

## PART I - THE CHARTER

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

### *Footnotes:*

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**Editor's note—** *The charter was adopted by the electors on November 4, 1952; and subsequently amended by them on November 2, 1954; April 9, 1957; November 4, 1958; April 2, 1963; and June 7, 1966. The revised edition of 1967 is reprinted herein. Amendments subsequent to 1967 are indicated in the history notes following the sections affected. Captions of articles, divisions and sections have been inserted, broadened or condensed by the editor to more thoroughly inform the user of the contents following such captions. Material appearing in brackets has been added by the editor to clarify certain provisions. For details of particular amendments please consult the original enactments.*

## ARTICLE I. - INCORPORATION AND SUCCESSION

### Sec. 100. - Name of city.

The City of Santa Ana shall continue to be a municipal body politic and corporate and shall be possessed of all the property and interest of which it was possessed at the time this charter takes effect.

### Sec. 101. - Boundaries.

The boundaries of the City shall be the boundaries as established at the time this charter takes effect, with the power and authority to change the same being as provided by law.

#### Sec. 101.1. - Wards of the city.

Prior to the general election in 1988 the City Council shall divide the City into six (6) wards by ordinance according to the following formula:

Each of the wards is to be as nearly equal in population as possible. The wards shall be composed of contiguous and compact territory and bounded by natural boundaries of street lines wherever possible. Any territory hereafter annexed to or consolidated with the City shall become a part of the ward to which it is most contiguous, pending any redistricting necessary to promote equality of population among the wards.

(Prop. of 4-9-57, approved on 4-16-57; Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Ord. No. NS-1316, 8-24-76, approved at election 11-2-76; Ord. No. NS-1521, 3-17-80, approved at election 6-3-80; Ord. No. NS-1864, 8-19-86, approved at election 11-4-86)

Sec. 101.2. - Wards, boundary changes.

Ward boundaries shall not be altered except as reasonably necessary to comply with the requirements of state and federal law and to promote greater equality of population among the wards when such necessity is shown by the most recent federal decennial census, or by more current census data certified by the City Council as sufficiently reliable and detailed to serve as a basis for ward boundary alteration, or by annexation or consolidation of territory. Such boundary alteration shall be made only by ordinance adopted by affirmative vote of at least two-thirds ( $\frac{2}{3}$ ) of the full membership of the City Council in accordance with section 101.4. Any such ordinance adopted within one hundred twenty (120) days immediately preceding any election of council members shall not become effective until the day following such election.

(Prop. of 4-9-57, approved on 4-16-57; Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Ord. No. NS-1316, 8-24-76, approved at election 11-2-76; Res. No. 2018-056, § 7(Exh. A), 7-17-18, approved at the election 11-6-18)

Sec. 101.3. - Reserved.

**Editor's note**— Ord. No. NS-1521, adopted March 17, 1980, approved at election June 3, 1980, repealed § 101.3 relative to increasing the number of wards of the City from 7 to 9 whenever the census data described in § 101.3 disclosed a population of 240,000 people. Said section had previously been amended by Prop. of 4-9-57, approved on April 16, 1957; Prop. of 2-4-63, approved on April 2, 1963; Res. No. 63-027 and Ord. No. NS-1316, adopted August 24, 1976, approved at election November 2, 1976.

Sec. 101.4. - Same—Notice and public hearing.

Before making any change, modification or realignment of ward boundaries or numbers of wards, the City Council shall pass a resolution declaring its intention to make such changes. Such resolution shall set forth a convenient day, hour and place when and where any persons having any interest therein, or any objection to the making thereof, may appear before the City Council and be heard thereon. The City Council shall direct the City Clerk to give notice by publishing said resolution once a week for two (2) weeks in the official newspaper prior to the date set for hearing. Said hearing in the event of increasing the number of wards shall be held not less than sixty (60) days prior to the succeeding general municipal election. In any event, not less than thirty (30) days prior to the general municipal election, publication shall be made by map diagram in the official newspaper showing the new boundary lines of each and every ward.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 102. - Fiscal year.

The first fiscal year shall begin on the first day the provisions of this charter become effective and shall end on the last day of the following June, and the succeeding fiscal years shall end respectively on the last day of June in each succeeding year.

**Cross reference—** See also § 603.

Sec. 103. - Rights of officers and employees preserved.

Nothing in this charter contained, except as specifically provided, shall affect or impair the rights or privileges of officers or employees of the City in relation to personnel, appointment, ranks, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights, or any other rights or privileges of officers or employees of the City or any office, department, or agency thereof.

Secs. 104, 105. - Reserved.

**Editor's note—** Ord. No. NS-1642, adopted Aug. 2, 1982, approved at election Nov. 2, 1982, repealed §§ 104, 105, 107-109, relative to officers and employees continuing in the performance of their duties at the time of taking effect of the charter, transfer of records and property, continuing in effect of ordinances, contracts, public improvements, etc., and the effect of the charter on pending actions and proceedings.

Sec. 106. - Rights and liabilities.

The City of Santa Ana, as successor in interest of the municipal corporation of the same name, shall own, possess, control, and in every way succeed to and become the owner of all rights and of all property of every kind and nature owned, possessed, or controlled at the time this charter takes effect, and shall be subject to all the debts, obligations, and liabilities then existing of this municipal corporation.

Secs. 107—109. - Reserved.

**Note—** See the editor's note at § 104.

Sec. 110. - Effective date of Charter.

For the purpose of nominating and electing members of the City Council and the board of education, the provisions of this charter shall become effective from the date of its approval by the Legislature of the State of California. For all other purposes this charter shall be in effect on the first Tuesday next following the first election of members of the City Council thereunder, at (8:00) p.m.

ARTICLE II. - POWERS OF THE CITY

## Sec. 200. - Powers of the city.

The City shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this charter and in the Constitution of the State of California. The City shall also have all other rights, powers and privileges which are not prohibited by, or in conflict with, the State Constitution or this charter and which it would be proper to specifically set forth in this charter, even though such are not herein set forth. It shall also have the power to exercise any and all rights, powers, privileges heretofore or hereafter established, granted, or prescribed by any law of the state, by this charter, or by other lawful authority, or which a municipal corporation might or could exercise under the Constitution and laws of the State of California.

The enumeration or specification in this charter of any particular power shall not be held to be exclusive of, or any limitation upon, the generality of the foregoing provisions.

The City shall have the power to act pursuant to procedure established by any law of the state, unless a different procedure is established by this charter or by ordinance.

(Ord. No. NS-1405, 3-13-78, approved at election 6-6-78)

## ARTICLE III. - FORM OF GOVERNMENT

### Sec. 300. - Council-manager form.

The municipal government established by this charter shall be known as the "council-manager" form of government.

## ARTICLE IV. - CITY COUNCIL

### DIVISION 1. - GENERALLY

### Sec. 400. - Number, selection and terms of members.

The City Council shall consist of seven (7) members elected at the times and in the manner provided in this charter, each of whom, except for the mayor, shall serve a term of four (4) years. The term of each member shall begin at 6:00 p.m. on the first regularly scheduled meeting or at a special meeting following certification of election results, and each shall serve except as otherwise provided for in this

charter, until the member's successor is elected and qualified. Each office of councilmember shall be a separate office and, except for the mayor, one (1) of such offices shall be assigned to each of the wards of the City. Councilmembers shall be residents of their respective wards, and nominated and elected only by the voters of their respective wards. The Mayor shall be elected from the City at large.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Ord. No. NS-1316, 8-24-76, approved at election 11-2-76; Ord. No. NS-1346, 1-25-77, approved at election 4-5-77; Ord. No. NS-1642, 8-2-82, approved at election 11-2-82; Ord. No. NS-1864, 8-19-86, approved at election 11-4-86; Ord. No. NS-1973, 8-15-88, approved at election 11-10-88; Ord. No. NS-2715, 7-3-06, approved at election 11-7-06; Res. No. 2018-056, § 7(Exh. A), 7-17-18, approved at the election 11-6-18; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 401. - Qualifications of members.

To be eligible to be elected to the office of councilmember, a person must be a qualified voter and a thirty (30) day resident of the ward from which the candidate is nominated at the time nomination papers are issued as provided for in the Elections Code of the State of California, except that the mayor need only be a registered voter and thirty (30) day resident of the city at such time. In the event any councilmember other than the mayor shall cease to be a resident of the ward from which the councilmember (or, in the case of an appointee, the councilmember's predecessor) was elected, or in the event the mayor shall cease to be a resident of the city, the office shall immediately become vacant and shall be filled in the same manner as herein provided for other vacancies; provided, that where a councilmember ceases to be a resident of the ward from which the councilmember (or, in case of an appointee, the councilmember's predecessor) was elected solely because of a change in boundaries of any ward as in this charter provided, the councilmember shall not lose the office by reason of such change. If a member of the city council shall be convicted of a crime involving moral turpitude, the office shall immediately become vacant and be so declared by the city council.

