

# CHARTER

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**PREAMBLE**

We, the people of the City of San Bernardino, in order to secure the benefits of home rule and a council-manager form of government, hereby adopt this Charter.

# **ARTICLE I: NAMES, BOUNDARIES, POWERS, RIGHTS AND SUCCESSION, INTERGOVERNMENTAL RELATIONS**

## **SECTION 100. NAME AND BOUNDARIES.**

The City of San Bernardino, hereinafter termed the City, shall continue to be a municipal corporation under its present name of "City of San Bernardino." The boundaries of the City shall be as now established until changed in the manner authorized by law.

## **SECTION 101. POWERS OF THE CITY.**

The City shall have all powers possible for a city to have under the constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter.

## **SECTION 102. INTERPRETATION OF POWERS.**

The powers of the City under this Charter shall be construed in favor of the City, and the specific mention of particular powers in the Charter shall not be interpreted as limiting in any way the general power granted in this article.

## **SECTION 103. RIGHTS AND SUCCESSION.**

The City 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 of its debts, obligations and liabilities.

All ordinances, codes, resolutions, rules, regulations, and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent with this Charter, shall continue in force until they shall have been duly repealed, amended, changed, or superseded by proper authority as provided by this Charter.

Subject to the provisions of this Charter, the present officers and employees of the City shall continue to perform the duties of their respective offices and employments under the same conditions as those of the existing offices and positions until the election or appointment and qualification of their successors, subject to such removal and control as provided in this Charter.

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 anything herein contained.

## **SECTION 104. INTERGOVERNMENTAL RELATIONS.**

The City may participate by contract or otherwise with any governmental entity of this state or any other state or states in the United States in the performance of any activity, which one or more of such entities has the authority to undertake, to the maximum extent permitted by applicable law.

# **ARTICLE II: FORM OF GOVERNMENT**

## **SECTION 200. FORM OF GOVERNMENT.**

The municipal government established by this Charter is the council-manager form of government.

## **ARTICLE III: CITY COUNCIL AND MAYOR**

### **SECTION 300. GENERAL POWERS AND DUTIES.**

All powers of the City shall be vested in the City Council ("Council"), and to the extent provided in this Charter, the Mayor. The Council shall provide for the exercise and performance of all duties and obligations imposed on the City by State and Federal laws.

Except as otherwise required by law, the role of the Council is legislative, which includes the power to set policy, approve contracts and agreements, and undertake other obligations consistent with this Charter and the City's Municipal Code, while deferring to the discretion of management to choose the appropriate means to achieve the Council's goals.

### **SECTION 301. COMPOSITION, ELIGIBILITY, AND TERMS.**

(a) *Composition.* The Council shall be composed of seven (7) Council members. The term "Council," "legislative body," or other similar terms as used in this Charter or any other provisions of law shall be deemed to refer to the collective body composed of the Council members.

(b) *Eligibility.* Only registered voters of the City shall be eligible to hold the office of Council member or Mayor. Those elected shall have been qualified electors and residents of their respective wards for a period of at least thirty (30) consecutive days immediately preceding the date of filing their nomination papers for the office.

### **SECTION 302. POWERS AND DUTIES OF THE COUNCIL.**

The Council, in collaboration with the Mayor, shall ensure fundamental municipal services are provided to protect and promote public health, safety, and welfare. The Council and Mayor shall operate together to serve the best interests of the City.

The Council, in collaboration with the Mayor, will develop and implement a Code of Conduct to guide and direct their interactions and duties, including measures to hold one another accountable for deviations from the goals and principles set forth in this Charter and the City Code of Conduct.

The Council, in collaboration with the Mayor, shall create and implement a plan to maintain the City's fiscal integrity.

Each Council member shall be entitled to vote on all matters coming before the Council. The Council shall have the power to override any veto of the Mayor by a vote of five (5) or more Council members.

The Council shall select a Mayor Pro Tempore from one of its own members. In the event of a temporary absence from the City, illness, or any other cause that makes the Mayor temporarily unable to perform the duties of his or her office, the Mayor Pro Tempore shall have all powers and authority that the Mayor would have possessed if present to perform his or her duties.

However, the Mayor Pro Tempore may not cast an additional vote in the event of a tie or exercise veto powers over Council action, but may continue to exercise his or her vote as a Council member.

