

Article CHA

THE CHARTER OF THE CITY OF SANTA MONICA

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Preamble

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

ARTICLE I
NAME OF CITY

100. Name.

The municipal corporation now existing and known as the “CITY OF SANTA MONICA” shall remain and continue to exist a body politic and corporate, as at present, in name, in fact and, in law.

ARTICLE II
BOUNDARIES

200. Boundaries.

The territory of the City shall be that contained within its present boundaries as now established, with the power and authority to change the same in the manner provided by law.

ARTICLE III SUCCESSION

300. Rights and liabilities.

The City of Santa Monica, as successor in interest of the municipal corporation of the same name, heretofore created and existing, shall own, possess, control, and in every way succeed to and become the owner of rights and of property of every kind and nature by said existing municipal corporation owned, possessed or controlled and shall be subject to all the debts, obligations, liabilities and duties of said existing corporation.

301. Ordinances continued in effect.

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effect, and not in conflict or inconsistent herewith, are hereby continued in force until the same shall have been duly repealed, amended, changed or superseded by proper authority.

302. Rights of officers and employees preserved.

Nothing in this Charter contained, except as specifically provided, shall affect or impair the civil service, pension and retirement rights or privileges of officers or employees of the City, or of any office, department or agency thereof, existing at the time this Charter takes effect.

303. Continuance of present officers and employees.

The present officers and employees shall, without interruption, continue to perform the duties of their respective offices and employments for the compensation provided by the preceding Charter, of existing ordinances, resolutions, rules or laws, until the appointment and qualification of their successors under this Charter and subject to such removal and control as is herein provided.

304. Continuance of contracts and public improvements.

All contracts entered into by the City, or for its benefit, prior to the taking effect of this Charter, shall continue in full force and effect. Public improvements for which proceedings have been instituted under laws or Charter provisions existing at the time this Charter takes effect, in the discretion of the City Council, may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws and Charter provisions or may be continued or perfected hereunder.

305. Pending actions and proceedings.

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

306. Effective date of Charter.

For the purpose of nominating and electing members of the City Council and Board of Education, this

Charter shall take effect from the time of its approval by the Legislature. For all other purposes it shall take effect on the Tuesday next succeeding the date of the election of the first City Council hereunder at eight (8:00) o'clock P.M. The members of the City Council and of the Board of Education in office at the time of the approval of this Charter by the Legislature, shall continue to hold office and to discharge the duties thereof until the election and qualification of their successors, respectively, under this Charter.

ARTICLE IV
POWERS OF CITY

400. Powers of 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. It shall also have the power to exercise any and all rights, powers and privileges heretofore or hereafter established, granted or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise under the Constitution of the State of California.

The enumeration in this Charter of any particular power shall not be held to be exclusive of or any limitation upon, this general grant of power.

401. Procedures.

The City shall have the power and may act pursuant to procedure established by any law of the State, unless a different procedure is established by ordinance.

ARTICLE V
FORM OF GOVERNMENT

500. Form of government.

The municipal government provided by this Charter shall be known as the “Council-Manager” form of government.

ARTICLE VI
THE CITY COUNCIL

600. Number, term, and term limits.

The City Council shall consist of seven members elected from the City at large, at the times and in the manner in this Charter provided, and who shall serve for a term of four years.

The term of all members shall commence on the first Tuesday following such election and each member shall serve until the member's successor is elected and qualified. Any ties in voting shall be settled by the casting of lots.

No person shall serve more than three terms as a member of the City Council whether consecutive or not. For purposes of this section, a partial term of more than two years shall count as one term.

These term limits shall apply to appointed terms as well as elected terms.

These term limits shall apply prospectively only to those terms of office that begin on or after the election at which this Charter amendment is adopted.

Note: Res. 6872CCS, adopted 6/26/84, amends Charter Section 1400 regarding election dates.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS; amended at General Municipal Election, November 6, 2018, certified by Res. No. 11154CCS)

601. Eligibility.

No person shall be eligible to hold office as a member of the City Council unless he or she is a registered voter and otherwise qualified to vote for the office at the time that nomination papers are issued to him or her or at the time of his or her appointment to the office.

Note: Residency requirement is 30 days based on Johnson vs. Hamilton, California Supreme Court, October 27, 1975.

(Amended at General Municipal Election, November 7, 2006, certified by Res. No. 10187CCS)

602. Compensation.

The members of the City Council shall receive no compensation for their services, except as provided for below:

- (a) The members of the City Council shall receive compensation in the amount of \$750.00 each month. The Mayor shall receive compensation in the amount of \$900.00 per month;
- (b) Notwithstanding the amount provided for in paragraph (a) of this section, the compensation received by the members of the City Council and Mayor shall be automatically increased effective July 1 of each year, in an amount equal to the increase in the Consumer Price Index (CPI) for the twelve month period immediately preceding July 1. As used in this section, the CPI shall be the index for All Urban Consumers for the Los Angeles, Long Beach, Anaheim Metropolitan Area (All items), provided by the United States Bureau of Labor Statistics or other comparable index as may be developed to take its place;
- (c) The members of the City Council and Mayor shall receive medical, dental, health, and other benefits of employment paid for by the City, provided these benefits are routinely and customarily available and paid for by the City to City miscellaneous employees. The members of the City Council and

Mayor shall receive reimbursement and allowance for travel and for other expenses related to their fulfilling their official duties and the holding of public office upon the same terms and conditions applicable to City departmental directors. The sums received pursuant to this paragraph shall not be included for purposes of determining monthly compensation under paragraph (a) of this section.

(Amended by Res. No. 1354CCS, adopted 12/14/54; amended at General Municipal Election, November 3, 1998)

603. Vacancies.

A vacancy in the City Council from whatever cause arising, shall be filled by appointment by the City Council, such appointee to hold office until the first Tuesday following the next general municipal election and until the appointee's successor is elected and qualified. At the next general municipal election following any vacancy, a Councilmember shall be elected to serve for the remainder of any unexpired term.

If a member of the City Council is absent from all regular meetings of the City Council for a period of sixty days consecutively from and after the last regular City Council meeting attending by such member, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be an elector of the City, the City Councilmember's office shall become vacant and shall be so declared by the City Council.

In the event the City Council shall fail to fill a vacancy by appointment within thirty days after such office shall have been declared vacant, it shall forthwith cause an election to be held to fill such vacancy.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

604. Presiding officer. Mayor.

(a) On the first Tuesday following any general or special municipal election at which City Councilmembers are elected, the City Council shall meet and shall elect one of its members as its presiding officer, who shall have the title of Mayor. The Mayor shall have a voice and vote in all its proceedings. The Mayor shall be the official head of the City for all ceremonial purposes. The Mayor shall perform such other duties as may be prescribed by this Charter or as may be imposed by the City Council consistent with the Mayor's office. The Mayor shall serve in such capacity at the pleasure of The City Council.

(b) Mayor Pro Tempore. The City Council shall also designate one of its members as Mayor Pro Tempore. The Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

605. Power vested in the City Council.

All powers of the City shall be vested in the City Council, subject to the provisions of this Charter and to the Constitution of the State of California.

606. Tax limits.

Exclusive of special levies permitted by this Charter, the City Council shall not levy a property tax in excess of One (\$1.00) Dollar on each One Hundred (\$100.00) Dollars of the assessed value of taxable property in the City for municipal purposes, unless authorized by the affirmative votes of two-thirds of the electors voting on the proposition at any election at which the question of such additional levy for municipal purposes is submitted to the electors.

There shall be levied and collected at the time and in the same manner as other property taxes for municipal purposes are levied and collected, as additional taxes, if no other provision for payment thereof is made:

- (a) A tax sufficient to meet all liabilities of the City for principal and interest of all bonds or judgments due and unpaid, or to become due during the ensuing fiscal year; and
- (b) A tax sufficient to meet all obligations of the City to the State Employees Retirement System, or other system for the retirement of City employees, due and unpaid or to become due during the ensuing fiscal year.

Special levies, in addition to the above, may be made annually, based on approved budget requirements, for the following specific purposes: parks, recreation and music, City planning, libraries, schools, advertising, and emergency care and relief of needy persons. The proceeds of any such special levy shall be used for no other purpose than that specified.

607. Bonded debt limit.

The bonded indebtedness of the City may not exceed the sum of ten (10%) percent of the total assessed valuation of property within the City, exclusive of any indebtedness that has been or may hereafter be incurred for the purpose of acquiring or establishing a system of waterworks for the supplying of water, or for the purpose of constructing sewers or drains in the City, for which purposes a further indebtedness may be incurred by the issuance of bonds, subject only to the provisions of the State Constitution and of this Charter.

608. Public contracts.

The City Council shall, by ordinance, adopt procedures and requirements for the purchase of supplies and equipment; for the provision of personal services, including without limitation, professional consultant agreements in excess of \$50,000; and for the award of bids for public works projects. Such an ordinance should preserve public confidence in the integrity and openness of the City contracting process, protect public funds, and insure that the City obtains materials or service of appropriate quality. To the extent permitted by law, the City Council shall adopt procedures which encourage the award of City contracts to disadvantaged or minority persons.

Pursuant to an ordinance duly adopted by the City Council, the personal services agreements subject to the dollar requirements of this Section may be adjusted by an amount no greater than the cumulative percentage increase in the Consumer Price Index as measured from the operative date of the last such adjustment, provided that such adjustments shall occur only once in any five year period. The Consumer Price Index (CPI) shall be the CPI for All Urban Consumers for the Los Angeles, Long Beach, Anaheim Metropolitan Area (All Items), provided by the United States Bureau of Labor Statistics or other comparable index determined to be appropriate by the City Council.

(Amended by Res. No. 1354CCS, adopted 12/14/54; General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

609. Publishing of legal notices.

In the event that there is more than one newspaper of general circulation published in the City, the City Council annually, prior to the beginning of each fiscal year, shall publish a notice inviting bids and contract for the publication of all legal notices or other matter required to be published, in a newspaper of general circulation published and circulated in said City, during the ensuing fiscal year. In the event there is only one newspaper of general circulation published in the City, then the City Council shall have the power to

contract with such newspaper for the printing and publishing of such legal notices without being required to advertise for bids therefor. The newspaper with which any such contract is made shall be designated the official newspaper for the publication of such notices or other matter for the period of such contract.

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

In the event there is no official newspaper designated by the City Council, then all legal notices or other matter may be published by posting copies thereof in at least three public places in the City.

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

610. Interference in administrative service.

Neither the City Council nor any of its members shall order or request directly or indirectly the appointment of any person to an office or employment or the removal of any person therefrom, by the City Manager, or by any of the department heads in the administrative service of the City. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service under the City Manager solely through the City Manager and neither the City Council nor any member shall give orders to any subordinates of the City Manager, either publicly or privately.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

611. Regular meetings.

The City Council shall hold regular meetings at least twice each month, at such times as it shall fix by ordinance or resolution and may adjourn or readjourn any regular meeting to a date certain, which shall be specified in the order of adjournment and when so adjourned, each adjourned meeting shall be a regular meeting for all purposes.

612. Special and emergency meetings.

The City Council may call special or emergency meetings at locations, upon notice, and in accordance with procedures as permitted by law.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

613. Open meetings.

Unless otherwise permitted by federal or state law, City Council meetings shall be open and accessible to all members of the public. The City Council may hold its meetings in the City Council Chambers of the City Hall or at such other locations as the City Council may by ordinance or resolution designate.

The City Council shall by ordinance establish procedures for informing the public of its meetings. The ordinance shall ensure that, to the maximum extent feasible, the public is provided with timely and adequate notice of City Council agenda and that the public is provided with the opportunity to comment on proposed City Council actions.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

614. Quorum. Proceedings.

Four members of the City Council shall constitute a quorum to do business, but a less number may adjourn

from time to time. The City Council shall judge the qualifications of its members as set forth by the Charter and shall judge all election returns. Each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council.

The City Council may establish rules for the conduct of its proceedings and punish any member or other person for disorderly conduct at any meetings. It shall have the power and authority to compel the attendance of witnesses, to examine them under oath, and to compel the production of evidence before it. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor.

The City Council shall cause the City Clerk to keep a correct record of all its proceedings, and at the demand of any member or upon the adoption of any ordinance, resolution, or order for the payment of money, the City Clerk shall call the roll and shall cause the ayes and noes taken on any question, to be entered in the minutes of the meeting.

615. Adoption of ordinances and resolutions.

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

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

The affirmative votes of at least four members of the City Council shall be required for the enactment of any ordinance or resolution, or for the making or approving of any order for the payment of money.

The affirmative votes of at least five members of the City Council shall be required for the adoption of an amendment to (a) the Land Use and Circulation Element (LUCE) or (b) the Downtown Community Plan (DCP), where that amendment would increase the maximum height limit or floor area ratio specified in any land use designation in the LUCE or the DCP, except that this requirement shall not apply to 100% Affordable Housing Projects as defined in Section 9.52.020 of the Zoning Ordinance and development projects on property owned by the Santa Monica-Malibu Unified School District or successor school district in the City of Santa Monica. A vote on an amendment covered by this provision may only be taken when all members of the City Council eligible to vote are present. This requirement shall terminate on November 6, 2028.

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

(Amended at General Municipal Election, November 6, 2018, certified by Res. No. 11154CCS; amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

616. Ordinances. Enactments.

In addition to such acts of the City Council as are required by statute or by this Charter to be by ordinance, every act of the City Council establishing a fine or other penalty or granting a franchise shall be by ordinance.

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

617. Ordinances. Publication.

The City Clerk shall cause each ordinance to be published at least once in the official newspaper within fifteen days after its adoption. The City Clerk may satisfy the requirement to publish each ordinance by causing a fair and impartial summary of the ordinance to be published within fifteen days after the ordinance's adoption by posting a copy of the full ordinance in the office of the City Clerk. The City Attorney shall prepare the fair and impartial summary of each ordinance which is to be published by summary.

(Adopted at Municipal Election, 11/8/94)

618. Codification of ordinances.

Any and all ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed, and arranged as a comprehensive ordinance code, and such code may be adopted by reference by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed, for use and examination by the public, in the office of the City Clerk, prior to the adoption thereof. 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 hereinabove provided.

619. Ordinance. When effective.

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

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

620. Ordinances. Violation. Penalty.

A violation of any ordinance of the City shall constitute a misdemeanor and may be prosecuted in the name of the people of the State of California or may be redressed by civil action. The maximum fine or penalty for any violation of a City ordinance shall be the sum of Five Hundred (\$500.00) Dollars, or a term of imprisonment for a period not exceeding six months, or both such fine and imprisonment. The City Council

may provide by ordinance that persons imprisoned in the City Jail for violation of law or ordinance may be compelled to labor on public works. This Section does not limit the City's power to establish civil penalties or fines by ordinance.

(Adopted at General Municipal Election, 11/7/00, Measure MM)

621. Ordinances. Amendments.

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

630. Inclusionary housing.

The City Council by ordinance shall at all times require that not less than thirty percent (30%) of all multifamily-residential housing newly constructed in the City on an annual basis is permanently affordable to and occupied by low and moderate income households. For purposes of this Section, "low income household" means a household with an income not exceeding sixty percent (60%) of the Los Angeles County median income, adjusted by family size, as published from time to time by the United States Department of Housing and Urban Development, and "moderate income household" means a household with an income not exceeding one hundred percent (100%) of the Los Angeles County median income, adjusted by family size, as published from time to time by the United States Department of Housing and Urban Development. At least fifty percent (50%) of the newly constructed units required to be permanently affordable by this Section shall be affordable to and occupied by low income households.

(Adopted at Municipal Election, 11/6/90, certified by Res. No. 8121CCS)

640. Regulation, management and closure of Santa Monica Airport and future use of Airport land.

Subject only to limitations imposed by law, the City Council shall have full authority, without voter approval, to regulate use of the Santa Monica Airport, manage Airport leaseholds, condition leases, and permanently close all or part of the Airport to aviation use.

If all or part of the Airport land is permanently closed to aviation use, no new development of that land shall be allowed until the voters have approved limits on the uses and development that may occur on the land. However, this section shall not prohibit the City Council from approving the following on Airport land that has been permanently closed to aviation use: the development of parks, public open spaces, and public recreational facilities; and the maintenance and replacement of existing cultural, arts and education uses.

(Adopted at Municipal Election 11/4/14, certified by Res. No. 10850CCS)

ARTICLE VII
THE APPOINTIVE OFFICERS

700. Officers to be appointed by the City Council.

The City Council shall appoint the City Manager and the City Attorney, which positions shall not be in the Classified Service and who may be removed by motion of the City Council adopted by at least five affirmative votes.

It shall also appoint the City Clerk, which position shall be in the Classified Service. The City Council in its discretion shall establish by resolution the salary and such other terms of employment of the City Manager, City Attorney and City Clerk as the City Council determines to be appropriate.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS; amended at General Municipal Election, November 7, 2006, certified by Res. No. 10187CCS)

701. Officers to be appointed by the City Manager.

The City Manager shall appoint, and may remove, all directors of City departments under the City Manager's control, including the Chief of Police and the Chief of the Fire Department, which positions shall not be in the classified service or considered to have civil service status.

The City Manager shall consult with boards and commissions as appropriate concerning the appointment of a department director.

(Amended by Res. No. 675CCS, adopted 4/17/51; General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS; amended at General Municipal Election, November 7, 2006, certified by Res. No. 10187CCS)

702. Other appointive officers.

The City Council may provide by ordinance for the creation, continuation, reorganization or abolishment of any City departments under the control of the City Manager, regardless of whether the department is referred to in the City Charter, upon recommendation of the City Manager. Each department so created, reorganized or continued shall be headed by an officer, as department director, who shall be appointed by the City Manager. The positions of such department directors shall not be included in the Classified Service.

(Amended at General Municipal Election, November 7, 2006, certified by Res. No. 10187CCS)

703. City Manager. Appointment.

The City Manager shall be chosen on the basis of his or her executive and administrative qualifications. The City Manager shall be paid a salary commensurate with the City Manager's responsibilities as chief administrative officer of the City. No City Councilmember shall receive such appointment during the term for which the Councilmember shall have been elected, nor within two years after the expiration of the Councilmember's term.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

704. City Manager. Powers and duties.

The City Manager shall be the chief executive officer and the head of the administrative branch of the City government. The City Manager shall be responsible to the City Council for the proper administration of all affairs of the City, and shall have power and be required to:

- (a) Appoint and remove, subject to the Civil Service provisions of this Charter, all department heads of the City except as otherwise provided by this Charter, and pass upon and approve all proposed appointments and removals of subordinate employees by department heads;
- (b) Prepare the budget annually and submit it to the City Council and be responsible for its administration after adoption;
- (c) Prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;
- (d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable; and
- (e) Perform such other duties as may be prescribed by this Charter or required of the City Manager by the City Council, not inconsistent with this Charter.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

705. City Manager. 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.

706. Manager Pro Tempore.

The City Manager shall appoint, subject to the approval of the City Council, one of the other officers of the City to serve as Manager Pro Tempore during any temporary absence or disability of the City Manager.

Assistant City Manager. In the event that the City Council provides for the appointment of an Assistant City Manager, the Assistant City Manager shall be appointed by, and be under the supervision and direction of, the City Manager. The position of Assistant City Manager shall not be in the Classified Service.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

707. City Clerk. Powers and duties.

The City Clerk shall have power and be required to:

- (a) Attend all meetings of the City Council and record and maintain a full and true record of all of the proceedings of the City Council in books that shall bear appropriate titles and be devoted to such purposes. Such books shall have a general index sufficiently comprehensive to enable a person readily to ascertain matters contained therein;
- (b) Maintain ordinance and resolution books into which shall be recorded all City ordinances and resolutions with the certificate of the Clerk annexed to each thereof stating the same to be a correct copy, giving the number of said ordinance or resolution and, as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter.
- (c) Be the custodian of the seal of the City;
- (d) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of its official records;
- (e) Appoint and remove all assistants and other persons as are authorized to be employed in the office by

the City Council, with the position of the Assistant City Clerk not being in the Classified Service of the City, unless the City Council by resolution determines otherwise. All other positions in the City Clerk's office shall not be in the Classified Service of the City unless the City Council by resolution determines otherwise; and

- (f) Perform such other tasks as the City Council shall direct by ordinance or resolution.
(Amended at General Municipal Election, November 7, 2006, certified by Res. No. 10187CCS)

708. City Attorney. Powers and duties.

The position of City Attorney shall be a full time position and the appointee shall not be entitled to engage in private practice. To become eligible for appointment as City Attorney, the appointee shall have been admitted to practice as an attorney at law in all of the state courts of California and shall have been engaged in the practice of law for at least five years immediately prior to his or her appointment. The City Attorney shall have 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) Represent and appear for the City and 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 his or her official capacity, is concerned or is a party, but 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;
- (c) Attend all meetings of the City Council and give advice or opinions in writing whenever requested to do so by the City Council, or by any of the boards or officers of the City;
- (d) Approve the form of all bonds given to and all contracts made by the City, endorsing approval thereon in writing;
- (e) Prepare any and all proposed ordinances or resolutions for the City, and amendments thereof;
- (f) Appoint and remove such assistants and clerical and stenographic help as are authorized to be employed in the City Attorney's Office by the City Council, such persons not to be in the Classified Service of the City;
- (g) Prosecute on behalf of the people all criminal cases for violation of this Charter and of City ordinances, and all misdemeanor offenses arising upon violation of the laws of the State; and
- (h) On vacating the office, surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

709. City Controller. Powers and duties.

The City Controller shall have charge of the administration of the financial affairs of the City and shall have the power and be required to:

- (a) Compile the budget expense and capital estimates for the City Manager;
- (b) Supervise and be responsible for the disbursement of all monies and have control over all expenditures to insure that budget appropriations are not exceeded;

- (c) Maintain a general accounting system for the City government and each of its offices, departments and agencies; keep books for and prescribe the financial forms to be used by each office, department and agency;
- (d) Require and supervise the keeping of, current inventories of all property, real and personal, by the respective officers in charge thereof and periodically to audit the same;
- (e) Submit to the City Council, through the City Manager, a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City; and, as of the end of each fiscal year, submit a complete financial statement and report; and
- (f) Audit and approve before payment all bills, invoices, payrolls, demands or charges against the City government and, with the advice of the City Attorney, determine the regularity, legality and correctness of such claims, demands or charges.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

710. Personnel Director. Powers and duties.

The Personnel Director shall have power and be required to:

- (a) Give wide publicity, through appropriate channels in each case, to all announcements of competitive examinations to the end of encouraging qualified persons to take such examinations;
- (b) Hold competitive examinations for all appointments in the Classified Service, restricting such examinations to persons reasonably qualified to perform the duties of the position;
- (c) Prepare and recommend to the Personnel Board and the City Council, Civil Service rules and regulations;
- (d) Make periodic studies of the classification plan based on the duties, authority, and responsibility of positions in the City service and make recommendations as to improvements therein;
- (e) Prepare and maintain a pay plan for the City service;
- (f) Develop and establish training and educational programs for persons in the City service; and
- (g) Investigate periodically the operation and effect of the personnel provisions of this Charter and the rules promulgated thereunder and report findings and recommendations to the City Manager and the Personnel Board.

