

Article CHA. Charter of the City of Downey

We, the people of the City of Downey, State of California, do ordain and establish this Charter as the organic law of said City under the State Constitution.

Approved by City of Downey voters on November 5, 1996

Ratified by Secretary of State on January 13, 1997

Amended at a Special Municipal Election May 5, 1998

Amended by Ordinance No. 1114 adopted January 22, 2002

ARTICLE I. NAME OF CITY

Section 100. NAME.

The municipal corporation now existing and known as the City of Downey shall remain and continue to exist as a municipal corporation under its present name of "City of Downey."

ARTICLE II. BOUNDARIES

Section 200. BOUNDARIES.

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 from time to time in the manner authorized by law.

ARTICLE III. SUCCESSION

Section 300. RIGHTS AND LIABILITIES.

The City of Downey 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 continue to be subject to all its debts, obligations, liabilities and contracts.

Section 301. ORDINANCES CONTINUED IN EFFECT.

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effect and not in conflict or inconsistent herewith, are hereby continued in force until the same shall have been duly repealed, amended, changed or superseded by proper authority.

Section 302. RIGHTS OF OFFICERS AND EMPLOYEES PRESERVED.

Nothing in this Charter contained, unless otherwise specifically provided herein, shall affect or impair the merit system, pension or retirement rights or privileges of officers or employees of the City, or of any office, department or agency thereof, existing at the time this Charter takes effect.

Section 303. CONTINUANCE OF PRESENT OFFICERS AND EMPLOYEES.

The present officers and employees of the City shall continue without interruption to perform the duties of their respective offices and employments upon the same terms and conditions and for the compensation provided by the existing ordinances, resolutions, rules or laws, but subject to such removal, amendment and control as is provided or permitted in this Charter, and, as to offices which are changed, abolished or superseded by this Charter, until the election or appointment and qualification of their respective successors under this Charter.

Section 304. CONTINUANCE OF CONTRACTS AND PUBLIC IMPROVEMENTS.

All contracts entered into by the City or for its benefit prior to the effective date of this Charter and then in effect, shall continue in full force and effect according to their terms. Public improvements for which proceedings have been instituted under laws existing at the time this Charter takes effect, in the discretion of the 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 305. PENDING ACTIONS AND PROCEEDINGS.

No action or proceeding, civil or criminal, pending at the time this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or by anything herein contained but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any officer, office, department or agency a party thereto, may be assigned or transferred by or under this Charter to another officer, office, department or agency, but in that event the same may be prosecuted or defended by the head of the office, department or agency to which such functions, powers and duties have been assigned or transferred by or under this Charter.

Section 306. EFFECTIVE DATE OF CHARTER.

This Charter shall take effect upon its approval by the Legislature after it shall have been ratified by the qualified voters of the City in the manner set forth in the State Constitution.

ARTICLE IV. POWERS OF CITY

Section 400. POWERS OF CITY.

The City shall have all powers and privileges which may be exercised by a charter city, subject only to the limitations contained in this Charter and in the State Constitution.

ARTICLE V. CITY COUNCIL

Section 500. CITY COUNCIL. TERMS.

The elective officers of the City shall consist of a City Council of five members, one of whom shall be elected from and by the voters of each of the five districts referred to in Article XIII of this Charter and at the times and for the terms and in the manner provided in this Charter. The term of each office shall be for four years. Each member of the City Council, upon qualification, shall serve during said term until the term of the successor to such office commences.

The five members of the City Council in office at the time this Charter takes effect shall continue in office representing their respective districts until their respective successor's term commences and the successor has qualified. The three members of the City Council elected from districts one, three and five shall be elected at the general municipal election held in November 1996 and each fourth year thereafter. The two members of the City Council elected from districts two and four shall be elected at the general municipal election held in November 1998 and each fourth year thereafter.

The term of each member of the City Council elected at a general municipal election to fill a four year term or the remaining unexpired term of a vacant office shall commence on the first Tuesday following the certification of the canvass of the vote which shall be made by the City Clerk. The term of each member of the City Council elected at a special municipal election to fill a vacancy shall commence on the first Tuesday following certification of the candidate's election and shall continue during the remainder of the unexpired term of the office. The term of each member of the City Council appointed to fill a vacancy shall commence upon appointment within 60 days following the date the office became vacant, and shall continue during the remainder of the unexpired term of office.

Ties in voting among candidates shall be settled according to State law.

Section 500.1. LIMITATION OF TERM.

- (a) Notwithstanding any other previously enacted provision of law or of this Charter, the City Clerk, or other election official authorized by law, shall not accept or verify the signatures on any nomination paper for any person, nor shall he or she certify or place on the list of certified candidates, nor print or cause to be printed on any ballot, ballot pamphlet, sample ballot or ballot label, the name of any person who either:
 - (1) Has been elected to two full terms as a member of the City Council and thereafter seeks to become a candidate for City Council, or
 - (2) A full term is 50% or more of the term as defined in the City Charter. It is the intent of the Charter Amendment that this Amendment shall be retroactive.

Section 501. ELIGIBILITY. QUALIFICATIONS.

No person shall be eligible for election to office as a member of the City Council unless such person shall have been domiciled in and a voter of such district for at least 30 days immediately preceding the first day upon which candidates for such office are permitted to file nominating papers with the City Clerk. For an appointee to fill a vacancy in an office, the aforementioned 30 day eligibility requirement shall immediately precede the date such office became vacant according to the provisions set forth herein below.

If a member of the City Council is absent from all regular meetings of the City Council for a period of 60 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 domiciled in and a voter of the Council member's district, the office shall immediately become vacant and shall be so declared by the City Council.

Vacancies shall be filled according to the provisions of Section 503.

The City Council shall judge the qualifications of its members as set forth in this Section. It shall judge all municipal election returns and it shall judge the certification of the canvass of the vote which shall be made by the City Clerk.

