.

Except as otherwise provided by the provisions of State law applicable to chartered cities, all claims and demands against the City shall be filed as prescribed by ordinance. Class claims and representative claims are prohibited and may not be pursued against the City, including, but not limited to, a claim for the refund of taxes and/or fees. (As amended effective January 20, 1959, April 28, 1966, and January 9, 2013)

Section 1115 Reserved.

(As amended effective January 20, 1959, and January 9, 2013)

Section 1116 Independent Audit.

The City Council shall employ at the beginning of each fiscal year, a qualified certified public accountant who shall, at such time or times as may be specified by the City Council, and at such other times as he or she shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and of all such other officers, employees or departments as the City Council may direct. Within 270 days after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the City Council, one copy thereof to be distributed to each member, one to the City Manager, Director of Finance, and City Attorney, respectively, and sufficient additional copies of the audit shall be placed on file in the office of the City Clerk where they shall be available for inspection by the general public, available on the City's website or electronic equivalent, and a summary of the financial statement as of the close of the fiscal year shall be published in a newspaper of general circulation within the City. (As amended effective January 20, 1959, April 28, 1966, and January 9, 2013)

**Article XII
Reserved**

(As amended effective January 9, 2013)

Section 1200 Reserved.

(As amended effective January 9, 2013)

Section 1201 Reserved.

(As amended effective January 9, 2013)

**Article XIII
Franchises**

Section 1300 Granting of Franchises.

Any person, firm or corporation furnishing the City or its inhabitants with transportation, communication, terminal facilities, water, light, heat, electricity, gas, power, refrigeration, storage, or any other public utility or service, or using the public streets, ways, alleys or places for the operation of plants, works or equipment for the furnishing thereof, or traversing any portion of the City for the transmitting or conveyance of any such service elsewhere, may be required by ordinance to have a valid and existing franchise therefor. The City Council is empowered to grant such franchise to any person, firm or corporation, whether operating under an existing franchise or not, and to prescribe the terms and

conditions of any such grant. It may also provide, by procedural ordinance, the method of procedure and additional terms and conditions of such grants, or the making thereof, all subject to the provisions of this Charter.

Nothing in this Section, or elsewhere in this Article, shall apply to the City, or to any department thereof, when furnishing any such utility or service.

Section 1301 Resolution of Intention. Notice and Public Hearing.

Unless a different procedure is established by the Municipal Code, before granting any franchise, the City Council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any persons having any interest therein or any objection to the granting thereof may appear before the City Council and be heard thereon. It shall direct the City Clerk to publish said resolution at least once, within fifteen days of the passage thereof, in the official newspaper. Said notice shall be published at least ten days prior to the date of hearing.

At the time set for the hearing the City Council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter it may by ordinance grant the franchise on the terms and conditions specified in the resolution of intention to grant the same, subject to the right of referendum of the people, or it may deny the same. If the City Council shall determine that changes should be made in the terms and conditions upon which the franchise is proposed to be granted, a new resolution of intention shall be adopted and like proceedings had thereon. (As amended effective December 20, 2010)

Section 1302 Terms of Franchise.

Every franchise shall state the term for which it is granted, which, unless it be indeterminate as provided for herein, shall not exceed twenty five years.

A franchise grant may be indeterminate, that is to say, it may provide that it shall endure in full force and effect until the same, with the consent of the Public Utilities Commission of the State of California, shall be voluntarily surrendered or abandoned by its possessor, or until the State of California, or some municipal or public corporation, thereunto duly authorized by law, shall purchase by voluntary agreement or shall condemn and take, under the power of eminent domain, all property actually used and useful in the exercise of such franchise and situate within the territorial limits of the State, municipal or public corporation purchasing or condemning such property, or until the franchise shall be forfeited for non-compliance with its terms by the possessor thereof.

Section 1303 Grant to be in Lieu of all Other Franchises.

Any franchise granted by the City with respect to any given utility service shall be in lieu of all other franchises, rights or privileges owned by the grantee, or by any successor of the grantee to any right under such franchise, for the rendering of such utility service within the limits of the City as they now or may hereafter exist, except any franchise derived under Section 19 of Article XI of the Constitution of California as said section existed prior to the amendment thereof adopted October 10, 1911. The acceptance of any franchise hereunder, shall operate as an abandonment of all such franchises, rights and privileges within the limits of the City as such limits shall at any time exist, in lieu of which such

franchise shall be granted.

Any franchise granted hereunder shall not become effective until written acceptance thereof shall have been filed by the grantee thereof with the City Clerk. Such acceptance shall be filed within ten days after the adoption of the ordinance granting the franchise, or any extension thereof granted by the City Council, and when so filed, such acceptance shall constitute a continuing agreement of such grantee that if and when the City shall thereafter annex, or consolidate with, additional territory, any and all franchises, rights and privileges owned by the grantee therein, except a franchise derived under said constitutional provision, shall likewise be deemed to be abandoned within the limits of such territory. No grant of any franchise may be transferred or assigned by the grantee except by consent in writing of the City Council and unless the transferee or assignees thereof shall covenant and agree to perform and be bound by each and all of the terms and conditions imposed in the grant or by procedural ordinance and by this Charter.