(Added by Ord. No. 1051CCS, adopted 4/12/77)

711. City Treasurer. Powers and duties.

The City Treasurer shall be the custodian of all public funds belonging to or under control of the City, or of any office, department or agency thereof, and shall have power and be required to:

- (a) Receive and have custody of all moneys receivable by the City from any source;
- (b) Deposit all moneys received in such depositories as may be designated by resolution of the City Council or, if no resolution be adopted, by the City Manager, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.
- (c) Disburse moneys on demands properly audited in the manner provided for in this Charter; and

- (d) Prepare and submit to the City Controller monthly written reports of all receipts, disbursements and fund balances, copies of which reports shall be filed with the City Manager.

712. City Engineer. Powers and duties.

To be eligible for appointment as City Engineer, the appointee shall have had at least five years' practice as a Registered Civil Engineer in the State of California, or shall be a Registered Civil Engineer with at least five years' previous experience in municipal engineering.

The City Engineer shall have power and be required to:

- (a) Supervise and be responsible for all City engineering work;
- (b) Supervise and be responsible for the maintenance, properly indexed, of all maps, plans, profiles, thorough and correct field notes of all surveys, and other records and memoranda belonging to the City and pertaining to the office of City Engineer and the work thereof; and
- (c) On vacating the office, surrender to his or her successor all maps, plans, field notes and other records and memoranda pertaining to the City's affairs.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

713. Street Superintendent. Powers and duties.

The Street Superintendent shall have the general care and supervision of all City streets, sewers and drains and shall have power to and be required to:

- (a) Make frequent inspection of all streets, sewers and drains of the City;
- (b) Receive and investigate all complaints as to their condition and have charge of the enforcement of all laws and ordinances pertaining thereto; and
- (c) Inspect all streets, sewers and drains while the same are in the course of construction; inspect, approve or reject all materials used in such construction, whether done by contract or otherwise and, pending investigations when necessary, stop all work thereon.

714. Building Officer. Powers and duties.

The Building Officer shall have charge of the supervision and inspection of all building construction within the City and shall have power and be required to:

- (a) Examine building plans in order to determine conformity with State laws and ordinances and issue building permits in connection therewith; and
- (b) Enforce the laws and ordinances regulating the construction and maintenance of buildings and other structures.

715. Chief of Police. Powers and duties.

The Chief of Police shall have power and be required to:

- (a) Preserve the public peace;
- (b) Execute and return all process issued to him or her by legal authority; and

- (c) Exercise all the powers that are now or may hereafter be conferred upon sheriffs and other police officers by the laws of the State.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

716. Chief of the Fire Department. Powers and duties.

The Chief of the Fire Department shall have power and be required to:

- (a) Supervise all matters relating to the prevention and extinguishing of fires and the protection of all property impaired thereby; and
- (b) Make frequent inspection of all property within the City to enforce fire prevention regulations.

717. Repealed at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS.

718. Director of Cultural and Recreation Services. Powers and duties.

The Director of Cultural and Recreation Services shall have power and be required to:

- (a) Supervise and be responsible for the planning and preparation of a comprehensive City recreation program, with the aid, assistance, and subject to the approval, of the Recreation and Parks Commission; promote and stimulate public interest therein, and to these ends solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein; and

- (b) Actively supervise and be responsible for all City playgrounds and recreation facilities.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

719. Position Status - Designation by City Manager.

No person holding the position of City Controller, City Treasurer, City Engineer, Street Superintendent, Building Officer or Airport Director shall be considered a departmental director unless the City Manager designates the position in this manner and the position is so described in the City's organizational structure as approved by the City Council from time to time. In the discretion of the City Manager any person may simultaneously hold more than one position within City government.

(Added by General Municipal Election, November 7, 2006, certified by Res. No. 10187CCS)

ARTICLE VIII
THE MUNICIPAL COURT (Repealed)

ARTICLE IX
BOARD OF EDUCATION

900. Number and term.

The Board of Education shall consist of seven members elected from the School District at large, at the times and in the manner in this Charter provided, and who shall serve a term of four years.

The terms of all members shall commence on the first Tuesday following such election and each member shall serve until the member's successor is elected and qualified. Any ties in voting shall be settled by the casting of lots.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

901. Eligibility.

No person shall be eligible to hold office as a member of the Board of Education unless that person shall have been a qualified elector of the School District.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

902. Compensation.

Members of the Board of Education shall receive no compensation for their services as such.

903. Vacancies.

A vacancy in the Board of Education from whatever cause arising shall be filled by appointment by the Board of Education, such appointee to hold office until the first Tuesday following the next general municipal election, and until the appointee's successor is elected and qualified. At the next general municipal election following any vacancy, a new member shall be elected to serve for the remaining period of any unexpired term.

If a member of the Board of Education is absent from all regular meetings of the Board for a period of sixty days, consecutively, from and after the last regular Board meeting attended by such member, unless by permission of the Board expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be an elector of the School District, that member's office shall become vacant and shall be so declared by the Board of Education.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

904. Presiding officer.

On the first Tuesday following any election at which a Board member is elected, the Board shall meet and elect one of its members as the presiding officer to serve at the pleasure of the Board.

905. General municipal election date for Board of Education.

If Section 1400 of the City Charter is amended to change the date of the General Municipal Election from the second Tuesday in April of odd numbered years to the first Tuesday following the first Monday in November of even numbered years, such change shall be applicable to the election of members of the Board of Education under this Charter.

In the event such change becomes effective, for those elected members of the Board of Education whose terms are scheduled to expire in April 1985, those terms shall expire in November 1984. For those elected

officers whose terms are scheduled to expire in April 1987, those terms shall expire in November 1986. The terms of the officers elected in November of even numbered years shall begin on the first Tuesday following their election.

(Adopted at Special Municipal Election, 6/5/84; Res. No. 6872CCS, adopted 6/26/84)

ARTICLE X
APPOINTIVE BOARDS AND COMMISSIONS

1000. In general.

There shall be the following enumerated boards and commissions which shall have the powers and duties herein stated. In addition, the City Council may create by ordinance such additional advisory boards or commissions as in its judgment are required, and may grant to them such powers and duties as are consistent with the provisions of this Charter.

1001. Appropriations.

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

1002. Appointment. Term.

The members of each of such boards or commissions shall be appointed by the City Council. They shall be subject to removal by motion of the City Council adopted by at least five affirmative votes. The members thereof shall serve for a term of four years and until their respective successors are appointed and qualified.

The members first appointed to such boards and commissions shall so classify themselves by lot that the term of one of each of their number shall expire each succeeding July 1st. Where the total number of the members of a board or commission to be appointed exceeds four, the classification by lot shall provide for the pairing of terms to such an extent as is necessary in order that the terms of at least one and not more than two shall expire in each succeeding year.

Thereafter, any appointment to fill an unexpired term shall be for such unexpired period.

1003. Existing boards.

The respective terms of office of all members of the boards and commissions enumerated in this Article or in existence at the time this Charter takes effect shall terminate upon the effective date of this Charter and upon the appointment and qualification of their successors.

1004. Meetings. Chairperson.

As soon as practicable, following the first day of July of every year, each of such boards and commissions shall organize by electing one of its members to serve as presiding officer, at the pleasure of the board or commission.

Each board or commission shall hold a regular meeting at least once each month. The vote of a majority of the entire membership of such board or commission shall be necessary for it to take action.

The City Manager shall designate a City employee to act as secretary for each of such boards and commissions, who shall keep a record of its proceedings and transactions. Each board or commission may prescribe its own rules and regulations, which shall be consistent with this Charter and copies of which shall be kept on file in the office of the City Clerk where they shall be available for public inspection.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1005. Compensation.

The members of all boards and commissions, except the Planning Commission, shall serve without compensation for their services as such, but shall receive reimbursement for necessary traveling and other expenses when on official duty out of the City on order of the City Council.

Members of the Planning Commission shall receive reimbursement for necessary traveling and other expenses when on official duty out of the City on order of the City Council. In addition, pursuant to an ordinance duly adopted by the City Council, members of the Planning Commission may be compensated \$25.00 per meeting up to a maximum of \$100.00 per month. Such compensation shall be deemed reimbursement for out-of-pocket expenditures and costs imposed upon members in serving on the Planning Commission. Pursuant to an ordinance duly adopted by the City Council, the amount of compensation for Planning Commissioners may be increased by an amount equal to the increase in the Consumer Price Index for each calendar year from the operative date of the last adjustment of the compensation in effect when the ordinance is adopted. The Consumer Price Index (CPI) shall be the CPI for all Urban Consumers for the Los Angeles, Long Beach, Anaheim Metropolitan Area (All Items), provided by the United States Bureau of Labor Statistics or other comparable index determined to be appropriate by the City Council.

A member of a board or commission shall receive compensation or reimbursement pursuant to this section only if in accordance with otherwise applicable federal, state, and local laws.

(Amended at Special Municipal Election by Res. No. 7640CCS, June 7, 1988; amended at General Municipal Election, November 6, 2018, certified by Res. No. 11154CCS)

1006. Oaths. Affirmations.

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

1007. Planning Commission.

There shall be a City Planning Commission appointed by the City Council, and composed of seven members chosen from the residents of the City, none of whom shall hold any paid office or employment in the City government. The City Council may select one of its members to provide active liaison with the Commission, but the Councilmember chosen shall neither have a vote on the Commission nor be eligible to be its chairperson. The City Attorney, or his or her designee, shall be in attendance at all regular meetings of the Commission.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1008. Planning Commission. Powers and duties.

The Planning Commission shall have the power and be required to:

- (a) After a public hearing thereon, recommend to the City Council the adoption, amendment or repeal of the Master Plan, or any part thereof, for the physical development of the City;
- (b) Exercise such control over land subdivisions as is granted to it by the governing body of the City and by the laws of the State of California;
- (c) Make recommendations concerning proposed public works and for the clearance and rebuilding of blighted or substandard areas within the City; and

- (d) Exercise such functions with respect to zoning as may be prescribed by ordinance.

1009. Library Board.

There shall be a Library Board consisting of five members to be appointed by the City Council from the residents of the City and no member of said Board shall hold any paid office or employment in the City government.

(Amended at General Municipal Election, November 6, 2018, certified by Res. No. 11154CCS)

1010. Library Board. Powers and duties.

The Library Board shall have charge of the administration of the Santa Monica Public Library, and shall have power and be required to:

- (a) Make and enforce such by-laws, rules and regulations as may be necessary for the administration, government and protection of the City Library; and
- (b) Accept money, personal property or real estate donated to the Library Board of the Santa Monica Public Library or its predecessor.

(Amended at General Municipal Election, November 7, 2006, certified by Res. No. 10187CCS)

1011. Personnel Board.

There shall be a Personnel Board consisting of five members to be appointed by the City Council. To be eligible for appointment, each appointee shall be a natural person and who is either a resident of the City or is a resident of Los Angeles County that is employed full-time within the City, or owns real property in the City, or has been issued a business license by the City. An appointee shall not hold public office or employment nor be a candidate for any other public office or position and shall not be an officer of any local, state, or national partisan political club or organization.

The members of the Personnel Board shall serve for a term of four years and until their respective successors are appointed and qualified. The terms of such members shall be staggered so that the term of one thereof shall expire on each succeeding July 1st. Any vacancy on the Board shall be filled by the City Council for the unexpired term.

(Amended by Ord. No. 1051CCS, adopted April 12, 1977; amended at General Municipal Election, November 6, 2018, certified by Res. No. 11154CCS; Measure PB, November 8, 2022)

1012. Personnel Board. Powers and duties.

The Personnel Board shall have power and be required to:

- (a) After a public hearing thereon, recommend to the City Council the adoption, amendment or repeal of Civil Service rules and regulations;
- (b) Make any investigation which it may consider desirable concerning the administration of personnel in the municipal service and report its findings to the City Council, City Manager, and the Personnel Director;
- (c) Hear appeals of any officer or employee in the classified service who is suspended, demoted or removed, and report in writing to the appointing authority, City Manager, and City Council, its findings, conclusions, and recommendations; and
- (d) Act in an advisory capacity to the City Council and the Personnel Director on personnel

administration.

(Amended by Ord. No. 1051CCS, adopted 4/12/77; amended at General Municipal Election, November 7, 2006)

1013. Recreation and Parks Commission.

There shall be a Recreation and Parks Commission which shall be appointed by the City Council, and composed of seven members chosen from the residents of the City, none of whom shall hold any paid office or employment in the City Government.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS; amended at General Municipal Election, November 7, 2006, certified by Res. No. 10187CCS)

1014. Recreation and Parks Commission. Powers and duties.

The Recreation and Parks Commission shall have power and be required to:

- (a) Act in an advisory capacity to the City Council and Director of Community and Cultural Services in all matters pertaining to public recreation, including playgrounds, music and entertainment;
- (b) Consider the annual budget of the Community and Cultural Services Department during its preparation and make recommendations with respect thereto to the City Manager and the City Council; and
- (c) Assist in the planning of a recreation program for the inhabitants of the City, promote and stimulate public interest therein, and to that end, solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS; amended at General Municipal Election, November 7, 2006, certified by Res. No. 10187CCS)

1015. Airport Commission.

There shall be an Airport Commission consisting of five members, which shall be appointed by the City Council. They shall be residents of the City, none of whom shall hold any paid office or employment in the City government.

(Amended at General Municipal Election, November 6, 2018, certified by Res. No. 11154CCS)

1016. Airport Commission. Powers and duties.

The Airport Commission shall have power and be required to:

- (a) Act in an advisory capacity to the City Council in all matters pertaining to the Municipal Airport and to aviation matters generally to the extent that they affect the City; and
- (b) Consider and recommend City Council rules and regulations for the management and operation of the Municipal Airport.

(Amended at General Municipal Election, November 7, 2006, certified by Res. No. 10187CCS)

ARTICLE XI CIVIL SERVICE

1100. Merit principle.

Appointments and promotions in the administrative service of the City shall be made according to merit and fitness, to be ascertained, so far as practicable, by competitive examination.

1101. Fair employment practice.

All persons shall have equal opportunity to obtain and hold employment, and to advance therein, from or under any board, department, officer or agency in this Charter enumerated or provided for, without discrimination prohibited by state or federal law.

The right of Association and Petition. All employees of the City are to be free from interference, coercion, and restraint in associating themselves together for their mutual benefit in connection with their public employment. They may designate representatives of their own choosing and collectively or individually they may exercise their right of petition to the City Council or to the board, officer or commission having jurisdiction of such matters concerning wages, hours or conditions of employment. (Amended by Ord. No. 1051CCS, adopted April 12, 1977)

1102. Classified Service.

The Civil Service of the City shall be divided into the Unclassified and the Classified Service.

(a) The Unclassified Service shall comprise the following officers and positions:

1. Members of the City Council;
2. City Manager and the entire staff of the immediate office;
3. City Attorney and the entire staff;
4. Except for City Clerk, directors of all City departments, including the Chief of Police and the Chief of the Fire Department;
5. All members of Boards and Commissions; and
6. Persons employed to render professional, scientific, technical or expert service or temporary and unskilled labor of an occasional and exceptional character, or during times of emergency involving the public safety and so declared by the City Council, a person employed as a civil defense coordinator, or other coordinator appointed by reason of such emergency.
7. The position of Assistant City Clerk and all other positions within the department other than the position of City Clerk, unless the City Council by resolution determines otherwise.

(b) The Classified Service shall comprise all permanent positions not specifically included by this section in the Unclassified Service.

(Amended by Ord. No. 1051CCS, adopted April 12, 1977; amended at General Municipal Election, November 7, 2006, certified by Res. No. 10187CCS)

1103. Appointments from the Classified to the Unclassified Service.

In the event an officer or employee of the City holding a position in the Classified Service is appointed to a position in the Unclassified Service, and should subsequently be removed therefrom, the officer or employee shall revert to his or her former position in the Classified Service without loss of any rights or privileges and upon the same terms and conditions as if the officer or employee had remained in said position continuously. Should such person be eligible for retirement under the retirement system at the time of such subsequent removal, upon recommendation of the City Manager the officer or employee shall be retired in lieu of being restored to his or her former position. This section shall not apply to any person who is appointed to a position of departmental director.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS; amended at General Municipal Election, November 7, 2006, certified by Res. No. 10187CCS)

1104. Classification.

The Personnel Director shall make periodic studies of the classification and grading of positions and shall submit to the City Manager for approval any changes which the Director deems desirable to better classify positions, according to similarity of authority, duties and responsibilities.

Upon approval by the City Manager, such proposed changes shall be referred to the Personnel Board for the holding of a public hearing thereon at which officers and employees affected thereby and others interested and desiring to be heard shall be given an opportunity to do so. Upon approval by the Personnel Board, they shall be referred to the City Council for final consideration and adoption.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1105. Recruitment.

Examinations of applicants for positions in the Classified Service shall be practical and relate to those matters which fairly test the relative capacity of the applicants to discharge the duties of the position to which they seek to be appointed.

(Amended by Ord. No. 1051CCS, adopted April 12, 1977)

1106. Repealed by Ord. No. 1051CCS, adopted April 12, 1977.**1107. Performance evaluations.**

A system of compulsory, periodic, at least annually, efficiency ratings shall be established by the Personnel Director for all employees in the Classified Service, subject to the approval of the Personnel Board.

Special rating forms shall be designed for such classification as require them in order that the quality of performance, by each person rated, of the required functions of the positions may be accurately reflected through their use.

The City Manager or his or her designee shall be required to evaluate all departmental directors and subordinate officers. The departmental directors shall evaluate all officers and employees in their respective departments.

(Amended by Ord. No. 1051CCS, adopted April 12, 1977; amended at General Municipal Election, November 7, 2006, certified by Res. No. 10187CCS; amended by Ord. No. 2664CCS, 11/3/20)

1108. Repealed by Ord. No. 2664CCS, 11/3/20).

1109. Abolition of positions, layoffs.

Whenever it becomes necessary, in the opinion of the City Council, to abolish a position or to reduce the number of employees in a given class in the Classified Service and to discharge the employee or employees holding such position, or positions, the City Council may do so by stating in its proceedings its reasons therefor. Should such position, or positions, be reinstated or any position, or positions, involving substantially the same duties be created or filled within one year, the employee or employees discharged shall be appointed thereto.

All lay-offs shall be governed by seniority in service and shall be in the reverse order of employment. Re-employment shall be in the reverse order of the lay-offs.

1110. Suspension, demotion and dismissal.

The City Council and all officers having appointive authority are vested with the right to exercise the disciplinary and removal powers hereinafter provided.

An employee serving a probationary period in an office, position or employment, shall be subject to removal therefrom without right of appeal.

An employee, other than one serving a probationary period, holding a position in the Classified Service shall be subject 1) to suspension without pay for a period of not exceeding thirty (30) days in any one calendar year, 2) to demotion, or removal from his/her position for misconduct, incompetency, inefficiency or for failure to observe the rules or regulations of the department, office or agency, or to cooperate reasonably with his/her superior or fellow employees but subject to the right of the employee to appeal to the Personnel Board in the manner set forth herein.

Such employee shall be entitled to receive upon request, at the office of the board or officer taking such action, not later than the tenth calendar day thereafter, a written statement in which shall be stated separately each of the charges against the employee upon which such suspension, demotion or removal is based, a copy of which statement shall be furnished the Secretary of the Personnel Board. The employee shall have ten calendar days after the receipt of such statement of charges to file an answer to such charges should he or she desire to do so.

The answer shall be filed in the office of the City Clerk and with the Secretary of the Personnel Board. In the answer, such employee may request a hearing by the Personnel Board to review such suspension, demotion or removal which shall be called and held as provided for in the rules and regulations. Hearings may be conducted informally and the rules of evidence need not apply. The Personnel Board shall make written findings, conclusions and recommendations which shall state for each charge whether or not such charge is sustained and whether just cause exists for discipline.

If, with respect to a demotion, such Personnel Board shall conclude that such demotion or removal was without just cause, a recommendation by it of reinstatement without loss of pay shall be binding upon the appointing power who forthwith shall order such reinstatement and in such event the conclusions and recommendation of the Personnel Board shall be final and no appeal may be taken therefrom. If the Personnel Board concludes that such demotion or removal was with just cause, any recommendation by it shall be advisory only and shall not be binding on the appointing power and in such instance and in the instance of a suspension the decision of the appointing power shall be final and no appeal may be taken therefrom. Vacancies created under this section may be filled by the appointing authority by temporary appointment pending the completion of any proceedings taken hereunder.