Section 502. COMPENSATION.

The members of the City Council shall receive no compensation for their services as such, but shall receive reimbursement on order of the City Council for Council authorized traveling and other expenses when on official duty. In addition, members shall receive such reasonable and adequate amounts as may be established by ordinance, which amount shall be deemed to be reimbursement to them of other out-of-pocket expenditures and costs imposed upon them by virtue of their serving on the City Council.

Section 503. VACANCIES.

A vacancy caused by a recall election shall be filled by the voters within the district in which the vacancy occurs. The election of an eligible candidate to fill such vacancy shall occur after the recall election.

All other vacancies from whatever causes arising shall be filled by an eligible person as follows:

- (a) If such vacancy occurs one year or more before the next general municipal election, the City Council shall immediately cause a special municipal election to be held to elect an eligible successor to serve during the term of such vacant office.
- (b) If such vacancy occurs less than one year before the next general municipal election, the City Council shall appoint an eligible person to serve during the term of such vacant office.
- (c) In the event the City Council fails to fill a vacancy by appointment within 60 days after such office, an eligible successor shall be elected at the next general municipal election to serve during the term of such office. If the 60 day period expires too late to fill the vacancy at the next general municipal election, the City Council shall immediately cause a special municipal election to be held to elect an eligible successor to serve during the term of such office.
- (d) Any eligible person appointed to fill a vacancy in an office shall serve as provided in Section 500.
- (e) In any case where the City Council is required to cause a special election to be held to fill a vacancy in any office, it may temporarily appoint an eligible person to fill said vacancy until an elected successor's term commences following said special election, if the City Council first determines and declares by resolution that such temporary appointment is essential to the proper conduct of city business.
- (f) Any person appointed or elected under the provisions of this section must be eligible pursuant to the requirements set forth in Section 501 and shall serve for the respective terms set forth in Section 500.
- (g) The appointment of an eligible person to fill a vacancy and all deliberations shall be conducted in public following the conclusion of a public hearing which shall be called for the purpose of

hearing input from eligible applicants as well as from the public.

- (h) If by reason of major disaster or for any other reason all five seats on the Council are vacant, the next immediate past three living Mayors of the City still domiciled in the City shall, by majority vote, appoint a Mayor and four Council members who shall temporarily serve as such until their successors are qualified and who shall immediately proceed to cause all of such vacancies to be filled by election or appointment, as the case may be, in the manner provided in this section. The past Mayors so acting may appoint one or more of their own number to serve temporarily as above provided.

Section 504. PRESIDING OFFICER.

At such time as the term of a member of the City Council commences, and at any time when there is a vacancy in the office of Mayor, the City Council shall meet and shall elect one of its members as its presiding officer, who shall have the title of Mayor. The Mayor may make and second motions and shall have a voice and vote in all its proceedings. The Mayor shall be the official head of the City for all ceremonial purposes. 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, may inform the people of any major 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 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.

Section 505. 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 506. REGULAR MEETINGS.

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

Section 507. SPECIAL MEETINGS.

A special meeting may be called at any time by the Mayor, or by three members of the City Council, by written notice to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting. Such written notice may be dispensed with as to any person entitled thereto who, at or prior to the time the meeting convenes, files with the City Clerk a written waiver of notice. Such written notice may also be dispensed with as

to any person who is actually present at the meeting at the time it convenes.

Section 508. PLACE OF MEETINGS.

All meetings shall be held in the Council Chambers of the City Hall, or in such place to which any such meeting may be adjourned, and shall be open to the public. 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 the Mayor should fail to act, by three members of the City Council.

Section 509. 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 City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. The City Clerk shall cause written notice of a meeting adjourned by less than a quorum or by the City Clerk to be delivered personally or by mail to each Council member at least 24 hours before the adjourned meeting, or such notice may be dispensed with in the same manner as specified in this Charter for dispensing with notice of special meetings of the City Council. The City Council may establish rules for the conduct of its proceedings and may 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 proceedings 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, and upon the adoption of any ordinance, resolution, or order for the payment of money, the City Clerk shall call the roll and shall cause the ayes and noes taken on such questions to be entered in the minutes of the meeting.

Section 510. PUBLIC PARTICIPATION.

All regular and special meetings of the City Council shall be open and public and all persons shall be permitted to attend such meetings, except that the provisions of this Section shall not apply to closed sessions as permitted by State law. Any person shall have the right to address the City Council, either orally or in writing on matters of City business, but such right shall be subject to reasonable rules and regulations as adopted by ordinance or resolution.

Section 511. ADOPTION OF ORDINANCES AND RESOLUTIONS.

With the sole exception of ordinances which take effect upon adoption, referred to in Section 514, no ordinance shall be adopted by the City Council on the day of its introduction, nor within five days thereafter nor at any time other than at a regular or adjourned regular meeting. 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 introduction of an ordinance or adoption of a resolution 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 Council members present. In the event that any ordinance is altered after its

introduction, the same shall not be finally adopted except at a regular or adjourned regular 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.

No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting.

Unless a higher vote is required by other provisions of this Charter the affirmative votes of at least three 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 urgency measure for the immediate preservation of 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 four affirmative votes. At the time of adoption of an urgency 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 Council members present. Notwithstanding provisions to the contrary, an urgency ordinance which sets forth the reason for the urgency to be that of a major disaster shall be exempt from the ten day posting and publication requirements set forth in Section 512 and such ordinance may be passed by the majority of the members of the City Council present.

Section 512. ORDINANCES. POSTING AND PUBLICATION.