(Prop. of 6-7-66, approved on 8-15-66; Res. No. 66-121; Ord. No. NS-1521, 3-17-80, approved at election 6-3-80; Ord. No. NS-1864, 8-19-86, approved at election 11-4-86; Ord. No. NS-2715, 7-3-06, approved at election 11-07-06; Res. No. 2007-057-S1, 11-5-07, approved at election 2-5-08; Res. No. 2012-034, 8-1-12, approved at election 11-6-12; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 401.01. - Term limits.

- A. Councilmembers. A person shall only serve three (3) terms of four (4) years each in the office of councilmember (regardless of wards represented by that person during such period and regardless of whether service is consecutive or nonconsecutive). This term limit of a total of twelve (12) years of service shall be deemed to apply to anyone elected in or after the 2012

general municipal election.

Short or partial terms shall not be considered in determining eligibility for appointment, nomination or election. For purposes of this Charter, short or partial terms shall only be those where the councilmember was elected or appointed to replace another councilmember who left office before the latter official's term expired. Any councilmember who assumed office at the beginning of a term and left office early for any reason whatsoever shall be deemed to have served a full term. The provisions of this section related to short or partial terms is deemed to be declaratory of existing law.

- B. Mayor. A person shall only serve four (4) terms of two (2) years each (regardless of whether service is consecutive or nonconsecutive). This term limit of a total of eight (8) years of service shall be deemed to apply to anyone elected in or after the 2012 general municipal election.

Short or partial terms shall not be considered in determining eligibility for appointment, nomination or election as mayor. For purposes of this Charter, short or partial terms shall only be those where the mayor was elected or appointed to replace another mayor who left office before the latter official's term expired. Any mayor who assumed office at the beginning of a term and left office early or before the term expires for any reason whatsoever shall be deemed to have served a full term. The provisions of this section related to short or partial terms is deemed to be declaratory of existing law.

C. Absolute Term Limit.

- (1) Notwithstanding any other previously enacted provision of law or of this Charter, during their lifetime, a person may serve no more than three (3) terms of four (4) years each as a member of the Santa Ana City Council, and may also serve no more than four (4) terms of two (2) years each as Mayor of Santa Ana.

The City Clerk, or other election official authorized by law, shall not accept or verify the signatures on any nomination paper for any person, including any paper seeking election as a write-in candidate, 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 whose candidacy, if successful, will result in a new Mayoral or City Council term that exceeds the limits set forth herein.

- (2) No person who has already served three terms as a member of the City Council may be appointed to serve on the City Council, and no person who has already served four terms as Mayor may be appointed to serve as Mayor, whether said appointment is in lieu of a Municipal Election or to fill a vacancy on the City Council.
- (3) No person who has already served three terms as a member of the City Council may run for special election to fill a vacancy on the City Council. No person who has already served four terms as Mayor may run for special election to fill a vacancy in the office of Mayor.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 401.05. - Code of ethics and conduct.

The City of Santa Ana shall adopt a Code of Ethics and Conduct for elected officials, the City Attorney, the City Manager, the City Clerk, the Police Chief, directors of all City departments, and members of appointed boards, commissions, and committees to assure public confidence in the integrity of local government elected and appointed officials. The City Council shall periodically review the Code of Ethics and Conduct and make any amendments by ordinance or resolution.

Any person alleging a violation of the Code of Ethics and Conduct by the Police Chief, or department director, shall provide a written document to the City Manager with their name and contact information and a brief description of the alleged violation. The City Manager shall review and respond to the complaint in writing and report to the City Council every thirty (30) days of the status of the review.

Any person alleging a violation of the Code of Ethics and Conduct by any member of the City Council, the City Manager, the City Attorney, the City Clerk, or members of appointed boards, commissions, and committees shall provide a written document to all members of the City Council with their name and contact information and a brief description of the alleged violation. The City Council shall refer the complaint to an ad hoc committee of the Council for review. The Council ad hoc committee may then make a recommendation to the full City Council for further review, investigation or action. When a review or investigation is completed, the City Council may impose sanctions which may include, a reprimand, formal censure, or loss of committee assignments or in the case of members of boards, commissions or committees, removal from the board, commission, or committee. A complaint concerning an alleged violation by one of the Council's appointed employees shall be handled as a personnel matter.

(Res. No. 2007-057-S1, 11-5-07, approved at election 2-5-08; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 401.1. - Order of filling offices.

The offices of councilmember from wards one, three, and five shall be filled at the general municipal election held in 1988, and the offices of councilmember from wards two, four and six shall be filled at the general municipal election held in 1990. Thereafter, the offices of councilmember from wards one, three and five and from wards, two, four and six shall be filled alternately at the general municipal elections held in the years in which the terms of such offices respectively expire.

The candidate elected from each ward at each such election shall be the candidate receiving the highest number of votes cast for any candidate from said ward.

(Prop. of 4-9-57, approved on 4-16-57; Ord. No. NS-1316, 8-24-76, approved at election 11-2-76; Ord. No.

NS-1346, 1-25-77, approved at election 4-5-77; Ord. No. NS-1642, 8-2-82, approved at election 11-2-82; Ord. No. NS-1864, 8-19-86, approved at election 11-4-86)

#### Sec. 402. - Compensation of members.

Each member of the City Council and the Mayor shall receive as a monthly salary for their services, the maximum amount allowed by the population formula set forth in California Government Code Section 36516 as of November 8, 2016. No increase in the monthly salary shall occur without first being approved by the voters pursuant to a Charter amendment. Further, each member of the City Council and Mayor shall receive reimbursement for required travel and other expenses while on official business of the City as authorized and approved by Resolution of the City Council. In accordance with Section 36516 any amounts paid by City for retirement, health and welfare benefits shall not be included for purposes of determining salary under this section, provided that the same benefits are available and paid by the City for its executive employees. Any amounts paid by the City to reimburse for actual and necessary expenses pursuant to a Council Resolution shall not be included for purposes of determining salary. Any member of the Council may waive any or all of the compensation permitted by this section.

Absence of the Mayor or a member of the City Council from all regular and special meetings of the City Council during any calendar month shall render them ineligible to receive the monthly salary for such a calendar month, unless such absence was approved by the City Council as expressed in its official minutes.

(Prop. of 8-4-54, approved on 11-1-58; Res. No. 58-193; Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Ord. No. NS-1973, 8-15-88, approved at election 11-10-88; Res. No. 2016-061, approved at election 11-8-16; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 403. - Vacancies.

In the event of a vacancy in the City Council, for whatever cause, the City Council shall declare the office vacant and fill the same by appointment. In each case the person so appointed shall hold office until the next general municipal election and until their successor is elected and qualified for the remainder of an unexpired term. Such appointee must, at the time of their appointment and continuously for one (1) year prior thereto, have been and be a resident of the ward from which their predecessor was elected. If the City Council shall fail to fill a vacancy by appointment within thirty (30) days after such an office shall have become vacant, it shall forthwith cause an election to be held to fill such vacancy.

If a member of the City Council absents themselves from all regular meetings of the City Council for a period of sixty (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, their office shall become vacant and shall be so declared by the City Council.

(Ord. No. NS-1346, 1-25-77, approved at election 4-5-77; Ord. No. NS-1864, 8-19-86, approved at election 11-4-86; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 404. - Presiding officer, mayor.

The mayor shall be a member of the City Council and shall preside over the meetings of the City Council. The mayor shall have voice and vote in all of the City Council's proceedings and shall be recognized as head of the City government for all ceremonial purposes. The mayor shall have no administrative duties but shall perform such other duties as may be prescribed by this charter, or imposed by the City Council, consistent with their office.

The mayor shall be elected by the voters of the City at large at each general municipal election in November of even-numbered years for a two-year term commencing on the same date as the terms of other council members elected in such year. No person may be a candidate for mayor and a candidate for any other office on the City Council in the same election. In the event an incumbent City Council member other than the mayor is elected mayor such other office shall become vacant at the time they assume office as mayor and the City Council shall call a special election to fill the vacancy.

To be eligible to be elected to the office of mayor a person must be a qualified voter as provided for in the Elections Code of the State of California. If the mayor is convicted of a crime involving moral turpitude, the office shall immediately become vacant and be so declared by the city council.

(Ord. No. NS-1864, 8-19-86, approved at election 11-4-86; Res. No. 2012-034, 8-1-12, approved at election 11-6-12; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 405. - Mayor pro tem.

Each calendar year, at the first meeting in January, the City Council shall elect a mayor pro tem who shall act as mayor during the absence from the City or disability of the mayor, or during any vacancy in the office of mayor until otherwise filled in accordance with section 403. All members of the City Council, other than the mayor, shall be eligible to serve as mayor pro tem regardless of their seniority or whether they previously served a term or terms as mayor pro tem. The mayor pro tem from the previous year cannot be selected as mayor pro tem the next year. The mayor pro tem shall serve at the will and pleasure of the Council and may be replaced by four affirmative votes of the Council.

(Ord. No. NS-1864, 8-19-86, approved at election 11-4-86; Ord. No. NS-1973, 8-15-88, approved at election 11-10-88; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 406. - Council judge of elections and qualifications of members.

The City Council shall be the judge of the election and qualifications of its member(s) as defined in section 401 of this charter and shall meet on the first regularly scheduled meeting or at a special meeting after election returns are certified for any municipal election at which members of the City Council are elected, declare the results thereof, and install elected members, if any.