A reduction in pay shall be a demotion, under this section, unless it is a part of a plan to reduce salaries and

wages in connection with a general economy or curtailment program. A failure to grant an increase to an individual at a time when increases are granted generally as a part of a plan to increase salaries and wages throughout the City service shall likewise be a demotion.

(Amended at General Municipal Election April 10, 1979, certified by Res. No. 5283CCS)

1111. Political activities.

All employees in the Classified Service shall be subject to current state and federal laws regulating political activities of said employees.

(Amended by Ord. No. 1051CCS, adopted April 12, 1977)

1112. Prohibitions.

No person shall wilfully or corruptly make any false statement, certificate, mark, rating or report in regard to any application, test, certification, or appointment held or made under the personnel provision of this Charter or in any manner commit or attempt any fraud preventing the impartial execution of such personnel provisions or rules and regulations made hereunder.

Any person who by himself or herself or with others wilfully or corruptly violates any of the provisions of this Article shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment. Any person convicted hereunder shall be ineligible for a period of five years for employment in the City service and shall, if the person is an officer or employee of the City, immediately forfeit his or her office or position.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1113. 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 county within this state, or with any state department or other agency for the preparation or conducting of competitive examinations for positions in the City service or for the performance of any other personnel administration service.

ARTICLE XII
RETIREMENT

1200. State system.

The “State Employees’ Retirement Act”, as it now exists or may hereafter be amended, is hereby adopted for the City of Santa Monica, and plenary authority and power are hereby vested in said City, its City Council and its several officers, agents and employees to do and perform any act, or exercise any authority granted, permitted, or required under the provisions of said Retirement Act, to enable said City to become or continue as a contracting City participating in the State Employees’ Retirement System; provided, however, that the City Council may terminate any contract entered into with the Board of Administration of the State Employees’ Retirement System only under authority granted by ordinance adopted by a majority vote of the electors of the City of Santa Monica, voting on such proposition at an election at which such proposal is presented.

ARTICLE XIII
GENERAL PROVISIONS RELATING TO OFFICERS AND EMPLOYEES

1300. Official and employee bonds.

The City Council shall establish by ordinance the amounts, terms and conditions of any official bonds required of officials or employees. Premiums on official bonds shall be paid by the City.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1301. Oath of office.

Each member of the City Council, of every board and commission and each officer provided for in this Charter before entering upon the discharge of the duties of his or her office, shall take, subscribe to and file with the City Clerk the following oath or affirmation:

“I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of (here inserting name of office) according to the best of my ability.”

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1302. Illegal contract, financial interest.

No member of the City Council shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the City is a party and neither shall any City official or employee be interested in any contract, sale or transaction to which the City is a party and which comes before said official or employee, or the department of the City with which said official or employee is connected, for official action. Any such contract or transaction in which there shall be such an interest shall become void at the election of the City, when so declared by resolution of the City Council.

No member of the City Council, City official or employee shall be deemed to be financially interested, within the meaning of the foregoing provisions, in any contract made with a corporation by reason of the ownership of stock in such corporation unless said stock owned by said person shall amount to at least three (3%) per cent of all the stock of such corporation issued and outstanding. No City Councilmember or member of any board or commission shall vote on or participate in any contract or transaction in which the Councilmember is directly or indirectly financially interested whether as a stockholder of the corporation or otherwise. If any officer of the City, during the term for which the officer was elected or appointed, shall so vote or participate, or shall be financially interested as aforesaid, upon conviction thereof, the official shall forfeit his or her office.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1303. Duties of officers and employees.

The City Council by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

1304. Administering oaths.

Each department head and the department head's deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to his or her department.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1305. Department heads. Appointment powers.

Each department head shall have the power to appoint and remove such deputies, assistants, subordinates and employees as are provided for by the City Council for that department, upon the following conditions:

- (a) Subject to the civil service provisions of this Charter and the rules and regulations promulgated hereunder; and
 - (b) Subject to approval of the City Manager being first had and received.
- (Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

ARTICLE XIV ELECTIONS

1400. General Municipal Elections.

General Municipal Elections for the filling of elective office shall be held in said City on the first Tuesday after the first Monday of November in each even numbered year commencing with the year 1984.

For those elected officers whose terms are to expire in April 1985, those terms shall expire in November 1984. For those elected officers whose terms are scheduled to expire in April 1987, those terms shall expire in November 1986. The elections to fill said office shall be held on the election days established pursuant to this Article. The terms of the officers elected in November of even numbered years shall begin on the first Tuesday following their elections.

The provisions of this Section shall take effect and control over any other provisions of this Charter in conflict with this Section.

(Amended at Special Municipal Election 6/5/84; Res. No. 6872CCS, adopted 6/26/84)

1401. Special municipal elections.

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

1402. First election under Charter.

A special municipal election shall be held for the election of the first members of the City Council under this Charter and for five members of the Board of Education, on the tenth Tuesday following the approval of this Charter by the Legislature.

1403. Procedure for holding elections.

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

1404. Initiative, referendum and recall.

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, referendum and the recall of 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.

ARTICLE XV
FISCAL ADMINISTRATION

1500. Fiscal year.

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

1501. Tax system.

Unless otherwise provided by ordinance, the City shall continue to use, for the purpose of ad valorem municipal taxation, the county system of assessment and tax collection, as such system is now in effect or may hereafter be amended and insofar as such provisions are not in conflict with this Charter.

If the City Council fails to fix the rate and levy taxes on or before August 31, in any year, the rate for the next preceding fiscal year shall thereupon be automatically adopted and a tax at such rate shall be deemed to have been levied on all taxable property in the City for the current fiscal year.

1502. Annual budget. Preparation by City Manager.

At such date as the City Manager shall determine, the City Manager, or an officer designated by the City Manager, shall obtain from each department head estimates of revenue and expenditures for the appropriate department, detailed in such manner as may be prescribed by the City Manager. In preparing the proposed budget, the City Manager shall review the estimates, shall hold conferences thereon with the department heads, respectively, and may revise the estimates as he or she may deem advisable.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1503. Budget. Submission to City Council.

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

Copies of the proposed budget shall be available for inspection by the public in the office of the City Clerk at least ten days prior to said hearing.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1504. Budget. Public hearing.

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

1505. Budget. Further consideration and adoption.

After the conclusion of the public hearing, the City Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable, and on or before June 30 it shall adopt the budget with revisions, if any, by the affirmative votes of at least four members. Upon final adoption, the budget shall be in effect for the ensuing fiscal year. A copy thereof, certified to by the City Clerk, shall be filed with the City Controller 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, departments and agencies of the City and civic organizations.

1506. 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, departments or agencies for the respective objects and purposes therein specified. 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 five members so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available revenues not included in the budget.

1507. Centralized purchasing.

Under the control and direction of the City Manager there shall be established a centralized purchasing system for all city departments and agencies. The City Manager shall recommend and the City Council shall consider and adopt by ordinance, rules and regulations governing the contracting for, purchasing, storing and distribution of all supplies, materials and equipment required by any office, department or agency of the City government.

The Purchasing Agent shall have power and shall be required to:

- (a) Establish and enforce specifications with respect to supplies, materials, and equipment required by the City government;
- (b) Supervise the inspection of all deliveries and determine conformance with specifications;
- (c) Have charge of such general storerooms and warehouses as are established by the City Council; and
- (d) Sell or transfer to or between offices, departments or agencies, surplus, obsolete, or unused supplies, materials or equipment.

1508. Competitive bidding.

Before making any purchase of, or contract for, supplies, materials or equipment, the purchasing agent shall give ample opportunity for competitive bidding, under such rules and regulations and with such exceptions as the City Council may prescribe by ordinance.

1509. Cash Liquidity Reserve.

The City Council shall maintain a Cash Liquidity Reserve Account in the General Fund for the purpose of assuring the payment of the operating expenses of the City on a cash basis. A sufficient reserve shall be built up in this fund from any available sources. Transfers may be made by the City Council from this account to any other fund of such sums as may be required for the purpose of placing such funds, as nearly as possible, on a cash basis.

All monies so transferred from the Cash Liquidity Reserve Account shall be returned thereto before the end of the fiscal year.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1510. Public service departments depreciation funds.

The City Council shall annually set aside from the income derived from its revenue producing public utilities, as a separate depreciation fund for each of said public utilities, a sum which, according to the estimate of the City Manager, and approved by the City Council, shall be sufficient to meet the normal depreciation in said public utility. Such depreciation funds shall be used only for the replacement, betterment and extension of the plants and equipment of said public utilities, respectively.

1511. Capital Expenditure Fund.

The City Council by ordinance may create capital expenditure funds. The City Council may transfer to any such fund any unencumbered surplus funds remaining on hand in the City at any time, or any other funds which the City Council may lawfully raise.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1512. Departmental Trust Fund.

The City Council may prescribe by ordinance for the setting up of a Treasurer's Departmental Trust Fund into which the collections of the police department, license collector, building officer, etc., may be deposited by the respective officers at frequent intervals during each month, with advice of each deposit being furnished to the City Treasurer. Withdrawals made from such fund may be made by the City Treasurer only on order signed by the proper department head and for the following purposes only:

- (a) The making of refund of bail which has been exonerated or of other refundable deposits, revolving fund advances authorized by the City Council, or for the correction of clerical or ministerial errors in the receipt of payments to the City; and
- (b) The making of settlements with City funds at the end of each calendar month for collections accumulated during the month.

1513. Petty cash funds.

The City Council may provide for revolving petty cash funds to be paid to the City Manager or department heads and used for payment in cash of expenditures provided for in the budgets, that cannot conveniently be paid otherwise. The City Manager, or such department heads, shall account to the City Council for all disbursements made therefrom when making demand for replenishment of the same and at such other times as the Council may require and the amounts shall thereupon be charged against the proper appropriations.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1514. Warrants on treasury.

All demands, after presentation and approval, shall be transmitted to the City Controller who shall examine the same, and if the amount thereof is legally due and there remains on the City Controller's books an unexhausted balance or an appropriation against which the same may be charged, the City Controller shall approve such demand and draw his or her warrant on the City Treasurer therefor, payable out of the proper fund. Objections of the Controller may be overruled by the City Council and the warrant ordered drawn.

Such warrants when presented to the Treasurer, shall be paid by the Treasurer out of the fund designated, if there be sufficient money in the fund for that purpose. A warrant not paid for lack of funds shall be registered, and all registered warrants shall be paid in the order of their registration when funds therefor are available.

The Controller shall draw his or her warrants for payment of municipal or other bonds, payable out of funds in the Treasury, upon presentation and surrender of the proper bonds or coupons, without further approval of any body or officer.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1515. Actions against City.

No suit shall be brought on any demand for money or damages against the City unless a claim has been filed with the City Clerk in accordance with the procedures established by state law. The City Council may establish additional claims procedures by ordinance. In addition to other procedures as may be established by law, any person aggrieved by a City decision that rejects or denies, in whole or in part, any demand or claim for money or damages may request the City Council to approve the demand or claim.

(Amended at General Municipal Election, November 3, 1992, certified by Res. No. 8503CCS)

1516. Independent audit.

The City Council shall employ, at the beginning of each fiscal year, a qualified accountant who, from time to time, shall examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and of such other officers, employees or departments as the City Council may direct. At the end of the year, a final audit and report shall be submitted by such accountant to the City Council, one copy thereof to be distributed to each member, one to the City Manager, City Controller and City Attorney, respectively, and three additional copies to be placed on file in the office of the City Clerk where they may be available for inspection by the general public.

ARTICLE XVI FRANCHISES

1600. Granting of franchises.

The City Council is empowered to grant by ordinance a franchise to any person, firm or corporation, whether operating under an existing franchise or not, to furnish the City and its inhabitants with transportation, communication, terminal facilities, water, light, heat, power, refrigeration, storage or any other public utility or service, and to use the public streets, ways, alleys and places, as the same now or may hereafter exist, for the construction and operation of plants, works, or equipment, necessary or convenient for the furnishing thereof, or necessary or convenient for traversing any portion of the City for the transmitting or conveying of any service elsewhere. The City Council may prescribe the terms and conditions of any such grant. It may also provide, by procedural ordinance, the method of procedure and additional terms and conditions for making such grants, subject to the provisions of this Charter.

1601. 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. It 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.

1602. Term of franchise.

Every franchise shall state the term for which it is granted, which, unless it be indeterminate as provided for herein, shall not exceed twenty (20) 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 Railroad Commission of the State of California, shall be voluntarily surrendered or abandoned by its possessor, or until the State of California, or some municipal or public corporation, thereunto duly authorized by law, shall purchase by voluntary agreement or shall condemn and take, under the power of eminent domain, all property actually used and useful in the exercise of such franchise and situate within the territorial limits of the State, municipal or public corporation purchasing or condemning such property, or until the franchise shall be forfeited for noncompliance with its terms by the possessor thereof.

1603. Grant to be in lieu of all other franchises.

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

privileges within the limits of the City as such limits shall at any time exist, in lieu of which such franchise shall be granted.

Any franchise granted hereunder shall not become effective until written acceptance thereof shall have been filed by the grantee thereof with the City Clerk. Such acceptance shall be filed within ten (10) days after the adoption of the ordinance granting the franchise 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.

1604. 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 abridge either for a term or in perpetuity the City's right of eminent domain with respect to any public utility. Every franchise grant shall reserve to the City the right to purchase the property of such utility either at an agreed price or a price to be determined in a manner to be prescribed in the grant, or in the procedural ordinance hereinabove mentioned. In fixing the price to be paid by the City for any utility, no allowance shall be made for franchise value (other than the actual amount paid to the City at the time of the franchise acquisition), good will, going concern, earning power, increased cost of reproduction, severance damage, or increased value of right of way.

1605. Duties of grantee.

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

- (a) Comply with all lawful ordinances, rules and regulations theretofore or thereafter adopted by the City Council in the exercise of its police power, governing the construction, maintenance and operation of its plants, works or equipment;
- (b) Pay to the City on demand the cost of all repairs to public property made necessary by any of the operations of the grantee under such franchise;
- (c) Indemnify and hold harmless the City and its officers from any and all liability for damages proximately resulting from any operations under such franchise;
- (d) Remove and relocate without expense to the City any facilities installed, used and maintained under the franchise if and when made necessary by any lawful change of grade, alignment or width of any public street, way, alley or place, including the construction of any subway or viaduct; and
- (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.

1606. Exercising rights without franchise.

The exercise by any person, firm or corporation of any privilege for which a franchise is required, without procuring such franchise, shall be a misdemeanor and each day that such condition continues to exist shall

constitute a separate violation.

ARTICLE XVII
MISCELLANEOUS

1700. Definitions.

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

- (a) “Shall” is mandatory, and “may” is permissive.

1701. Violations.

The violation of any provision of this Charter shall be deemed a misdemeanor and be punishable upon conviction by a fine of not exceeding Five Hundred (\$500.00) Dollars or by imprisonment for a term of not exceeding six months or by both such fine and imprisonment.

1702. Validity.

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

ARTICLE XVIII
RENT CONTROL LAW

Note: Editor's note: Article XVIII adopted at General Municipal Election, April 10, 1979, Res. No. 5283CCS.

1800. Statement of purpose.

A growing shortage of housing units resulting in a low vacancy rate and rapidly rising rents exploiting this shortage constitute a serious housing problem affecting the lives of a substantial portion of those Santa Monica residents who reside in residential housing. In addition, speculation in the purchase and sale of existing residential housing units results in further rent increases. These conditions endanger the public health and welfare of Santa Monica tenants, especially the poor, minorities, students, young families, and senior citizens. The purpose of this Article, therefore, is to alleviate the hardship caused by this serious housing shortage by establishing a Rent Control Board empowered to regulate rentals in the City of Santa Monica so that rents will not be increased unreasonably and so that landlords will receive no more than a fair return.

In order to accomplish this purpose, this Article provides for an elected Rent Control Board to ensure that rents are at a fair level by requiring landlords to justify any rents in excess of the rents in effect one year prior to the adoption of this Article. Tenants may seek rent reductions from the rent in effect one year prior to the adoption of this Article by establishing that those rents are excessive. In addition to giving tenants an opportunity to contest any rent increase, this Article attempts to provide reasonable protection to tenants by controlling removal of controlled rental units from the housing market and by requiring just cause for any eviction from a controlled rental unit.

Through this Article, the City exercises its police power in order to address the serious housing problem recognized in the original enactment of this Rent Control Law in 1979 and still existing in 2002. The 1984 and the 2002 Amendments to the Rent Control Law are intended to clarify the law and ensure that the Rent Control Board possesses adequate and independent authority to carry out its duties. They are intended to ensure due process of law for landlords and tenants, effective remedies for violation of the law, and consistency with constitutional requirements. They are also intended to enable the Board to provide relief to persons facing particular hardship and to protect and increase the supply of affordable housing in the City. Termination or erosion of the protections of this Article would have serious disruptive consequences for persons in need of protection and the supply of affordable housing in the City.

(Amended at General Municipal Election, November 6, 1984, Res. No. 6943CCS; November 5, 2002, Measure FF)

1801. Definitions.

The following words or phrases as used in this Article shall have the following meanings:

Board. The term "Board" refers to the elected Rent Control Board established by this Article.

Commissioners. The members of the Board and Interim Board are denominated Commissioners.

Controlled Rental Units. All residential rental units in the City of Santa Monica, including mobile homes, and mobile home spaces, and trailers and trailer spaces, except single family homes to the extent provided for in Section 1815 and those units found by the Board to be exempt under one or more of the following provisions:

- (1) Rental units in hotels, motels, inns, tourist homes and rooming and boarding houses which are rented primarily to transient guests for a period of less than fourteen (14) days.
- (2) Rental units in any hospital, convent, monastery, extended medical care facility, asylum, non-profit home for the aged, or dormitory owned and operated by an institution of higher education.
- (3) Rental units which a government unit, agency or authority owns, operates, manages, or in which governmentally subsidized tenants reside only if applicable Federal or State law or administrative regulation specially exempt such units from municipal rent control.
- (4) Rental units in owner-occupied dwellings with no more than three (3) units. For purposes of this Section:
 - (i) The term "owner" means a natural person who owns a fifty (50) percent ownership interest in the building and resides on the property as his or her principal place of residence.
 - (ii) An exemption under this Section shall expire by operation of law when the owner ceases to reside on the property as his or her principal place of residence; thereafter, all units on the property shall be subject to all provisions of this Article.
- (5) Rental units and dwellings constructed after the adoption of this Article; this exemption does not apply to units created as a result of conversion as opposed to new construction.
- (6) Where a unit is actually used for purposes of providing, on a nonprofit basis, child care or other residential social services in accordance with applicable laws. This exemption shall expire when the use upon which exemption is based ceases. This exemption shall only apply to units as they become vacant and shall only operate to allow the specified use without the necessity of obtaining a removal permit under this Article. This exemption shall not be construed to authorize the eviction of any tenant nor to authorize the charging of rent in excess of that permitted under this Article. The Board may adopt regulations to determine whether a unit qualifies for an exemption under this Section.
- (7) Exemptions are not automatic but shall be granted by the Board upon application by the owner pursuant to Board rules, provided that if the Board does not act upon a completed application for exemption within ninety (90) days of its filing it shall be deemed approved.

Housing Service. Housing services include, but are not limited to repairs, maintenance, painting, providing light, hot and cold water, elevator service, window shades and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, refuse removal, furnishings, telephone, parking, the right to have a specified number of occupants, and any other benefit, privilege or facility connected with the use or occupancy of any rental unit. Services to a rental unit shall include a proportionate part of services provided to common facilities of the building in which the rental unit is contained.

Landlord. An owner, lessor, sublessor or any other person entitled to receive rent for the use and occupancy of any rental unit, or an agent, representative or successor of any of the foregoing.

Rent. All periodic payments and all nonmonetary consideration including but not limited to, the fair market value of goods or services rendered to or for the benefit of the landlord under an agreement concerning the use or occupancy of a rental unit and premises including all payment and consideration demanded or paid for parking, pets, furniture, subletting and security deposits for damages and cleaning.

Rental Housing Agreement. An agreement, oral, written or implied, between a landlord and tenant for use or occupancy of a rental unit and for housing services.

Rental Units. Any building, structure, or part thereof, or land appurtenant thereto, or any other rental

property rented or offered for rent for living or dwelling house units, together with all housing services connected with use or occupancy of such property such as common areas and recreational facilities held out for use by the tenant.

Tenant. A tenant, subtenant, lessee, sublessee or any other person entitled under the terms of a rental housing agreement to the use or occupancy of any rental unit.

Recognized Tenant Organization. Any group of tenants residing in controlled rental units in the same building or in different buildings operated by the same management company, agent or landlord, who requests to be so designated.

Rent Ceiling. Rent ceiling refers to the limit on the maximum allowable rent which a landlord may charge on any controlled rental unit.

Base Rent Ceiling. The maximum allowable rent established in Section 1804(b).

Property. All rental units on a parcel or lot or contiguous parcels or contiguous lots under common ownership.

Single Family Home. A property that has been developed with only one one-family dwelling and any lawful accessory structures, or a lawfully created condominium, stock cooperative or similar unit that is part of a larger residential structure or complex, excepting those condominiums, stock cooperatives, or similar units converted after April 10, 1979 for which no removal permit or vested right determination has been issued by the Board, and those created pursuant to Article XX of this Charter.