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 Downey does ordain as follows:"

The City Clerk shall cause each ordinance to be published at least once in the official newspaper within 15 days after its adoption. As an alternative to the publication of an ordinance as specified herein, the City Clerk may cause a summary of a proposed ordinance to be prepared and published in the official newspaper and post a copy of such summary with a copy of the full text of the proposed ordinance at least ten days prior to the date it is to be submitted to the City Council for adoption, and the publication in the official newspaper of a summary of any ordinance adopted by the City Council and a posting of a certified copy of the full text of such adopted ordinance in the office of the City Clerk along with the names of the Council members voting for and against the ordinances within 15 days after the date of adoption.

Section 513. 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. Amendments to the code shall be enacted by ordinance.

Detailed regulations pertaining to any subject, such as the construction of buildings, plumbing and wiring, when arranged as a comprehensive code, may likewise be adopted by reference in the manner provided by this Section. Maps, charts and diagrams also may be adopted by reference in the same manner.

Section 514. ORDINANCES. WHEN EFFECTIVE.

No ordinance shall become effective until 30 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 special law or procedural ordinance relating thereto.
- (c) An ordinance declaring the amount of money necessary to be raised by taxation or fixing the rate of taxation.
- (d) An urgency ordinance adopted in the manner provided for in Section 511.

Section 515. ORDINANCES. VIOLATION. PENALTY.

The City Council shall by ordinance determine whether a violation of any ordinance of the City or a provision of the Downey Municipal Code shall constitute a misdemeanor or an infraction and shall be punishable as provided by State law for violation of ordinances of general law cities.

Section 516. ORDINANCES AND RESOLUTIONS. AMENDMENT.

The amendment of any section or subsection of an ordinance or resolution may be accomplished solely by the re-enactment of such section or subsection at length, as amended.

Section 517. PUBLISHING OF LEGAL NOTICES.

In the event that there is more than one newspaper of general circulation published in the City, the City Council, annually, prior to the beginning of each fiscal year, shall publish a notice inviting bids and contract for the publication of all legal notices or other matter required to be published in a newspaper of general circulation in the City during the ensuing fiscal year. In the event there is only one newspaper of general circulation printed and published in the City, then the City Council shall have the power to contract with such newspaper for the printing and publishing of such legal notices or matter without being required to advertise for bids therefor. The newspaper with which any such contract is made shall be designated the official newspaper for the publication of such notices or other matter for the period of such contract.

In no case shall the contract prices for such publication exceed the customary rates charged by such newspaper for the publication of legal notices of a private character.

In the event there is no newspaper of general circulation printed and published in the City, or in the event no such newspaper will accept such notices or other matter at the rates permitted herein, then all legal notices or other matter may be published by posting copies thereof in at least three public places in the City to be designated by ordinance.

No defect or irregularity in proceedings taken under this Section, or failure to designate an official newspaper, shall invalidate any publication where the same is otherwise in conformity with this Charter or law or ordinance.

Section 518. CONTRACTS. RESTRICTIONS.

No contract or lease or extension thereof for a longer period than ten years shall be valid unless said contract, lease or extension be made or approved by ordinance which shall be subject to referendum. This Section shall not apply to any franchise granted pursuant to the provisions of this Charter or to any contract for the furnishing, or acquisition of the products, commodity or services of any public utility.

Section 519. 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 and signed on behalf of the City by the Mayor and City Clerk or by such other officer or officers as shall be designated by the City Council. Any of said officers shall sign a contract on behalf of the City when directed to do so by the City Council.

By ordinance or resolution the City Council may authorize the City Manager or authorized representative 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 real or 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 services rendered by any person in the employ of the City at a regular salary.

ARTICLE VI. CITY MANAGER

Section 600. CITY MANAGER.

There shall be a City Manager who shall be the chief administrative officer of the City. The City Manager shall be appointed by the affirmative vote of at least a majority of the members of the City Council and shall serve at the pleasure of the City Council, provided, however, that the City Manager shall not be removed from the office except as provided in this Charter. The City Manager shall be chosen on the basis of executive and administrative qualifications.

Section 601. RESIDENCE.

The City Manager need not be a resident of the City at the time of appointment, but shall within 90 days after appointment, establish residence within such distance from the City as the City Council may establish, unless such period is extended by the City Council, and thereafter maintain residence within such area during tenure of office.

Section 602. 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 ceasing to be a member of the City Council.

Section 603. COMPENSATION AND BOND.

The City Manager shall be paid a salary commensurate with the responsibilities of chief administrative officer of the City, which salary shall be established by ordinance or resolution. The City Manager shall furnish a corporate surety bond conditioned upon the faithful performance of duties in such form and in such amount as may be determined by the City Council.

Section 604. POWERS AND DUTIES.

The City Manager shall be the administrative head of the City Government. Except as otherwise provided in this Charter, the City Manager shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities and duties, subject to the provisions of this Charter, including the personnel system provisions thereof, the City Manager shall have power and be required to:

- (a) Appoint, and may promote, demote, suspend or remove, all department heads, officers and employees of the City except elective officers and those department heads, officers and employees the power of whose appointment is vested by this Charter in the City Council. The City Manager may authorize the head of any department or office to appoint or remove subordinates in such department or office. In case of the appointment or removal of any department head, the City Manager shall first review such appointment or removal with the City Council and obtain its approval.
- (b) Prepare the budget annually, submit 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 each fiscal year, a complete report on the finances and administrative activities to 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 desirable.
- (e) Establish a centralized purchasing system for all City offices, departments and agencies.
- (f) Prepare rules and regulations governing the contracting for purchasing, inspection, storing, inventory, distribution and disposal of all supplies, material and equipment required by ordinance, and administer and enforce the same after adoption.
- (g) See that the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights 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 deemed necessary or proper for the general conduct of the administrative offices and departments of the City under jurisdiction of the City Manager.
- (i) Perform such other duties consistent with this Charter as may be required by the City Council.

Section 605. MEETINGS.

The City Manager shall be accorded a seat at all meetings of the City Council and of all boards and commissions and shall be entitled to participate in their deliberations, but shall not have a vote. The City Manager shall receive notice of all special meetings of the City Council, and of all boards and commissions.