(Prop. of 6-7-66, approved on 8-15-66; Res. No. 66-121; Ord. No. NS-1973, 8-15-88, approved at election 11-10-88; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 407. - Powers and duties as prescribed by law.

All powers of the City and the determination of all matters of policy shall be vested in the City Council, subject to the provisions of this charter and to the Constitution of the State of California.

Sec. 408. - Interference in administrative matters.

Except for the purpose of inquiry, the City Council and its members shall deal with the administrative branch of the City government solely through the City Manager or their designated deputy, and neither the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. Neither the City Council nor any of its members shall direct or request the appointment of any person to, or their removal from, an office by the City Manager or by any of their subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative branch of the City government, except as specifically provided in this charter.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 409. - Meetings.

The council shall provide, by ordinance or resolution, not inconsistent with other provisions of this section, for the time, place, and manner of holding its meetings. Copies of such ordinances or resolutions shall be kept on file in the office of the City Clerk where they shall be available for public inspection. To the extent that they are not inconsistent with other sections of this charter, the provisions of Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code, as they now exist or may hereafter be amended, insofar as they relate to the right of the public to attend meetings of council, the adjournment of regular or adjourned regular meetings, the calling of special meetings, and the holding of executive sessions, shall govern meetings of the council. No business shall be considered at any special meeting other than such as is specified in the notice of such meeting.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Prop. of 6-7-66, approved on 8-15-66; Res. No. 66-121; Ord. No. NS-1405, 3-13-78, approved at election 6-6-78; Res. No. 2022-044, 8-2-22, approved at

the election 11-8-22)

#### Sec. 410. - Quorum.

A majority of the members of the City Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time. Except as otherwise provided elsewhere in this charter or by law, no ordinance, resolution or motion shall be passed, adopted, or become effective unless it receives the affirmative vote of a majority of the full membership of the City Council. In the absence of all of the members of the City Council from any regular meeting, the City Clerk may declare the same adjourned to a stated day and hour.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Ord. No. NS-1405, 3-13-78, approved at election 6-6-78; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 411. - Rules and procedures.

The City Council shall establish rules for the conduct of its proceedings and to preserve order at its meetings. It shall, through the City Clerk, maintain a record of its proceedings which shall be open to public inspection. Any member of the City Council may place items on the City Council agenda to be considered by the City Council.

The City Council may organize special committees of its members for the principal functions of the government of the City. It shall be the duty of each such committee to be informed of the business of the City government included within the assigned functions of the committee, and, as ordered by the City Council, to report to the City Council information or recommendations which shall enable the City Council properly to legislate.

Each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority on any investigation or proceeding pending before it to impel the attendance of witnesses, to examine them under oath, and to compel the production of evidence before it. Subpoenas may be issued in the name of the City and may 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.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Ord. No. NS-2074, § 1, 8-6-90, approved at election 11-6-90; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 412. - Citizen participation.

No citizen shall be denied the right personally, or through counsel, to present grievances at any

meeting of the City Council, or to offer suggestions for the betterment of City affairs.

## DIVISION 2. - ORDINANCES AND RESOLUTIONS

### Sec. 413. - Adoption (resolutions and ordinances).

Every ordinance shall be introduced in writing. A copy of each ordinance and written resolution shall be available in the council's chambers for public inspection during any council meeting at which the same is to be passed or adopted. No ordinance shall be passed finally on the day it is introduced, except for emergency ordinances as hereinafter defined in Section 415, nor within six (6) days thereafter, nor at any time other than at a regular or adjourned regular meeting. A proposed ordinance may not be amended or modified between the time of its first reading and the time of its second reading, except for correction of typographical or clerical errors. Any alterations, other than typographical or clerical corrections, shall cause the ordinance to be subject to a new first reading. The rights and powers conferred on the City Council shall be exercised by ordinance, resolution or motion as may be prescribed by the Constitution or Laws of the State of California, and the provisions of this Charter; provided, that each act of the City Council establishing a fine or other penalty or granting a franchise shall be by ordinance.

No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting, except when a state of emergency has been declared or at an emergency meeting properly convened.

All ordinances and written resolutions shall be signed by the mayor and attested by the City Clerk as soon as possible, but no later than 72 hours from its adoption by the Council. If the mayor is not available or does not sign an ordinance or resolution, the City Clerk shall first ask the mayor pro tem to sign and then any Councilmember who voted to approve the ordinance or resolution.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Ord. No. NS-1405, 3-13-78, approved at election 6-6-78; Ord. No. NS-2715, 7-3-06, approved at election 11-7-06; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

### Sec. 414. - Enactment.

The enacting clause of all ordinances shall be substantially as follows: "The City Council of the City of Santa Ana does ordain as follows:"

### Sec. 415. - Emergency measures.

Any ordinance declared by the City Council to be necessary as an emergency measure for preserving

the public peace, health, or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by the affirmative votes of at least two-thirds ( $\frac{2}{3}$ ) of the members of the council.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027)

#### Sec. 416. - Publication.

Except as otherwise provided elsewhere in this charter, and with the exception of ordinances which take effect immediately upon adoption, no ordinance shall be adopted unless (a) it is first passed for publication of title, (b) the title of the ordinance is published as hereinafter provided in this section, and (c) at least six (6) days have elapsed between the date it was passed for publication of title and the date it is adopted. The title of an ordinance shall be deemed to have been "published," as said term is hereinabove used in this section if such title is printed in a newspaper of general circulation in the City no later than the third day immediately preceding the date of its adoption. No part of any ordinance, or proposed ordinance, other than its title, need be published.

(Ord. No. NS-1405, 3-13-78, approved at election 6-6-78)

#### Sec. 417. - When effective.

Except as otherwise provided in this charter, each adopted ordinance shall become effective at the expiration of thirty (30) days after adoption or at any later date specified therein.

The following ordinances shall take effect immediately upon adoption:

- (a) An ordinance calling or otherwise relating to an election;
- (b) An ordinance adopted pursuant to a state law by virtue of which such ordinance shall be effective immediately;
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property;
- (d) An emergency ordinance adopted in the manner provided for in this charter;
- (e) An ordinance providing for an appropriation for the usual current expenses of the City;
- (f) An ordinance relating to a bond issue.

Nothing contained in this section shall be deemed to require an ordinance when an ordinance is not otherwise required.

(Ord. No. NS-1405, 3-13-78, approved at election 6-6-78)

#### Sec. 418. - Amendment.

No section of any ordinance or of any code shall be amended unless the whole section to be amended is set forth as amended.

(Ord. No. NS-1405, 3-13-78, approved at election 6-6-78)

#### Sec. 419. - Codification.

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 in a comprehensive ordinance code, and such code may be adopted by reference 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 one (1) copy thereof shall be filed for use and examination in the office of the City Clerk prior to the adoption thereof; and, in lieu of the publication of the ordinance, there shall be published a notice in the official newspaper describing the ordinance in brief and in general terms and stating that the code is available for public inspection at the office of the City Clerk, together with the time and place when and where it will be considered for final passage. Ordinances codified shall be repealed as of the effective date of the code. Subsequent amendments to sections of the code shall be enacted in the same manner as herein required for the amendment of ordinances generally.

Detailed regulations pertaining to any subject such as the construction of buildings, plumbing, wiring, or other subjects which require extensive regulations, after having been arranged as a comprehensive code, may likewise be adopted by reference in the manner provided in this section.

(Ord. No. NS-1864, 8-19-86, approved at election 11-4-86; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

**State Law reference**— For similar provisions, see §§ 50022.1—50022.8, Gov. Code.

#### Sec. 420. - Violation and penalty.

The City Council may make the violation of its ordinances a misdemeanor or infraction which may be prosecuted in the name of the People of the State of California or may be redressed by civil action and may prescribe punishment for such misdemeanor or infraction in the same manner as provided in the penal code of the State of California as the same now reads or as hereafter amended.

(Ord. No. NS-1642, 8-2-82, approved at election 11-2-82)

#### DIVISION 3. - MISCELLANEOUS

Sec. 421. - Non-public works contracts.

- (a) The City shall not be bound by any contract, unless the same shall be made in writing by order of the City Council, except as hereinafter provided, and signed by an officer on behalf of the City who has been authorized to do so by the City Council. The approval of the form of all contracts shall be endorsed thereon by the City Attorney, or their designated representative.
- (b) The City Council may by ordinance authorize the City Manager to bind the City on contracts for such amounts as may be established from time to time. At least quarterly, the City Manager shall place on the City Council agenda for information, a report of contracts let by the City Manager pursuant to authority granted hereby. That report shall include the identities of contractors and amounts of each contract.
- (c) The City Council shall establish by ordinance rules and procedures for competitive bidding for purchases of, or contracts for materials, supplies, equipment, or services, including exceptions from formal bidding as the City Council may deem appropriate, including providing for emergencies. Nevertheless, such rules and procedures shall provide, where feasible, for review of such alternative sources of such materials, supplies, equipment, or services, including professional services, as may be available in competition with one another and selection therefrom on the basis of obtaining maximum quality goods, services, or performance at minimum cost, and may provide for use of other public agency bidding and contracting processes where found to be otherwise consistent with this Charter. Nothing herein contained shall authorize any person to bind the City on any such contract if the same be a portion of a larger purchase or series of purchases which, in the aggregate, exceed the authority set by the City Council hereunder.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Ord. No. NS-1405, 3-13-78, approved at election 6-6-78; Ord. No. NS-1642, 8-2-82, approved at election 11-2-82; Ord. No. NS-2715, 7-3-06, approved at election 11-7-06; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 422. - Public works contracts.