(Amended at General Municipal Election, November 6, 1984, Res. No. 6943CCS; November 5, 2002, Measure FF)

1802. Integrity and autonomy of Board.

The Rent Control Board shall be an integral part of the government of the City, but shall exercise its powers and duties under this Article independent of and without interference from the City Council, City Manager, and City Attorney. With respect to the internal organization and affairs of the Board:

- (a) **Budget.** The Board shall, prior to July 1 of each year, hold a public hearing on a proposed budget and adopt an annual budget for the ensuing fiscal year. At least thirty-five (35) days prior to the beginning of each fiscal year, the Board's administrator shall submit to the Board the proposed budget as prepared by him or her. After reviewing the same and making such revisions as it may deem advisable, the Board shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than ten (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 Board at least ten (10) days prior to said hearing. The City Council and the City Manager shall have no authority to oversee, supervise, or approve this budget. Upon final adoption, the budget shall be in effect for the ensuing fiscal year and the amounts stated therein shall be and become appropriated by the Board for the respective objects and purposes therein specified. At any meeting after the adoption of the budget, the Board may amend or supplement the budget by the affirmative votes of at least three (3) members. Copies of the adopted budget and any amendments or supplements shall be filed with the City Clerk, City Controller, and City Manager. Necessary adjustments to City administrative procedures shall be made.
- (b) **Personnel.** Except for the elected or appointed Commissioners, the Administrator, and attorneys employed to represent or advise the Board, all employees of the Board are within the classified Civil Service of the City. The Board shall appoint an Administrator to administer and supervise the exercise of its powers and duties who shall be directly responsible to the Board. All employees of the Board,

except the Administrator and attorneys, shall be hired, terminated, suspended, and demoted in accordance with the provisions of Article XI of the Charter and implementing provisions of the Municipal Code. The Board shall classify employee positions, establish employee salaries and benefits, evaluate the performance of its employees, and be responsible for the layoff and recall of its employees, pursuant to regulations and procedures that it establishes. The Board may enter into and approve a Memorandum of Understanding with representatives of its employees concerning their wages, benefits, hours of work, and terms and conditions of employment in accordance with State law. The City Council shall have no power to abolish positions established or classified by the Board under this Article, notwithstanding any other section of this Charter. Provisions of the Municipal Code and other ordinances or resolutions of the City Council shall not limit the Board's power to adopt regulations and policies and to approve Memorandums of Understanding governing its relationship with its employees under this Section.

- (c) **Board Legal Work.** Legal staff hired by the Board shall represent and advise the Board, its Commissioners, and its staff in any civil matters, actions, or proceedings in which the Board, its Commissioners, or its staff, in or by reason of their official capacity, are concerned or are a party. The Board may, in its sole discretion, and without approval of the City Council, retain private attorneys to furnish legal advice or representation in particular matters, actions or proceedings.
- (d) **Contracts and Purchases.** The Board shall comply with the provisions of the City Charter providing for a centralized purchasing system and competitive bidding, and shall procure goods and services as do other City agencies. Provided, however, that the Board shall have sole and final authority to employ attorneys, legislative lobbyists, and other professionals, and to approve contracts for such professional services.
- (e) **Conforming Regulations.** If any portion of this Article is declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by State or Federal legislation, the Board and not the City Council shall have authority to enact replacement regulations consistent with the intent and purpose of the invalidated provision and applicable law. Such replacement regulations shall supersede invalidated or unenforceable provisions of this Article to the extent necessary to resolve any inconsistency. The subject matter of such replacement regulations shall be limited to rent control matters as enumerated in this Article.

(Amended at General Municipal Election, November 6, 1984, Res. No. 6943CCS)

1803. Permanent Rent Control Board.

- (a) **Composition.** There shall be in the City of Santa Monica a Rent Control Board. The Board shall consist of five (5) elected Commissioners. The Board shall elect annually as chairperson, one of its members to serve in that capacity.
- (b) **Eligibility.** Duly qualified electors of the City of Santa Monica are eligible to serve as Commissioners of the Board.
- (c) **Full Disclosure of Holdings.** Candidates for the position of Commissioner shall submit a verified statement listing all of their interests and dealings in real property, including but not limited to its ownership, sale or management, during the previous three (3) years.
- (d) **Election of Commissioners.** Commissioners shall be elected at general municipal elections in the same manner as set forth in Article XIV of the Santa Monica Charter, except that the first Commissioners shall be elected at a special municipal election held within ninety (90) days of the adoption of this Article. The elected Commissioners shall take office on the first Tuesday following

their election. If, upon the City Clerk's determination of the qualified candidates, the number of candidates does not exceed the number of vacant positions, no election will be held and the qualified candidates shall be seated upon swearing in by the City Clerk.

- (e) **Term of Office.** Commissioners shall be elected to serve terms of four (4) years, beginning on the first Tuesday following their election, except that of the first five (5) Commissioners elected in accordance with Section 1803(d), the two (2) Commissioners receiving the most votes shall serve until April 15, 1985 and the remaining three (3) Commissioners shall serve until April 18, 1983. Commissioners shall serve a maximum of two (2) full terms.
- (f) **Powers and Duties.** The Board shall have the following powers and duties:
 - (1) Set the rent ceilings for all controlled rental units.
 - (2) Require registration of all controlled rental units under Section 1803(q).
 - (3) Establish a base rent ceiling on rents under Section 1804(b).
 - (4) To make adjustments in the rent ceiling in accordance with Section 1805.
 - (5) Set rents at fair and equitable levels in order to achieve the intent of this Article.
 - (6) Hire and pay necessary staff, including hearing examiners and personnel to issue orders, rules and regulations, conduct hearings and charge fees as set forth below.
 - (7) Make such studies, surveys and investigations, conduct such hearings, and obtain such information as is necessary to carry out its powers and duties.
 - (8) Report annually to the City Council of the City of Santa Monica on the status of controlled rental housing.
 - (9) Remove rent controls under Section 1803(r).
 - (10) Issue permits for removal of controlled rental units from rental housing market under Section 1803(t).
 - (11) Administer oaths and affirmations and subpoena witnesses.
 - (12) Establish rules and regulations for deducting penalties and settling civil claims under Section 1809.
 - (13) Refer violations of this Article to appropriate authorities for criminal prosecution.
 - (14) Seek injunctive and other civil relief under Section 1811.
 - (15) Charge and collect registration fees, including penalties for late payments.
- (g) **Rules and Regulations.** The Board shall issue and follow such rules and regulations, including those which are contained in this Article, as will further the purposes of the Article. The Board shall publicize its rules and regulations prior to promulgation in at least one newspaper of general circulation in the City of Santa Monica. The Board shall hold at least one public hearing to consider the views of interested parties before deciding whether to impose a dollar-amount ceiling on a general adjustment under Section 1805(b) or deciding to decontrol or reimpose control for any class of rental units under Section 1803(r). All rules and regulations, internal staff memoranda, and written correspondence explaining the decisions, orders, and policies of the Board shall be kept in the Board's

office and shall be available to the public for inspection and copying. The Board shall publicize this Article so that all residents of Santa Monica will have the opportunity to become informed about their legal rights and duties under Rent Control in Santa Monica. The Board shall prepare a brochure which fully describes the legal rights and duties of landlords and tenants under Rent Control in Santa Monica. The brochure will be available to the public, and each tenant of a controlled rental unit shall receive a copy of the brochure from his or her landlord.

- (h) **Meetings.** The Board shall hold such regularly scheduled meetings as are necessary to ensure the timely performance of its duties under this Article. All regular and special meetings shall be called and conducted in accordance with State law.
- (i) **Quorum.** Three (3) Commissioners shall constitute a quorum for the Board.
- (j) **Voting.** The affirmative vote of three (3) Commissioners of the Board is required for a decision, including all motions, regulations, and orders of the Board.
- (k) **Compensation.** Each Commissioner shall receive for every meeting attended seventy-five dollars (\$75.00), but in no event shall any Commissioner receive in any twelve (12) month period more than four thousand seven hundred fifty dollars (\$4,750.00) for services rendered.
- (l) **Dockets.** The Board shall maintain and keep in its office all hearing dockets.
- (m) **Vacancies.** If a vacancy shall occur on the Board, the Board shall within thirty (30) days appoint a qualified person to fill such a vacancy until the following general municipal election when a qualified person shall be elected to serve for the remainder of the term.
- (n) **Financing.** The Board shall finance its reasonable and necessary expenses by charging landlords annual registration fees in amounts deemed reasonable by the Board with a maximum annual registration fee of up to two hundred eighty-eight dollars (\$288.00) per controlled unit. Fifty (50) percent of the amount of the registration fees may be passed through from landlords to tenants, and the Board may establish applicable conditions and procedures governing the pass through. The Board is also empowered to request and receive funding when and if necessary from any available source for its reasonable and necessary expenses.
- (o) **Recall.** Commissioners may be recalled in accordance with the provisions of Article XIV of the Santa Monica Charter.
- (p) **Staff.** The Board shall employ and pay such staff, including hearing examiners and inspectors, as may be necessary to perform its function efficiently in order to fulfill the purpose of this Article.
- (q) **Registration.** Within sixty (60) days after the adoption of this Article, the Board shall require the registration of all controlled rental units, which shall be re-registered at times deemed appropriate by the Board. The initial registration shall include the rent in effect at the time on the date of the adoption of this Article, base rent ceiling, the address of the rental unit, the name and address of the landlord, the housing services provided to the unit, a statement indicating all operating cost increases since the base rent ceiling date, and any other information deemed relevant by the Board. The Board shall require the landlord to report vacancies in the controlled rental units and shall make a list of vacant controlled rental units available to the public. If the Board, after the landlord has proper notice and after a hearing, determines that a landlord has wilfully and knowingly failed to register a controlled rental unit, the Board may authorize the tenant of such a non-registered controlled rental unit to withhold all or a portion of the rent for the unit until such time as the rental unit is properly registered. After a rental unit is properly registered, the Board shall determine what portion, if any, of the

withheld rent is owed to the landlord for the period in which the rental unit was not properly registered. Whether or not the Board allows such withholding, no landlord who has failed to register properly shall at any time increase rents for a controlled rental unit until such units are properly registered.

- (r) **Decontrol.** If the average annual vacancy rate in any category, classification, or area of controlled rental units exceeds five (5) percent, the Board is empowered, at its discretion and in order to achieve the objectives of this Article, to remove rent controls from such category, classification or area. The Board may determine such categories, classifications, or areas for purposes of decontrol consistent with the objectives of this Article. In determining the vacancy rate for any category, classification or area of controlled rental units, the Board shall consider all available data and shall conduct its own survey. If units are decontrolled pursuant to this Subsection, controls shall be reimposed if the Board finds that the average annual vacancy rate has thereafter fallen below five (5) percent for such category, classification or area.
- (s) **Security Deposits.** Any payment or deposit of money the primary function of which is to secure the performance of a rental agreement or any part of such agreement, including an advance payment of rent, shall be placed in an interest bearing account at a federally insured financial institution until such time as it is returned to the tenant or entitled to be used by the landlord. Unless and until the Board enacts regulations directing that the interest on such accounts be paid directly to the tenant, the landlord may either pay such interest directly to the tenant or use it to offset operating expenses, in which case the offset shall be a factor in making individual rent adjustments under Section 1805. The Board may regulate the amount and use of security deposits consistent with the purposes of this Article and State law.
- (t) **Removal of Controlled Unit From Rental Housing Market.**
 - (1) Any landlord who desires to remove a controlled rental unit from the rental housing market by demolition, conversion or other means is required to obtain a permit from the Board prior to such removal from the rental housing market in accordance with rules and regulations promulgated by the Board. In order to approve such a permit, the Board is required to find that the landlord cannot make a fair return by retaining the controlled rental unit.
 - (2) Notwithstanding the foregoing provisions of this Subsection, the Board may approve such a permit:
 - (i) If the Board finds that the controlled rental unit is uninhabitable and is incapable of being made habitable in an economically feasible manner; or
 - (ii) If the permit is being sought so that the property may be developed with multifamily dwelling units and the permit applicant agrees as a condition of approval, that the units will not be exempt from the provisions of this Article pursuant to Section 1801(c) and that at least fifteen (15) percent of the controlled rental units to be built on the site will be at rents affordable by persons of low income.
 - (3) The Housing Element of the General Plan of the City of Santa Monica shall at all times contain a provision that neither the City Council nor any City agency shall approve an application for tentative subdivision map or tentative parcel map for a converted unit until and unless the applicant first obtains a removal permit as required by this Section. This Subsection shall not apply to any tentative subdivision map or tentative parcel map approved in accordance with Article XX relating to tenant ownership rights.

- (4) The Board shall render its final decision within one hundred twenty (120) days of the filing of a completed application under this Section.

(Amended at General Municipal Election 11/6/84, certified by Res. No. 6943CCS; General Municipal Election 11/3/92, certified by Res. No. 8503CCS; General Municipal Election 11/6/12, effective 12/12/12; General Municipal Election 11/4/14, certified by Res. No. 10850CCS; Measure RC, 11/8/22)

1804. Maximum allowable rents.

(a) **Temporary Freeze.**

- (1) Rents shall not be increased during the one hundred-twenty (120) day period following the date of adoption of this Article.
- (2) Notwithstanding Section 1805, the Board may, in its discretion and in order to protect the public's health and safety, disallow or, alternatively, modify otherwise-allowed annual general adjustments to rent ceilings during a state of emergency declared by the President of the United States, the Governor, or the Los Angeles County Department of Public Health Officer, or upon the declaration of a local emergency by the City Council or Director of Emergency Services. Nothing in this section precludes a landlord from filing a petition for an upward rent adjustment per Section 1805 of the City Charter.

- (b) **Establishment of Base Rent Ceiling.** Beginning one hundred twenty (120) days after the adoption of this Article, no landlord shall charge rent for any controlled rental units in an amount greater than the rent in effect on the date one year prior to the adoption of this Article. The rent in effect on that date is the base rent ceiling. If there was no rent in effect on the date one year prior to the adoption of this Article, the base rent ceiling shall be the rent that was charged on the first date that rent was charged following the date one year prior to the adoption of this Article. For tenancies commencing on or after January 1, 1999, which qualify for a vacancy rent increase pursuant to state law, the base rent ceiling is the initial rental rate in effect on the date the tenancy commences. As used in this subsection, the term "initial rental rate" means only the amount of rent actually paid by the tenant for the initial term of the tenancy. The base rent ceiling is the reference point from which the rent ceiling shall be adjusted upward or downward in accordance with Section 1805.

- (c) **Posting.** As soon as the landlord is aware of the maximum allowable rent, the landlord shall post it for each unit in a prominent place in or about the affected controlled rent units. The Board may require that other information it deems relevant also be posted.

(Amended at General Municipal Election 11/6/84, certified by Res. No. 6943CCS; 11/5/02, Measure FF; General Municipal Election 11/6/12, effective 12/12/12; Measure EM, 11/8/22)

1805. Individual and general adjustment of ceilings on allowable rents.

- (a) **Annual General Adjustment.** No later than June 30 each year, the Board shall announce the percentage by which rent ceilings for eligible units will be generally adjusted effective September 1 of that year.

- (1) The adjustment shall be equal to seventy-five (75) percent of the percentage increase in the Consumer Price Index (All Urban Consumers, Los Angeles, Riverside, Orange County region, or any successor designation of that index that may later be adopted by the U.S. Bureau of Labor Statistics) as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve (12) month period ending as of March of the current year.
- (2) In determining the allowable percentage increase, numbers of 0.04 and below shall be rounded

down to the nearest tenth decimal place and numbers of 0.05 and above shall be rounded up to the nearest tenth decimal place.

- (3) Subparagraph 1 of this subsection notwithstanding, in no event shall the general adjustment be less than zero percent or greater than three (3) percent; and
 - (4) Commencing February 1, 2023, the general adjustment during the period from February 1, 2023, through August 31, 2023, shall be 0.8% of the maximum allowable rent (MAR) in effect as of August 31, 2022, with a maximum dollar amount limit of nineteen dollars (\$19) ("Adjusted GA"). Absent an individual adjustment pursuant to subparagraphs (c) through (h) of this Section, the MAR during this seven month transition period shall be the MAR in effect as of August 31, 2022, plus the Adjusted GA. Notwithstanding the Board's June 2022 announcement of the 2022 general adjustment, the MAR for any period after August 31, 2023, shall be calculated pursuant to this Section 1805 as if the General Adjustment for the entire period from September 1, 2022, through August 31, 2023, had been three (3) percent, with a maximum dollar amount limit of seventy dollars (\$70). The Rent Control Board may by regulation increase the Adjusted GA for landlords who did not increase their rents by the full six (6) percent prior to February 1, 2023, so long as the average rent increase for the period from September 1, 2022, through August 31, 2023, does not exceed the lower of 3% or \$70 per month.
 - (5) If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Section is for any reason held to be invalid, unlawful, or unconstitutional, such decision shall not affect the validity of the remaining portions of this Section or any portion thereof.
- (b) **Dollar-Amount Ceiling.** The Board may, in its discretion, impose a dollar-amount limit to any annual general adjustment. The dollar-amount limit shall be calculated using the following methodology:
- (1) The Board shall determine the eighty-fifth (85th) percentile of the maximum allowable rent of all controlled units;
 - (2) The Board shall then determine the eighty-fifth (85th) percentile of maximum allowable rent of all controlled units with a base rent established before January 1, 1999;
 - (3) The dollar-amount limit shall be the average of the two (2) rents arrived at under subparagraphs (1) and (2) multiplied by the annual general adjustment determined under subsection (a) of this Section.
- (c) **Petitions.** Upon receipt of a petition by a landlord and/or a tenant, the maximum rent of individual controlled rental units may be adjusted upward or downward in accordance with the procedures set forth elsewhere in this Section. The petition shall be on the form provided by the Board and shall include a declaration by the landlord that the unit meets all requirements of Section 1805(h). Notwithstanding any other provision of this Section, the Board or hearing examiner may refuse to hold a hearing and/or grant a rent adjustment if an individual hearing has been held and decision made with regard to maximum rent within the previous six (6) months.
- (d) **Hearing Procedure.** The Board shall enact rules and regulations governing hearings and appeals of individual adjustment of ceilings on allowable rents which shall include the following:
- (1) **Hearing Examiner.** A hearing examiner appointed by the Board shall conduct a hearing to act upon the petition for individual adjustment of ceilings on allowable rents and shall have the power to administer oaths and affirmations.

- (2) **Notice.** The Board shall notify the landlord if the petition was filed by the tenant, or the tenant, if the petition was filed by the landlord, of the receipt of such a petition and a copy thereof.
- (3) **Time of Hearing.** The hearing officer shall notify all parties, as to the time, date and place of the hearing.
- (4) **Records.** The hearing examiner may require either party to a rent adjustment hearing to provide it with any books, records and papers deemed pertinent in addition to that information contained in registration statements. The hearing examiner shall conduct a current building inspection and/or request the City to conduct a current building inspection if the hearing examiner finds good cause to believe the Board's current information does not reflect the current condition of the controlled rental unit. The tenant may request the hearing examiner to order such an inspection prior to the date of the hearing. All documents required under this Section shall be made available to the parties involved prior to the hearing at the office of the Board. In cases where information filed in a petition for rent ceiling adjustment or in additional submissions filed at the request of the hearing examiner is inadequate or false, no action shall be taken on said petition until the deficiency is remedied.
- (5) **Open Hearings.** All rent ceiling adjustment hearings shall be open to the public.
- (6) **Right of Assistance.** All parties to a hearing may have assistance in presenting evidence and developing their position from attorneys, legal workers, recognized tenant organization representatives or any other persons designated by said parties.
- (7) **Hearing Record.** The Board shall make available for inspection and copying by any person an official record which shall constitute the exclusive record for decision on the issues at the hearing. The record of the hearing, or any part on one, shall be obtainable for the cost of copying. The record of the hearing shall include: all exhibits, papers and documents required to be filed or accepted into evidence during the proceedings; a list of participants present; a summary of all testimony accepted in the proceedings; a statement of all materials officially noticed; all recommended decisions; orders and/or rulings; all final decisions, orders and/or rulings, and the reasons for each final decision, order and/or ruling. Any party may have the proceeding tape recorded or otherwise transcribed at his or her own expense.
- (8) **Quantum of Proof and Notice of Decision.** No individual adjustment shall be granted unless supported by the preponderance of the evidence submitted at the hearing. All parties to a hearing shall be sent a notice of the decision and a copy of the findings of fact and law upon which said decision is based. At the same time, parties to the proceeding shall also be notified of their right to any appeal allowed by the Board and/or to judicial review of the decision pursuant to this Section and Section 1808 of this Article.
- (9) **Consolidation.** All landlord petitions pertaining to tenants in the same building will be consolidated for hearing, and all petitions filed by tenants occupying the same building shall be consolidated for hearing unless there is a showing of good cause not to consolidate such petitions.
- (10) **Appeal.** Any person aggrieved by the decision of the hearing examiner may appeal to the Board. On appeal, the Board shall affirm, reverse or modify the decision of the hearing examiner. The Board may conduct a de novo hearing or may act on the basis of the record before the hearing examiner without holding a hearing.
- (11) **Finality of Decision.** The decision of the hearing examiner shall be the final decision of the

Board in the event of no appeal to the Board. The decision of the hearing examiner shall not be stayed pending appeal; however, in the event that the Board on appeal reverses or modifies the decision of the hearing examiner, the landlord, in the case of an upward adjustment in rent, or the tenant, in the case of a downward adjustment of rent, shall be ordered to make retroactive payments to restore the parties to the position they would have occupied had the hearing examiner's decision been the same as that of the Board.

