# City Charter Sections Pertinent to Budget Authority Discussion

**Section 11: Legislative Power**
All legislative powers of the City shall be vested, subject to the terms of this Charter and of the Constitution of the State of California, in the Council, except such legislative powers as are reserved to the people by the Charter and the Constitution of the State.

**Section 26: Administrative Code**
The existing Departments, Divisions and Boards and existing Offices of the City Government are hereby continued unless changed by the provisions of this Charter or by ordinance of the Council. The Council shall by ordinance, by majority vote, adopt an administrative code providing for the detailed powers and duties of the administrative offices and departments of the City Government, based upon the provisions of this Charter. Thereafter, except as established by the provisions of this Charter, the Council may change, abolish, combine, and rearrange the departments, divisions and boards of the City Government provided for in said administrative code, but such ordinance creating, combining, abolishing or decreasing the powers of any department, division or board shall require a vote of two-thirds of the members elected to the Council. The Council may by ordinance, if authorized so to do by the general law of the State, provide that any function of the City may be performed by the County or that any function of the County may be performed by the City, provided the respective legislative bodies authorize and approve such transfer and assumption of function. There may also be established a combined City and County district for the performance of any function.
*(Amendment voted 09-17-1963; effective 02-11-1964.)*
*(Amendment voted 11-08-1977; effective 01-20-1978.)*

**Section 26.1: Public Services Required**
It shall be the obligation and responsibility of The City of San Diego to provide public works services, water services, building inspection services, public health services, park and recreation services, library services, and such other services and programs as may be desired, under such terms and conditions as may be authorized by the Council by ordinance.
*(Addition voted 09-17-1963; effective 02-11-1964.)*

**Section 28: Duties of the Manager**
It shall be the duty of the Manager to supervise the administration of the affairs of the City except as otherwise specifically provided in this Charter; to make such recommendation to the Council concerning the affairs of the City as may seem to him desirable; to keep the Council advised of the financial condition and future needs of the City; to prepare and submit to the Council the annual budget estimate and such reports as may be required by that body, including an annual report of all the Departments of the City; to see that the ordinances of the City and the laws of the State are enforced; and to perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Council. Except as otherwise provided in this Charter, all

other administrative powers conferred by the laws of the State upon any municipal official shall be exercised by the Manager or persons designated by him. He shall assume the position of Director of any Department under his control for which a Director has not been appointed. The Directors, or heads of the administrative Departments under the Manager shall be immediately responsible to him for the efficient administration of their respective Departments. The Manager may set aside any action taken by a Director or Department subordinate responsible to him, and may supersede him in authority in the functions of his office or employment. Where no provision has been made by ordinance authorizing a subordinate official to act as departmental head in case of a vacancy, the Manager may designate an interim acting head or perform personally the functions of the office. The Manager, as Chief Budget Officer of the City, shall be responsible for planning the activities of the City government and for adjusting such activities to the finances available. To this end he shall prepare annually a complete financial plan for the ensuing year and shall be responsible for the administration of such a plan when adopted by the Council. He shall be charged with the bringing together of estimates covering the financial needs of the City, with the checking of these estimates against the information relative to past expenditures and income, with the preparation of the budget document and supporting schedules and with the presentation of the budget to the Council. He shall have the power to employ experts, or consultants to perform work or give advice connected with the Departments of the City when such work or advice is necessary in connection therewith. If the cost of hiring said expert or consultant exceeds a sum to be established by ordinance of the City Council, no such expert or consultant shall be hired without approval of the Council. The Council shall provide sufficient funds in the annual appropriation ordinance or by supplemental appropriation ordinances for such purposes and shall charge such additional services against the appropriation of the respective Departments.

The Manager shall execute all contracts for the Departments under his control. He shall approve all requisitions and vouchers for said Departments in person or through such assistants as he may designate for the purpose.

The Manager may prescribe such general rules and regulations as he may deem necessary or expedient for the general conduct of the administrative Departments. The Director of each Department shall in like manner prescribe such rules and regulations as may be deemed necessary and expedient for the proper conduct of each Department, not inconsistent with the general rules and regulations prescribed by the Manager.