Section 1304 Eminent Domain.

No franchise grant shall in any way, or to any extent, impair or affect the right of the City to acquire the property of the grantee thereof either by purchase or through the exercise of the right of eminent domain, and nothing herein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to any public utility.

Section 1305 Duties of Grantees.

By its acceptance of any franchise hereunder, the grantee shall covenant and agree to perform and be bound by each and all of the terms and conditions imposed in the grant, or by procedural ordinance and shall further agree to:

- (a) Comply with all lawful ordinances, rules and regulations theretofore or thereafter adopted by the City Council in the exercise of its police power governing the construction, maintenance and operation of its plants, works or equipment.
- (b) Pay to the City on demand the cost of all repairs to public property made necessary by any of the operations of the grantee under such franchise.
- (c) Indemnify and hold harmless the City and its officers from any and all liability for damages proximately resulting from any operations under such franchise.
- (d) Remove and relocate without expense to the City any facilities installed, used and maintained under the franchise if and when made necessary by any lawful change of grade, alignment or width of any public street, alleyway, or place, including the construction of any subway or viaduct, or if the public health, comfort, welfare, convenience, or safety so demands.
- (e) Pay to the City during the life of the franchise a percentage, to be specified in the grant, of the gross annual receipts of the grantee within the limits of the City, or such other compensation as the City Council may prescribe in the grant.

Section 1306 Exercising Rights Without Franchise.

The exercise by any person, firm or corporation of any privilege for which a franchise is required, without possessing a valid and existing franchise therefor, shall be a misdemeanor and shall be punishable in

the same manner as violations of this Charter are punishable and each day that such condition continues to exist shall constitute a separate violation.

Article XIV Miscellaneous

Section 1400 Definitions.

Unless the provision or the context otherwise requires, as used in this Charter:

- (a) "Shall" is mandatory, and "may" is permissive.
- (b) "City" is the City of Newport Beach and "department," "board," "commission," "agency," "officer," "public officer," or "employee," is a department, board, commission, agency, officer or employee, as the case may be, of the City of Newport Beach. Whenever a power is granted to, or a duty is imposed upon a public officer, or employee, the power may be exercised, or the duty may be performed by a deputy of such officer or employee or by a person otherwise duly authorized pursuant to law or ordinance.
- (c) "County" is the County of Orange.
- (d) "State" is the State of California. (As amended effective January 9, 2013)

Section 1401 Oil Well Drilling.

No drilling, including off shore drilling originating from the ocean's surface, for exploration work of any kind, production or refining of, oil, gas or other hydrocarbon substances shall be permitted within the incorporated area of the City of Newport Beach. These prohibitions shall apply to any actions taken by the City of Newport Beach itself.

This Section, however, shall not prohibit the exploration or drilling for, production or processing of oil, gas or other hydrocarbon substances by vertical, slant or other drilling method originating from the surface within the approximately twenty (20) acres of territory depicted and specifically described in Exhibits "A" and "B" to this Charter and incorporated herein by reference. The owner of property annexed into the City after December 7, 2010 shall have up to a maximum of ten years from the date of annexation to bring the property into compliance with this section.

This Section shall not prohibit the continuance of production of any well slant drilled under property within the City from a location outside of the City and in existence at the time this Charter took effect. Nor shall this section preclude the City Council from permitting the slant drilling of wells under the surface of property within the City from surface locations located either outside the City or within future annexations to the City wherein the drilling for and production of oil, gas and other hydrocarbon substances is permitted. However, if such slant drilling originates from the surface outside of the approximately twenty (20) acres of territory depicted in Exhibits "A" and "B" it shall first be approved by a majority of the electors voting on such proposition at any special or general municipal election, and provided further that all of the following conditions shall be complied with:

- (a) The holding of a public hearing upon any application for a permit to conduct such drilling;
- (b) The requiring of the removal of all derricks and other surface structures used in the drilling of such well upon completion or abandonment of such well;

- (c) The furnishing of a faithful performance surety bond and the maintenance of public liability and property damage insurance by the permittee in amounts deemed adequate by the City Council;
- (d) The screening by landscaping and the beautification of any production and maintenance facilities used in the operation of any such well;
- (e) Provisions for the payment to the City of such amounts as in the sound discretion of the Council are adequate amounts for the consideration or granting of such permit, the holding, of such hearing, the making of initial and periodic inspections, the granting of easements under City property and for royalties or rentals;
- (f) The requirement that no such well shall traverse any land under the area of the City wherein drilling is prohibited at a vertical depth of less than four hundred feet from the surface of the ground; and
- (g) Such other conditions as the City Council may prescribe by ordinance. (As amended effective April 23, 1958, and December 20, 2010)

Section 1402 Water-Front Property.