- (12) **Time for Decision.** The rules and regulations adopted by the Board shall provide for final action on any individual rent adjustment petition within one hundred twenty (120) days, following the date of filing of the individual rent adjustment petition.
- (13) **Board Action in Lieu of Reference to Hearing Examiner.** The Board, on its own motion or on the request of any landlord or tenant, may hold a hearing on an individual petition for rent adjustment without the petition first being heard by a hearing examiner.
- (14) Decisions decreasing rents shall remain in effect until the Board finds that the landlord has corrected the defect warranting the decrease. The Board shall, by regulation, establish procedures for making prompt compliance determinations. Upon a determination of compliance the landlord shall be entitled to reinstatement of the prior rent level, retroactive to the date that the landlord corrected the defect which warranted the decrease.
- (e) In making individual adjustments of the rent ceiling, the Board shall consider the purposes of this Article and the requirements of law. In making an individual downward adjustment, the Board may consider decreases in living space, furniture, furnishings, equipment, or services; substantial deterioration of the controlled rental unit other than as a result of ordinary wear and tear; or failure on the part of the landlord to provide adequate housing services or to comply substantially with applicable housing, health and safety codes. In making an individual upward adjustment, the Board may employ as its fair return standard any lawful formula, including but not limited to one based on investment or net operating income. The Board shall consider all factors relevant to the formula it employs. Such factors may include: increases or decreases in operating and maintenance expenses; the extent of utilities paid by the landlord; necessary and reasonable capital improvement of the controlled rental unit as distinguished from normal repair, replacement and maintenance; increases or decreases in living space; furniture, furnishings, equipment, or services; Federal and State income tax benefits; the speculative nature of the investment; whether or not the property was acquired or is held as a long-term or short-term investment; the landlord's rate of return on investment; the landlord's current and base date Net Operating Income; and any other factor deemed relevant by the Board in providing the landlord a fair return.
- (f) No rent increase shall be authorized by this Article because a landlord has a negative cash flow as the result of refinancing the controlled rental unit if at the time the landlord refinanced the landlord could reasonably have foreseen a negative cash flow based on the rent schedule then in existence within the one year period following refinancing. This paragraph shall only apply to that portion of the negative cash flow reasonably foreseeable within the one year period following refinancing of the controlled rental unit and shall only apply to controlled rental units refinanced after the date of adoption of this Article.
- (g) No rent increase shall be authorized by this Article because a landlord has a negative cash flow if at the time the landlord acquired the controlled rental unit, the landlord could reasonably have foreseen a negative cash flow based on the rent schedule then in existence within the one-year period following acquisition. This paragraph shall only apply to that portion of the negative cash flow reasonably foreseeable within the one year period following acquisition of a controlled rental unit and shall only

apply to controlled rental units acquired after the date of adoption of this Article.

- (h) No landlord shall increase rent under this Article if the landlord:
- (1) Has failed to comply with any provision of this Article and/or regulations issued thereunder by the Board, including the provisions requiring the payment of registration fees and registration penalties.
 - (2) Has failed to comply substantially with any applicable State or local housing, health or safety law. No landlord shall increase rent unless the notice increasing rent contains a statement in substantially the following form: "The undersigned (landlord) certifies that this unit and common areas are not subject to any uncorrected citation or notices of violation of any State or local housing health, or safety laws issued by any government official or agency." If a landlord fails to comply with this Subsection, the tenant may refuse to pay the improperly noticed increase, may seek administrative or civil remedies under this Article, and may raise the landlord's noncompliance as an affirmative defense in any resulting unlawful detainer action.
 - (i) The Board may, in its discretion, enact regulations to provide for increases of rents on units voluntarily vacated after the effective date of this Subsection in properties where the landlord has dedicated a percentage of units to be rented to persons of very low or low income at affordable rents. The Board may enact procedures and other regulations governing determination of the conditions upon which such increases will be permitted, the extent of the increases, the required mix of affordable units to be provided, ways to ensure the continued provision of affordable housing under this Subsection, the terms and conditions applicable when landlords cease to participate or when tenants vacate or cease to qualify for units dedicated to affordable housing, and other measures it deems necessary.

If the Board enacts regulations under this Subsection, it shall provide for the following:

- (1) That a property shall not be eligible for this program unless a specified percentage of all units on the property, no less than fifteen (15) percent, will be occupied by tenants of very low or low income and the rent on each unit so occupied does not exceed a specified percentage, no greater than thirty (30) percent, of such tenants' income.
- (2) That tenants of very low or low income occupying units maintained at affordable rent levels under this program are protected if the landlord elects not to participate further in the program. Such protection shall include, at a minimum, a provision prohibiting the rent of such tenants from being increased by a percentage greater than the general annual adjustment allowed by the Board even if the resulting rent is below the maximum allowable rent and the landlord has lowered the rent for other units on the property.

(Amended at General Municipal Election, November 6, 1984, Res. No. 6943CCS; General Municipal Election, November 6, 2012, effective 12/12/12; Measure RC, 11/8/22)

1806. Eviction.

- (a) No landlord shall take action to terminate any tenancy including, but not limited to, making a demand for possession of a rental unit, threatening to terminate a tenancy, serving any notice to quit or other eviction notice or bringing any action to recover possession or be granted recovery of possession of a controlled rental unit except on one of the following grounds:

- (1) The tenant has failed to pay the rent to which the landlord is entitled under the rental housing agreement and this Article.
- (2) The tenant has continued, after written notice to cease, to commit a material and substantial breach of an obligation or covenant of his or her tenancy which the landlord has not waived either expressly or impliedly through the landlord's conduct and which the landlord is not estopped from asserting, other than the obligation to surrender possession upon proper notice. Notwithstanding any contrary provision in this Section, and notwithstanding any contrary provision in the rental housing agreement, a landlord shall not take any action to terminate a tenancy based on a tenant's sublease of the unit if the following requirements are met:
 - (i) The tenant continues to reside in the rental unit.
 - (ii) The sublease replaces a departed tenant(s) under the rental agreement on a one-for-one basis.
 - (iii) The landlord has unreasonably withheld the right to sublease following written request by the tenant. If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord.
- (3) The tenant has continued, after written notice to cease, to commit or expressly permit a nuisance in, or cause substantial damage to, the controlled rental unit; or to create a substantial interference with the comfort, safety, or enjoyment of the landlord or other occupants or neighbors of the same.
- (4) The tenant is convicted of using or expressly permitting a controlled rental unit to be used for any illegal purpose.
- (5) The tenant, who had a rental housing agreement which had terminated, has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration and in such terms as are not inconsistent with or violative of any provisions of this Article and are materially the same as in the previous agreement.
- (6) The tenant has continued to refuse after written notice, to grant the landlord reasonable access to the controlled rental unit for the purposes of making necessary repairs or improvements required by the laws of the United States, the State of California or any subdivision thereof or for the purpose of showing the rental housing to any prospective purchaser or mortgagee.
- (7) The tenant holding at the end of the term of the rental housing agreement is a subtenant not approved by the landlord.
- (8) The landlord seeks to recover possession in good faith for use and occupancy by herself or himself, or her or his children, parents, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law. For purposes of evictions under this Subsection:
 - (i) A "landlord" shall be defined as a natural person who has at least a fifty (50) percent ownership interest in the property.
 - (ii) No eviction may take place if any landlord or enumerated relative already occupies one unit on the property, or if a vacancy already exists on the property and the vacant unit is comparable to the unit for which eviction is sought. Where the vacant unit is determined not to be comparable, thereby permitting eviction under this Subsection, the evicted tenant

or tenants shall be first given the right to occupy the vacant unit and the rent thereof shall be the lesser of the maximum allowable rent for the vacant unit and the maximum allowable rent of the unit from which the tenant or tenants are evicted. The Rent Control Board shall promulgate regulations defining when a unit is comparable for purposes of this paragraph.

- (iii) The notice terminating tenancy shall contain the name, address and relationship to the landlord of the person intended to occupy.
- (iv) The landlord or enumerated relative must intend in good faith to move into the unit within sixty (60) days after the tenant vacates and to occupy the unit as a primary residence for at least two years, unless extenuating circumstances exist.
- (v) If the landlord or relative specified on the notice terminating tenancy fails to occupy the unit within sixty (60) days after the tenant vacates or fails to occupy the unit as a primary residence for at least two years, unless extenuating circumstances exist, the landlord shall:
 - A. Offer the unit to the tenant who vacated it.
 - B. Pay to said tenant all reasonable expenses incurred in moving to and/or from the unit.
- (vi) No eviction pursuant to this Subsection shall be allowed in any condominium or stock cooperative unit which has been converted from an apartment or other rental unit after April 10, 1979, unless the Rent Control Board has issued a removal permit or declared a vested right for said unit. As used in this subpart, a unit shall be deemed converted after April 10, 1979, if on April 10, 1979, the recorded tract map or parcel map for the property showed the unit as included in the property.
- (vii) A landlord may not evict a tenant pursuant to this Subsection if the tenant (A) has resided in the unit for at least five (5) years and is either at least sixty-two (62) years old or disabled; or (B) is certified as being terminally ill by the tenant's treating physician. For purposes of this Subsection, "disabled" means a person who is receiving benefits from a Federal, State, or local government, or from a private entity, on account of a permanent disability that prevents the person from engaging in regular, full-time employment.

Notwithstanding the above, a landlord may evict a tenant who qualifies for the exemption if the landlord or enumerated relative who will occupy the unit also meets the criteria for this exemption.

- (9) The landlord seeks to recover possession to demolish or otherwise remove the controlled rental unit from rental residential housing use after having obtained all proper permits from the City of Santa Monica.
 - (10) The landlord has filed the requisite documents with the Rent Control Board initiating the procedure for withdrawing units from rent or lease under Government Code Section 7060 et seq., and the Board's regulations, with the intention of completing the withdrawal process and going out of the residential rental business.
- (b) Any written notice as described in Subsections (a)(2), (3) or (6) shall be served by the landlord a reasonable period prior to serving a notice to terminate tenancy and shall inform the tenant that a failure to cure may result in the initiation of eviction proceedings. The Board may enact regulations regarding reasonable notice.

- (c) Notwithstanding any contrary provision in this Section or in the rental housing agreement, if the tenant's spouse, child(ren), and/or domestic partner who has filed an Affidavit of Domestic Partnership with the City have lived in the unit for at least one year at the time the tenant vacates the unit due to death or incapacitation, the landlord is prohibited from taking any action to obtain possession of the unit from the tenant's spouse, child(ren), and/or registered domestic partner on the ground that the spouse, child(ren) and/or registered domestic partner are not authorized to occupy the unit.
- (d) Notwithstanding the above provisions, possession shall not be granted if it is determined that the eviction is in retaliation for the tenant reporting violations of this Article, for exercising rights granted under this Article, including the right to withhold rent upon authorization of the Board under Section 1803(q) or Section 1809 or for organization other tenants.
- (e) In any notice purporting to terminate tenancy the landlord shall state the cause for the termination, and in any action brought to recover possession of a controlled rental unit, the landlord shall allege and prove compliance with this Section. The landlord shall file with the Rent Control Board a copy of any notice terminating tenancy, except a three day notice to pay rent or vacate, within three days after serving the notice on the tenant.
- (f) Failure to comply with any requirement of this Section may be asserted as an affirmative defense in an action brought by the landlord to recover possession of the unit. Additionally, any attempt to recover possession of a unit in violation of this Article shall render the landlord liable to the tenant for actual and punitive damages, including damages for emotional distress, in a civil action for wrongful eviction. The tenant or the Rent Control Board may seek injunctive relief and money damages for wrongful eviction. The prevailing party in an action for wrongful eviction shall recover costs and reasonable attorneys' fees.

(Amended at General Municipal Election, November 6, 1984, Res. No. 6943CCS; November 3, 1998; amended at a Special Election, April 24-25, 1999, Prop. No. 1; November 5, 2002, Measure FF; approved by the voters at the 11/2/2010 election; Measure RC, 11/8/22)

1807. Non-waiverability.

Any provision, whether oral or written, in or pertaining to a rental housing agreement whereby any provision of this Article for the benefit of the tenant is waived, shall be deemed to be against public policy and shall be void.

(Adopted at General Municipal Election, April 10, 1979, Res. No. 5283CCS)

1808. Judicial review.

A landlord or tenant aggrieved by any action or decision of the Board may seek judicial review by appealing to the appropriate court within the jurisdiction.

(Adopted at General Municipal Election, April 10, 1979, Res. No. 5283CCS)

1809. Civil remedies.

- (a) Any landlord who demands, accepts, receives, or retains any payment of rent in excess of the maximum lawful rent, in violation of the provisions of this Article or any rule, regulation or order hereunder promulgated, including the provisions ensuring compliance with habitability standards and registration fee requirements, shall be liable in a civil action to the tenant from whom such payments are demanded, accepted, received or retained, for reasonable attorney's fees and costs as determined by the court, plus damages in the amount by which the payment or payments demanded, accepted,

received or retained exceeds the maximum lawful rent. A civil penalty of treble the amount by which the payment or payments demanded, accepted, received or retained exceeds the maximum lawful rent shall be awarded against the landlord upon a showing that the landlord has acted willfully or with oppression, fraud or malice. No administrative remedy need be exhausted prior to filing suit pursuant to this Subsection.

- (b) In lieu of filing a civil action, a tenant may file an administrative complaint. The Board shall establish by rule and regulation a hearing procedure similar to that set forth in Section 1805(d).
 - (1) The rules and regulations adopted by the Board shall provide for final Board action on any complaint for excess rent within one hundred twenty (120) days following the date of filing of the complaint.
 - (2) In any administrative hearing under this Section, a landlord who demands, accepts, receives or retains any payment of rent in excess of the maximum lawful rent shall be liable for damages in the amount by which the payment or payments demanded, accepted, received or retained exceeds the maximum lawful rent and may be liable for an additional amount not to exceed five hundred dollars (\$500.00), for costs, expenses incurred in pursuing the hearing remedy, damages and penalties. The tenant shall bear the burden of proving entitlement to the penalty. The tenant may deduct the penalty and award of damages from future rent payments in the manner provided by the Board. An order authorizing rent withholding under this Article shall survive the sale or other transfer of the property and shall be binding upon successors of the landlord against whom the order was made. If a tenant authorized to withhold rent under this Article vacates the property, the landlord shall pay to such tenant a sum equal to the balance of the rent that the tenant could have withheld.
- (c) If the tenant from whom such excessive payment is demanded, accepted, received or retained in violation of the foregoing provisions of this Article or any rule or regulation or order hereunder promulgated fails to bring a civil or administrative action as provided for in Section 1809(a) and 1809(b) within one hundred twenty (120) days from the date of occurrence of the violation, the Board may settle the claim arising out of the violation or bring such action. Thereafter, the tenant on whose behalf the Board acted is barred from also bringing an action against the landlord in regard to the same violation for which the Board has made a settlement or brought action. In the event the Board settles said claim, it shall be entitled to retain the costs it incurred in settlement thereof, and the tenant against whom the violation has been committed shall be entitled to the remainder.
- (d) The appropriate court in the jurisdiction in which the controlled rental unit affected is located shall have jurisdiction over all actions brought under this Section.

(Adopted at General Municipal Election, November 6, 1984, Res. No. 6943CCS)

1810. Criminal remedies.

Any landlord violating this Article shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this Article shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

(Adopted at General Municipal Election, April 10, 1979, Res. No. 5283CCS)

1811. Injunctive and other civil relief.

The Board, and tenants and landlords of controlled units, may seek relief from the appropriate court within

the jurisdiction within which the affected controlled rental unit is located to enforce any provision of this Article or its implementing regulations or to restrain or enjoin any violation of this Article and of the rules, regulations, orders and decisions of the Board.

(Adopted at General Municipal Election, November 6, 1984, Res. No. 6943CCS)

1812. Partial invalidity.

If any provision of this Article or application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable. This Article shall be liberally construed to achieve the purposes of this Article and to preserve its validity.

(Adopted at General Municipal Election, April 10, 1979, Res. No. 5283CCS)

1813. Relationship to Article XX.

Section 1803(t) of this Article shall not apply to any building for which approval has been received pursuant to Article XX (Tenant Ownership Rights Charter Amendments) of this Charter. All other provisions of this Article, however, shall continue to apply with full force and effect to each unit in any building receiving approval pursuant to Article XX.

Tenants residing in such units, whether or not “qualifying,” “participating,” or any other such designation under Article XX, shall enjoy all the rights and remedies provided by this Article without limitation as to duration or to ownership of the unit. This Section is declarative of existing law and does not impose any new requirements or limit any existing ones.

(Adopted at General Municipal Election, November 6, 1984, Res. No. 6943CCS)

1814. Existing Board practices.

To the extent that the amendments to Article XVIII adopted at the same time as this Section incorporate rules, regulations and practices of the Rent Control Board existing on the date of the adoption hereof, this amendment is declarative of existing law and does not impose any new requirements or limit any existing ones.

(Adopted at General Municipal Election, November 6, 1984, Res. No. 6943CCS)

1815. Single family homes.

Single family homes that were not used for residential rental purposes on July 1, 1984 are automatically exempt from the provisions of this Article. Single family homes that are not exempt under the preceding sentence are subject to all requirements of this Article, but shall be permanently exempted by the Board upon proof that the home has been continuously occupied by the owner for a period of two (2) years as a principle place of residence after voluntary vacancy by the tenant or lawful eviction of the tenant. An owner may have only one exemption under this Section at any one time.

(Adopted at General Municipal Election, November 6, 1984, Res. No. 6943CCS)

1820. State owned property.

This Article shall not apply to any property which is part of the State Park System or sovereign tidelands and owned by the State of California on July 1, 1990.

(Adopted at General Municipal Election, November 6, 1990, certified by Res. No. 8121CCS)

1821. Tenant harassment.

Tenants living in rental housing units have the right to quiet enjoyment, privacy and freedom from harassment by the property owner. In order to effectuate this right, the City Council shall at all times maintain a Tenant Harassment Ordinance in force which protects tenants from landlords' conduct in derogation of tenants' rights.

(Adopted at General Municipal Election, November 5, 2002, Measure FF)

ARTICLE XIX
POLICE AND PROTECTIVE SERVICES

1900. Statement of purpose.

This Article is intended to promote and facilitate additional police and other protective services necessary to reduce major crime in this City. It is intended to conflict with and be in lieu of all other measures regarding crime reduction submitted to the voters at this election.

(Adopted at General Municipal Election, April 14, 1981, Res. No. 6243CCS)

1901. Crime prevention program.

Within nine months of the effective date of this Article, the City Council shall adopt, by ordinance, a comprehensive crime prevention program, intended to reduce major crime in the City. This program shall include, among other things, provisions for the optimum use of existing and additional police and other law enforcement resources, plans to improve the safety of streets and neighborhoods, and ways to encourage public involvement in the reduction of crime. Following the adoption of the comprehensive crime prevention program the City Council shall appropriate the funds, if available, necessary to implement the comprehensive crime prevention program.

1902. Expenditure limitation increase.

- (a) The City's expenditure limit for each of fiscal years 1981-82, 1982-83, 1983-84 and 1984-85 is increased by \$3,000,000. This increase shall be adjusted each year for changes in population and cost of living as provided by State Law.
- (b) Appropriation of funds that may be made for spending by reason of Section (a) shall be made for providing increased police and other protective services intended to control major crime and for no other purpose.
- (c) The primary intention of this Section is to provide additional police and other protective services within the existing framework of City government.

1903. Expenditure limitation increase for police and protective services.

- (a) Pursuant to Section 4 of Article XIII B of the California Constitution, the City's expenditure limit for each of the fiscal years during the four year period beginning November 7, 1984, and ending November 6, 1988, is increased by four million dollars (\$4,000,000.00). This increase shall be adjusted each year for changes in population and the lower of changes in cost of living or personal income provided by State law.
- (b) Appropriation of funds that may be made for spending by reason of Subsection (a) shall be made for maintaining and providing increased police and other protective services, for improving the safety of streets and neighborhoods, and for encouraging public involvement in the reduction of crime.

(Adopted at General Municipal Election, November 6, 1984, Res. No. 6943CCS)

1904. Expenditure limitation increase for capital improvements and outlays.

- (a) Pursuant to Section 4 of Article XIII B of the California Constitution, the City's expenditure limit for each of the fiscal years during the four (4) year period beginning November 7, 1984, and ending November 6, 1988, is increased by three million five hundred thousand dollars (\$3,500,000.00). This increase shall be adjusted each year for changes in population and the lower of changes in the cost of

living or personal income provided by State law.

- (b) Appropriation of funds that may be made for spending by reason of Subsection (a) shall be made for providing capital improvements and outlays for street maintenance, sidewalks, street light circuit replacement, new street lights, energy conservation, traffic signals upgrade, park maintenance, vehicles and other equipment, and various one time capital needs for libraries, publicly owned recreational facilities in the City, park development, police and fire facilities, and other capital improvements and outlays required for the protection of public health and safety.

(Adopted at General Municipal Election, November 6, 1984, Res. No. 6943CCS)

1907. Expenditure limitation increase for police, protective services, aid to public schools, basic city services, and capital improvements and outlays.

- (a) Pursuant to Section 4 of Article XIII B of the California Constitution, the City's expenditure limit for each of the fiscal years during the four (4) year period beginning June 2, 1992, and ending June 1, 1996, is increased, in addition to any other voter-approved increases, by Twenty-Four Million Five Hundred Thousand Dollars (\$24,500,000.00). This increase shall be adjusted each year as is provided for by State law, or as otherwise provided for by the State Constitution.
- (b) Appropriation of funds that may be made for spending by reason of subsection (a) shall be made for: (1) maintaining and providing increased police and other protective services, for improving the safety of streets and neighborhoods, and for encouraging public involvement in the reduction of crime; (2) aiding the public schools; (3) maintaining the quality of basic police and fire protection, library, recreation and parks, planning, engineering, and associated administrative support services; and (4) providing capital improvements and outlays for street maintenance, sidewalks, street lights, energy conservation, traffic signals upgrade, park maintenance and development, libraries, publicly owned recreational facilities, pier preservation and improvement, beach maintenance and improvements, police and fire facilities, vehicles and other equipment, and various other capital needs required for the protection of public health and safety, and for maintaining the quality of basic City services.