In order to expedite the work of any department or to adequately administer an increase in the duties which may devolve on any Department or to cope with periodic or seasonal changes, the Manager, subject to Civil Service regulations, is empowered to transfer employees temporarily from one Department to perform similar duties in another Department. Likewise each Department head shall have power to transfer employees from one Division to another within his Department.

The Manager may direct any Department or Division to perform work for any other Department or Division. Such powers to transfer employees or to direct the performance of work shall not apply to the Police or Fire Departments.

During January of each year the Manager shall present to the Council an annual report of the City's affairs for the previous fiscal year.

In case of general conflagration, rioting, flood, or other emergency menacing life and property, the Manager shall marshal all the forces of the different Departments of the City for the maintenance of the general security, and shall have the power to deputize or otherwise employ such other persons as he may consider necessary for the purpose of protecting the City and its residents. The Council may, however, in any such emergencies authorize the Mayor to take command of the police, maintain order and enforce the law. And in such authorized emergencies the Manager shall be subordinate to and shall carry out such duties as may be assigned to him by the Mayor.
*(Amendment voted 11-02-1976; effective 01-12-1977.)*

**Section 32.1: Responsibility of Manager and Non-managerial Officers to Report to Council**
The City Manager and all non-managerial officers of the City shall inform the Council of all material facts or significant developments relating to all matters under the jurisdiction of the Council as provided under this Charter except as may be otherwise controlled by the laws and regulations of the United States or the State of California. The Manager and all non-managerial officers shall also comply promptly with all lawful requests for information by the Council.
*(Addition voted 06-02-1992; effective 07-13-1992.)*

**Section 69: Fiscal Year and Manager's Estimate**
The fiscal year of the City shall begin with the first day of July and shall end with the next succeeding 30th day of June. On or before the first meeting in May of each year the Manager shall prepare and submit to the Council a budget of the expense of conducting the affairs of the City for the ensuing fiscal year. Departments not under the Manager shall submit their annual budget estimates to the Manager, or to such official as he may designate, and in such form as he shall require on or before April 1 for transmittal in proper form by the Manager to the Council. The budget shall include a summary outline of the fiscal policy of the City for the budget year, describing in connection therewith the important features of the budget plan; a general budget summary setting forth the aggregate figures of the budget in such manner as to show the balanced relations between the total proposed expenditures and the total anticipated income and other means of financing the budget for the ensuing year, contrasted with corresponding figures for the current year. The classification of the estimate shall be as nearly uniform as possible for the main divisions of all Departments and shall furnish necessary detailed fiscal information.

The Council shall provide for printing a reasonable number of copies of the estimate thus prepared, for examination or distribution to citizens at least fifteen days before final

passage. Copies shall also be furnished to the newspapers of the City and to each library thereof which is open to the public.
*(Amendment voted 11-06-1962; effective 01-21-1963.)*
*(Amendment voted 11-04-1969; effective 01-29-1970.)*
*(Section 69 is modified by contrary language in Charter section 265(b)(15) during the operative period of Charter Article XV.)*