Section 606. MANAGER PRO TEMPORE.

The City Council may direct the City Manager to appoint a City Manager Pro Tempore.

If there is no Manager Pro Tempore and the position of City Manager becomes vacant or the City Manager is absent or is incapacitated to such an extent the City Manager cannot perform the duties of the office, then the Mayor, or if absent or unable to act, the Mayor Pro Tempore, or if absent or unable to act, the senior member of the City Council temporarily shall act as the administrative head of the City until the City Council fills the position of City Manager or appoints a City Manager Pro Tempore.

Section 607. REMOVAL.

The City Manager may be removed at any regular meeting of the City Council upon the affirmative vote of a majority of the members of the City Council. However, the City Manager may not be removed, nor shall the notice described in Subsection (a) be given for a period of 90 days following any municipal election in which a member of the City Council is elected.

The procedure for removal is as follows:

- (a) The City Manager must be given a written notice stating the Council's intention to remove the City Manager from office. The written notice must be given at least 30 days before the effective date of removal. The notice must state the reason for the removal.
- (b) The duties of the City Manager may be suspended immediately upon receipt of the notice described in Subsection (a). The compensation paid to the City Manager must continue until removal is completed as prescribed within this Section.
- (c) In removing the City Manager, the City Council may use its sole and uncontrolled discretion, and its action shall be final.

Section 608. NON-INTERFERENCE WITH ADMINISTRATIVE SERVICE.

Except as otherwise provided in this Charter, neither the Council nor any of its members shall interfere with the powers and duties of the City Manager, nor shall they directly or indirectly order the City Manager or subordinates to appoint or remove any person to or from any office or employment. Except for the purpose of inquiry, investigation or report, the City Council and its members shall deal with the administrative service under the jurisdiction of the City Manager solely through the City Manager, and neither the City Council nor any member thereof shall publicly or privately give orders to any subordinate of the City Manager.

ARTICLE VII. OFFICERS AND EMPLOYEES

Section 700. ENUMERATION.

In addition to the City Council and City Manager, the officers and employees of the City shall consist of a City Attorney, a City Clerk, a City Treasurer, such other officers, assistants, deputies, and employees as the City Council may provide by ordinance or resolution.

When the positions are not incompatible, the City Council may combine in one person the powers and duties of two or more offices; provided, however, that the same person shall not hold the positions of City Treasurer and be responsible for the functions of finance at the same time.

Section 701. APPOINTMENT AND REMOVAL.

The City Attorney, City Clerk, and City Treasurer shall be appointed by and may be removed by the affirmative votes of at least a majority of the members of the City Council. All other officers, department heads and employees of the City shall be appointed and may be removed as elsewhere in this Charter provided.

Section 702. ADMINISTRATIVE FUNCTIONS.

The City shall provide through its own staff for the following departments: police and fire. Without amending this provision of the Charter, the City Council may consider an agreement or use a method to provide fire or police services other than through the City's own staff if such agreement or method is first submitted for an advisory vote and authorized by the affirmative votes of two-thirds of the voters voting on such advisory measure at a general municipal election. This two-thirds voting requirement shall not apply to charter amendments. The City shall also provide the following functions and services: finance, public works, water, building & safety, city planning and library. The City Council may provide by ordinance or resolution not inconsistent with this Charter for the organization, conduct and operation of the functions of the City as established by this Charter, for the creation of additional functions, departments, divisions, offices and agencies and for their consolidation or alteration. It may further provide by ordinance or resolution for the assignment and reassignment of functions, duties, offices and agencies to offices and departments, and for the number, titles, qualifications, powers, duties, and compensation of all officers and employees, consistent with this Charter. Each department so created shall be headed by a department head.

(Amended at Special Municipal Election held May 5, 1998)

Section 703. 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 State law and shall be chosen on the basis of legal qualifications with special reference to experience in and knowledge of municipal law. The City Attorney shall have the power and may be required to:

- (a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.
- (b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or of City ordinances, unless otherwise provided by the City Council.
- (c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all actions or proceedings in which any such officer or employee is concerned or is a party for any act arising out of employment or by reason of official capacity.
- (d) Attend all regular meetings of the City Council, unless excused, and give advice or opinion in writing whenever requested to do so by the City Council or by any of the boards or officers of the City.
- (e) Approve the form of all contracts made by and all bonds given to the City, endorsing 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 the office as may be specified in the ordinance or resolution fixing the compensation for such office.
- (h) Surrender to the City Attorney's 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 or may contract for any prosecutions, litigation or other legal matters or business.

Nothing in this section shall prohibit the District Attorney from prosecuting any or all criminal cases arising from violation of the provisions of this Charter or of City ordinances.

Section 704. CITY CLERK. POWERS AND DUTIES.

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

- (a) Attend all meetings of the City Council, unless excused and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the City Council in 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 of 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 State law 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 by ordinance or resolution of the City Council.

Section 705. CITY TREASURER. POWERS AND DUTIES.

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

- (a) Receive all taxes, assessments, license fees and other revenues of the City, or for the collection of which the City is responsible, and receive all taxes or other money receivable by the City from the County, State or Federal Government, or from any Court, or from any office, department or agency of the City.
- (b) 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 the Treasurer's 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 the provisions of the State Constitution and State law governing the handling, depositing and securing of public funds.
- (c) Disburse moneys on proper warrants in the manner provided for in this Charter.
- (d) Prepare and submit monthly written reports of all cash receipts, disbursements and balances,

copies of which reports shall be filed with the City Manager or designee responsible for the finance function.

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

Section 706. FINANCE. POWERS AND DUTIES.