- (a) For purposes of this section, "public works construction" shall be deemed to mean a project for the erection or improvement of public buildings, streets, drains, sewers, or parks. Maintenance and repair of public buildings, streets, drains, sewers, or parks shall not be considered as public works construction.
- (b) Every contract for public works construction in excess of that amount set from time to time by ordinance of the City Council pursuant to (c) below, shall be made by the City Council with the

lowest and best bidder after publication for at least two (2) days in a newspaper of general circulation in the City of notice calling for bids and fixing a period during which such bids will be received, which shall be for not less than ten (10) days after the first publication of said notice, except where alternate contracting procedures are utilized pursuant to (c), below.

- (c) The City Council shall adopt by ordinance rules and procedures for competitive bidding for all public works contracts, which rules and procedures shall establish limits for public works contracts approved by the City Manager. Such rules and procedures shall establish criteria for thresholds for formal and informal bidding, and notice requirements therefor; standards for rejection of bids and dispensing with bidding; criteria and procedures for prequalifying bidders and contractors; and utilization of alternate project delivery systems such as design-build contracts. For purposes of this Article, "design-build" means a range of methods of procuring design and construction from a single source, where the selection of the single source occurs before the development of complete plans and specifications. Notwithstanding the foregoing, any rule permitting dispensing of bidding and/or performing work with City forces for any reason including an emergency shall require the affirmative votes of at least two-thirds ( $\frac{2}{3}$ ) of the members of the City Council.

(Ord. No. NS-2715, 7-3-06, approved at election 11-7-06)

#### Sec. 423. - Independent audit.

Prior to the beginning of each fiscal year the City Council shall designate a qualified certified public accountant who shall make an independent audit of the accounts and other evidences of financial transactions of the City government during the ensuing fiscal year and shall submit their report to the City Council and the City Manager at the end of such fiscal year. Three (3) copies of their report shall be placed in the office of the City Clerk where the copies of the report shall be made available for inspection by the general public. Such certified public accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the City government or of any of the officers of the City.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 424. - Reserved.

**Editor's note**— Ord. No. NS-1405. adopted March 13, 1978, approved at election June 6, 1978, repealed § 424 relative to publication of legal notices.

#### Sec. 425. - Reserved.

**Editor's note**— Res. No. 2018-047, § 4(Exh. A), adopted July 3, 2018 and approved at the election of November 6, 2018, repealed § 425. Former § 425 pertained to disqualification due to campaign



contributions and derived from Ord. No. NS-2170, adopted July 20, 1992 and approved at election November 3, 1992.

## ARTICLE V. - CITY MANAGER

### Sec. 500. - Appointment, removal and qualifications.

The City Council shall appoint a City Manager who by virtue of their position as City Manager shall be an officer of the City and who shall have the powers and shall perform the duties in this charter provided. No member of the City Council shall receive such appointment during the term for which they shall have been elected, nor within one (1) year after the expiration of their term.

The City Council shall appoint the City Manager for an indefinite term and may remove them by motion adopted by the affirmative votes of at least two-thirds ( $\frac{2}{3}$ ) of the members of the council. At least thirty (30) days before such removal shall become effective, the City Council shall by resolution adopted by the affirmative votes of at least two-thirds ( $\frac{2}{3}$ ) of the members of the council state the reasons for the removal of the City Manager. The City Manager may reply in writing and any member of the City Council may request a public hearing, which, if requested, shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the City Council may remove the City Manager by motion adopted by the affirmative votes of at least two-thirds ( $\frac{2}{3}$ ) of the members of the council. The resolution stating the reasons for the removal of the City Manager may provide for the suspension of the City Manager from duty, but shall in any case cause to be paid them forthwith any unpaid balance of their salary and their salary for the next calendar month following the date of adoption of the resolution.

The City Manager shall be chosen on the basis of their executive and administrative qualifications. They shall be paid a salary commensurate with their responsibilities as chief administrative officer of the City.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

### Sec. 501. - Powers and duties.

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

- (a) Subject to the civil service provisions of this charter, and with the approval of the City Council, appoint all department heads and officers of the City except those officers the power of appointment of whom is vested in the City Council and as otherwise provided in this charter;
- (b) Subject to the civil service provisions of this charter and ordinances adopted pursuant thereto, pass upon and approve all proposed appointments and removals of subordinate employees, by all officers and heads of offices, agencies and departments;
- (c) Prepare the budget annually and submit it to the City Council and be responsible for its administration after adoption;
- (d) Prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;
- (e) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as to these matters as may seem to them desirable;
- (f) Keep themselves informed of the activities of the several agencies, offices, and departments of the City and see to the proper administration of their affairs and the efficient conduct of their business;
- (g) Be vigilant and active in causing all provisions of the law to be executed and enforced;
- (h) Perform all such duties as may be prescribed by this charter or required of them by the City Council, not inconsistent with this charter;
- (i) Submit a monthly report to the City Council covering significant activities of the City agencies, offices, and departments under their supervision and any significant changes in administrative rules and procedures promulgated by them;
- (j) Submit special reports in writing to the City Council in answer to any requests for information filed with them by a member of the City Council.

(Ord. No. NS-2074, § 5, 8-6-90, approved at election 11-6-90; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 502. - Seat at council table.

The City Manager shall be accorded a seat at the City Council table and shall be entitled to participate in the deliberations of the City Council, but shall not have a vote. They shall attend all regular and special meetings of the City Council unless physically unable to do so or unless their absence has received prior approval by a majority of the council.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 503. - Absence, disability.

To perform their duties during their temporary absence or disability, the City Manager may designate by letter filed with the City Clerk one of the other officers or department heads of the City to serve as acting City Manager during such temporary absence or disability. Such designation shall be subject to change thereof by the City Council. In the event of failure of the City Manager to make such designation, the City Council may by resolution appoint an officer or department head of the City to perform the duties of the City Manager until they shall be prepared to resume the duties of office.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

ARTICLE VI. - REVENUE AND TAXATION

Secs. 600, 601. - Reserved.

**Editor's note**— Sections 600 and 601, relative to an ad valorem assessment and collection system, and to property tax limits, respectively, were repealed by Ord. No. NS-1864, adopted July 24, 1986, approved at election Nov. 4, 1986.

Sec. 602. - Bonded debt limits.

The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed ten (10) per cent 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 ( $\frac{2}{3}$ ) of the electors voting on such proposition at any election at which the question is submitted to the electors and unless in full compliance with the provisions of the Constitution of the State of California and this charter.

Bonds, which are payable solely and exclusively out of the revenues of the revenue-producing utilities owned, controlled, or operated by the City, may be issued when the City Council, by ordinance, shall have authorized a proposition therefor, only with the assent of the majority of the voters, voting upon such proposition, at an election at which such proposition shall have been duly submitted to the qualified electors of the City. Such revenue bonds shall be excluded from the debt limit hereinbefore established and shall not constitute an indebtedness of the City.

Such proposition shall specify:

- (a) The property to be acquired and/or the improvements or additions to be made to the

equipment for such revenue-producing utility, or utilities, and the estimate of the cost thereof,

- (b) The maximum amount of bonds to be issued for such purposes,
- (c) The regulations and procedures for the sale and issuance of the bonds, and
- (d) The provision to be made from the revenue of the utilities for the payment of interest on, and retirement of, the bonds.

Sec. 603. - Fiscal year.

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

**Cross reference—** See also § 102.

Sec. 604. - Budget—Preparation by the city manager.

At such time as the City Manager may prescribe, but not later than sixty (60) days prior to the beginning of each fiscal year, each head of any office, agency, or department of the City government shall submit, through the director of finance, to the City Manager on forms and in the manner prescribed by the City Manager a detailed financial plan for the proper conduct of the office, agency, or department under their control. With this financial plan shall be submitted such summaries, schedules, and supporting data as may be prescribed by the City Manager. In preparing the proposed City budget, the City Manager shall review the financial plans submitted, hold conferences thereon with the office, agency, and department heads, respectively, and revise such plans as they may deem advisable.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 605. - Same—Submission to the city council.

On or before the fifteenth (15th) day of June of each year the City Manager shall recommend and submit to the City Council a proposed budget for the next ensuing fiscal year and a proposed appropriation ordinance as prepared by them.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 606. - Same—Public hearing.

Upon receipt of the proposed budget from the City Manager, the City Council shall proceed to the consideration of the proposed budget and, by the affirmative vote of at least a majority of its members,

may increase, decrease, or omit any item or insert new items therein. Before adopting the budget the City Council shall fix the time and place for holding a public hearing upon the proposed budget and shall cause to be published a notice thereof not less than ten (10) days prior to said hearing, by at least one insertion in the official newspaper. Copies of the proposed budget shall be available for inspection by the public in the office of the City Clerk at least ten (10) days prior to said hearing. At the time and place so advertised, or at any time and place 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.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 607. - Same—Further consideration and adoption.