### **SECTION 303. POWERS AND DUTIES OF THE MAYOR.**

The Mayor shall have the following powers and perform the following duties, in addition to others as specified in this Charter:

(a) Attend and preside at meetings of the Council and may participate fully in all discussions, but shall not be entitled to vote except in the event of a tie, to veto a matter, and as otherwise provided in this Charter;

(b) Have the authority to veto any Council action approved by fewer than five (5) members of the Council;

(c) Shall participate in the vote (1) to appoint or remove the City Manager, City Attorney and City Clerk and fix their compensation and (2) to appoint or remove members of boards, commissions or committees, except committees made up wholly of less than a majority of City Council members;

(d) Appoint the members and officers of Council committees (committees made up wholly of less than a majority of City Council members), and perform other duties as specified by the Council;

(e) Be recognized as the head of the City government for all ceremonial purposes and by the governor for purposes of military law;

(f) Be the chief spokesperson for the City; and

(g) Represent the City in intergovernmental relations and establish and maintain partnerships and regional leadership roles to advance the City's interest; and may delegate such roles to other members of the Council; and

(h) Execute all ordinances, resolutions and contracts approved by the City Council except as otherwise authorized by the City Council.

The Mayor shall have no administrative, appointment or removal powers except as otherwise provided in this Charter.

The office of Mayor shall be a full-time position and the incumbent shall not engage in any business, professional or occupational activities that interfere with the discharge of the duties of the office.

#### **SECTION 304. MANNERS OF ACTION.**

Actions of the Council require a simple majority vote of the quorum present for approval unless:

(a) Otherwise required for charter cities under State or Federal law; or

(b) Required by this Charter to be approved by at least five affirmative votes of the Mayor and members of the Council.

#### **SECTION 305. COMPENSATION; EXPENSES.**

Compensation for the Mayor and Council members shall be established by ordinance following a public hearing, giving due consideration to the recommendations of an advisory commission charged with the periodic review of compensation for City-elected officials. Compensation for the Mayor shall be commensurate with that for a full-time position.

No ordinance increasing such salaries shall become effective until the date of commencement of the terms of Council members elected at the next regular election. The Mayor and Council members shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties of office.

#### **SECTION 306. PROHIBITIONS.**

(a) *Holding Other Office.* No Mayor or Council member shall hold any other City office or City employment during the term for which he or she was elected. No former Mayor or Council member shall hold any compensated appointive office or employment with the City until one (1) year after the expiration of the term for which he or she was elected.

(b) *Conflict of Interest.* Elected and appointed officials shall adhere to conflict of interest codes as established by State law and/or City ordinance.

(c) *Appointments and Removals.* Neither the Mayor nor any Council member shall, in any manner, control or demand the appointment or removal of any City administrative officer or employee whom the City Manager is empowered to appoint. This does not preclude the Mayor or members of the Council from expressing their views and fully and freely discussing with the City Manager anything pertaining to the appointment and removal of such officers and employees.

(d) *Interference with Administration.* Neither the Mayor nor any Council member shall interfere with the discretion of the City Manager in the exercise or performance of his or her powers or duties. The Mayor and Council members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and shall not give orders to or attempt to direct the work of such officers and employees either publicly or privately. Inquiries may be made directly to officers and employees under the supervision of the City Manager with the knowledge and consent of the City Manager.

### **SECTION 307. VACANCIES; FILLING OF VACANCIES.**

(a) *Vacancies.* If the Council determines any of the events enumerated in provisions of the Government Code or California Constitution pertaining to vacancies in public offices have occurred, the Council shall declare a vacancy for the office of Council member or for the office of Mayor.

(b) *Filling of Vacancies.* The method of filling vacancies shall be as prescribed by ordinance.

### **SECTION 308. JUDGE OF QUALIFICATIONS.**

The Council shall be the judge of the election and qualifications of its members and whether grounds exist for forfeiture of their office.

### **SECTION 309. COUNCIL ORGANIZATION, MEETINGS AND RULES OF ORDER.**

The Council shall establish by ordinance the time, place and the method of calling meetings, the rules of order for the conduct of proceedings by the Council, and the order of succession in the event of a vacancy in the office of Mayor.

## **ARTICLE IV: CITY MANAGER**

### **SECTION 400. CITY MANAGER APPOINTMENT, QUALIFICATIONS AND COMPENSATION.**

The Mayor and Council, by a vote of the Mayor and entire Council, shall appoint a City Manager and fix the City Manager's compensation, as provided in section 304(b) of this Charter. The City Manager may be removed by the Mayor and entire Council in the same manner. The City Manager shall be appointed on the basis of education and experience in the accepted competencies and practices of local government management. The Mayor and Council shall establish and communicate clear expectations for the City Manager. An evaluation of the City Manager's performance shall be conducted at least annually.