The City Manager's designee responsible for the functions of finance shall have the power and shall be required to:

- (a) Administer the financial affairs of the City under the direction of the City Manager.
- (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) Supervise and be responsible for the disbursement of all moneys and of all expenditures to insure that budget appropriations are not exceeded; audit all purchase orders before issuance; audit and approve before payment, all bills, invoices, payrolls, demands or charges against the City government; with the advice of the City Attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges; and draw warrants upon the City Treasurer for all claims and demands audited and approved as in this Charter provided specifying the purpose for which drawn and the fund from which payment is to be made.
- (e) See that all taxes, assessments, license fees and other revenues of the City, or for the collection of which 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.
- (f) Submit to the City Council and City Treasurer through the City Manager a monthly statement of all receipts and disbursements 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.
- (g) Supervise the keeping of current inventories of all property of the City by all City departments, offices and agencies.
- (h) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

Section 707. ADMINISTERING OATHS.

Each department head and deputies of the department shall have the power to administer oaths and affirmations in connection with any official business pertaining to the department.

Section 708. ILLEGAL CONTRACT, FINANCIAL INTEREST.

The prohibitions, limitations and exclusions with respect to City Council members, officers, or employees being financially interested in contracts, sales, transactions or proceedings in which the City is a party shall be as provided for under State law.

Section 709. ACCEPTANCE OF OTHER OFFICE.

Any elective officer of the City who shall accept or retain any other elective public office, except as provided in this Charter, shall be deemed thereby to have vacated the office under the City government.

Section 710. NEPOTISM.

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

Section 711. 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.

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

ARTICLE VIII. BOARD OF EDUCATION

Repealed.

ARTICLE IX. APPOINTIVE BOARDS AND COMMISSIONS

Section 900. IN GENERAL.

There shall be advisory boards and commissions named in this Article which shall have the powers and duties herein stated. In addition, the City Council may create by ordinance 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.

Section 901. 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 902. APPOINTMENTS. TERMS.

Each of the boards or commissions shall consist of not less than five members, at least one of whom shall be appointed from each of the five Council districts. The members of each of such boards or commissions shall be appointed by the City Council from voters 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 the affirmative votes of a majority of the total membership thereof. The members thereof shall serve for terms which shall commence with the commencement of the term of the Council member from whose district the member was appointed and shall end upon the end of the term of the Council member from whose district the member was appointed or upon a vacancy in that council district. The members shall serve so long as they continue to be domiciled within the district from which they were appointed during their term, and until their respective successors are appointed and qualified. The Council shall have the authority to extend or shorten the terms of the incumbent members of boards or commissions to implement the terms of this Section. A vacancy occurring before the expiration of a term shall be filled by appointment for the remainder of the unexpired term.

Section 903. EXISTING BOARDS.

The members of the boards and commissions holding office when this Charter takes effect shall continue to hold office thereafter until their respective terms of office shall expire and until their successors shall be appointed and qualified. If the terms of any members of any board or commission are altered by this Charter, the terms shall be adjusted accordingly to comply with the provisions of this Charter.

Section 904. MEETINGS. CHAIR.

As soon as practicable, following the first day of July of every year, each board and commission shall organize by electing one of its members to serve as presiding officer at the pleasure of the board or commission. Meetings of all boards and commissions shall be open to the public and all persons shall be permitted to attend such meetings, except that the provisions of this sentence shall not apply to closed sessions for purposes authorized by law.

The City Manager may designate a secretary for each board and commission who need not be a member of such board or commission, and 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 shall be subject to the approval of the City Council. Copies of such rules shall be kept on file in the office of the City Clerk where they shall be available for public inspection.

Section 905. OATHS. AFFIRMATIONS.

Each member of any such board or commission, and the secretary thereof, shall have the power to administer oaths and affirmations in any investigation or proceeding pending before such board or commission.

Section 906. PLANNING COMMISSION. POWERS AND DUTIES.

There shall be a Planning Commission 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 Master, General or Precise Plans, or any part thereof, for the physical development of the City.
- (b) Exercise such functions with respect to land subdivisions as shall be provided by ordinance not inconsistent with the provisions of this Charter.

- (c) Make recommendations to the City Council concerning proposed public works and for the clearance, conservation and rehabilitation of any areas within the City.
- (d) Exercise such functions with respect to zoning, city planning, land use and related matters as may be prescribed by ordinance or resolution not inconsistent with the provisions of this Charter.

Section 907. PERSONNEL ADVISORY BOARD. POWERS AND DUTIES.

There shall be a Personnel Advisory Board, none of the members of which while a member of said board or for a period of one year after the member 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 Personnel Advisory Board shall have the power and be required to:

- (a) Act in an advisory capacity to the City Council and City Manager on personnel administration.
- (b) After a public hearing thereon, recommend to the City Council, the adoption, amendment or repeal of personnel rules and regulations.
- (c) Make any investigation upon request of the City Council concerning the administration of personnel in the municipal service and report its findings to the City Council and City Manager.
- (d) Hear appeals of any officer or employee under the Personnel System who is suspended, demoted or removed, and report in writing to the appointing power and City Council, its findings, conclusions and recommendations. The Personnel Advisory Board may elect to conduct the appeal hearing through an impartial hearing officer who shall hear the evidence, prepare or cause a record of the proceedings to be made, and make recommendations for findings of fact and a disposition of the appeal, as may be more specifically provided for by ordinance or resolution of the City Council.
- (e) Exercise such functions with respect to personnel or the Personnel System, not inconsistent herewith, as may be prescribed by ordinance or resolution or as requested by the City Council.

Section 908. LIBRARY ADVISORY BOARD. POWERS AND DUTIES.