After the conclusion of the public hearing, the City Council may further consider the proposed budget and make any revisions thereof that it may deem advisable. On or before the thirty-first (31st) day of July the City Council shall adopt the budget with revisions, if any, by the affirmative votes of at least two-thirds of its members. Upon final adoption, the budget shall be in effect for the ensuing fiscal year. Between the first (1st) day of July and any subsequent date on which the budget, is adopted the several offices, departments and divisions shall be authorized to expend, each calendar month subject to the controls established in other sections of this charter, amounts of money equal to the expenditures of each such office, department or division during the preceding June.

The budget adopted by the City Council shall provide for the support of public recreation programs at least the equivalent of six cents (6) on each one hundred dollars (\$100) of the assessed value of taxable property in the City on the legal assessment date for the previous fiscal year.

A copy of the adopted budget, certified to by the City Clerk, shall be filed with the director of finance 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 inspection. The budget so certified shall be reproduced and copies made available for the use of all officers, offices, departments, and other agencies of the City and for the use of civic organizations.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 608. - Reserved.

**Editor's note—** Section 608, pertaining to the amount of money required to be raised by property tax and the certification of same, was repealed by Ord. No. NS-1864, adopted July 24, 1986, approved at

election Nov. 4, 1986.

Sec. 609. - Budget appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several offices, agencies, and departments for the respective objects and purposes therein specified as stated in an appropriation ordinance. 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 two-thirds ( $\frac{2}{3}$ ) of the members so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available revenue not included in the budget; except that the City Council shall not reduce that portion of the budget providing for the support of public recreation programs below the amount specified in section 607 of this article.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027)

Sec. 610. - Reserved.

**Editor's note**— Res. No. 2018-047, § 4(Exh. A), adopted July 3, 2018 and approved at the election of November 6, 2018, repealed § 425. Former § 425 pertained to Funds—General fund; stabilization fund and derived from the Charter of 1967.

Sec. 611. - Same—Capital improvement funds.

A fund for capital improvements generally is hereby created to be known as the "Capital Improvement Fund". The City Council may create by ordinance a special fund or funds for a special capital improvement purpose. The City Council may levy and collect taxes for capital improvements and may include in the annual tax levy a levy for such purposes, in which event it must apportion and appropriate to any such fund or funds the moneys derived from such levy. It may not, in making such levy, exceed the maximum tax rate provided for in this charter, unless authorized by the affirmative votes of a majority of the electors voting on the proposition at any election at which such question is submitted. The number of years in which such increased levy is to be made shall be specified in such proposition. The City Council may transfer, subject to the provisions of this charter, to any such fund any unencumbered surplus funds remaining on hand in the City at any time.

Once created, such fund shall remain inviolate for the purpose for which it was created, and if for a special capital improvement, then for such purpose only, unless the use of such fund for some other

purpose is authorized by the affirmative votes of a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted.

If the purpose for which any capital improvement fund has been created has been accomplished, the City Council may transfer any unexpended or unencumbered surplus remaining in such fund to the fund for capital improvements generally, established by this charter.

Sec. 612. - Same—Working capital revolving funds.

The City Council may provide, by ordinance, for the establishment and maintenance of working capital funds for budgeted activities which are largely of a service nature for offices, departments, or agencies of the City. Such funds shall be operated on a revolving fund basis.

Sec. 613. - Claims—Formalities; treasury payments.

Any claim against the City shall be in writing and may be in the form of a bill, invoice, payroll, or formal demand. The director of finance, with approval of the City Manager, may prescribe the format in which claims against the City shall be presented. Each such claim shall be presented to the finance department. The director of finance shall prescribe internal controls for examination and audit of each claim. If the claim is correct in all respects, has not previously been paid nor certified for payment, is provided for by an appropriation or legally enforceable court or administrative order for the purpose or object that gave rise to it, and if sufficient funds for the payment thereof remain unencumbered in such appropriation if applicable, and if the claim is otherwise legally due and payable, the director of finance shall authorize payment from the treasury, and against the proper fund, for the payment thereof.

All claims certified for payment by the director of finance, and payments drawn by the finance director for the payment thereof, shall be transmitted by the finance director to the City Manager together with a list of such payments payable from each fund, showing for each payment, the number, date, and amount of the payment and the name of the payee. The City Manager may approve or disallow any of the claims so certified for payment. Any person dissatisfied with the refusal of the director of finance and/or the City Manager to approve any claim, in whole or in part, may present such claim to the City Council. The City Council, after examination into the matter, may approve or disapprove the claim in whole or in part, and, if properly payable under an existing appropriation, may order the director of finance to make payment of the claim or portion thereof. For any such claim for which no provision, by way of appropriation, exists, but which is approved for payment by the City Council, appropriation by the City Council shall be made therefor before the director of finance is ordered to make payment thereof.

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

resolution.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 614. - Same—For money or damages.

Except in those cases where a shorter or longer time is otherwise provided by law, all claims for money or damages against the City must be presented to the director of finance within ninety (90) days after the occurrence, event, or transaction from which the damages allegedly arose, and shall set forth in detail the name and address of the claimant, the time, date, place, and circumstances of the occurrence, and the extent of the injuries or damages received. All other claims or demands shall be presented to the director of finance within ninety (90) days after the last item of the account or claim accrued. In all cases such claims shall be approved or rejected in writing and the date thereof given. Failure to act upon any claim or demand within sixty (60) days from the day the same is filed with the director of finance shall be deemed a rejection thereof.

No suit shall be brought on any claim for money or damages against the City, or any officer or board thereof, until a demand for the same has been presented as herein provided and rejected in whole or in part.

(Ord. No. NS-2074, § 4, 8-6-90, approved at election 11-6-90)

#### Sec. 615. - Allotments.

For the purpose of exercising continuous budgeting and for exercising budgetary control the City Council may establish by ordinance, an allotment system which shall entail the designation of how much of the budget appropriations may be spent during fixed periods of the year by the various offices, agencies, and departments of the City.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027)

### ARTICLE VII. - OFFICERS AND EMPLOYEES

#### Sec. 700. - City administrative organization.

The City Council may provide by ordinance not inconsistent with this charter, for the organization, conduct, and operation of the several offices, departments, and other agencies of the City as established by this charter, for the creation of additional departments, divisions, offices, and agencies and for their alteration or abolition, for their assignment and reassignment to departments, and for the number, titles, qualifications, powers, duties, and compensation of all officers and employees.



The City Council by ordinance may assign additional functions or duties to offices, departments, or other agencies established by this charter, but shall not discontinue or assign to any other office, department, or other agency any function or duty assigned by this charter to a particular office, department, or agency. No office provided in this charter, to be filled by appointment by the City Manager, shall be combined with an office provided in this charter to be filled by appointment by the City Council.

Notwithstanding the foregoing, the City Council may transfer or consolidate functions of the City government to or with appropriate functions of the state or county government and, in case of any such transfer or consolidation, the provisions of this charter providing for the functions of the City government so transferred or consolidated, shall be deemed suspended during the continuance of such transfer or consolidation, to the extent that such suspension is made necessary or convenient and is set forth in the ordinance establishing such transfer or consolidation. Any such transfer or consolidation may be repealed by ordinance.

Subject to the civil service provisions and section 501 of this charter, all officers and department heads of the City except the City Attorney and the City Clerk, shall be appointed by the City Manager and shall thereafter serve at the pleasure of the City Manager.

(Ord. No. NS-2074, § 5, 8-6-90, approved at election 11-6-90; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 701. - Officers appointed by the city council.

In addition to the City Manager the City Council shall appoint the City Attorney who shall serve at the pleasure of the City Council and may be removed by motion of the City Council adopted by the affirmative votes of at least two-thirds ( $\frac{2}{3}$ ) of the members of the council. Subject to the civil service provisions of this charter, the City Council shall appoint the City Clerk who shall serve at the pleasure of the City Council and may be removed by motion of the City Council adopted by the affirmative votes of the same number of members of the City Council as required to remove the City Manager and the City Attorney.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Ord. No. NS-2074, § 10, 8-6-90, approved at election 11-6-90; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 702. - City Clerk; powers and duties.

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

- (a) Receive all documents addressed to the City Council and present these documents to the City Council;

- (b) Attend all meetings of the City Council and its committees and be responsible for the recording and maintaining of an accurate journal of council proceedings and the recording of the ayes and noes in the final action upon the questions of granting franchises, making of contracts, approving of bills, disposing or leasing City property, the passage or reconsideration of any ordinance, or upon any other act that involves the payment of money or the incurring of debt by the City, and in all other cases upon the call of any member of the City Council;
- (c) Maintain the journal of council proceedings in books which shall bear appropriate titles and which shall be available for public inspection;
- (d) Maintain separate books in which shall be recorded respectively all ordinances and resolutions, with the certificate of the City 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; and maintain all such books properly indexed and available for public inspection when not in actual use;
- (e) Have charge of the repository for contracts, surety bonds, agreements, and other related documents of City business;
- (f) Maintain custody of the City seal;
- (g) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City, and issue certified copies of official City records;
- (h) Conduct all City elections.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 703. - City attorney; qualifications, power and duties.