### **SECTION 401. POWERS AND DUTIES.**

The City Manager shall be the chief executive officer of the City, responsible to the Council for the management of all City affairs placed in the City Manager's charge by or under this Charter. The City Manager will be the sole authority for managing City operations and appointing and directing City staff, except as otherwise provided in this Charter.

The City Manager shall:

- (a) Appoint and suspend or remove all City employees and appoint administrative officers, except as otherwise provided by law, this Charter, or established personnel rules. The City Manager may authorize any administrative officer subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
- (b) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law;
- (c) Attend all Council meetings. The City Manager shall have the right to take part in the discussion but shall not vote;
- (d) Ensure the Mayor and Council are informed on all aspects of important emerging issues, including the City's financial condition and future needs, and as part of that responsibility, brief the Mayor and Council at their meetings on the business matters before them;
- (e) See that all laws, provisions of this Charter, and acts of the Council are faithfully executed;
- (f) Prepare and submit the annual budget and capital improvement program to the Mayor and Council and implement the final budget approved by the Council to achieve the goals of the City;
- (g) Submit to the Mayor and Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- (h) Make such other reports as the Mayor or Council may request regarding operations;
- (i) Make recommendations to the Mayor and Council concerning the affairs of the City and facilitate the work of the Council in developing policy;
- (j) Provide staff support services for the Mayor and Council members;
- (k) Assist the Mayor and Council in developing long-term goals for the City and strategies to implement these goals;
- (l) Be accountable for the implementation of Council goals and policies and the overall performance of the City;
- (m) Encourage and provide staff support for regional and intergovernmental cooperation;
- (n) Promote partnerships among the Mayor, Council, staff, and citizens in developing public policy and building a sense of community;
- (o) Make business and policy recommendations based solely on his or her independent professional judgment and best practices in the interests of the City; and
- (p) Perform other such duties as are specified in this Charter, by ordinance, or as may be requested by the Council.

## **ARTICLE V: DEPARTMENTS, SERVICES, OFFICERS AND EMPLOYEES**

### **SECTION 501. GENERAL PROVISIONS.**



The City Manager may establish City departments, offices, or agencies in addition to those created by this Charter, subject to approval of the City Council, and may prescribe the functions of all departments, offices and agencies to meet the needs of the community in the most effective and efficient manner.

## **SECTION 502. DIRECTION BY CITY MANAGER.**

Each City department, office and agency shall be administered by an executive appointed by and subject to the direction and supervision of the City Manager, except the Offices of the Council, Mayor, City Attorney and City Clerk, the Library Board of Trustees, and the Water Board, which shall be administered by their respective executive officers as provided for elsewhere in this Charter but which shall in all other respects be governed by the policies applicable to all other departments, offices and agencies.

With the consent of the Council, the City Manager may serve as the executive of one or more such departments, offices or agencies.

The City Manager may appoint one person to serve as the executive of two or more departments.

## **SECTION 503. CONTINUATION OF DEPARTMENTS.**

All departments, agencies, offices, and services in existence at the time this Charter is adopted shall continue in the same manner as before the adoption of this Charter, unless and until changed by ordinance or other action approved by the City Council.

## **SECTION 504. CITY ATTORNEY.**

A duly qualified City Attorney shall be hired by a vote of the Mayor and entire Council, as provided in section 304(b) of this Charter. The City Attorney may be removed by the Mayor and entire Council in the same manner. The City Attorney shall serve as chief legal advisor to the Council, the City Manager and all City departments, offices and agencies; shall represent the City in all legal proceedings; and shall perform any other duties prescribed by State law, this Charter or by ordinance.

## **SECTION 505. CITY CLERK.**

A duly qualified City Clerk shall be hired by a vote of the Mayor and entire Council, as provided in section 304(b) of this Charter. The City Clerk may be removed by the Mayor and entire Council in the same manner. The City Clerk shall give notice of Council meetings to its members and the public, keep the journal of its proceedings, and shall perform any other duties prescribed by State law, this Charter or by ordinance.

## **SECTION 506. DEPARTMENTAL ADMINISTRATORS; APPOINTIVE POWERS.**

Each departmental executive shall have the power to appoint, supervise, suspend, or remove such assistants, deputies, subordinates and employees as are provided for the department, subject to the approval of the City Manager and subject to the provisions of the personnel rules and regulations adopted by the Council.