There shall be a Library Advisory Board which shall have the power and duty to:

- (a) Make recommendations to the City Council for the operation and conduct of City libraries.
- (b) Recommend to the City Council rules and regulations and bylaws for the administration and protection of City libraries.
- (c) Recommend to the City Council the duties of the librarian and other officers and employees of the libraries.
- (d) Recommend to the City Council the purchase or lease of personal property for library purposes.
- (e) Recommend to the City Council purchase or lease of real property and the rental or provision for adequate buildings or rooms for library purposes.
- (f) Within 60 days after the close of each fiscal year, report to the City Council on the condition of the libraries for the preceding fiscal year and on such other matters deemed expedient by the Library Advisory Board.
- (g) Exercise such other functions not inconsistent with this Charter as may be prescribed by

ordinance or resolution.

ARTICLE X. PERSONNEL SYSTEM

Section 1000. SYSTEM TO BE ESTABLISHED.

The City Council shall by ordinance establish a personnel merit system for the selection, employment, classification, advancement, suspension and discharge of those appointive officers and employees who shall be included in the system. The system may consist of the establishment of minimum standards of employment and qualifications for the various classes of employment, or of a comprehensive system, as the City Council shall determine to be for the best interests of the public service. The ordinance shall designate the departments and the appointive officers and employees who shall be included within the system. By subsequent ordinances the City Council may amend the system or the list of departments and appoint officers and employees included within the system. The system shall comply with all other provisions of this Charter.

ARTICLE XI. RETIREMENT

Section 1100. STATE SYSTEM.

The City, its City Council and its several officers, agents and employees are empowered to do and perform any act, and to exercise any authority granted, permitted, or required under the provisions of the Public Employees' Retirement Law 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 pursuant to an ordinance adopted by voters of the City.

ARTICLE XII. FISCAL ADMINISTRATION

Section 1200. FISCAL YEAR.

The fiscal year of the City government shall begin on the first day of July of each year and end on the 30th day of June of the following year.

Section 1201. ANNUAL BUDGET. PREPARATION BY THE CITY MANAGER.

At such date as the City Manager shall determine, each board or commission and each department head shall furnish to the City Manager, or designee responsible for the finance function, estimates of revenue and expenditures for the department or for such board or commission 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, boards or commissions as necessary, and may revise the estimates as deemed advisable.

Section 1202. BUDGET. SUBMISSION TO CITY COUNCIL.

At least 35 days prior to the beginning of each fiscal year, the City Manager shall submit to the City Council the proposed budget and shall make copies of the proposed budget available for inspection. After reviewing the 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 as amended by the City Council shall be available for inspection.

Section 1203. 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 1204. BUDGET. FURTHER CONSIDERATION AND ADOPTION.

At the conclusion of the public hearing the City Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and on or before June 30 it shall adopt the budget with revisions, if any, by the affirmative votes of at least a majority of the total members of the Council. Upon final adoption, the budget shall be in effect for the ensuing fiscal year. Copies thereof, certified by the City Clerk, shall be filed with the City Manager, Designee responsible for the functions of finance, City Treasurer, and the person employed by the City Council to perform the independent audit as provided in Section 1216, 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 1205. BUDGET. APPROPRIATIONS.

From the effective date of the budget, the various amounts stated therein as proposed expenditures shall be and become appropriated to the various 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 a majority of the total members of the City Council.

Section 1206. 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 provided in this Charter. The City Manager shall recommend and the City Council shall consider and adopt by ordinance, rules and regulations governing the contracting for, purchasing, storing and distribution of all supplies, materials and equipment required by any office, department or agency of the City government.

Section 1207. TAX LIMITS.

The City Council shall be authorized to levy and impose taxes, assessments and fees for municipal

purposes to the full extent permitted by the State Constitution.

Section 1208. TAX PROCEDURE.

The procedure for the assessment, levy, imposition and collection of taxes for municipal purposes, may be prescribed by ordinance of the City Council to the extent permitted by the State Constitution.

Section 1209. BONDED DEBT LIMIT.

The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of four 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 voters voting on such proposition at any election at which the question is submitted to the voters and unless in full compliance with the provisions of the State Constitution and of this Charter.

Section 1210. REVENUE BONDS.

The City shall have the power to issue revenue bonds for the purpose of financing the acquisition, construction, extension, improvement or repair of any municipal utility or other revenue producing facilities, but no such bonds shall be issued unless the same shall first be authorized by the affirmative vote of a majority of those voters voting on the question of incurring such indebtedness at any election at which such question is submitted to the voters of the City. The Council may issue and sell bonds so authorized, may fix the terms and conditions thereof, and may make, fix and establish such covenants, conditions, terms and provisions as it deems necessary or desirable to facilitate the issuance and sale of the bonds or for the protection and security of the holders thereof. Bonds issued pursuant to this Article shall not be general obligations of the City but shall be payable, principal and interest, solely from revenues or other special funds specifically pledged to that purpose.

Section 1211. CONTRACTS ON PUBLIC WORKS.

Except, as hereinafter expressly provided, every contract involving an expenditure of more than \$15,000 for the construction of improvement (excluding maintenance and repair) of public buildings, works, streets, drains, sewers, utilities, parks and playgrounds, and each separate purchase of materials or supplies for the same, where the expenditure required for such purchase shall exceed the sum of \$15,000, shall be let to the lowest responsible bidder after notice by publication in the official newspaper by two or more insertions, the first of which shall be at least ten days before the time for opening bids.

The City Council may reject any and all bids presented and may readvertise in its discretion. After rejecting bids, or if no bids are received, or without advertising for bids if the total amount of the contract or project is \$30,000 or less, then the City Council may declare and determine that in its opinion, the work in question may be performed better or more economically by the City with its own employees, or that the materials or supplies may be purchased at a lower price in the open market, and after the adoption of a resolution to this effect by the affirmative vote of a majority of the total members of the City Council, it may proceed to have said work done or such materials or supplies purchased in the manner stated, without further observance of the provisions of this Section. Such contracts may be let and such purchases made without advertising for bids, if such work or the purchase of such materials or supplies shall be deemed by the City Council to be urgent necessity

for the preservation of life, health or property, and shall be authorized by the affirmative vote of at least two-thirds of the total members of the City Council.