**Section 71: Preparation and Passage of Annual Appropriation Ordinance**
Upon receipt of the Manager's estimate the Council shall prepare an appropriation ordinance using such estimate as a basis. The form, arrangement and itemization of the appropriation ordinance shall be determined and prescribed by the Auditor and Comptroller, and City Attorney. Provision shall be made by the Council for a minimum of two (2) public hearings upon the appropriation ordinance either before a Committee of the Council or before the Council sitting as a committee of the whole. Following the public hearings the appropriation ordinances shall take the same course in the Council as other ordinances and shall be adopted during the month of July. The Council may reduce or eliminate any new item, may increase any amount or add any item for personal services, contractual services, materials, supplies, and equipment for any Department. However, the appropriation for the general operations of the City excluding water utilities funds, capital improvements, bond interest and redemption, retirement system contributions, grant funded programs, all other special funds in existence prior to the effective date of this section and expenditures to pay judgments or extraordinary claims or to defray the cost of emergency measures as defined in Section 17 of this Charter shall not exceed the prior year's appropriation for general operations of the City, with the stated exclusions, adjusted by no more than three quarters (3/4) of the percentage change in the price index added to any percentage increase in population growth. For purposes of this limitation, the term "percentage change in price index" shall be the percentage change from the first full quarter of the prior calendar year to the first full quarter of the current calendar year in the costs of goods and services purchased by local governments, as determined by the City Auditor and Comptroller from information published by United States Department of Commerce or other official government sources. The term "percentage increase in population growth" shall be any percentage increase from the first full quarter of the prior calendar year to the first full quarter of the current calendar year in the total population of the City as estimated by the Planning Director. This limitation shall not apply to any expenditure approved by a majority of the qualified electors of the City voting at a general or special election subsequent to the effective date of this section. In the event that the revenues for the general operations of the City, with the stated exclusions, exceed the appropriation for such operations by more than 5%, such excess shall be used solely for tax reductions or tax refunds in a manner determined by the City Council. Upon final passage, the appropriation ordinance shall be published in the manner provided for the publication of other ordinances.
*(Amendment voted 11-06-1962; effective 01-21-1963.)*
*(Amendment voted 11-04-1969; effective 01-29-1970.)*
*(Amendment voted 11-07-1978; effective 01-12-1979.)*

**Section 73: Transfer of Appropriations**
Upon the written recommendation of the Manager, the Council may at any time transfer all or part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated for the same Department or office; provided, however, the Council shall have no authority to transfer all or any part of the salary account during the fiscal year to any other purpose, save and except in the event of a public emergency, and then only for the purpose of insuring the safety and lives and property of the inhabitants of The City of San Diego.

**Section 265: The Mayor**
(a) The Mayor shall be recognized as the official head of the City for all ceremonial purposes, by the courts for purpose of serving civil process, for the signing of all legal instruments and documents, and by the Governor for military purposes.

(b) In addition to exercising the authority, power, and responsibilities formally conferred upon the City Manager as described in section 260(b), the Mayor shall have the following additional rights, powers, and duties:

(1) To be the chief executive officer of the City;

(2) To execute and enforce all laws, ordinances, and policies of the City, including the right to promulgate and issue administrative regulations that give controlling direction to the administrative service of the City. Nothing in this section shall be interpreted or applied to add or subtract from powers conferred upon the City Attorney in Charter sections 40 and 40.1;

(3) To recommend to the Council such measures and ordinances as he or she may deem necessary or expedient, and to make such other recommendations to the Council concerning the affairs of the City as the Mayor finds desirable;

(4) To attend and be heard at any regular or special open session meeting of the Council, but not the right to vote at such meetings;

(5) To approve or veto actions passed by the Council in open session, pursuant to sections 280 and 290;

(6) To attend and be heard at any closed session meeting of the Council, but not the right to vote at such meetings. When present, the Mayor shall preside over closed session. When the Mayor does not attend closed session, the Presiding Officer of the Council shall chair the closed session meeting;

(7) Sole authority to appoint the City Manager, subject to Council confirmation;

(8) Sole authority to direct and exercise control over the City Manager in managing those affairs of the City under the purview of the Mayor as expressly permitted in the Charter;

(9) Sole authority to dismiss the City Manager without recourse;

(10) Notwithstanding contrary language in Charter section 39, sole authority to appoint the City Auditor and Controller, subject to Council confirmation;

(11) Notwithstanding contrary language in Charter sections 30, 39, 57 or 58, authority to dismiss the City Auditor and Controller, the Chief of Police or the Chief of the Fire Department, subject only to a right for these city officials to appeal to the City Council to overturn the Mayor's decision. Any such appeal must be filed with the City Clerk within 10 calendar days of receiving the notice of dismissal or termination from the Mayor. The City Clerk shall thereafter cause the appeal to be docketed at a regular open meeting of the City Council no later than 30 days after the appeal is filed with the Clerk;

(12) As provided for in Charter sections 41 and 43, the authority to appoint members of City boards, commissions, and committees, subject to Council confirmation;

(13) Sole authority to appoint City representatives to boards, commissions, committees and governmental agencies, unless controlling law vests the power of appointment with the City Council or a City Official other than the Mayor;

(14) To cooperate fully with the Council and the Office of Independent Budget Analyst, including but not limited to, supplying requested information concerning the budget process and fiscal condition of the City to the Council and the Office of Independent Budget Analyst; and

(15) To propose a budget to Council and make it available for public review, no later than April 15.