## **SECTION 507. SERVICES.**

The City shall provide for a municipal police department. The City also shall provide for community development, finance, fire and emergency medical services, information technology, library, parks and recreation, personnel, public works, water and wastewater, and such other



services as the Council deems appropriate for the public's health, safety and welfare.

## **SECTION 508. PERSONNEL SYSTEM.**

All appointments and promotions of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence. The administration of employee matters shall be delegated to a personnel or human resources department.

Consistent with all applicable Federal and State laws, the Council shall provide for the establishment, regulation and maintenance of a merit system and governing personnel rules and regulations necessary for the effective administration of the employees of the City's departments, offices and agencies. Such personnel rules and regulations may include but are not limited to classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

## **SECTION 509. OFFICIAL BONDS.**

The Council shall fix by resolution the amounts and terms of the official bonds of all officers or employees who are required by the Council to acquire such bonds. All bonds shall be executed by a 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.

# **ARTICLE VI: BOARDS, COMMISSIONS AND COMMITTEES**

## **SECTION 600. GENERAL PROVISIONS.**

Each board, commission and committee established prior to the adoption of this Charter shall continue to exist, exercise the powers and perform the duties assigned to it upon adoption of this Charter. However, the Council may alter the structure, membership, powers and duties of boards, commissions and committees. The Council also may abolish or create particular boards, commissions and committees, provided that the Council may not abolish the Commissions or Boards specifically provided for in this Charter. The Council may grant powers and duties to boards, commissions and committees that are consistent with the provisions of this Charter.

## **SECTION 601. APPOINTMENT, REMOVAL, TERMS OF OFFICE AND PROCEDURAL RULES.**

Except as provided elsewhere in this Charter, the appointment, removal, and terms of office of boards, commissions, committees and their members and the rules and regulations pertaining to the conduct of board, commission or committee business shall be as prescribed by a vote of the Mayor and entire Council, as provided in section 304(b) of this Charter. Members of boards, commissions and committees shall be residents of the City, unless exempted by ordinance or State law.

## **SECTION 602. LIBRARY.**

A Library Board of Trustees consisting of five (5) members shall be appointed by a vote of the Mayor and entire Council, as provided in section 304(b) to serve without compensation. The Mayor and entire Council may remove Trustees in the same manner. The Board shall:

- a. Be responsible for providing adequate library services;
- b. Appoint a Library Director;
- c. Administer the Library budget allocated by the Council;
- d. Make and enforce all rules and regulations applicable to library services; and
- e. Administer such additional matters as may be determined by ordinance.

## **SECTION 603. WATER AND WASTEWATER.**

A Water Board of five (5) Commissioners shall be appointed by a vote of the Mayor and entire Council, as provided in section 304(b). Commissioners shall serve terms of six (6) years each, staggered in the same manner as at the time of the adoption of this Charter. Any one or more of these Commissioners may be removed by a vote of the Mayor and entire Council. The Board shall have the following powers and responsibilities:

- a. Be responsible to oversee and manage the City's water supply, recycled water, wastewater collection and treatment ("Water and Wastewater Systems") functions in accordance with State law.
- b. Employ such persons, including a general manager, as may be needed for proper administration of the City's Water and Wastewater Systems.
- c. Set and collect all rates, fees and charges for operation of the Water and Wastewater Systems.
- d. Allocate all receipts and expenditures to separate, independent, Water and Sewer Funds in accordance with State law.
- e. Provide for an annual, independent audit of all water and wastewater accounts, and may provide for more frequent audits as it deems necessary. Copies of all auditors' reports shall be filed with the City Clerk and Council.
- f. Compensate members of the Water Board in accordance with actions of the Water Board following public hearing.
- g. Collaborate with the Council, Mayor and City Manager concerning the City's Water and Wastewater Systems. In this regard, the Council shall take such actions as may be appropriate to enforce rules and regulations of the Board.
- h. Establish and periodically review and revise such rules and regulations as may be appropriate for managing the City's Water and Wastewater Systems.

## **SECTION 604. PERSONNEL COMMISSION.**

A Personnel Commission consisting of five (5) members shall be appointed by a vote of the Mayor and entire Council, as provided for in section 304(b) of this Charter, to serve without compensation. The Mayor and entire Council may remove Commissioners in the same manner. The Commission's sole responsibility shall be to hear appeals of disciplinary action by City employees, subject to the provisions of adopted labor agreements. Decisions of the Commission shall be final without further review within the City.

# **ARTICLE VII: FINANCIAL MANAGEMENT**

## **SECTION 700. FISCAL YEAR.**

The fiscal year of the City shall begin on the first day of July of each year and end on the last day of June of the following year. The Council may change the fiscal year by ordinance.