The limitations as provided in this Section may be increased by adoption of a resolution by the affirmative vote of two-thirds of the total members of the City Council provided, however, that such increase shall not be greater in percentage than the percentage change in the construction cost index of the Los Angeles Metropolitan Area as reported by the Engineering News-Record from the effective date of this section to the date of the change.

Projects for the extension, construction or improvement of any public utility system operated by the City or for the purchase of supplies or equipment for any such project or any such utility may be excepted from the requirements of this Section by the affirmative vote of a majority of the total members of the City Council.

Section 1212. SPECIAL PURPOSE FUNDS.

The City Council may establish by ordinance such other special purpose funds, consistent with the provisions of this Charter, as it may consider necessary or appropriate.

Section 1213. CLAIMS AND DEMANDS. PRESENTATION AND PAYMENT.

Procedures prescribed by State law governing the presentation, consideration and enforcement of claims against chartered cities or against officers, agents and employees thereof shall apply to the presentation, consideration and enforcement of claims against the City.

Section 1214. ACTIONS AGAINST CITY.

No suit shall be brought for money or damages against the City or any board, commission or officer thereof on any cause of action for which this Charter or the general law requires a claim to be presented, until a claim or demand for the same has been presented as in this Charter provided and such claim and demand has been rejected in whole or in part. If rejected in part suit may be brought to recover the whole. Failure to complete action approving or rejecting any claim or demand within the timeframe prescribed by State Law shall be deemed a rejection thereof.

Section 1215. REGISTERING WARRANTS.

Warrants on the City Treasurer which are not paid for lack of funds shall be registered. All registered warrants shall be paid in the order of their registration when funds therefor are available and shall bear interest from the date of registration at such rate as shall be fixed by the City Council by resolution.

Section 1216. INDEPENDENT AUDIT.

The City Council shall employ at the beginning of each fiscal year, an independent certified public accountant who shall, at such time or times as may be specified by the City Council, at least annually, and at such other times as such accountant 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. As soon as practicable after the end of the fiscal year, a financial statement shall be submitted by such accountant to the City Council, one copy thereof to be distributed to each member, one to the City

Manager, Designee responsible for the functions of finance, Treasurer, and City Attorney, respectively, and sufficient additional copies of the financial statement shall be placed on file in the office of the City Clerk where they shall be available for inspection by the general public. Within ten days after the filing of the financial statement with the City Clerk, notice of the availability of the financial statement shall be published in the official newspaper.

ARTICLE XIII. ELECTIONS

Section 1300. GENERAL MUNICIPAL ELECTIONS.

General municipal elections for the election of officers of the City and for such other purposes as the City Council may prescribe shall be held in the City on the same date and at the same time as the Statewide General Election. The first such General Municipal Election shall be held in 1996.

Section 1301. 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 1302. PROCEDURE FOR HOLDING ELECTIONS.

Except as otherwise provided in this Charter and except as may otherwise be provided by ordinance enacted by the Council and not inconsistent with the provisions of this Charter, all municipal elections shall be held, canvassed, conducted and otherwise governed by State law.

Section 1303. INITIATIVE, REFERENDUM AND RECALL.

There are hereby reserved to the voters of the City the powers of the initiative and referendum and of the recall of municipal elective officers. Except as may otherwise be provided by ordinance enacted by the Council, and not inconsistent with the provisions of this Charter, State law shall apply.

The vacancy created by a recall election shall be filled after such recall election, with any qualified person from the district, as set forth in Section 501. The recalled municipal officer shall not be eligible to run for such vacancy.

Section 1304. VOTERS SIGNING PETITIONS.

The voters signing any petition for the nomination of any person to the office of City Council or for the recall of any person from such office shall be domiciled in the district from which such person is to be nominated or has been elected. Only the names of voters who are domiciled in such district shall be counted in determining the sufficiency of any such petition.

Section 1305. DISTRICTS DEFINED.

The City is hereby divided into five districts, the names and respective boundaries of which shall be as follows:

Council district one: All of the territory within the following described boundaries: beginning at the intersection of the centerlines of Brookshire Avenue and Cleota Street, easterly along the centerline of

Cleta Street to the centerline of Lakewood Boulevard, northerly to the centerline of Hall Road, easterly to the centerline of Bellflower Blvd., southerly to the centerline of Stewart & Gray Rd., easterly to the centerline of the Southern Pacific Railroad right-of-way, easterly to the eastern City boundary, southerly along said boundary to the southern City boundary, westerly along said boundary through its various courses including along Lakewood Blvd., Century Ave., and Grant Ave. to the centerline of Gardendale Street, easterly to the centerline of Brookshire Avenue, northerly to the centerline of Cleta Street, the point of beginning.

Council district two: All of the territory within the following boundaries: beginning at the intersection of the center lines of Old River School Road and the Southern Pacific Railroad right-of-way, easterly along the centerline of the Southern Pacific Railroad to the centerline of Downey Avenue, southerly to the centerline of Cleta Street, easterly to the centerline of Brookshire Avenue, southerly to the centerline of Gardendale Street, westerly to the western City boundary, northerly along said boundary through its various courses to the centerline of Stewart & Gray Road, easterly to the centerline of Old River School Road, northerly to the centerline of the Southern Pacific Railroad right-of-way, the point of beginning.

Council district three: All of the territory within the following described boundaries: beginning at the intersection of the northern City boundary and the western City boundary, easterly along the northern City boundary and the western City boundary, easterly along the northern City boundary to the centerline of Stoakes Avenue, southerly to the southerly right-of-way line of the Interstate 5 Freeway, westerly to the centerline of Orizaba Avenue, southerly to the centerline of Gallatin Road, easterly to the centerline of Downey Avenue, southerly to the centerline of the Southern Pacific Railroad right-of-way, westerly to the centerline of Old River School Road, southerly to the centerline of Stewart & Gray Rd., westerly to the western City boundary, northerly along said City boundary through its various courses to the northern City boundary, the point of beginning.