(Adopted at Special Municipal Election, June 2, 1992, certified by Res. No. 8429CCS)

1908. Expenditure limitation increase for police, protective services, aid to public schools, basic city services, and capital improvements and outlays.

- (a) Pursuant to Section 4 of Article XIII B of the California Constitution, the City's expenditure limit for each of the fiscal years during the four (4) year period beginning March 26, 1996 and ending March 25, 2000, is increased, in addition to any other voter-approved increases, by Twenty-Five Million Three Hundred Thousand Dollars (\$25,300,000.00). This increase shall be adjusted each year as is provided for by State law, or as otherwise provided for by the State Constitution.
- (b) Appropriation of funds that may be made for spending by reason of subsection (a) shall be made for: (1) maintaining and providing increased police and other protective services, for improving the safety of streets and neighborhoods, and for encouraging public involvement in the reduction of crime; (2) aiding the public schools; (3) maintaining the quality of basic police and fire protection, library, recreation and parks, planning, engineering, and associated administrative support services; and (4) providing capital improvements and outlays for street maintenance, sidewalks, street lights, energy conservation, traffic signals upgrade, park maintenance and development, libraries, public owned recreational facilities, pier preservation and improvement, beach maintenance and improvements, police and fire facilities, vehicles and other equipment, and various other capital needs required for the protection of public health and safety, and for maintaining the quality of basic City services.

(Adopted at General Municipal Election, March 26, 1996)

ARTICLE XX
TENANT OWNERSHIP RIGHTS

Note: Editor's note: Article XX adopted at Special Municipal Election, 6/5/84; Res. No. 6872CCS, adopted 6/26/84.

2000. Statement of purpose.

The People of the City of Santa Monica find and declare:

- (a) Tenant-Participating Conversions are an effective method of preserving, stabilizing and improving neighborhoods and the supply of sound, affordable housing accommodations.
- (b) It is sound policy to encourage such Tenant-Participating Conversions to allow tenants to purchase the units which they occupy and, at the same time, protect tenants who do not purchase their units.
- (c) This Article is designed to permit tenants to enjoy the stability, security and financial benefits of ownership of their own housing units and at the same time to provide more protection than presently exists under Article XVIII of this Charter for Participating Tenants who may not choose to purchase their units and is designed to promote affordable housing opportunities for Low and Moderate Income Households.
- (d) While supporting the goal of home ownership, the City must ensure the continued availability of affordable housing for Low and Moderate Income Households. In order to accomplish this goal, this Article requires a Tenant-Participating Conversion Tax as an integral and essential provision to carry out the purposes of this Article and the proceeds of which shall be used to ensure the continued availability of affordable housing for Low and Moderate Income Households.
- (e) This Article is necessary for the public health, safety, and welfare of the City of Santa Monica.

2001. Definitions.

For purposes of this Article, the following words and phrases shall have the following meaning:

Applicant. The owner of a building for which a Tenant-Participating Conversion Application is filed.

Cosigning tenant. Any tenant agreeing to the conversion by his or her signature on the Tenant-Participating Conversion Application who has personally occupied his or her unit continuously for a period of at least six (6) months prior to the date he or she signs the Tenant-Participating Conversion Application unless the tenant has an economic relationship with or is related by blood or marriage to the owner of the building in which case that tenant must have occupied his or her unit continuously for a period of at least twelve (12) months prior to the date he or she signs the Tenant-Participating Conversion Application.

Disabled person. Any person who is receiving benefits from a Federal, State, or local government, or from a private entity on account of a permanent disability that prevents the person from engaging in regular, full-time employment.

Economic relationship. Any significant business relationship that a tenant and owner have with each other including but not limited to employer-employee; employer-agent, including manager, consultant, and professional or service contractor; co-owners, not including the natural owner of fifty percent (50%) or more of the building for which the Tenant-Participating Conversion Application is filed; owner-investor; partnership; or joint venturers. The landlord-tenant relationship maintained by the tenant and owner at

the building for which the Tenant-Participating Conversion Application is filed does not constitute an economic relationship for purposes of this Article.

Intending to purchase tenant. Any tenant who has personally occupied his or her unit in the building continuously for a period of at least six (6) months immediately preceding the date the tenant signs a Tenant Intent to Purchase unless the tenant has an economic relationship with or is related by blood or marriage to the owner of the building in which case that tenant must have occupied his or her unit continuously for a period of at least twelve (12) months prior to the date he or she signs the Intent to Purchase.

Limited equity. Programs subject to the restrictions set forth in the Health and Safety Code Section 33007.5 and other programs which limit, to a similar extent and a similar length of time, the owner's return at resale. For purposes of this Article, shared appreciation equity loans or similar loans shall not be construed to be forms of limited equity.

Low income households. Persons and families whose income does not exceed eighty percent (80%) of the median gross income for Los Angeles County, adjusted for family size as determined by the Secretary of Housing and Urban Development and under Section 8(f)(3) of the United States Housing Act of 1937, as amended, or if programs under Section 8(f) are terminated, eighty percent (80%) of the median gross income determined under the method used by the Secretary prior to such termination.

Moderate income households. Persons and families whose income exceeds eighty percent (80%) but does not exceed one hundred twenty percent (120%) of the median gross income for Los Angeles County, adjusted for family size as determined by the Secretary of Housing and Urban Development and under Section 8(f)(3) of the United States Housing Act of 1937, as amended, or if programs under Section 8(f) are terminated, more than eighty percent (80%) but does not exceed one hundred twenty percent (120%) of the median gross income determined under the method used by the Secretary prior to such termination.

Owner. Any natural person, corporation, trust, partnership, limited partnership, or association holding title to a Qualifying Building, including any partner, officer, or shareholder of any entity holding title.

Participating tenant. Any tenant, including both cosigning and non-cosigning tenants, residing in the building at the date of the approval of the Tenant-Participating Conversion Application.

Price index. The index for Urban Wage Earners and Clerical Workers, United States City Average, as published by the United States Bureau of Labor Statistics, or in the event such index is discontinued any comparable index.

Tenant intent to purchase. A form prepared by the City to comply with State law and which shall be in substantially the following form and substance:

STATEMENT OF TENANT INTENT TO PURCHASE

This is a Tenant Intent to Purchase form that is used to determine how many tenants want to purchase the apartment units that they currently are renting.

Everything that the owner guarantees or promises you in exchange for your signature, including the sales price, is set forth in writing in the Tenant-Participating Conversion Application. These promises, including the promise to sell you the unit for the price stated on the form, will be made conditions of the approval of the conversion and the signed form will become public record.

Signing this form does not mean that you must buy the unit. It only means that you currently want and intend to buy the unit for the sales price indicated on the form if you are able to obtain satisfactory financing and if the application is approved. You should not sign this form if you do not currently want and intend to buy the unit. However, it is appropriate to sign this form if you do currently want and intend to buy the unit.

IF, AFTER FINAL APPROVAL OF THE CONVERSION, THE OWNER REFUSES TO SELL THE UNIT AS AGREED OR DEMANDS A HIGHER PRICE, YOU SHOULD IMMEDIATELY CONTACT THE APPROVING ATTORNEY AND THE CITY ATTORNEY.

I/We, the undersigned, as tenant(s) of unit at _____, Santa Monica, California, at the time of filing of the Tenant-Participating Conversion Application of such property, do certify my/our intent to purchase my/our occupied Unit No. _____

I/We have seen and received a copy of the Tenant-Participating Conversion Application which lists the maximum sales prices for all tenant occupied units in this building and other information on the Tenant-Participating Conversion Application to be filed with the City of Santa Monica, and this list indicates that the maximum sales price for my/our unit is to be \$.

I/We further understand that this Intent to Purchase Form will be filed with the City for the purpose of establishing the percentage of tenants that may be expected to purchase units pursuant to this Article.

I/We declare, under penalty of perjury, that all of my/our statements above are true and correct.

(Signed and Separately Dated by Intending to Purchase Tenant(s) and Owner.)

Qualifying building. Any building used for residential rental purposes in the City for which no eviction has occurred pursuant to Government Code Section 7060 et seq. (the Ellis Act) within a five (5) year period prior to the filing of an Application for Tenant-Participating Conversion and for which no eviction has occurred pursuant to Section 1806(h) of this Charter (relating to eviction for purposes of owner occupancy or occupancy by relative of the owner) within a two (2) year period prior to the filing of an Application for Tenant-Participating Conversion. A mobilehome park constitutes a building for purposes of this Article.

The 1992 amendments to this Subsection are declaratory of existing law.

Related by blood or marriage. Any tenant who is related to the owner or owner's spouse by marriage or blood to within the fourth degree of consanguinity or is an adopted parent or adopted child of the owner or owner's spouse.

Senior citizen. Any person sixty-five (65) years of age or older.

Tenant. Any person who is an authorized tenant of an owner of a residential rental building for which a Tenant-Participating Conversion Application is being processed.

Tenant ownership. Ownership in the form of either condominiums, community apartments, stock cooperatives, cooperative associations, limited equity stock cooperatives or any other means authorized under State law.

Tenant-participating conversion. Any conversion to tenant ownership implemented pursuant to this Article.

Tenant's sales price. The maximum price for each unit as set forth in the Tenant-Participating Conversion Application.

(Amended at Municipal Election, November 6, 1990, certified by Res. No. 6943CCS; Special Municipal Election, June 2, 1992, certified by Res. No. 8429CCS)

2002. Application for Tenant-Participating Conversion.

An application for a Tenant-Participating Conversion shall be complete if it meets the following requirements:

- (a) Identifies the building, and its owner, which is the subject of the application and contains a declaration that such building is a qualifying building.
- (b) Sets forth, for each tenant occupied unit, the following sales information:
 - (1) The maximum sales price for each unit.
 - (2) If seller financing will be offered, the minimum amount to be financed, the minimum down payment, the maximum rate of interest and the minimum term of the loan offered by the seller.
- (c) Sets forth, for each unit, the following common area, maintenance and budget information:
 - (1) The plan for the assignment and use of all parking spaces.
 - (2) The plan for the use of all common area facilities.
 - (3) The occupancy and management plans and policies.
 - (4) A list of all repairs and alterations, if any, which will be performed before the close of the first escrow and a temporary relocation assistance plan, if any, that will be offered to tenants impacted by the repairs and alterations while they are being performed. This Subdivision shall not be construed to mandate a temporary relocation assistance plan unless otherwise required by law.
 - (5) The plan for allocating costs and expenses for the building.
 - (6) A prepared monthly maintenance budget based upon actual maintenance expenses for at least the preceding two years plus a reserve fund which states the monthly maintenance assessment for each unit.
 - (7) The procedures for the allocation and use of such reserve funds.
- (d) Contains a declaration with the following information:
 - (1) That there has been a building inspection report of the accessible portions of the entire building, including but not limited to, the roof, walls, floors, heating, air conditioning, plumbing, electrical systems or components of a similar or comparable nature, and recreational facilities of the building prepared by a Building Inspection Service or similar agency within the preceding four (4) months.
 - (2) That, for each tenant occupied unit, a written statement setting forth any substantial defects or malfunctions identified in the building inspection report regarding the unit and the common areas has been delivered to the unit or a tenant occupying the unit.
 - (3) That, for each tenant occupied unit, a copy of the complete building inspection report has been delivered to the unit or a tenant occupying the unit.
- (e) Sets forth the form of tenant ownership for which the application is submitted.
- (f) Is signed by cosigning tenants occupying not less than two-thirds (2/3) of all the residential units in

the building and indicates whether the cosigning tenants have an economic relationship with or are related by blood or marriage to the owner. If there is more than one tenant in a unit, the signature of only one tenant shall be required.

For purposes of this Subsection, an owner of the building shall be deemed a cosigning tenant if: (1) the owner has continuously resided at the building as his or her principal place of residence for at least six months prior to the date the owner began to solicit tenant approval for the TORCA conversion and (2) the building has not previously been withdrawn from the residential rental business pursuant to Government Code Section 7060 et seq., unless the owners were tenants in the property at the time of the withdrawal.

- (g) Identifies the cosigning tenants and the units occupied by such tenants and lists all other tenants known to the owner in the building and the units they occupy.
- (h) Contains a declaration that the signature of each cosigning tenant was obtained only after the delivery, in writing, to such tenant of the information required in Subsections (a), (b), (c), (d) and (e) of this Section.
- (i) Contains a declaration that all lawful notices have been given of the application for conversion.
- (j) Has attached to the application Statements of Tenant Intent to Purchase, signed by Intending to Purchase Tenants occupying not less than fifty percent (50%) of the total number of residential units in the building. If there is more than one tenant in a unit, the signature of only one tenant shall be required.

For purposes of this Subsection, an owner of the building shall be deemed an intending to purchase tenant if: (1) the owner has continuously resided at the building as his or her principal place of residence for at least six months prior to the date the owner began to solicit tenant approval for the TORCA conversion and (2) the building has not previously been withdrawn from the residential rental business pursuant to Government Code Section 7060 et seq., unless the owners were tenants in the property at the time of the withdrawal.

- (k) Contains a declaration that in obtaining the signatures of cosigning tenants and intending to purchase tenants, the owner neither offered nor agreed to pay money or other financial consideration to participating tenants if the tenants would release all rights that they had to purchase a rental unit in the building.
- (l) Contains a declaration that in obtaining the signatures of cosigning tenants and intending to purchase tenants, neither the owner nor the owner's agent or representative coerced a tenant to sign by threatening that the owner, or any successor thereof, would cease operating the property as residential rental property pursuant to Government Code Section 7060 et seq. (the Ellis Act) if the proposed conversion of the building pursuant to this Article did not occur.
- (m) Contains a declaration that no less than forty-five (45) days prior to obtaining the signatures of cosigning tenants and intending to purchase tenants, the person intending to gather the requisite tenant signatures notified all tenants residing at the owner's property by certified mail on a form approved by the City of his or her intent to obtain the signatures and provided these tenants with the informational booklet prepared by the City discussing the TORCA process, addressing the tenants' legal rights and obligations under TORCA, and informing the tenants of upcoming seminars.
- (n) That, for each tenant occupied unit, a Tenant Intent to Purchase has been delivered to the unit or a tenant occupying the unit.

(Amended at Municipal Election, November 6, 1990, certified by Res. No. 8121; Special Municipal Election, June 2, 1992, certified by Res. No. 8429CCS)

2003. Processing of Tenant-Participating Conversion Application.

The following procedures shall be followed in the processing of a Tenant-Participating Conversion Application:

- (a) No less than forty-five (45) days prior to obtaining the signatures of cosigning tenants and intending to purchase tenants, the person intending to gather the requisite tenant signatures shall first notify all tenants residing at the owner's property by certified mail on a form approved by the City of his or her intent to obtain the signatures and with the notification shall provide an informational booklet to these tenants prepared by the City discussing the TORCA process, addressing the tenants' legal rights and obligations under TORCA, and informing the tenants of upcoming TORCA seminars. The notification form prepared by the City shall be in substantially the following form and substance:

NOTICE OF INTENTION TO APPLY FOR
TORCA CONVERSION

The owner of your property is interested in applying for a condominium conversion under the Tenant Ownership Rights Charter Amendment. Please review the enclosed booklet provided by the City of Santa Monica for information about your rights and protections under this process. Included also is a schedule of any upcoming free seminars sponsored by the City on the TORCA program.

The City requires this notice be sent by certified mail to tenants forty-five (45) days before signatures of tenant approval in support of this conversion can be obtained.

(Signed and Separately Dated by the Agent of the Owner)

- (b) A Tenant-Participating Conversion Application shall be deemed complete and accepted for filing by the City when it meets the requirements of Section 2002 of this Article.
- (c) A Tenant-Participating Conversion Application shall be submitted to the City for filing by the owner not less than forty (40) days prior to the owner's submittal to the City for filing of any application for a tentative subdivision map or tentative parcel map under the Subdivision Map Act of the State of California. No application for any required tentative subdivision map or tentative parcel map shall be deemed complete and accepted for filing as provided in this Section unless the Tenant-Participating Conversion Application has also been deemed complete and accepted for filing. The Tenant-Participating Conversion Application may be submitted for filing simultaneously with the service of the Notice of Intent to Convert required by the Subdivision Map Act of the State of California.
- (d) Within five (5) days of deeming a Tenant-Participating Conversion Application complete and accepting it for filing, the City shall send notice to every tenant in the building stating that a Tenant-Participating Conversion Application has been filed and that any objections thereto may be filed with the City within thirty (30) days from the date of the notice.
- (e) Upon deeming the application for any required tentative subdivision map or tentative parcel map complete and accepting it for filing, or if no such map is required, at the end of forty (40) days from deeming a Tenant-Participation Conversion Application complete and accepting it for filing, the Tenant-Participating Conversion Application and any required map shall be scheduled for hearing and processed in accordance with the procedures for the processing of subdivision maps. The City

and the applicant may agree to extend the time periods required for processing.

- (f) Any Tenant-Participating Conversion Application shall be deemed approved subject to the conditions set forth in Section 2004 of this Article if it is not approved or denied within the time periods required by this Section.

(Amended at Special Municipal Election, June 2, 1992, certified by Res. No. 8429CCS)

2003A. Tenant rescission of signatures.

A tenant can rescind his or her signature on the Tenant-Participating Conversion Application or the Statement of Tenant Intent to Purchase as follows:

- (a) At any time during the thirty (30) day objection period specified in Section 2003(d) by notifying the City in writing that the tenant rescinds his or her signature on the Tenant-Participating Conversion Application or the Statement of Tenant Intent to Purchase.
- (b) If a change in ownership in the building occurs after a tenant has signed the Tenant-Participating Conversion Application or Tenant Intent to Purchase and the tenant was not notified in writing prior to signing these documents that a change in ownership was pending, that tenant can rescind his or her signature by notifying the City in writing at any time prior to Planning Commission approval of the Tenant-Participating Conversion Application unless:
- (1) The new owner reobtains the tenant's signature on a Tenant-Participating Conversion Application and/or Tenant Intent to Purchase.
 - (2) These documents are filed with the City. The City shall notify the tenant within five (5) days of accepting these subsequent documents for filing.
- (c) If a new owner follows the procedure specified in Subsection (b) of this Section, a tenant can only rescind his or her signature on these subsequent documents by notifying the City in writing within thirty (30) days from the date of City notification of their acceptance for filing, or prior to Planning Commission approval of the Tenant-Participating Conversion Application, whichever occurs first.

(Adopted at Special Municipal Election, June 2, 1992, certified by Res. No. 8429CCS)

2004. Approval or denial of Tenant-Participating Conversion Application.

A Tenant-Participating Conversion Application shall be approved or denied within the time periods set forth in Section 2003 of this Article and in accordance with the following standards:

- (a) A Tenant-Participating Conversion Application, along with any required tentative subdivision map or tentative parcel map shall be denied if the Tenant-Participating Conversion Application fails to meet any of the requirements of this Article, was the result of fraud, misrepresentation, or threat or similar coercion, or fails to meet any mandatory requirement of the Subdivision Map Act of the State of California.
- (b) A Tenant-Participating Conversion Application, along with any required tentative subdivision map or tentative parcel map, shall be approved if it meets the requirements of this Article and shall be subject to the following conditions and no others:
- (1) The owner must file with the City written consent to each condition imposed in connection with the approval of a Tenant-Participating Conversion Application. The written consent shall be filed prior to the approval of any required final subdivision map or final parcel map, or if no such map is required, within six (6) months from the date of approval of the Tenant-

Participating Conversion Application. The filing of such written consent shall constitute an agreement, with the City of Santa Monica and each participating tenant, binding upon the owner and any successors in interest, to comply with each and every condition imposed in connection with approval of a Tenant-Participating Conversion Application. The City and any participating tenant shall have the right to specific enforcement of this Agreement in addition to any other remedies provided by law.