To become eligible for the position of City Attorney the person appointed shall be an attorney-at-law duly licensed as such under the laws of the State of California. They shall devote such time to the duties of their office as may be specified in the ordinance or resolution fixing the compensation of such office. They shall have the power and be required to:

- (a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices;
- (b) Attend all meetings of the City Council and give their advice or opinion in writing whenever requested to do so by the City Council or by any of the officers and boards of the City;
- (c) Prepare or approve all proposed ordinances or resolutions for the City, and amendments thereto;
- (d) Prosecute on behalf of the people such criminal cases for violation of this charter, or City

ordinances, and of misdemeanor offenses and infractions arising upon violations of the laws of the state as in their opinion, or that of the City Council, or of the City Manager, warrant their attention;

- (e) Represent and appear for the City, any City officer or employee, or former City officer or employee, in any or all actions and proceedings in which the City or any such officer or employee, in or by reason of their official capacity, is concerned or is a party;
- (f) Approve the form of all bonds given to, and all contracts made by, the City, endorsing their approval thereon in writing;
- (g) On vacating the office, surrender to their successor all books, papers, files, and documents pertaining to the City's affairs.

The City Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.

(Ord. No. NS-1642, 8-2-82, approved at election 11-2-82; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22).

Sec. 704. - Reserved.

**Editor's note**— Res. No. 2018-047, § 4(Exh. A), adopted July 3, 2018 and approved at the election of November 6, 2018, repealed § 704. Former § 704 pertained to director of finance; qualifications, powers and duties and derived from the Charter of 1967.

Sec. 705. - Performance review.

On or before the annual anniversary date of appointment of persons serving in the positions of City Manager, City Attorney and City Clerk, the City Council shall review and evaluate the performance of such appointees.

(Ord. No. NS-2074, § 7, 8-6-90, approved at election 11-6-90; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 706. - Reserved.

**Editor's note**— Sections 705 and 706, relative to the qualifications, powers and duties of the director of public works and the director of recreation and parks, were repealed by Ord. No. NS-1642, adopted Aug. 2, 1982, approved at election Nov. 2, 1982. Subsequently, § 705 was reenacted to read as set forth above.

Sec. 707. - Appointment powers of department heads.

Subject to the approval of the City Manager and subject to civil service provisions of this charter and the civil service rules and regulations established thereunder, each head of a department, office, or other agency shall have the power to appoint and remove such deputies, assistants, subordinates, and employees as are provided for by the City Council for their department, office, or other agency.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

ARTICLE VIII. - BOARD OF EDUCATION

*Footnotes:*

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**Editor's note**— *At a special municipal election held June 2, 1970, the electors of the City of Santa Ana amended the City charter by deleting Article VIII, §§ 800—804, dealing with the establishment and regulation of the Santa Ana Board of Education, in order that the state code provisions pertaining thereto might control. Former art. VIII was derived from Prop. of 2-4-63, approved on April 2, 1963 and Res. No. 63-027.*

Secs. 800—804. - Reserved.

ARTICLE IX. - APPOINTIVE BOARDS AND COMMISSIONS

*Footnotes:*

--- (3) ---

**Editor's note**— *Res. No. 2018-047, § 4(Exh. A), adopted July 3, 2018 and approved at the election of November 6, 2018, amended art. IX in its entirety. Former art. IX pertained to similar subject matter and derived from a Prop. adopted February 4, 1963 and approved on April 2, 1963; Res. No. 63-027; a Prop. adopted June 7, 1966 and approved on August 15, 1966; Res. No. 66-121; Ord. No. NS1028, adopted August 17, 1970, approved at election November 3, 1970; Ord. No. NS-1642, adopted August 2, 1982, approved at election November 2, 1982; Ord. No. NS-1667, adopted January 3, 1983 and approved at election April 5, 1983; Ord. No. NS-2170, adopted July 20, 1992, approved at election November 3, 1992; Ord. No. NS-2715, adopted July 3, 2006, approved at election November 7, 2006; and Res. No. 2007-057-S1, adopted November 5, 2007, approved at election February 5, 2008.*

Sec. 900. - Established.

The City Council shall establish appointive boards and commissions by ordinance and shall specify in such ordinance the powers and duties of each.

(Res. No. 2018-047, § 4(Exh. A), 7-3-18, approved at election 11-6-18)

Secs. 901—912. - Reserved.

## ARTICLE X. - CIVIL SERVICE

### Sec. 1000. - Civil service system.

A civil service system shall be as follows in addition to necessary rules of implementation to be established by ordinance and as may be recommended by the personnel board:

- (a) That the most qualified and competent employees shall be appointed and promoted, based upon fair and equitable competition for the positions to ensure the highest quality City government.
- (b) That no political or other outside influences shall affect appointments or promotions.
- (c) That there shall be equal opportunity for all persons regardless of membership in a protected class as specified in state or federal law.
- (d) That there is equitable treatment of all civil service employees in matters of discipline, layoff or dismissal from the City service.

The system should be established in such a manner to ensure the accomplishment of the foregoing standards in appointments, promotions, discipline, layoffs or dismissals of civil service employees.

The civil service rules and regulations shall provide for such matters as the City Council and the personnel board, with the concurrence of the City Council, may deem necessary, proper or expedient to carry out the intent and purpose of the civil service provisions of this charter.

- (a) Preference for veterans for appointment to civil service positions consistent with the principle of merit.
- (b) Vacancies in positions of the higher classes in the civil service of the City shall be filled with preference to employees occupying positions of lower classes having duties and responsibilities which can reasonably be considered as affording training and experience for the performance of the duties of the higher class.
- (c) That persons achieving eligibility for a position in the civil service shall retain that eligible status for a time sufficient to offer an opportunity to be appointed to a position in the civil service.
- (d) That the right to exercise disciplinary and dismissal powers is vested respectively in the officers of the City who have the power of appointment as to any position in the personnel system. Actions relating to suspension, demotion or dismissal for reasonable and sufficient cause may be taken by the officer having the power of appointment to the position.

(Ord. No. NS-1642, 8-2-82, approved at election 11-2-82; Res. No. 2022-044, 8-2-22, approved at the

election 11-8-22)

Sec. 1001. - Reserved.

**Editor's note—** Ord. No. NS-1642, adopted Aug. 2, 1982, approved at election Nov. 2, 1982, repealed §§ 1001, 1003 and 1005—1009. Said sections pertained to civil service rules and regulations generally; appointments from competitive service to excepted service; recruitment and examinations; promotions; eligible lists, certification and appointment of employees; suspensions, demotions, dismissals; and layoffs. Sections 1008 and 1009 had been amended by Prop. of 2-4-63, approved on April 2, 1963; Res. No. 63-027; Prop. of 6-7-66, approved on August 15, 1966; Res. No. 66-121 and Ord. No. NS-1405, adopted March 13, 1978, approved at election June 6, 1978.

Sec. 1002. - Civil service and excepted service.

The civil service system of the City shall cover all employees of the City not excepted by this section.

- (a) The excepted service shall comprise the following offices and positions:
  - (1) The individual offices held by all elective officers;
  - (2) The City Manager and the City Manager's assistants, if any;
  - (3) The City Attorney and the City Attorney's legal assistants, if any;
  - (4) The City Clerk;
  - (5) The head of each department of the City as specified by ordinance or resolution and of the housing authority of the City of Santa Ana, but not including, the police chief or the fire chief;
  - (6) One private secretary to the City Manager;
  - (7) All members of boards and commissions;
  - (8) Positions occupied by persons employed to render professional, scientific, technical, or expert service of an occasional and exceptional nature;
  - (9) Positions in any class or grade created for a special or temporary purpose;
  - (10) Part-time positions or employments;
  - (11) All positions occupied by persons employed to replace employees ordered to active duty, enlisted, or drafted for military service during a national emergency or when this country has declared war and until the expiration of the time when such replaced employee could demand their former position of employment under federal or state statutes.
- (b) The civil service shall comprise all positions not specifically included by this section in the

excepted service.

- (c) In the event an officer or employee of the City holding a position in the civil service is appointed to a position in the excepted service and should subsequently be removed therefrom within twelve months of the employee's appointment to the excepted service, the employee shall revert to the employee's former position in the civil service without loss of any rights or privileges and upon the same terms and conditions as if the employee had remained in said position continuously.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Prop. of 6-7-66, approved on 8-15-66; Res. No. 66-121; Ord. No. NS-1521, 3-17-80, approved at election 6-3-80; Ord. No. NS-1642, 8-2-82, approved at election 11-2-82; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 1003. - Reserved.

**Note—** See the editor's note at § 1001.

Sec. 1004. - Position classification and pay plan.

The City Manager shall prepare, install and maintain a position classification and pay plan covering all positions in both the civil and the excepted services of the City, subject to civil service rules and regulations and the approval of the City Council.

The City Manager shall develop the pay plan, after meeting and conferring with employees' organizations as required by law.

(Ord. No. NS-1642, 8-2-82, approved at election 11-2-82)

Secs. 1005—1009. - Reserved.