Council district four: All of the territory within the following described boundaries: beginning at the intersection of the northern City boundary and the centerline of Stoakes Avenue, easterly along said boundary to the eastern City boundary, southerly along said boundary through its various courses to the centerline of the Southern Pacific Railroad right-of-way, westerly to the centerline of Stewart & Gray Rd., westerly to the centerline of Bellflower Blvd., northerly to the centerline of Hall Road, westerly to the centerline of Lakewood Blvd., southerly to the centerline of Cleta Street, westerly to the centerline of Downey Avenue, northerly to the centerline of Gallatin Road, westerly to the centerline of Orizaba Avenue, northerly to the southerly right-of-way line of the Interstate 5 Freeway, easterly to the centerline of Stoakes Avenue, northerly to the northern City boundary, the point of beginning.

Council district five: All that territory lying within the entire geographical area of the City.
(Amended by Ordinance No. 1114 adopted January 22, 2002)

Section 1306. AMENDING DISTRICT BOUNDARIES.

At least once each ten years, the City Council shall within 60 days after the deadline for presentation of the decennial census results to the President of the United States, appoint a committee to study and make recommendation concerning alteration of the Council district boundaries. 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 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 and otherwise comply with applicable law. 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.

Section 1307. STATEMENT OF CANDIDATE

QUALIFICATIONS.

Any candidate for an elective City office may prepare a statement of qualifications in accordance with the restrictions set forth by State law, and subject to the following additional restriction: A statement of qualifications shall be limited to a recitation of the candidate's own personal background and qualifications and shall not in any way make reference to other candidates or to other candidate's qualifications, character or activities. The City Clerk shall not cause to be printed or circulated any candidate's statement of qualifications which the City Clerk determines is not so limited or which includes any such references.

ARTICLE XIV. FRANCHISES

Section 1400. GRANTING OF FRANCHISES.

The Council may grant a franchise to any person, partnership, corporation, or other legal entity capable of exercising the privilege conferred, whether operating under an existing franchise or not, and may prescribe the terms, conditions, and limitations of such grant, including the compensation to be paid in the City therefor. The Council may prescribe by ordinance or resolution the method or procedure for granting franchises, together with additional terms and conditions for making such grants. In the absence of such provision the method provided by State law shall apply.

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

Section 1401. TERM OF FRANCHISE.

Every franchise granted for a longer period than 25 years shall reserve to the City the right to take over at any time after the grant, the works, plant, and property constructed under the grant at their physical valuation and without compensation for any value attributed to the franchise or any claim for loss of business good will.

Section 1402. EMINENT DOMAIN.

No franchise grant shall in any way, or to any extent, impair or limit the power of the City to acquire the property of the grantee thereof either by purchase or through the exercise of the power 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 power of eminent domain with respect to any public utility. Every franchise granted by the City is granted upon the condition, whether expressed in the grant or not, that such franchise shall not be given any value before any court or other public authority in any proceeding of any character in excess of any amount actually paid by the grantee to the City at the time of the grant.

Section 1403. PROCEDURE FOR GRANTING FRANCHISES.

Before granting any franchise, the City Council shall adopt a resolution declaring its intention to grant same and stating the name of the proposed grantee, the character of the proposed 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 person having an interest in or any objecting to the granting of such franchise may appear before the Council and be heard. Said resolution shall be published at least once, not less than ten days prior to said hearing, in the official newspaper. In the

event there is no newspaper published in the City, then said resolution shall be posted in three public places in the City at least 15 days before said hearing. This posting is in addition to publication in a newspaper used by the City for legal notices. After hearing all persons desiring to be heard, the Council may by ordinance deny or grant the franchise on the terms and conditions specified in the resolution. No ordinance granting a franchise shall be adopted as an emergency ordinance.

Section 1404. PAYMENT OF COST OF ADVERTISING, ETC.

Every application for a franchise shall be accompanied by a cash deposit or certified check in an amount to pay in full all costs of advertising and other preliminary expenses connected with the offering for sale of such franchises and the granting of same, which deposit shall not be less than \$100. Said deposit shall be returned in case the Council shall determine that neither the public necessity nor the public interest required the granting of the franchise, or in case the franchise be granted to a person other than said applicant. The cost of advertising and other costs hereinabove referred to connected with the offering for sale and granting of said franchise, and such payment shall be a condition precedent to the vesting of the franchise.

Section 1405. 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 liabilities 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, way, alley or place, including the construction of any subway or elevated transit facilities, 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 1406. 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 XV. MISCELLANEOUS

Section 1500. DEFINITIONS.

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

"City" is the City of Downey and "department," "board," "commission," "agency," "officer," or "employee," is a department, board, commission, agency, officer or employee as the case may be, of the City of Downey.

"County" is the County of Los Angeles.

"Domicile" means that place where a person has a true, fixed and permanent home and principal establishment, and to which whenever absent has the intention of returning.

"Shall" is mandatory, and "may" is permissive.

"State" is the State of California.

"State Constitution" is the Constitution of the State of California.

"Voter" is a registered voter.

The masculine, feminine, or neuter gender, and the singular or plural number shall be deemed to include the others whenever the context so indicates.

Section 1501. VIOLATIONS.

The violation of any provision of this Charter shall be a misdemeanor and shall be punishable per State law.

Section 1502. 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.

Section 1503. AMENDMENTS.

Except as otherwise provided in this Charter, any amendment of this Charter shall be made pursuant to and in accordance with the applicable provisions of the State Constitution.

Any amendment of this Charter on the same subject matter shall not be voted upon twice within any 12-month period at any special or general municipal election.
(Amended at a Special Municipal Election held May 5, 1998)