- (2) The owner shall offer and continue to offer the exclusive right to purchase each rental unit in the building to the participating tenant thereof upon the terms set forth in the application, without change, for a period of not less than two (2) years from the date of final approval by the California Department of Real Estate or the date the first unit in the building is offered for sale, if no approval by the California Department of Real Estate is required. Unless a participating tenant has already provided the owner with written acceptance of the offer, the Tenant's Sale Price may be adjusted at the beginning of the second year according to any change reflected in the Price Index occurring during the preceding year. Upon the written acceptance of the offer by the participating tenant at any time within the two year period, escrow shall open within thirty (30) days from the written acceptance by the participating tenant. Unless otherwise agreed by the parties, the period of the escrow shall not exceed sixty (60) days.
- (3) No participating tenant shall at any time after the approval of the Tenant-Participating Conversion Application be evicted for the purpose of occupancy by the owner, occupancy by any relative of the owner, or for demolition of the unit. In the event the participating tenant does not exercise his or her right to purchase within the time period set forth in this Article, the owner may transfer the unit without any price restriction to the participating tenant or any other person. However, in the event such transfer is to someone other than the participating tenant, the transfer shall be expressly made subject to the rights of the participating tenant to continue to occupy the unit as provided for in this Article.
- (4) Each unit shall at all times remain subject to all the terms and conditions of Article XVIII of this Charter, except Section 1803(t), before, during and after any Tenant-Participating Conversion. If any unit is rented, the maximum allowable rent for each unit shall be no greater than the maximum allowable rent allowed under Article XVIII of this Charter.
- (5) The building may be required to comply only with the applicable laws, including the building, safety, and zoning codes, which were in effect as of the date the building was constructed. No new, additional requirements including, but not limited to, parking, room size, or interior or exterior improvements of any kind, may be imposed as a condition, either directly or indirectly, of the Tenant-Participating Conversion. Notwithstanding the above, the City may impose reasonable health or safety requirements consistent with this Article upon such buildings provided that such requirements uniformly apply to all similar multiresidential structures in the City of Santa Monica, regardless of the form of ownership of the building.
- (6) Prior to the approval of any required subdivision map or final parcel map for the Tenant-Participating Conversion, or if no such map is required, prior to the filing of the written consent required by Subdivision (b)(1) of this Section, each participating tenant shall be informed in writing, in a form approved by the City, of his or her rights under this Article.
- (7) In addition to the protections of Subdivisions (b)(3) and (b)(4) of this Section:
 - (A) All non-purchasing Participating Tenants who are senior citizens or disabled on the date of filing the Tenant-Participating Conversion Application and who personally occupied a rental unit in the qualifying building continuously for at least six (6) months immediately

preceding the date of the filing of Tenant-Participating Conversion Application shall be given the nonassignable right to continue to personally reside in their unit as long as they choose to do so subject only to just cause evictions provided that the eviction is not for the purpose of occupancy by the owner, occupancy by any relative of the owner, or the demolition of the unit. In addition, should the maximum allowable rent provision of Article XVIII of this Charter no longer apply, the rent for each such unit shall be adjusted annually to allow an increase of no more than the increase in the Price Index plus a reasonable, pro rata share of capital improvements for the buildings common areas or agreed to capital improvements for the unit except where prohibited by Subdivision (b)(12) of this Section. Within sixty (60) days after the approval of a Tenant-Participating Conversion Application, any senior citizen participating tenant who is entitled to the protections of this Subdivision may designate in writing the name of one person who is entitled to continue living in the rental unit under the same terms as the senior citizen if the senior citizen predeceases him or her and if the person designated is residing in the unit at the time of the death of the senior citizen. The person designated by the senior citizen must be a lawful occupant of the unit, at least fifty-five (55) years of age on the date of the filing of the Tenant-Participating Conversion Application, and must have resided in the unit for a continuous period of six months prior to the filing of the Tenant-Participating Conversion Application.

- (B) All other non-purchasing Participating Tenants who personally occupied a rental unit in a qualifying building continuously for at least six (6) months immediately preceding the date filing the Tenant-Participating Conversion Application shall be given the nonassignable right to continue to personally reside in their unit subject only to just cause eviction for a period of five (5) years from the date the first unit is offered for sale. No eviction shall be allowed during this time period except for just cause provided the eviction is not for the purpose of occupancy by the owner, occupancy by any relative of the owner, or demolition of the unit. In addition, during this time period, should the maximum allowable rent provisions of Article XVIII of this Charter no longer apply, the rent for each unit shall be adjusted annually to allow an increase of no more than the increase in the Price Index plus a reasonable pro rata share of capital improvements for the building's common areas or agreed to capital improvements for the unit except where prohibited by Subdivision (b)(12) of this Section.

All rights under this Subsection shall expire upon the termination of the landlord-tenant relationship between the owner and the participating tenant entitled to the protection of this Subsection.

For purposes of this Subsection, "Just cause" means one of the reasons set forth in Subdivisions (a) through (g) of Section 1806 of this Charter.

This Subsection shall be interpreted in accordance with Santa Monica City Attorney Informal Opinion Number 84-57. All amendments to this Subsection are declaratory of existing law.

- (8) Non-purchasing Participating Tenants shall not be subject to eviction pursuant to Government Code Section 7060 et seq. ("the Ellis Act").
- (9) The owner shall pay the Tenant-Participating Conversion Tax in the manner required by Section 2008 of this Article.
- (10) No owner shall close the first escrow without completing the repairs and alterations agreed to

pursuant to Section 2002(c)(4) of this Article. The time to complete the repairs and alterations may be extended for a period not to exceed ninety (90) days if the tenant purchasing the first unit agrees to the extension and the owner provides a bond approved by the California Department of Real Estate in an amount sufficient to cover the cost of the work yet to be completed. The Building Officer of the City of Santa Monica may authorize a further extension of time to complete the repairs and alterations upon finding that the owner has diligently sought to make the repairs during the initial extension period and that additional time is reasonably required to complete the work.

In addition to any other remedy provided by law, for each consecutive calendar day that an owner fails to complete the repairs and alterations agreed to pursuant to Section 2002(c)(4) in a timely manner, the owner shall be liable to the City in the amount of two hundred and fifty dollars (\$250.00) for the first day and one hundred dollars (\$100.00) per day for each day thereafter. No penalty imposed under this Subsection shall exceed two (2) times the cost of the repairs or alterations that were not timely completed by the owner, but in no event shall the penalty be less than \$250.00.

- (11) Prior to the filing and approval of the Tenant-Participating Conversion Application by the Planning Commission or City Council on appeal, no participating tenant shall offer or agree to release all rights that he or she has to purchase a rental unit in the building in return for receiving money or other financial consideration from the owner.
- (12) The maximum allowable rent of non-purchasing Participating Tenants shall not at any time after the approval of the Tenant-Participating Conversion Application be increased due to capital expenditures incurred at the building as listed in the Tenant-Participating Conversion Application or as conditions of the conversion approved by the Santa Monica Planning Commission or by the City Council on appeal.
- (13) The requirements of this Section shall be set forth in the Declaration of Covenants, Conditions, and Restrictions, or equivalent document, and shall specifically name the Participating Tenants in each unit entitled to the benefits and protections of this Article. The City shall review and approve for compliance with this Article the Covenants, Conditions, and Restrictions, or equivalent documents, prior to the approval of any required final subdivision map or final parcel map, or if no such map or final parcel map is required, prior to the filing of the written consent required by Subdivision (b)(1) of this Section. To the extent applicable, the requirements of this Article shall be made a part of the rental agreement with the Participating Tenants.
- (14) The Declaration of Covenants, Conditions, and Restrictions, or equivalent document, shall contain a non-discrimination clause in substantially the following form: "No unit owner shall execute or file for record any instrument which imposes a restriction upon the sale, leasing or occupancy of his or her unit on the basis of sex, race, color, religion, ancestry, national origin, age, pregnancy, marital status, family composition, handicap, Acquired Immune Deficiency Syndrome (A.I.D.S.), sexual orientation, or the potential or actual occupancy of minor children. The association shall not discriminate on the basis of sex, race, color, religion, ancestry, national origin, age, pregnancy, marital status, family composition, handicap, Acquired Immune Deficiency Syndrome (A.I.D.S.), sexual orientation, or the potential or actual occupancy of minor children."
- (15) The approval of a Tenant-Participating Conversion Application shall expire if any required final subdivision map or final parcel map is not approved within the time periods set forth in the Subdivision Map Act of the State of California, or if no such map is required, if the written

consent required by Subdivision (b)(1) is not filed within the required time period.
(Amended at Municipal Election, November 6, 1990, certified by Res. No. 8121; Special Municipal Election, June 2, 1992, certified by Res. No. 8429CCS)

2005. Prohibition against resale controls.

The City shall not impose either directly or indirectly any restrictions on the price, terms or conditions of sale or resale of any unit in a Tenant-Participating Conversion except to incorporate the terms and conditions agreed to by the parties in the Tenant-Participating Conversion Application as authorized by this Article. Nothing in this Section shall restrict the City from imposing any conditions or restrictions necessary to continue the form of ownership of units exempt from the tax required by Section 2008. Nothing in this Section shall restrict the City, any other governmental agency, or any other person from making any voluntary loans or other forms of voluntary financial assistance to purchases of units for which a Tenant-Participating Conversion Application has been approved with any terms agreeable to all parties.

2006. Prohibition against other tax and fee requirements.

No tax or fee other than those expressly set forth in this Article may be imposed, either directly or indirectly, by the City on a Tenant-Participating Conversion except the imposition of actual processing or map costs not to exceed five hundred dollars (\$500.00) per unit adjusted annually by the Price Index.
(Amended at General Municipal Election, November 6, 1984, Res. No. 6943CCS)

2007. Applicability of other laws.

Section 1803(t) of this Charter shall not apply to any building for which a Tenant-Participating Conversion Application has been approved. Any provision of any ordinance of the City or any provision of the Municipal Code or any appendix thereto inconsistent with the provisions of this Article, to the extent of such inconsistency and no further, shall not apply to the extent necessary to effect the provisions of this Article. Any general or specific plan of the City inconsistent with this Article shall be amended to the extent necessary to be consistent with this Article, and until such amendment, shall be deemed consistent with this Article.

2008. Tenant-Participating Conversion Tax.

A Tenant-Participating Conversion Tax is hereby imposed as follows:

- (a) There is hereby established a Tenant-Participating Conversion Fund. All of the sums collected pursuant to this Section shall be deposited in the Tenant-Participating Conversion Fund and shall be used only for the purposes set forth in Section 2009 of this Article.
- (b) The Tenant-Participating Conversion Tax shall be paid by the owner to the City Treasurer on each Tenant-Participating Conversion unit in an amount equal to twelve (12) times the monthly maximum allowable rent for the unit at the time the tax is due and payable. If there is no monthly maximum allowable rent, the tax shall be computed on the basis of the monthly fair rental value of the unit.
- (c) The Tenant-Participating Conversion Tax shall be due and payable at the time of approval of any required final subdivision map or final parcel map, or if no such map is required, at the time of the filing of the written consent required by Section 2004(d)(1) of this Article. Payment of the tax may be deferred until sale of the unit by the owner executing a lien in the form approved by the City. Upon payment of the tax, or upon a determination that a unit is exempt from the tax in accordance with Subdivision (d) of this Section, a release of lien shall be filed by the City with respect to each unit for

which the tax has been paid or which has been determined to be exempt from the tax.

- (d) Any unit subject to limited equity resale provisions shall be exempt from payment of the tax.

2009. Use of tax.

All monies derived from the Tenant-Participating Conversion Tax shall be annually appropriated by the City Council for only the following purposes:

- (a) To pay for reasonable and necessary costs of development and administration of programs required to meet the purposes of this Section. Such monies shall not be used for costs attributable to the processing of Tenant-Participating Conversion Applications or to the non-project related administrative overhead of nonprofit housing development corporations that are acquiring and rehabilitating, constructing, or providing rental subsidies for affordable housing in the City.
- (b) The revenues derived from Section 2008 that remain after deducting the revenues appropriated pursuant to Subsection (a) of this Section shall be used as follows:
- (1) To assist Low Income Households and Moderate Income Households in Tenant-Participating Conversions to purchase or improve their units subject to an affordable repayment plan including interest, keyed to future income increases. Upon resale of a unit by a household assisted pursuant to this Subsection, the City shall receive a percentage of the appreciated value of that unit obtained by the assisted household. In the case of a direct loan, the percentage of the appreciated value received by the City shall not be less than the percentage of the loan to the purchase price for the unit. In the case of a loan made by a private lender that is guaranteed by the City, the percentage of the appreciated value received by the City shall not be less than the percentage of that portion of the loan guaranteed by the City to the overall loan provided by the private lender.
 - (2) To assist the City or a nonprofit housing development corporation to purchase units, for which a Tenant-Participating Conversion Application has been approved, for lease or resale to Low and Moderate Income Households, provided that any unit so acquired shall be subject to limited equity resale provisions.
 - (3) To assist the City or a nonprofit housing development corporation to acquire and rehabilitate, construct, aid in the financing of, or provide rental subsidies for temporary or permanent housing for Low Income Households.

(Amended at Municipal Election, November 6, 1990, certified by Res. No. 8121; Special Municipal Election, June 2, 1992, certified by Res. No. 8429CCS; General Municipal Election, November 5, 2002, Measure KK)

2010. Programs to assist Middle Income Households.

Within six (6) months from the enactment of this Article, the City Council shall study and issue a report on methods available to the City for assisting Middle Income Households to purchase units for which a Tenant-Participating Conversion Application has been approved.

2011. Limitation.

If the City Council finds based upon competent factual data obtained from municipal, State, Federal or other independent sources of data that the ratio of non-owner-occupied residential units to owner occupied residential units within the City of Santa Monica has fallen below the average of such ratio for the State of

California, the City Council is empowered, at its discretion and in order to achieve the objectives of this Article, to cease accepting new Tenant-Participating Conversion Applications until the ratio of non-owner occupied residential units within the City exceeds the average such ratio for the State of California.

2012. Information and compliance.

The City Council shall cause to be prepared and supervise a program to disseminate information about this Article to tenants, apartment owners and other parties informing each tenant, apartment owner and other parties of their rights and obligations under this Article. The City Council shall issue an annual report to include data on compliance with this Article. Each report shall include data on the number of applications and the status of each project. The City Manager shall appoint an advisory committee consisting of two (2) representatives from landlord organizations and two (2) representatives from tenant organizations to advise the City concerning the TORCA educational process including the preparation of materials for the TORCA informational booklets and the TORCA seminars.

(Amended at Special Municipal Election, June 2, 1992, certified by Res. No. 8429CCS)

2013. Criminal penalties.

Any violation of this Article shall constitute a misdemeanor.

2014. Civil remedies.

The City Attorney shall supervise and promote educational legal information concerning civil remedies and civil causes of action which may be available to persons who feel that their rights have been violated, including, but not limited to, intentional infliction of emotional distress, breach of contract, fraud, interference with prospective economic opportunity, constructive eviction, breach of the covenant of quiet enjoyment, trespass and other causes of action. The City Attorney shall refer persons seeking a civil remedy to any referral agencies or referral panel operating in accordance with the requirements of the State Bar of California. Any aggrieved party may bring an action in a court of competent jurisdiction in order to obtain relief for any violation of this Article.

2015. Expenditure authorization.

The expenditure limitation of the City established pursuant to Article XIII B of the California Constitution is increased, in addition to any other voter-approved increases, for each of fiscal years 1984-85, 1985-86, 1986-87, and 1987-88 by an amount equal to the amount of the monies received in each such fiscal year pursuant to Section 2008 of this Article. The City Council shall place before the voters periodically a measure to increase the expenditure limitation prior to the expiration of the increase authorized by this Section or any subsequent increase so that there is a continuation, to the extent approved by the voters and in addition to any other voter-approved increases, of the expenditure limitation of the City equal to the amount of the taxes derived from Section 2005 of this Article.

2015A. Expenditure authorization—1988-1992.

The expenditure limitation of the City established pursuant to Article XIII B of the California Constitution is increased, in addition to any other voter-approved increases, for each of the fiscal years during the four year period beginning June 7, 1988, and ending June 6, 1992, by an amount equal to the amount of the monies received in each such fiscal year pursuant to Section 2008 of this Article.

(Adopted at Special Municipal Election, June 7, 1988, Res. No. 7640CCS)

2015B. Expenditure authorization—1992-1996.

The expenditure limitation of the City established pursuant to Article XIII B of the California Constitution is increased, in addition to any other voter-approved increases, for each of the fiscal years during the four year period beginning June 2, 1992, and ending June 1, 1996, by an amount equal to the amount of the monies received in each such fiscal year pursuant to Section 2008 of this Article and by an amount equal to the monies received in previous fiscal years pursuant to Section 2008 of this Article and not yet expended. (Adopted at Special Municipal Election, June 2, 1992, certified by Res. No. 8429CCS)

2015C. Expenditure authorization—1996-2000.

The expenditure limitation of the City established pursuant to Article XIII B of the California Constitution is increased, in addition to any other voter-approved increases, for each of the fiscal years during the four year period beginning March 26, 1996 and ending March 25, 2000, by an amount equal to the amount of monies received in each such fiscal year pursuant to Section 2008 of this Article, and by an amount equal to the monies received in previous fiscal years pursuant to Section 2008 of this Article and not yet expended. (Adopted at General Municipal Election, March 26, 1996)

2016. Sunset.

- (a) No Tenant-Participating Conversion Application shall be filed after July 1, 1996, unless this Section is amended to provide for the filing of such application after this date.
- (b) No Tenant-Participating Conversion Application shall be filed on or after the date the City's expenditure limitation has not been increased in accordance with Article XIII B of the California Constitution for the purpose of fully expending the monies received pursuant to Section 2008 of this Article.
- (c) In the event Section 2008 does not become effective by reason of the failure of this Article to secure the approval of two-thirds of the voters to the extent required by Article XIII A of the California Constitution or by any other reason, no Tenant-Participating Conversion Application may be filed.

2017. Partial invalidity.

- (a) Except as provided in Subdivision (b) of this Section, if any provision of this Article or application thereto to any person or circumstance is declared or found invalid by a court of competent jurisdiction, this invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable. This Article shall be liberally construed to achieve the purposes of this Article and to preserve its validity.
- (b) The following provisions of this Article shall be inseverable and the invalidity of any such provision of this Article shall result in the invalidity of this entire Article:
 - (1) Section 2002(f), Section 2002(j), Section 2004(b)(1), 2004(b)(2), Section 2004(b)(3), Section 2004(b)(4), Section 2004(b)(7), or Section 2004(b)(9), when the invalidity of such provision would deprive tenants of the rights conferred by this Article necessary to ensure their participation and protection before, during, and after the Tenant-Participating Conversion.
 - (2) Section 2008.
 - (3) Section 2009(a).

- (4) Section 2015.
- (5) Section 2016(b).
- (6) Section 2016(c).
- (c) In the event that this Article is declared invalid in its entirety as a consequence of the provisions of Subdivision (b) of this Section, any applicant who has filed a Tenant-Participating Conversion Application meeting the requirements of this Article at the time of the filing of the application shall have a right to proceed with the conversion in accordance with the application according to the terms of this Article as though each and every provision hereof was severable.

2018. Prohibition of non-TORCA conversion.

- (a) No multifamily residential conversion, whether by condominium, stock cooperative, community apartment, cooperative apartment, or other means, shall be approved unless it is approved in accordance with this Article.
- (b) The General Plan of the City shall at all times contain a provision that the Tenant Ownership Rights Charter Amendment shall be the only procedure by which a multifamily conversion may be approved.
(Added at Municipal Election, November 6, 1990, certified by Res. No. 8121)

ARTICLE XXI

ARTICLE 34 VOTER AUTHORIZATION**2100. Definition of terms and interpretation.**

- (a) The term “City of Santa Monica” shall include the City, its housing authority, redevelopment agency, and other City agencies.
- (b) The term “housing unit,” shall mean a residential dwelling designed for human occupation, and shall include but not be limited to apartments, condominiums, townhouses, single family homes, duplexes, mobile home spaces, and trailer spaces.
- (c) The term “low rent housing unit” shall mean a housing unit that is located within a low rent housing project.
- (d) The terms “develop,” “construct,” “acquire,” and “low rent housing projects” shall be interpreted in accordance with Article XXXIV of the California Constitution, Government Code Section 37000 et seq., and any successor legislation thereto.
- (e) The provisions of this Article shall be interpreted to maximize affordable housing production and to promote economic diversity in the community.

2110. Article XXXIV authorization.

Commencing with the 1998-1999 fiscal year, and each fiscal year thereafter, the City of Santa Monica is authorized to develop, construct, or acquire low rent housing units equal in number to no more than one-half of one percent (1/2 of 1%) of the total number of housing units existing in the City as of the last day of the previous fiscal year. If the City does not exhaust the authorization conferred by this Section in any fiscal year, the authority remaining for that year may be carried over and added to the number of units otherwise allowed in subsequent fiscal years for a maximum of three (3) additional years. For purposes of determining whether the City has exhausted its authorization for a given fiscal year, units shall be counted against the authorization either when the City grants planning approval or when the City makes a binding funding commitment for a low rent housing unit, whichever occurs first.

2120. Annual report.

Commencing with the 1999-2000 fiscal year, at the beginning of each fiscal year, City staff shall issue a report to the City Council concerning the following matters:

- (a) The total number of affordable housing units subject to Article XXXIV which received City planning approval or funding commitments in the previous fiscal year.
- (b) The total number of housing units existing in the City as of the last day of the previous fiscal year. As of June 30, 1998, a total of 48,573 housing units existed in the City. Based on permit data reports generated by the City, this number shall be adjusted each fiscal year by adding the number of newly constructed housing units that have received final City approval for the occupancy of the housing unit and subtracting the number of housing units that have been demolished during that same period.
- (c) The number of affordable housing units which were authorized pursuant to Section 2110 of this Article in previous fiscal years, but which have not already been counted against the annual authorization and which have not been carried over for more than three (3) subsequent fiscal years.
- (d) The total number of affordable housing units that are authorized for the current fiscal year, including

the housing unit authorization that may be carried over from previous fiscal years.

2130. Scope of authorization.

- (a) The housing authorized under this article shall be in addition to any other Article XXXIV authorization granted by the registered voters of the City before or after the adoption of this article.
 - (b) Any low rent housing project authorized by this article may be funded in any manner.
 - (c) This article in no way restricts or limits the City's authority to develop or assist in the development of housing that is not subject to Article XXXIV.
- (Adopted at General Municipal Election, November 3, 1998)

ARTICLE XXII
TAXPAYER PROTECTION

Note: Editor's note: Article XXII adopted at General Municipal Election, November 7, 2000, Measure LL.

2200. Title.

This Article shall be known as the City of Santa Monica Taxpayer Protection Amendment of 2000.