**Note—** See the editor's note at § 1001.

Sec. 1010. - Prohibitions.

- (a) No officer or employee of the City shall in any way favor or discriminate against any employee of the City or any applicant for employment with the City because of the employee's Membership in a protected class under state or federal law.
- (b) No officer or employee of the City shall engage in any political activities in violation of Chapter 9.5 of Division 4 of Title 1 of the California Government Code (commencing with Section 3201) as the same exists on the date of adoption of this section or as the same may be thereafter amended, or in violation of any other provisions of applicable law.

- (c) No officer or employee of the City and no candidate for any City office shall, directly or indirectly, solicit any assessment, subscription, or contribution, whether voluntary or involuntary, for any political candidate, for Santa Ana municipal office from anyone on an eligible list, or, with the exception of elective officers and members of appointive boards and commissions, anyone holding a position in the service of the City.
- (d) No person shall willfully or through culpable negligence make any false statement, certificate, mark, rating, or report in regard to any application, test certification, or appointment held or made under the provisions of this article or in any manner commit or attempt any fraud preventing the impartial execution of such provisions of this article or of the rules and regulations made hereunder.
- (e) No officer or employee shall use nepotism in contracting, hiring, promotion, discipline or any other employment decision. The City Council shall adopt an anti-nepotism policy.

(Ord. No. NS-1405, 3-13-78, approved at election 6-6-78; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 1011. - Contract for performance of administrative functions.

The City Council, upon recommendation of the City Manager, may contract with the governing body of any other City or of any county within this state, or with any state department or other state agency for the preparing or conducting of competitive examinations for positions in the service of the City or for the performance of any other human resources administration service.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 1012. - Employees of consolidated cities.

All officers and employees of any City hereafter consolidated with the City of Santa Ana, who were full-time officers or employees of such consolidated City upon the date of election held in such consolidated City for such consolidation, shall, from the effective date of such consolidation, be deemed to have their names upon eligible lists for the respective positions held by them and to be qualified for appointment to such respective positions in the City of Santa Ana without loss of any rights or benefits that they may theretofore have accrued.

(Ord. No. NS-1521, 3-17-80, approved at election 6-3-80)

#### Sec. 1013. - Employees of other agencies.

In the event of the annexation of all or a portion of the geographic area of any governmental agency to the City or the agreement by the City to assume responsibility for providing any service for or on



behalf of any governmental agency, it shall be discretionary with the City Council whether or not all or any of the officers or employees of such agency shall be entitled to have their names placed upon eligible lists for the respective types of positions held by them and to be qualified for appointment to such respective positions in the City of Santa Ana.

(Ord. No. NS-1521, 3-17-80, approved at election 6-3-80)

Sec. 1014. - Reserved.

**Editor's note**— Res. No. 2022-044, adopted August 2, 2022 and approved at the election on November 8, 2022, repealed § 1014. Former § 1014 pertained to work stoppages and derived from Ord. No. NS-1405, adopted March 13, 1978, approved at election on June 6, 1978.

Sec. 1015. - Penalty for violation of article.

In addition to the penalties provided for in this charter for violations of its provisions, any person who by themselves or with others violates any of the provisions of this article shall upon conviction thereof be ineligible for a period of three (3) years for employment in the service of the City and shall immediately forfeit their office or position if they be an officer or employee of the City.

(Ord. No. NS-1405, 3-13-78, approved at election 6-6-78; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

## ARTICLE XI. - MISCELLANEOUS PROVISIONS RELATING TO OFFICERS AND EMPLOYEES

Sec. 1100. - Investigations by the city council or city manager.

The City Council, the City Manager, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any office, department, agency, or officer of the City and to make investigation as to City affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence.

Secs. 1101, 1102. - Reserved.

**Editor's note**— Ord. No. NS-1405, adopted March 13, 1978, approved at election June 6, 1978, repealed §§ 1101 and 1102 relative to publicity of records, illegal contracts and financial interest of officers and employees.

Sec. 1103. - Official bonds.

The City Council shall, by ordinance, fix the amounts and terms of the official bonds of all officers and employees of the City who are required by this charter or by ordinance to give such bonds. All bonds shall be executed by a responsible surety, shall be approved by the City Attorney as to form, and shall be filed with and remain in the keeping of the director of finance, provided that the bond of the director of finance shall be filed with and remain in the keeping of the City Clerk. The premium on any official bond furnished under the provisions of this section and executed by a corporate surety shall be paid by the City.

There shall be no personal liability upon, or any right to recover against, a superior officer, or their bond, for any wrongful act or omission of their subordinates, unless such superior officer was a party to, or conspired in, such wrongful act or omission.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 1104. - Administering oaths.

Each head of an office, department, or other agency and their deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to their department.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 1105. - Oath of office.

Each member of the City Council and of every board and commission and each officer and full-time employee shall, before entering upon the duties of their office, take and subscribe an oath or affirmation as prescribed by law and to be filed and kept in the office of the director of personnel.

(Ord. No. NS-1642, 8-2-82, approved at election 11-2-82; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

#### Sec. 1106. - Officers of the city.

The officers of the City shall be:

Members of the City Council,

City Manager,

City Attorney,

City Clerk,

Such other officers as shall be specified by ordinance.

(Ord. No. NS-1405, 3-13-78, approved at election 6-6-78; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 1107. - Reserved.

**Editor's note**— Res. No. 2018-047, § 4(Exh. A), adopted July 3, 2018 and approved at the election of November 6, 2018, repealed § 1107. Former § 1107 pertained to gifts to officers and employees prohibited and derived from Ord. No. NS-1405, adopted March 13, 1978, approved at election June 6, 1978.

## ARTICLE XII. - ELECTIONS

Sec. 1200. - Conducting.

The conduct of all municipal elections by the City Clerk shall be under the control of the City Council which shall, by ordinance or resolution, provide for the holding of all municipal elections.

(Ord. No. NS-2715, 7-3-06, approved at election 11-7-06; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 1201. - General municipal.

General municipal elections for the election of officers and for such other purposes as the City Council may prescribe shall be held in the City of Santa Ana on the first Tuesday after the first Monday in November in each even-numbered year. However, in the event the state legislature hereafter prescribes a different day for holding of the statewide general election, general municipal elections shall be held upon such day as prescribed for the statewide general election.

(Ord. No. NS-1346, 1-25-77, approved at election 4-5-77; Ord. No. NS-1642, 8-2-82, approved at election 11-2-82)

Sec. 1202. - Special municipal.

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

Sec. 1203. - Procedures for holding.

Unless otherwise provided by ordinance, all elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended, for the holding of elections in general law cities, insofar as the same are not in conflict with this charter.

(Ord. No. NS-1346, 1-25-77, approved at election 4-5-77; Ord. No. NS-1405, 3-13-78, approved at election 6-6-78)

#### Sec. 1204. - Consolidated elections.

The City may consolidate its general municipal election with the election of any public district, county, or other political subdivision, including any elementary, unified, high school, or community college district, or community college district trustee area, which is included, all or part, within the boundaries of the City. Such consolidation shall be effected upon the order of the governing bodies or officer or officers calling the elections pursuant to the provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended.

(Ord. No. NS-1346, 1-25-77, approved at election 4-5-77)

#### Sec. 1205. - Initiative, referendum and recall.

The powers of the initiative and referendum and of the recall of elected municipal officers are hereby reserved to the electors of the City. Unless otherwise provided by ordinance, hereafter enacted, the provisions of the elections code of the State of California, as the same now exist or may hereafter be amended, governing the initiative, the referendum, and the recall of the municipal officers shall apply to use thereof in the City insofar as such provisions of the elections code are not in conflict with this charter.

#### Sec. 1206. - Campaign contribution limitation.

No person shall make, and no candidate for mayor or City Council or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that person to that candidate, including contributions or loans to all committees controlled by that candidate, to exceed one thousand dollars (\$1,000.00) in any election cycle; provided, however, that the City Council may, by ordinance, adjust such limit to reflect changes in the consumer price index; and provided further that nothing herein shall apply to a candidate's contribution of their personal funds to their own campaign contribution account. As used herein, "election cycle" means the period of time between the date of an election to the office of mayor or councilmember and the date of the next election to the same office.

(Ord. No. NS-2170, § 3, 7-20-92, approved at election 11-3-92; Res. No. 2022-044, 8-2-22, approved at the

election 11-8-22)

**Charter reference**— Disqualification due to campaign contributions, § 425.

**Cross reference**— Prohibited campaign contributions, § 2-107.

Sec. 1207. - Campaign committees and bank accounts.

A candidate for the office of mayor or City Council shall have no more than one campaign committee and one campaign contribution account out of which all expenditures for the purpose of seeking such office shall be made. The campaign contribution account shall be established and maintained as set forth in Section 85201 of the Government Code.

(Ord. No. NS-2170, § 3, 7-20-92, approved at election 11-3-92)

Sec. 1208. - Enforcement.