(c) On or before the 15th day of January of each year, the Mayor shall communicate by message to the City Council a statement of the conditions and affairs of the City, and make recommendations on such matters as he or she may deem expedient and proper. In time of public danger or emergency, the Mayor shall take command of the police, maintain order, and enforce the law.

(d) No person shall serve more than two consecutive four-year terms as Mayor. If for any reason a person serves a partial term as Mayor in excess of two years, that partial term shall be considered a full term for purposes of this term limit provision.

(e) If a vacancy occurs in the Office of Mayor for any reason other than a successful recall election, and,

(1) If the vacancy occurs with one year or less remaining in the term, the Council shall appoint a person to fill the vacancy.

(2) If the vacancy occurs with more than one year remaining in the term, the Council shall call a special election to be held within ninety days of the vacancy, unless there is a regular municipal or statewide election scheduled to be held within 180 days of the vacancy. If there is a regular municipal or statewide election scheduled to be held within 180 days of the vacancy, the Council may consolidate the special election with that regular election.

(A) If one candidate receives the majority of votes cast for all candidates in the special election, the candidate receiving the majority of votes cast shall be deemed to be and declared by the Council to be elected to the Office of Mayor.

(B) If no candidate receives a majority of votes cast in the special election, a special run-off election shall be held within forty-nine days of the first special election, unless there is regular municipal or statewide election scheduled to be held within ninety days of the proposed special run-off election date, at which time the City Council may consolidate the special run-off election with that regular election. The two candidates receiving the highest number of votes cast for the Office of Mayor in the first special election shall be the only candidates for the Office of the Mayor and the names of only those two candidates shall be printed on the ballot for that seat.

(f) If a vacancy occurs by reason of a successful recall election, the Council shall adopt procedures to fill the vacancy.

(g) Whether a person is appointed or elected to the Office of Mayor, whatever the reason for the vacancy, that person shall serve as Mayor for the remainder of the unexpired term.

(h) Upon the appointment or election of any person to the Office of Mayor, any other City office held by that person is automatically vacated.

(i) During the period of time when an appointment or election is pending to fill a vacancy in the Office of Mayor, the presiding officer of the Council shall be vested with the authority to supervise the staff remaining employed in the Office of the Mayor, to direct and exercise control over the City Manager in managing the affairs of the City under the purview of the Mayor and to exercise other power and authority vested in the Office of the Mayor when the exercise of such power and authority is required by law. This limited authority would include circumstances where the expeditious approval of a legislative action is necessary to meet a legal requirement imposed by a court or another governmental agency. Such limited authority would not include the exercise of the power of veto or any other discretionary privilege which is enjoyed by a person appointed or elected to the Office of Mayor. The presiding officer, while acting under this section pending the filling of a mayoral vacancy, shall not lose his or her rights as a member of the Council.

(j) For purposes of this section, a vacancy may result from death, resignation, or recall. If a vacancy occurs by reason of a resignation, the date of the vacancy will be the date specified in the written letter of resignation or, if there is no date certain specified in the letter, upon the date of receipt of the letter by the City Clerk.
*(Added by vote on 11-02-2004; effective 01-01-2006.)*

**Section 270: The Council**
(a) The Council shall be composed of eight councilmembers elected by district, and shall be the legislative body of the City.

(b) Each councilmember shall have the right to vote upon all questions before the Council.

(c) No resolution, ordinance, or other action of the Council shall be passed or become effective without receiving the affirmative vote of five members of the Council, unless a greater number is otherwise required by the Charter or other superseding law. All substantive actions of the Council shall be passed by adoption of an ordinance or resolution.

(d) The Council shall have the right to determine its own rules and order of business as provided for in Charter section 14, including a process for the selection of a presiding officer who shall have responsibility for chairing meetings of the Council and managing the docket process. Any such rules shall provide a process for the Mayor and independent department heads to propose matters for consideration by the Council in open session and a process for the City Attorney, Mayor, and Presiding Officer to coordinate the docketing of matters for consideration by the Council in any closed session of the Council.