The City Council shall not sell or convey any water-front or beach property, excepting to the State or to the County for use as a public beach or park, without an affirmative vote of the electorate at a general or special election.

Notwithstanding any other provision of this Charter, the City Council shall have the authority to lease City-owned property, including tide and submerged lands so long as the lease is limited to the term permitted by State law.

Nothing in this Section shall not invalidate any lease of such property in existence at the time of the effective date of the Charter nor the future leasing or re-leasing of any such property under lease at the effective date of this Charter.

There shall be reserved forever to the people the public use of a strip of bay front land above mean high tide not less than 85 feet in depth of the city-owned water front property bounded on the west by the southeasterly line of Nineteenth Street and bounded on the east by a line parallel thereto lying 349.90 feet northwesterly of the northwesterly line of Fifteenth Street, said frontage to be bay front frontage. (As amended effective April 10, 1956, December 15, 1992, and December 20, 2010)

Section 1402(a) Exception to Section 1402.

Notwithstanding the provisions of Section 1402, the City Council may sell and convey that parcel of City-owned property fronting on the Rivo Alto Canal described as Lot 4, Block 434, Canal Section, Newport Beach, as per map recorded in Book 4, page 98, Miscellaneous Maps, Records of Orange County, California. (Added effective January 25, 1961)

Section 1402(b) Exception to Section 1402.

Notwithstanding the provisions of Section 1402, the City Council may sell and convey that parcel of City-owned property fronting on Newport Bay described as follows:

All of Lot 1, Block 223, as shown upon a map of Section "A," Newport Beach, recorded in Book 4, page 21 of Miscellaneous Maps, Records of Orange County, California, and all that portion of Block

222 of said Section "A" described as follows: Beginning at the most northerly corner of said Block 222; running thence south 46° 50' 30" East along the Northeasterly line of said Block 222 to the most northerly corner of Lot 1, Tract 814, as shown upon a map recorded in Book 24, page 36, Records of said County; running thence southwesterly along the Northwesterly line of said Lot 1, Tract 814, to a point in the Southwesterly line of said Block 222; thence Northwesterly along the Southwesterly line of said Block 222 to the most Westerly corner of said Block 222; thence Northeasterly along the Northwesterly line of said Block 222 to the point of beginning.

(Added effective January 25, 1961)

Section 1402(c) Exceptions to Section 1402.

Notwithstanding the provisions of Section 1402, the City Council may sell and convey that parcel of City-owned real property described as follows, to wit:

Lot 6, Block 218, as shown upon a map of Section "B", Newport Beach, recorded in Miscellaneous Maps, Book 4, page 27, Records of Orange County, California, together with a portion of Lot 4, Section 33, Township 6 South, Range 10 West, S.B.B. & M., bounded on the south by the northerly line of said Lot 6, on the north by the easterly extension of the northerly line of Lot 4 in said Block 218, on the east by the northerly prolongation of the easterly line of said Lot 6, and on the west by the easterly lines of Lots 3 and 4 of said Block 218.

(Added effective May 4, 1964)

Section 1402(d) Exception to Section 1402.

Notwithstanding the provisions of Section 1402, the City Council may sell and convey that parcel of City-owned real property described as follows, to wit:

That portion of Section Thirty-five (35) in Township Six (6) South, Range Ten (10) West, San Bernardino Base & Meridian together with that portion of Fractional Section Two (2), in Township Seven (7) South, Range Ten (10) West, San Bernardino Base & Meridian shown as Parcel "A" on the map recorded in Book 80, Page 48 of Record of Surveys in the office of the County Recorder of Orange County, California, and described as follows:

Beginning at the most westerly corner of Lot 8, Block 22, Eastside Addition to Balboa Tract as shown on the map recorded in Book 4, Page 20 of Miscellaneous Maps in the office of the County Recorder of said County, thence S 70° 10' 00" E. 3.78 feet to the True Point of Beginning; thence continuing S 70° 10' 00" E. 26.22 feet; thence N 19° 50' 00" E 9.46 feet; thence West 27.87 feet to the True Point of Beginning.

(Added effective April 28, 1966)

Section 1402(e) Exception to Section 1402.