- (a) Any person who knowingly or willfully violates sections 1206 or 1207 of this charter is guilty of a misdemeanor.
- (b) Any resident of the City may bring an action, at a time during an election period or thereafter, in a court of competent jurisdiction to enjoin actual or threatened violations of, or to compel compliance with, or to obtain a judicial declaration regarding compliance with, section 1206 or 1207.
- (c) The City Attorney may maintain, in the name of the City, or a resident of the City may maintain, in their own name, a civil action to recover from a candidate or a committee controlled by a candidate any contributions received by such candidate or committee in excess of the contribution limitations established by section 1206. Any money recovered in any such action shall be deposited in the City's general fund.
- (d) The City may contract with a State or County entity to enforce the provisions of this section.

(Ord. No. NS-2170, § 3, 7-20-92, approved at election 11-3-92; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

## ARTICLE XIII. - FRANCHISES

Sec. 1300. - Granting authority.

The term "the streets of the City" as used in this article shall include streets, ways, alleys, avenues, highways, boulevards, concourses, driveways, bridges, parks, parkways, and public grounds or waters

within or belonging to the City.

Subject to the provisions of this charter, the City Council shall have the power in behalf of the City to grant franchises or rights or make contracts providing for the furnishing of the City and its inhabitants with transportation, communications, terminal facilities, water, light, heat, power, refrigeration and storage, or any other public utility or service, or using the streets of the City for the operation of plants, works, or equipment for the furnishing thereof, or traversing any portion of the streets of the City for the transmitting or conveying of any such service elsewhere.

The City Council may grant a franchise to any person, firm, or corporation, whether operating under an existing franchise or not, and may prescribe the terms and conditions of any such grant. The City Council may also provide, by procedural ordinance, the method of procedure and additional terms and conditions for making such grants, subject to the provisions of this charter.

No grant of any franchise may be transferred or assigned by the grantee except by consent in writing of the City Council and unless the transferee or assignee thereof shall covenant and agree to perform and be bound by each and all of the terms and conditions imposed in the grant or by procedural ordinance and by this charter.

The City may issue permits for the construction of spur or side tracks in and over the streets of the City and the running of cars thereon for the purpose of connecting warehouses, factories, or other business industries and enterprises with any line of railroad within the City, upon such terms and subject to such regulations and conditions as shall be prescribed from time to time by ordinance. Such tracks shall be used for the transportation of freight only and shall not be used as a main line or part thereof. Such tracks must be laid and operated in such manner and under such restrictions as not to interfere with the use of the streets of the City by the public. All such permits shall be revocable at the pleasure of the City Council.

#### Sec. 1301. - Terms of franchises.

Every franchise shall state the term for which it is granted, which, unless it be indeterminate as provided for herein, shall not exceed twenty-five (25) years.

A franchise grant may be indeterminate, that is to say, it may provide that it shall endure in full force and effect until the same, with the consent of the public utilities commission or its successors of the State of California, or the interstate commerce commission as the case may be, shall be voluntarily surrendered or abandoned by its possessors, or until the State of California, or some municipal or public corporation, thereunto duly authorized by law, shall purchase by voluntary agreement or shall condemn and take, under the power of eminent domain, all property actually used and useful in the exercise of such franchise and situate within the territorial limits of the state, municipal, or public corporation

purchasing or condemning such property, or until the franchise shall be forfeited for noncompliance with its terms by the possessor thereof.

Sec. 1302. - Grants to be in lieu of all other franchises.

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

Any franchise granted hereunder shall not become effective until written acceptance thereof shall have been filed by the grantee thereof with the City Clerk. Such acceptance shall be filed within thirty (30) days after the adoption of the ordinance granting the franchise, or any extension thereof granted by the City Council, and when so filed, such acceptance shall constitute a continuing agreement of such grantee that if and when the City shall thereafter annex, or consolidate with, additional territory, any and all franchises, rights, and privileges owned by the grantee therein, except a franchise derived under said constitutional provision, shall likewise be deemed to be abandoned within the limits of such territory.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 1303. - Resolution of intention, notice and public hearing.

Before granting any franchise, the City Council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise, and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour, and place when and where any persons having any interest therein, or any objection to the granting thereof, may appear before the City Council and be heard thereon. The City Council shall direct the City Clerk to publish said resolution at least once within fifteen (15) days of the passage thereof, in the official newspaper. The time fixed for such hearing shall not be less than twenty (20) nor more than sixty (60) days after the passage of said resolution. At the time set for the hearing, the City Council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter, it may grant, or deny, the franchise, subject to the right of referendum of the people.

(Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

Sec. 1304. - 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 the grantee's plants, works, or equipment;
- (b) Pay to the City on demand the cost of all repairs to the public property made necessary by any of the operations of the grantee under such franchise;
- (c) Indemnify and hold harmless the City and its officers from any and all liability for damages proximately resulting from any operations under such franchise;
- (d) Remove and relocate without expense to the City any facilities installed, used, and maintained under the franchise if and when made necessary by any lawful change of grade, alignment, or width of any public street, way, alley, or place that is not a freeway to which all rights of access have been acquired by the State of California, including the construction of any subway or viaduct, or if the public health, comfort, welfare, convenience, or safety so demands;
- (e) Pay to the City during the life of the franchise a percentage, to be specified in the grant, of the gross annual receipts of the grantee within the limits of the City, or such other compensation as the City Council may prescribe in the grant.

Sec. 1305. - Exercise of privilege 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.

Sec. 1306. - Effect on eminent domain.

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

Sec. 1307. - City-owned utilities.

In the event that any public utility shall be taken over by the City, by purchase or through the exercise



of the right of eminent domain, the franchise shall have no value.

No public utility owned by the City shall be sold, leased, or otherwise transferred unless authorized by the affirmative votes of two-thirds ( $\frac{2}{3}$ ) of the electors voting on such proposition at a general or special election at which such proposition is submitted.

#### ARTICLE XIV. - RETIREMENT

##### Sec. 1400. - Employees' retirement system.

- (a) *Duty to provide retirement system.* Except as hereinafter otherwise provided, the council shall provide, by ordinance or ordinances, for the creation, establishment and maintenance of a retirement plan or plans for all officers and employees of the City. Such plan or plans need not be the same for all officers and employees. Subject to other provisions of this article, the council may at any time, or from time to time, amend or otherwise change any retirement plan or plans or adopt or establish a new or different plan or plans for all or any officers or employees.
- (b) *Authority to join other systems.* Subject to other provisions of this article, the City, by and through its council, is hereby empowered, but not required, to join or continue as a contracting agency in any retirement or pension system or systems existing or hereafter created under the laws of the State of California or of the United States of America to which municipalities and municipal officers or employees are eligible for membership.
- (c) *Continuance of existing retirement system.* Until otherwise provided by ordinance, the City shall continue to participate in the Public Employees' Retirement System of the State of California, as the same now exists or may hereafter be amended. The City Council may not terminate any such contract with the Public Employees' Retirement System of the State of California, and may not amend any such contract in a manner which would decrease or eliminate any benefit accruing to persons employed by the City at the time of such contract termination or amendment, unless such amendment shall substitute a retirement system or systems providing equal or greater benefits for said persons.
- (d) *Exclusions.* The council in its discretion may exclude all or any of the following persons from any or all retirement plans, to wit:
  - Persons mentioned in subsections (a)(1), (5)—(10) of Charter Section 1002;
  - Persons in City service primarily for training, study or educational purposes;
  - Persons employed or paid on a part-time, per diem, per hour or any basis other than a

monthly basis.

(Prop. of 2-4-63, approved on 4-2-63; Res. No. 63-027; Ord. No. NS-1405, 3-13-78, approved at election 6-6-78; Res. No. 2022-044, 8-2-22, approved at the election 11-8-22)

## ARTICLE XV. - LEGAL PROVISIONS

### Sec. 1500. - Amendments to charter.

Amendments to this charter shall be proposed and submitted to the electors of the City in the manner provided by the Constitution of the State of California.

### Sec. 1501. - Violations.

The violation of any provision of this charter shall be deemed a misdemeanor and be punishable upon conviction in the same manner as provided in the Penal Code of the State of California as the same now reads or as hereafter amended.

(Ord. No. NS-2074, § 9, 8-6-90, approved at election 11-6-90)

### Sec. 1502. - Definitions.

Unless the provisions or the context otherwise requires, as used in this charter:

- (a) Whenever the term "City" occurs in this charter, it means the City of Santa Ana, and whenever the term office, department, agency, board, commission, officer, or employee, as the case may be, is used, it means an office, department, agency, board, commission, officer, or employee of the City of Santa Ana;
- (b) "Shall" is mandatory, and "may" is permissive;
- (c) "County" is the County of Orange;
- (d) "State" is the State of California.

### Sec. 1503. - Separability.

If any section or part of section of this charter, or the application thereof to any person or circumstance, shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter, or the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding will directly apply, or the

application of such provision to other persons or circumstances.

## CHARTER COMPARATIVE TABLE

(Commencing with Supplement No. 8)

Ordinance Number	Adoption Date	Approved at Election	Disposition
NS-1028	8-18-70	11- 3-70	904
NS-1316	8-24-76	11- 2-76	101.1— 101.3,
NS-1346	1-25-77	4- 5-77	400, 401.1,
			403, 1201,
			1203, 1204
NS-1405	3-13-78	6- 6-78	200, 409,
			410, 413,
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