(e) The Council shall have the right to establish committees of the Council and to establish advisory boards and citizen committees as provided for in Charter section 43.

(f) The Council shall have the right to establish an Office of Independent Budget Analyst to be managed and controlled by the Independent Budget Analyst. The Council shall appoint this independent officer who shall serve at the pleasure of the Council and may be removed from Office by the Council at any time. The Council shall determine the powers of this Office and its manager by ordinance.

(g) No member of the Council shall directly or indirectly by suggestion or otherwise attempt to influence or coerce the City Manager or other officer appointed or confirmed by the Council in the making of any appointment to, or removal from, any City office or employment, or the purchase of any supplies, or discuss directly or indirectly with any candidate for City Manager the matter of appointments to City Offices or employment, or attempt to exact any promises from such candidate relative to any such appointments.

(h) Except for the purpose of inquiry or communications in furtherance of implementing policies and decisions approved by resolution or ordinance of the Council, individual members of Council shall deal with the administrative service for which the Mayor is responsible only through the Mayor, the City Manager, or the Mayor's designees.

(i) Any City official or department head in the administrative service may be summoned to appear before the Council or any committee of the Council to provide information or answer any question.
*(Added by vote on 11-02-2004; effective 01-01-2006.)*

**Section 290: Council Consideration of Salary Ordinance and Budget; Special Veto Power**

(a) No later than April 15 of each year, the Council shall introduce a Salary Ordinance fixing the salaries of all officers and employees of the City in accordance with Charter section 70. The Salary Ordinance shall be proposed by the Mayor for Council introduction in a form consistent with any existing Memorandum of Understandings with recognized labor organizations, or otherwise in conformance with procedures governed by the Meyers-Milias-Brown Act or any other legal requirements governing labor relations that are binding upon the City. Upon introduction, the Salary Ordinance shall be transmitted to the Mayor.

(1) The Mayor shall, within five business days of receipt of the Salary Ordinance introduced by Council, either approve the ordinance as introduced or veto all or any specific provision within the ordinance.

(2) The Salary Ordinance shall be returned to the Council within the five business-day period either approved by the Mayor or accompanied by a statement explaining any reasons for the veto. The Council shall thereafter have ten business days within which to override the veto and pass the Salary Ordinance as introduced or otherwise accept the changes proposed by the Mayor in the veto statement and pass the ordinance at second reading with the changes proposed by the Mayor.

(3) The Salary Ordinance passed by Council shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.

(b) Prior to June 15 of each year, the Council shall satisfy its obligations under Charter section 71 by holding a minimum of two public hearings to consider the budget submitted by the Mayor. Prior to the June 15 deadline, and after at least two such public hearings have been held, the Council shall pass a resolution that either approves the budget as submitted by the Mayor or modifies the budget in whole or in part. The Council's modifications may call for adding new items or for increasing or decreasing any item.

(1) If approved by the Council as proposed by the Mayor, the budget shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.

(2) If modified by the Council, the budget shall be returned to the Mayor as soon as practicable.

(A) The Mayor shall, within five business days of receipt either approve, veto, or modify any line item approved by the Council.

(B) The Council shall thereafter have five business days within which to override any vetoes or modifications made by the Mayor pursuant to section 290(b)(2)(A). Any item in the proposed budget that was vetoed or otherwise modified by the Mayor shall remain as vetoed or modified unless overridden by the vote of at least five members of the Council. In voting to override the actions of the Mayor, the Council may adopt either an amount it had previously approved or an amount in between the amount originally approved by the Council and the amount approved by the Mayor, subject to the balanced budget requirements set forth in section 71.

(C) Upon the expiration of the Council's five business day period, or sooner if the Council by five votes so directs, the budget as returned by the Mayor, and to the extent modified thereafter by the Council, shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.

(c) As required by section 71, the Council shall adopt the Annual Appropriation Ordinance during the month of July.

(d) The Mayor shall have no power of veto over the Annual Appropriation Ordinance.
*(Added by vote on 11-02-2004; effective 01-01-2006.)*