2201. Findings and declarations.

- (a) The people of the City of Santa Monica ("City") find that the use or disposition of public assets are often tainted by conflicts of interest among local public officials entrusted with their management and control. Such assets, including publicly owned real property, land use decisions conferring substantial private benefits, conferral of a franchise without competition, public purchases, taxation, and financing, should be arranged strictly on the merits for the benefit of the public, and irrespective of the separate personal or financial interests of involved public officials.
- (b) The people find that public decisions to sell or lease property, to confer cable, trash hauling and other franchises, to award public construction or service contracts, or to utilize or dispose of other public assets, and to grant special land use or taxation exceptions have often been made with the expectation of, and subsequent receipt of, private benefits from those so assisted to involved public "decision makers." The people further find that the sources of such corruptive influence include gifts and honoraria, future employment offers, and anticipated campaign contributions for public officials who are either elected or who later seek elective office. The trading of special favors or advantage in the management or disposal of public assets and in the making of major public purchases compromises the political process, undermines confidence in democratic institutions, deprives meritorious prospective private buyers, lessees, and sellers of fair opportunity, and deprives the public of its rightful enjoyment and effective use of public assets.
- (c) Accordingly, the people declare that there is a compelling state interest in reducing the corruptive influence of emoluments, gifts, and prospective campaign contributions on the decisions of public officials in the management of public assets and franchises, and in the disposition of public funds. The people, who compensate public officials, expect and declare that as a condition of such public office, no gifts, promised employment, or campaign contributions shall be received from any substantial beneficiary of such a public decision for a reasonable period, as provided herein.

2202. Definitions.

- (a) As used herein, the term public benefit does not include public employment in the normal course of business for services rendered, but includes a contract, benefit, or arrangement between the City and any individual, corporation, firm, partnership, association, or other person or entity to:
 - (1) provide personal services of a value in excess of \$25,000 over any 12 month period,
 - (2) sell or furnish any material, supplies or equipment to the City of a value in excess of \$25,000 over any 12 month period,
 - (3) buy or sell any real property to or from the City with a value, in excess of \$25,000, or lease any real property to or from the City with a value in excess of \$25,000 over any 12 month period,

- (4) receive an award of a franchise to conduct any business activity in a territory in which no other competitor potentially is available to provide similar and competitive services, and for which gross revenue from the business activity exceeds \$50,000 in any 12 month period,
- (5) confer a land use variance, special use permit, or other exception to a pre-existing master plan or land use ordinance pertaining to real property where such decision has a value in excess of \$25,000,
- (6) confer a tax abatement, exception, or benefit not generally applicable of a value in excess of \$5,000 in any 12 month period,
- (7) receive cash or specie of a net value to the recipient in excess of \$10,000 in any 12 month period.
- (b) Those persons or entities receiving public benefits as defined in Section 2202(a)(1)-(7) shall include the individual, corporation, firm, partnership, association, or other person or entity so benefiting, and any individual or person who, during a period where such benefit is received or accrues,
 - (1) has more than a ten percent (10%) equity, participation, or revenue interest in that entity, or
 - (2) who is a trustee, director, partner, or officer of that entity or of another entity that owns or controls the entity receiving the public benefit, excepting persons serving in those capacities as volunteers, without compensation, for organizations exempt from income taxes under Section 501(c)(3), (4), or (6) of the Internal Revenue Code. However, this exception shall not apply if the organization is a political committee or controls political committees as defined by California Government Code Section 82013 or 2 U.S.C. Section 431(4) or successor provisions.
- (c) As used herein, the term personal or campaign advantage shall include:
 - (1) any gift, honoraria, emolument, or personal pecuniary benefit of a value in excess of \$50;
 - (2) any employment for compensation;
 - (3) any campaign contributions for any elective office said official may pursue.
- (d) As used herein, the term public official includes any elected or appointed public official acting in an official capacity. This includes, but is not limited to: City Council members, Planning Commission members, and the City Manager and Department Heads and their designees who confer "public benefits" as defined in this section.

(Amended by General Municipal Election, November 8, 2016, certified by Res. No. 10978CCS)

2203. City public official shall not receive personal or campaign advantage from those to whom they allocate public benefits.

- (a) No City public official who has exercised discretion to approve and who has approved or voted to approve a public benefit as defined in Section 2202(a) may receive a personal or campaign advantage as defined in Section 2202(c) from a person as defined in Section 2202(b) and no person or entity who has received a public benefit may confer a personal or campaign advantage upon a public official who exercised discretion to confer that public benefit for a period beginning on the date the official approves or votes to approve the public benefit, and ending no later than:
 - (1) two years after the expiration of the term of office that the official is serving at the time the official approves or votes to approve the public benefit;
 - (2) two years after the official's departure from his or her office whether or not there is a pre-

established term of office; or

- (3) six years from the date the official approves or votes to approve the public benefit; whichever is first.
- (b) Section 2203(a) shall also apply to the exercise of discretion of any such public official serving in his or her official capacity through a redevelopment agency, or any other public agency, whether within or without the territorial jurisdiction of the City either as a representative or appointee of the City.
- (c) No City public official who has exercised discretion to approve and who has approved or voted to approve a public benefit as defined in Section 2202(a) may receive a personal or campaign advantage as defined in Section 2202(c) from a person as defined in Section 2202(b) in any geographic location, including within and outside the geographic boundaries of Santa Monica.

(Amended by General Municipal Election, November 8, 2016, certified by Res. No. 10978CCS)

2204. Applicable public beneficiaries section. Responsibilities of City public officials and advantage recipients.

- (a) City public officials shall practice due diligence to ascertain whether or not a benefit defined under Section 2202(a) has been conferred, and to monitor personal or campaign advantages enumerated under Section 2202(c) so that any such qualifying advantage received is returned forthwith, and no later than ten days after its receipt.
- (b) City public officials shall provide, upon inquiry by any person, the names of all entities and persons known to them who respectively qualify as public benefit recipients under the terms of Section 2202 and 2203.

2205. Disclosure of the law.

The City shall provide any person, corporation, firm, partnership, association, or other person or entity applying or competing for any benefit enumerated in Section 2202(a) with written notice of the provisions of this Article and the future limitations it imposes. Said notice shall be incorporated into requests for "proposal," bid invitations, or other existing informational disclosure documents to persons engaged in prospective business with, from, or through the City.

2206. Penalties and enforcement.

- (a) In addition to all other penalties and remedies which might apply, any knowing and willful violation of this Article by a public official or a person or entity receiving a public benefit as defined in Section 2202(b) constitutes a criminal misdemeanor offense.
- (b) A civil action may be brought against any person who violates this Article. A finding of liability shall subject the violator to one or more of the following civil remedies:
 - (1) restitution of the personal or campaign advantage received, which shall accrue to the general fund of the City;
 - (2) a civil penalty of up to five times the value of the personal or campaign advantage received;
 - (3) injunctive relief necessary to prevent present and future violations of this Article;
 - (4) disqualification from future public office or position within the jurisdiction, if violations are willful, egregious, or repeated.

- (c) A civil action under subdivision (b) of this section may be brought by any resident of the City. In the event that such an action is brought by a resident of the City and the petitioner prevails, the respondent public official shall pay reasonable attorney's fees and costs to the prevailing petitioner. Civil penalties collected in such a prosecution shall accrue 10% to the petitioner, and 90% to the City's general fund.
- (d) When the City Attorney receives a complaint containing a violation of this Article from any person or entity, the City Attorney must promptly, for the purposes of assessment and prosecution, either:
 - (1) Refer the complaint to the Chief Deputy of the Criminal Division or another attorney in the City Attorney's Office; or
 - (2) Refer the complaint to an independent investigator hired by the City.

(Amended by General Municipal Election, November 8, 2016, certified by Res. No. 10978CCS)

2207. Severability.

If any provision of this Article is held invalid, such invalidity or unconstitutionality shall not affect other provisions or applications which can be given effect without the invalidated provision, and to this end the provisions of this Article are severable.

ARTICLE XXIII
HOUSING POLICIES

2300. Statement of purpose.

The purposes of this Article are to: preserve the stability of housing, neighborhoods, and the community; maintain social and economic diversity; avert homelessness; and effectuate the City of Santa Monica's housing policies. This Article will achieve those purposes by protecting tenants against arbitrary, unreasonable, discriminatory and retaliatory evictions, while recognizing the rights of rental property owners, and will thereby preserve the public health, safety and welfare.

(Approved by the voters at the 11/2/2010 election)

2301. Findings.

Whereas, there is a severe shortage of affordable rental housing in Santa Monica and the cost of market rate rental housing continues to soar; and

Whereas, tenants living in uncontrolled units currently have no protections against unjust evictions, including evictions based on relatively minor and correctable violations of rental agreements; and

Whereas, while many landlords treat tenants fairly, others arbitrarily and unjustly evict tenants; and

Whereas, some unjust evictions are based on relatively minor and correctable rental agreement violations; and

Whereas, other unjust evictions are undertaken without a stated cause but are actually motivated by discriminatory intent; and

Whereas, without just cause protections, many tenants are afraid to assert their rights; and

Whereas, once evicted, many Santa Monica residents cannot find replacement housing within the City; and

Whereas, unjust eviction thus forces many tenants out of the City, causing them to lose both their homes and their community; and

Whereas, for many tenants, particularly those who are elderly, disabled or very ill, the consequences can be devastating, both physically and emotionally, and can even threaten their lives; and

Whereas, in addition to harming the tenants, these circumstances also injure the City as a whole because community stability and diversity are lost; and

Whereas, adopting Charter provisions that will require just cause to evict tenants from uncontrolled units, require warning notices for rental agreement violations and protect elderly, disabled and terminally ill tenants from owner occupancy evictions will protect both tenants and the community and will effectuate City policies that require preserving affordable and fair housing and stemming the tide of homelessness; and

Whereas, these Charter provisions will not unfairly impact landlords who will remain able to evict tenants for nonpayment of rent, unaddressed rental agreement violations, and will also be able to evict even the most vulnerable tenants for owner occupancy if the proposed owner occupant is elderly, disabled or terminally ill.

Therefore, the electorate of the City of Santa Monica hereby enacts this Charter amendment, prohibiting a landlord from terminating a tenancy without good or just cause.

(Approved by the voters at the 11/2/2010 election)

2302. Definitions.

The following words or phrases as used in this Article shall have the following meanings:

Nonrentcontrolled rental units. All residential rental units in the City of Santa Monica except those units that are subject to rent control pursuant to Article XVIII of this Charter or are single-family homes.

Landlord. An owner, lessor, sublessor or any other person entitled to receive rent for the use and occupancy of any rental unit, or an agent, representative or successor of any of the foregoing.

Rent. All periodic payments and all nonmonetary consideration including, but not limited to, the fair market value of goods or services rendered to or for the benefit of the landlord under an agreement concerning the use or occupancy of a rental unit and premises including all payment and consideration demanded or paid for parking, pets, furniture, subletting and security deposits for damages and cleaning.

Rental housing agreement. An agreement, oral, written or implied, between a landlord and tenant for use or occupancy of a rental unit and for housing services.

Rental units. Any building, structure, or part thereof, or land appurtenant thereto, or any other rental property rented or offered for rent for living or dwelling house units, together with all housing services connected with use or occupancy of such property such as common areas and recreational facilities held out for use by the tenant.

Tenant. A tenant, subtenant, lessee, sublessee or any other person entitled under the terms of a rental housing agreement to the use or occupancy of any rental unit.

Property. All rental units on a parcel or lot or contiguous parcels or contiguous lots under common ownership.

Single-family home. A property that has been developed with only one dwelling and any lawful accessory structures, or a lawfully created condominium, stock cooperative or similar unit that is part of a larger residential structure or complex.

(Approved by the voters at the 11/2/2010 election)

2303. Exemptions.

This Article shall not apply to the following types of rental units:

- (1) Rental units in hotels, motels, inns, tourist homes and rooming and boarding houses which are rented primarily to transient guests for a period of less than fourteen (14) days.
- (2) Rental units in any hospital, convent, monastery, extended medical care facility, asylum, non-profit home for seniors, or dormitory owned and operated by an institution of higher education.
- (3) Rental units which a government unit, agency or authority owns, operates, manages, or in which governmentally subsidized tenants reside only if applicable Federal or State law or administrative regulation specially exempt such units from municipal control.
- (4) Where a unit is actually used for purposes of providing, on a nonprofit basis, child care or other residential social services in accordance with applicable laws. This exemption shall expire when the use upon which exemption is based ceases. This exemption shall only apply to units as they become vacant. This exemption shall not be construed to authorize the eviction of any tenant. The City may adopt regulations to determine whether a unit qualifies for an exemption under this Section.

(Approved by the voters at the 11/2/2010 election)

2304. Just cause for evictions—Notices to cease.

- (a) No landlord shall take action to terminate a tenancy in a nonrentcontrolled rental unit including, but not limited to, making a demand for possession of a rental unit, threatening to terminate a tenancy, serving any notice to quit or other eviction notice or bringing any action to recover possession or be granted recovery of possession of the unit except on one of the following grounds:
- (1) The tenant has failed to pay the rent to which the landlord is entitled under the rental housing agreement.
 - (2) The tenant has continued, after written notice to cease, to commit a material and substantial breach of an obligation or covenant of his or her tenancy which the landlord has not waived either expressly or impliedly through the landlord's conduct and which the landlord is not estopped from asserting, other than the obligation to surrender possession upon proper notice. Notwithstanding any contrary provision in this Section, and notwithstanding any contrary provision in the rental housing agreement, a landlord shall not take any action to terminate a tenancy based on a tenant's sublease of the unit if the following requirements are met:
 - (i) The tenant continues to reside in the rental unit.
 - (ii) The sublease replaces a departed tenant(s) under the rental agreement on a one-for-one basis.
 - (iii) The landlord has unreasonably withheld the right to sublease following written request by the tenant. If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord.
 - (3) The tenant has continued, after written notice to cease, to commit or expressly permit a nuisance in, or cause substantial damage to, the rental unit; or to create a substantial interference with the comfort, safety, or enjoyment of the landlord or other occupants or neighbors of the same.
 - (4) The tenant is convicted of using or expressly permitting a rental unit to be used for any illegal purpose.
 - (5) The tenant, who had a rental housing agreement which had terminated, has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration and in such terms as are not inconsistent with or violative of any provisions of this Article and are materially the same as in the previous agreement with the exception of any lawful change in the amount of rent.
 - (6) The tenant has continued to refused, after written notice, to grant the landlord reasonable access to the rental unit for the purposes of making necessary repairs or improvements required by the laws of the United States, the State of California or any subdivision thereof or for the purpose of showing the rental housing to any prospective purchaser or mortgagee.
 - (7) The tenant holding over at the end of the term of the rental housing agreement is a subtenant not approved by the landlord or, in the case of a deed restricted or some other affordable unit, is an unqualified subtenant or a tenant who is otherwise ineligible to occupy the unit.
 - (8) The landlord seeks to recover possession in good faith for use and occupancy by herself or

himself, or her or his children, parents, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law. For purposes of evictions under this Subsection:

- (i) A “landlord” shall be defined as a natural person who has at least a fifty (50) percent ownership interest in the property.
- (ii) No eviction may take place if any landlord or enumerated relative already occupies one unit on the property, or if a vacancy already exists on the property and the vacant unit is comparable to the unit for which eviction is sought. Where the vacant unit is determined not to be comparable, thereby permitting eviction under this Subsection, the evicted tenant or tenants shall be first given the right to occupy the vacant unit. The City may promulgate regulations defining when a unit is comparable for purposes of this paragraph.
- (iii) The notice terminating tenancy shall contain the name, address and relationship to the landlord of the person intended to occupy.
- (iv) The landlord or enumerated relative must intend in good faith to move into the unit within thirty (30) days after the tenant vacates and to occupy the unit as a primary residence for at least one year. The City may adopt regulations governing the determination of good faith.
- (v) If the landlord or relative specified on the notice terminating tenancy fails to occupy the unit within thirty (30) days after the tenant vacates, the landlord shall:
 - A. Offer the unit to the tenant who vacated it.
 - B. Pay to said tenant all reasonable expenses incurred in moving to and/or from the unit.
- (vi) A landlord may not evict a tenant pursuant to this Subsection if the tenant (A) has resided in the unit for at least five years and is either at least 62 years old or disabled; or (B) is certified as being terminally ill by the tenant’s treating physician. For purposes of this subsection, “disabled” means a person who is receiving benefits from a federal, state, or local government, or from a private entity, on account of a permanent disability that prevents the person from engaging in regular, full-time employment.

Notwithstanding the above, a landlord may evict a tenant who qualifies for the exemption if the landlord or enumerated relative who will occupy the unit also meets the criteria for this exemption.

- (9) The landlord intends to withdraw all rental-units in all buildings or structures on a parcel of land from the rental market.
- (b) Any written notice as described in Subsections (a)(2), (3) or (6) shall be served by the landlord a reasonable period prior to serving a notice to terminate tenancy and shall inform the tenant that a failure to cure may result in the initiation of eviction proceedings.
- (c) Notwithstanding any contrary provision in this Section or in the rental housing agreement, if the tenant’s spouse, child(ren), and/or domestic partner who has filed an Affidavit of Domestic Partnership with the City have lived in the unit for at least one year at the time the tenant vacates the unit due to death or incapacitation, the landlord is prohibited from taking any action to obtain possession of the unit from the tenant’s spouse, child(ren), and/or registered domestic partner on the ground that the spouse, child(ren) and/or registered domestic partner are not authorized to occupy the unit.

- (d) Notwithstanding the above provisions, possession shall not be granted if it is determined that the eviction is in retaliation for the tenant reporting violations of this Article, or for exercising rights granted under this Article.
- (e) In any notice purporting to terminate tenancy the landlord shall state the cause for the termination, and in any action brought to recover possession of a nonrentcontrolled rental unit, the landlord shall allege and prove compliance with this Section.
- (f) Failure to comply with any requirement of this Section may be asserted as an affirmative defense in an action brought by the landlord to recover possession of the unit. Additionally, any attempt to recover possession of a unit in violation of this Article shall render the landlord liable to the tenant for actual and punitive damages, including damages for emotional distress, in a civil action for wrongful eviction. The tenant or the City may seek injunctive relief and money damages for wrongful eviction. The prevailing party in an action for wrongful eviction shall recover costs and reasonable attorneys' fees.

(Approved by the voters at the 11/2/2010 election)

2305. Implementation.

The City Council may exercise its broad authority to protect community health, safety and welfare by, among other things, adopting ordinances, resolutions or regulations to implement and effectuate the provisions of this Article, including, but not limited to, provisions relating to exemptions, just cause, notices, comparability of units, and good faith. Additionally, the City Council may create any administrative mechanisms it deems necessary for this Article's implementation.

(Approved by the voters at the 11/2/2010 election)

2306. Nonwaiverability.

Any provision in a rental agreement that purports to waive or modify any provision of this Article is contrary to public policy and is void.

(Approved by the voters at the 11/2/2010 election)

2307. Partial invalidity.

If any provision of this Article or application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable. This Article shall be liberally construed to achieve the purposes of this Article and to preserve its validity.

(Approved by the voters at the 11/2/2010 election)

2308. Civil remedies.

Failure to comply with any requirement of this Section may be asserted as an affirmative defense in an action brought by the landlord to recover possession of the unit. Additionally, any attempt to recover possession of a unit in violation of this Article shall render the landlord liable to the tenant for actual and punitive damages, including damages for emotional distress, in a civil action for wrongful eviction. The tenant or the City may seek injunctive relief and money damages for wrongful eviction. The prevailing party in an action for wrongful eviction shall recover costs and reasonable attorneys' fees.

(Approved by the voters at the 11/2/2010 election)

2309. Criminal remedies.

Any landlord violating this Article shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this Article shall be punished by a fine of not more than five hundred (\$500.00) dollars or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

CERTIFICATE**CERTIFICATE**

WHEREAS, the City of Santa Monica, for years last past, has been and now is a city containing more than three thousand five hundred (3,500) inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the Legislature of the State of California; and

WHEREAS, on the 4th day of December, 1945, at a municipal election duly and regularly held on that day in that City under and in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the electors of said City did duly choose and elect

BEN A. BARNARD

JEAN LESLIE CORNETT

SAMUEL J. CRAWFORD

JOHN W. FISHER

MARK T. GATES

MARTIN GOODFRIEND

ELLETT. HARDING

MARSHALL HICKSON

CHARLES EDWIN HILLS

LOUIS E. MAHONEY

FLORINE S. MAULE

HOWARD P. McCONNELL

EARL NITTINGER

MILAN E. RYAN

VIVIAN I. WILKEN

who are all electors of said City and eligible as candidates under said section, a Board of fifteen (15) Freeholders to prepare a Charter for the government of said City; and

WHEREAS, the result of said election of Freeholders was duly declared by the legislative body of the City of Santa Monica on the 11th day of December, 1945, and said electors thereafter duly qualified as such Freeholders in accordance with law;

BE IT KNOWN that in pursuance of the provisions of said Constitution and within the period of one year after the result of said election was so declared, the Board of Freeholders has prepared and does now propose the foregoing Charter as the Charter for the government of the City of Santa Monica; and

CERTIFICATE

BE IT FURTHER KNOWN that said Board of Freeholders hereby requests said legislative body of the City of Santa Monica to cause the publication of said proposed Charter as provided in said Constitution and does hereby fix and designate Tuesday, the 5th day of November, 1946, as the date for the election at which the proposed Charter shall be submitted to the qualified electors of the City of Santa Monica for their ratification and adoption;

IN WITNESS WHEREOF, we, the duly elected, qualified and undersigned Freeholders of the City of Santa Monica, County of Los Angeles, State of California, have hereunto set our hands at the City of Santa Monica, County of Los Angeles, State of California, this 15th day of August, 1946.

SAMUEL

JEAN LESLIE CORNETT, Secretary

BEN A. BARNARD

JOHN W. FISHER

MARK T. GATES

MARTIN

ELLETT. HARDING

MARSHALL

CHARLES

LOUIS E. MAHONEY

FLORENCE

HOWARD

EARL NITTINGER

MILAN

VIVIAN

Freeholders of the City of Santa Monica, County of Los Angeles, State of California.

ATTEST:

JEAN LESLIE CORNETT,

Secretary of the Board of Freeholders

(Approved by the voters at the 11/2/2010 election)