Notwithstanding the provisions of Section 1402, the City Council may sell and convey that parcel of City-owned property fronting on Newport Bay described as follows:

That portion of Lot 2 in Section 33, Township 6 South, Range 10 West, of the San Bernardino meridian, in the City of Newport Beach, County of Orange, State of California, according to the official plat of said land filed in the District Land Office, August 4, 1890, lying northeasterly of the northeasterly line of Blocks 222 and 223 in Section A, Newport Beach, as per map recorded in Book

4, page 21, of Miscellaneous Maps, in the office of the County Recorder of said County and between the northeasterly prolongations of the northwesterly line of Lot 1 in Block 223 of said Tract and of the northwesterly line of Lot 1 of Tract No. 814, as per map recorded in Book 24, pages 35 and 36, of said Miscellaneous Maps.

(Added effective January 12, 1967)

Section 1402(f) Exception to Section 1402.

Notwithstanding the provisions of Section 1402, the City Council may sell and convey that parcel of City-owned property fronting on the Rivo Alto with the legal description as follows:

Lot 6, Block 242, Canal Section Tract filed in Book 4, Page 98 of Miscellaneous Maps in the Office of the Recorder of Orange County.

The proceeds of the sale of this property shall be deposited in a special fund to be used solely for the completion of the new central library.

(Added effective December 15, 1992)

Section 1403 Service and Utility Charges.

All service charges and charges for utilities furnished by the City may be combined upon one or more bills or invoices but each such charge shall be separately stated. No service or utility furnished by the City shall be discontinued for failure to pay any other service or utility furnished by the City.

Section 1404 Violations.

(a) The violation of any provision of this Charter shall be deemed a misdemeanor, which may be prosecuted in the name of the People of the State of California, and be punishable by a fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment in the City Jail for a term not exceeding six (6) months or by both such fine and imprisonment. Additionally, such violations of this Charter may also be redressed in civil action and/or administrative citation.

(b) The City Council may make the violation of any ordinance of the City a misdemeanor or an infraction which may be prosecuted in the name of the People of the State of California. Unless specifically designated as an infraction, a violation of any ordinance of the City shall constitute a misdemeanor. The maximum fine and/or penalty for any violation of a City ordinance, whether a misdemeanor or an infraction, shall be established by ordinance. Additionally, the violation of any City ordinance may be addressed by civil action and/or administrative citation. (As amended effective June 6, 1974, and December 20, 2010)

Section 1405 Validity.

If any provision of this Charter, or the application thereof to any person or circumstance is held invalid, the remainder of the Charter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

CERTIFICATE

WHEREAS, the City of Newport Beach, for many years last past, has been and now is a city containing more than three thousand five hundred inhabitants, as ascertained by the last preceding

census taken under the authority of the Congress of the United States or of the Legislature of the State of California; and

WHEREAS, on the 22nd day of December, 1953, at a municipal election duly and regularly held on that day in said City under and in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the electors of said City did duly choose and elect Marco P. Anich, George M. Engelke, Lawrence B. Broering, Tom W. Henderson, Robert E. Campbell, Marion C. Forrest, C. Lester Jones, Wallace Calderhead, Ruth S. Fleming, James D. Ray, Ruby Stevenson, J. Leslie Steffensen, Henry K. Deister, Walter Gerhardt and Roland Wright, who are all electors of said City and eligible as candidates under said section, as a Board of fifteen Freeholders to prepare a new Charter for the government of said City, and

WHEREAS, the result of said election of Freeholders was duly declared by the legislative body of the City on the 29th day of December, 1953, and said electors thereafter duly qualified as such Freeholders in accordance with law; BE IT KNOWN that in pursuance of the provisions of said Constitution and within the period of one year after the result of said election was so declared, the said Board of Freeholders has prepared and does now propose the foregoing Charter as the Charter for the government of the City of Newport Beach; and

BE IT FURTHER KNOWN that said Board of Freeholders hereby requests said legislative body of the City of Newport Beach to cause the publication of said proposed Charter as provided in said Constitution and does hereby fix and designate Tuesday the 8th day of June, 1954 as the date for the election at which the proposed Charter shall be submitted to the qualified electors of the City of Newport Beach for their ratification and adoption; IN WITNESS WHEREOF, we the undersigned duly elected and qualified Freeholders of the City of Newport Beach, County of Orange, State of California, have hereunto set our hands at the City of Newport Beach, County of Orange, State of California, this 29th day of March, 1954.

J. Leslie Steffensen, Chairman

Ruby Stevenson, Secretary

Marco P. Anich

Lawrence B. Broering

Wallace Calderhead

Robert Campbell

Henry K. Deister

George M. Engelke

Ruth S. Fleming

Marion C. Forrest

Walter Gerhardt

Tom W. Henderson

C. Lester Jones

James D. Ray

Roland Wright

Freeholders of the City of Newport Beach, County of Orange, State of California.

ATTEST

Ruby Stevenson

Appendix A, Exhibits A and B (maps in title and archive PDFs, and linked from online code)

The Newport Beach Municipal Code is current through Ordinance 2013-9, passed May 14, 2013.

Disclaimer: The City Clerk's Office has the official version of the Newport Beach Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