#### **SECTION 701. SUBMISSION OF BUDGET AND BUDGET MESSAGE.**

At least sixty (60) days prior to the beginning of each fiscal year, the City Manager shall prepare and submit to the Mayor and Council the proposed budget and an accompanying message. The City Manager's budget message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the City for the ensuing fiscal year and the impact of those policies on future years. It shall describe the important features of the budget and indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes. It shall summarize the City's debt position, including factors affecting the ability to raise resources through debt issues, and include other such material as the City Manager deems desirable.

#### **SECTION 702. BUDGET AND CAPITAL IMPROVEMENT PROGRAM.**

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Manager deems desirable or the Council or Mayor may request for effective management and understanding of the relationship between the budget and the City's strategic goals. In addition, the City Manager shall prepare and submit a multi-year capital improvement plan (CIP). The CIP shall be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

The City's budget and CIP should strive to achieve the best practice standards set by the Government Finance Officers Association (GFOA) for distinguished budget presentation.

#### **SECTION 703. COUNCIL ACTION ON THE BUDGET AND CAPITAL IMPROVEMENT PLAN.**

The Council shall publish a general summary of the budget and CIP and hold one (1) or more public hearings. After the public hearing(s), the Budget and CIP shall be adopted, as they may be amended, by the Council before the beginning of each fiscal year.

#### **SECTION 704. INDEPENDENT AUDIT.**

The Council shall provide for an annual independent audit of all City accounts and may provide for more frequent audits as it deems necessary. An independent certified public accountant or firm of such accountants shall make such audits, which should be performed in accordance with General Accepted Auditing Standards (GAAS) and Generally Accepted Governmental Auditing Standards (GAGAS). Using competitive bidding, the Council shall designate such accountant or firm for a period not to exceed five (5) years.

As soon as practicable after the end of the fiscal year, a final certified audit and report shall be submitted by such accountant to the Mayor, each member of the Council, the City Manager, Finance Director and City Attorney. Three (3) additional copies shall be placed on file in the office of the City Clerk, where they shall be available for inspection by the general public, and the audit and report shall be published on the City's website.

### **ARTICLE VIII: ELECTIONS**

#### **SECTION 800. CITY ELECTIONS.**

Beginning in 2018, primary and general election shall be held in said City in consolidation with the State Primary Election and the State General Election and every two (2) years thereafter. City elections shall follow the provisions and procedures of the State Elections Code as applicable to general law cities. The Mayor and Council members shall be sworn in and begin their term of service upon certification of the election results, and shall serve until their successors qualify.

To facilitate the transition of elections from odd to even numbered years, consistent with the timing of elections for state and federal offices, the terms of the Mayor and each Council member in office at the time of the adoption of this Charter shall be extended for one (1) year.

#### **SECTION 801. ELECTIVE OFFICERS; TERMS.**

The elective officers of the City shall consist of a Mayor and seven Council members. Council members shall continue to be elected for terms of four (4) years, with such terms staggered between the wards as established by ordinance. Each Council member shall be elected by ward by the voters within that ward. The Mayor shall continue to be elected at large for a term of four years.

#### **SECTION 802. NUMBER OF WARDS.**

There shall be seven (7) wards.

#### **SECTION 803. ADJUSTMENT OF WARD BOUNDARIES.**

Periodic adjustments to ward boundaries shall be made to maintain each in compact form and as nearly equal in population as possible, consistent with applicable State and Federal laws.

### **ARTICLE IX: INITIATIVE, CITIZEN REFERENDUM AND RECALL**

#### **SECTION 900. INITIATIVE, CITIZEN REFERENDUM AND RECALL.**

Initiatives, citizen referenda, and recalls shall follow the procedures of the State Elections Code, as applicable to general law cities.

### **ARTICLE X: CHARTER AMENDMENTS**

#### **SECTION 1000. CHARTER AMENDMENTS.**

Amendments to this Charter shall be made in accordance with the procedures of the State Elections Code, as applicable to charter cities.

#### **SECTION 1001. PERIODIC REVIEW OF CHARTER.**

By December 2017, the Council shall establish a process to ensure the periodic review of this Charter to identify potential amendments that enhance clarity, efficiency, and the principles of the council-manager form of government.

### **ARTICLE XI: SEVERABILITY**

#### **SECTION 1100. SEVERABILITY.**

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected. If the application of the Charter or any of its provisions to any persons or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected.