

[DRAFT]
STRONG MAYOR CHARTER AMENDMENT
STRIKEOUT VERSION

OLD LANGUAGE: ~~Struck Out~~
NEW LANGUAGE: Underline

The following sections of the City Charter will be amended for the trial period pursuant to the explicit provisions of the Strong Mayor ballot measure.

Section 12: the Council

Superseded
by new
section 270.

- (a) ~~The Council shall be composed of nine (9) Councilmembers, including the Mayor, and shall be the legislative body of the City, each of the members of which including the Mayor, shall have the right to vote upon all questions before it.~~
- (b) At the municipal primary and general election in 1979, a Mayor shall be chosen by the electors for a term of five (5) years. A Mayor shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter. The Mayor shall hold office for the term prescribed from and after 10 a.m. the first Monday after the first day of December next succeeding the election and until a successor is elected and qualified.
- (c) At the municipal primary and general elections in 1993, the Council members for Districts 1, 3, 5, and 7 shall be chosen by the electors for a term of three (3) years. Council members for Districts 1, 3, 5, and 7 shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter.
- (d) At the municipal primary and general election in 1995, Council members for Districts 2, 4, 6, and 8 shall be chosen by the electors for a term of three (3) years. Council members for Districts 2, 4, 6, and 8 shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter.
- (e) Except as provided in this Section, Council members, shall hold office for the term of four (4) years from and after 10 a.m. the first Monday after the first day of December next succeeding their election and until their successors are elected and qualified.
- (f) Notwithstanding any other provision of this Charter and commencing with elections held in 1992, no person shall serve more than two consecutive four-year terms as a Council member from any particular district. If for any reason a person serves a partial term as Councilmember from a particular district in excess of two (2) years, that partial term shall be considered a full term for purposes of this term limit provision. Persons holding office prior to the

November 1992 election shall not have prior or current terms be counted for the purpose of applying this term limit provision to future elections.

- (g) Upon any redistricting pursuant to the provisions of this Charter, incumbent Council members will continue to represent the district in which they reside, unless as a result of such redistricting more than one incumbent Council member resides within any one district, in which case the City Council may determine by lot which Council member shall represent each district. At the next municipal primary and general elections following a redistricting, Council members shall be elected from those districts not represented and from those districts represented by incumbent Council members whose terms expire as of the general election in said year. If as a result of any redistricting more than a simple majority of the City Council as redistricted shall be elected at either the municipal primary or general election next following any such redistricting, the City Council prior to any such election shall designate one or more new districts for which the initial council term shall be two (2) years in order to retain staggered terms for Council members.
- (h) If a vacancy occurs for any reason in the office of a Council District, the procedures set forth in Charter section 12(h) shall be followed:
 - (1) If the vacancy occurs for any reason other than a successful recall election, and,
 - (A) If the vacancy occurs with one (1) year or less remaining in the term, the Council shall appoint a person to fill the vacant seat on the City Council. Any person appointed by the Council to fill a vacant Council District seat shall not be eligible to run for that office for the next succeeding term; or,
 - (B) If the vacancy occurs with more than one (1) year remaining in the term, the Council shall call a special election to be held within ninety (90) 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.
 - (i) 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 vacant office.
 - (ii) If no candidate receives a majority of votes cast in the special election, a special run-off election shall be held within forty-nine (49) days of the first special election, unless there is regular municipal or statewide election scheduled to be held within ninety (90) 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 (2) candidates receiving the highest number of votes cast for the vacant seat in the first special election shall be the only candidates for the vacant Council seat and the names of only those two (2) candidates shall be printed on the ballot for that seat.

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

Whether a person is appointed or elected to fill a vacant Council District seat, whatever the reason for the vacancy, that person shall serve as that District's Councilmember for the remainder of the unexpired term. For purposes of Charter section 12(h), a vacancy may result from death, resignation, recall, or unexcused absences as described in Charter section 12(i).

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.

- (i) It is the duty of the Council members to attend all Council meetings. The Council shall vacate the seat of any Councilmember who is absent from eight (8) consecutive meetings or fifty percent (50%) of any scheduled meetings within a month unless the absence thereof is excused by resolution of the Council.
- (j) Council members, including the Mayor, shall devote full time to the duties of their office and not engage in any outside employment, trade, business or profession which interferes or conflicts with those duties.
- (k) Council members shall not be eligible during the term for which they were appointed or elected to hold any other office or employment with the City, except as Mayor or City Attorney and as a member of any Board, Commission or Committee thereof, of which they are constituted such a member by general law or by this Charter.

Section 13: Meetings of the Council

Superseded
by new
section 270.

~~The Council shall provide by ordinance for the time and place of holding its meetings; provided, however, that there shall be at least one regular meeting in each week. Any regular meeting may be adjourned to a date and hour certain, and such adjourned meeting shall be a regular meeting for all purposes. All legislative sessions of the Council, whether regular or special shall be open to the public.~~

~~All legislative action shall be by ordinance except where otherwise required by the Constitution or laws of the State of California. The Council shall keep a journal of its proceedings which shall be a public record. On the passage of every ordinance the vote shall be taken by yeas and nays and entered upon the journal and no ordinance shall be passed without concurrence of a majority of the members elected to the Council. The proceedings of the Council shall be public and citizens shall~~

have a reasonable opportunity to be heard. The first meeting of the Council shall be held at ten o'clock A.M. on the first Monday after the first day in December following its election.

All subsequent meetings shall be held pursuant to adjournment, or in accordance with a rule adopted by the Council which may be amended at any time. Special meetings shall be held on the call of the Mayor or on the written request of any three Councilmen, upon twelve hours' notice to each member, to be served personally by written notice; provided, however, that such notice may be waived by the written consent of all the Councilmen.

Section 16: Introduction and Passage of Ordinances and Resolutions

Superseded
by new
sections 275,
280, 285,
290.

Ordinances shall be introduced in the Council only in written or printed form. All ordinances, except annual appropriation ordinances and ordinances codifying or rearranging existing ordinances, shall be confined to one subject, and the subject or subjects of all ordinances shall be clearly expressed in the title. Ordinances making the annual tax levy, the annual appropriation ordinance, any ordinance calling or relating to elections, ordinances recommended by the City Page 4 of 50 or other independent department heads transferring or appropriating moneys already appropriated by the annual appropriation ordinance, ordinances establishing or changing the grade of a public highway, and emergency ordinances as defined by Section 17 of this Charter, may be passed by the Council on the day of their introduction. Other ordinances, however, shall be passed only after twelve (12) calendar days have elapsed between the day of their introduction and the day of their final passage. Each ordinance shall be read in full prior to the final passage of such ordinance, unless such reading shall be dispensed with by a vote of not less than a majority of the members elected to the Council, and not then unless there shall have been available for the consideration of each member of the Council and the public prior to the day of its final passage a written or printed copy of said ordinance. The yeas and nays shall be taken upon the passage of all ordinances and entered upon the journal of the proceedings of the Council. The yeas and nays shall be taken and entered upon the passage of all resolutions receiving a split vote, or upon the request of two or more members of the Council. The enacting clause of ordinances passed by the Council shall be "Be it ordained by the Council of The City of San Diego." The enacting clause of ordinances submitted by the initiative shall be "Be it ordained by the People of The City of San Diego."

Section 17: When Ordinances and Resolutions Take Effect. Emergency Measures

Superseded
by new
section 295.

Ordinances making the annual tax levy, the annual appropriation ordinances, ordinances calling or relating to elections, and emergency measures, shall take effect at the time indicated therein. All other ordinances passed by the Council shall take effect at the time indicated therein, but not less than thirty days from the date of their passage. Ordinances adopted by vote of the electors shall take effect at the time indicated therein, or, if no time be specified, then thirty days after their adoption. An emergency measure is an ordinance to provide for the immediate preservation of the public peace, property, health, or safety, in which the emergency claimed is set forth and defined in the preamble thereto. The affirmative vote of at least two-thirds of the members elected to the Council shall be required to pass any ordinance as an emergency measure. No measure making or amending a grant,

~~renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure. No situation shall be declared an emergency by the Council except as defined in this section, and it is the intention of this Charter that compliance with such definition shall be strictly construed by the courts. Resolutions shall become effective immediately upon their passage, unless otherwise stated therein.~~

Section 22: Interference by Individual Members of Council with Administrative Service Prohibited

Superseded
by new
section
270(g)
&(h).

- ~~(a) 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.~~
- ~~(b) Except for the purpose of inquiry, the Council and its members shall deal with that part of the administrative service for which the City Manager is responsible solely through the City Manager or his designated representative and not through his subordinates.~~
- ~~(c) A violation of the provisions of this section by any member of the Council shall constitute a misdemeanor for which the offending member may be removed from office by the Council or for which the offending member may be tried by any court of competent jurisdiction and if found guilty the sentence imposed shall include removal from office.~~

Section 24: Mayor

Superseded
by new
section
265.

~~The Mayor shall preside at the meetings of the Council and perform such other duties as may be prescribed by this Charter or as may be imposed by the Council, consistent with the duties of the office of Mayor. The Mayor shall have no power of veto, but shall have a vote as a member of the Council. 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. 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 may, with the consent of the Council, take command of the police, maintain order and enforce the law.~~

~~The rate of pay of the Mayor shall be \$12,000.00 per year.~~

~~In the event of a vacancy occurring in the office of the Mayor, existing by reason of any cause, the Council shall have authority to fill such vacancy, provided, however, that if the Council shall fail to fill such vacancy by appointment within thirty (30) days after the vacancy, the Council must immediately cause an election to be held to fill such vacancy. Any person appointed to fill such vacancy, shall hold office~~

only until the next regular municipal election, at which date a person shall be elected to serve for the remainder of such unexpired term.

Notwithstanding any other provision of this Charter and commencing with elections held in 1992, no person shall serve more than two (2) consecutive four-year terms as Mayor. If for any reason a person serves a partial term as Mayor in excess of two (2) years, that partial term shall be considered a full term for purposes of this term limit provision. Persons holding the office of Mayor prior to the November 1992 election shall not have prior or current terms be counted for the purpose of applying this term limit provision to future elections.

Superseded
by new
section
265.

Section 25: Deputy Mayor

The Council shall annually in the month of December select one of its members who shall be the Deputy Mayor. The Deputy Mayor shall perform all the duties of the Mayor as prescribed by this Charter or by ordinance when the Mayor is absent or unable to perform his duties.

Section 27: The City Manager

Superseded
by new
sections 260
and 265.

The Council shall elect a Manager under this Charter, who shall be the chief administrative officer of the City. The Manager shall be chosen by the Council solely on the basis of his proven administrative qualifications. The Manager need not, when elected, be a resident of the City or State, but must be a citizen of the United States. He shall, upon his election, immediately become a resident of the City. No member of the Council shall, during the time for which he was elected, or for one (1) year thereafter, be eligible to hold the position of Manager. The Manager shall be elected for an indefinite term, but may be removed at the pleasure of the Council; provided, however, that the Manager shall not be removed unless a majority of the members of the Council shall vote in favor of such removal. Before the Manager may be removed he shall, if he shall so demand, be given a written statement of the reasons alleged for his removal and the right to be heard publicly thereon at a meeting of the Council prior to the final vote on the question of his removal, but pending and during such hearing the Council may suspend him from office. At least two weeks shall be given the Manager between notice and hearing for the preparation of his answer to the reasons for removal. The action of the Council in suspending or removing the Manager shall be final and conclusive on everyone, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the Council. He shall receive a salary to be fixed in the annual appropriation ordinance. The salary set in the appropriation ordinance shall not be reduced while the Manager holds office, but may be subject to increase by the Council at its discretion. The Manager shall designate one of his subordinates as Assistant Manager, who shall serve as Manager in case of the absence or disability of the Manager.

In the event of a vacancy in the office of City Manager, the Council shall fill the same within sixty (60) days after the vacancy occurs; provided, however, that it shall require the affirmative vote of a majority of the members of the Council to elect a person to the office of Manager.

Article V

Section 28: Duties of the ~~Manager~~ Mayor

It shall be the duty of the ~~Manager~~ Mayor 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~~ Mayor 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~~ Mayor shall be immediately responsible to him for the efficient administration of their respective Departments. The ~~Manager~~ Mayor 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~~ Mayor may designate an interim acting head or perform personally the functions of the office. The ~~Manager~~ Mayor, 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~~ Mayor 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~~ Mayor 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~~ Mayor.

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~~ Mayor, 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~~ Mayor 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~~ Mayor 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~~ Mayor 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.~~

Section 29: Responsibility of ~~Manager~~ Mayor - Powers of Appointment and Removal

The ~~Manager~~ Mayor shall be responsible to the Council for the proper administration of all affairs of the City placed in his charge, and to that end, subject to the Civil Service provisions of this Charter and except as otherwise provided herein, he shall have the power to appoint and remove all officers and employees in the administrative service of the City under his control; but the ~~Manager~~ Mayor may authorize the head of a Department or officer responsible to him to appoint and

remove subordinates in such Department or office. Appointments made by, or under the authority of, the ~~Manager~~ Mayor, shall be on the basis of administrative ability and of the training and experience of such appointees in the work which they are to perform. All such appointments shall be without definite term unless for temporary service not to exceed sixty days. No person directly related to the ~~Manager~~ Mayor by blood or marriage shall be eligible for employment unless such relative was in the employ of the City at the time of the appointment of the ~~Manager~~ Mayor.

Section 30: Removal of Unclassified Officers and Employees

Officers and employees in the unclassified service appointed by the ~~Manager~~ Mayor or other appointing authority not under control of the ~~Manager~~ Mayor may be removed by such appointing authority at any time. Appropriate rules and regulations shall be promulgated to establish procedures as may be necessary by which the dismissal provided for in this article shall be processed and effectuated.

Nothing contained herein shall be construed as in any way limiting the authority and power of the ~~Manager~~ Mayor or such other appointing authority not under the control of the ~~Manager~~ Mayor to remove any such unclassified officer or employee appointed or employed by them and any order effecting said removal shall be final and conclusive.

Section 32.1: Responsibility of ~~Manager~~ Mayor and ~~Non-managerial~~ Non-mayoral Officers to Report to Council

The ~~Manager~~ Mayor and all ~~non-managerial~~ non-mayoral 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~~ Mayor and all ~~non-managerial~~ non-mayoral officers shall also comply promptly with all lawful requests for information by the Council.

Section 35: Purchasing Agent

The Purchasing Agent shall make all purchases of supplies, materials, equipment, and insurance required by the various Departments or offices of the City, except as may be otherwise provided by the Council or this Charter. He shall prepare in consultation with the administrative officers of the City standard specifications for all supplies, materials, equipment, and insurance necessary for use by the various Departments or offices of the City.

In purchasing any supplies, materials, equipment and insurance required by the various Departments or offices of the City, if the cost of said supplies, materials, equipment and insurance exceeds a sum to be established by ordinance of the City Council, no such purchase shall be made without advertising for sealed proposals therefor. Notices calling for such sealed proposals shall be published for one day in the official newspaper of the City, and a contract let for such purpose only after the expiration of ten days following said advertising. If the cost of the said supplies, materials, equipment and insurance required by said City falls within a dollar range also established by ordinance of the City Council, the said purchase may be made

by said Purchasing Agent without advertising for sealed proposals, but not until said Purchasing Agent has secured competitive prices from merchants or other persons interested in making the sale to said City and not until the Purchasing Agent has been authorized by the Council to make such purchase. Purchases of supplies, materials, equipment and insurance required by the various Departments or offices of the City which do not exceed in cost a sum established by ordinance of the City Council may be made by the Purchasing Agent directly upon the request of the department interested.

The Council shall by ordinance provide for the sale, exchange or other disposal by the Purchasing Agent of any surplus, used, obsolete or depreciated personal property belonging to the City.

The Council by resolution may order the purchase without advertising for bids of surplus commodities from the United States of America, or any agency thereof, or from any other public corporation, state or municipal, or any agency thereof. The Council may authorize the Purchasing Agent to participate in joint and cooperative purchasing with any other public corporation, state or municipal, or agencies thereof. The Council may also authorize said Purchasing Agent to sell to any other public corporation, state or municipal, any supplies, material and equipment which said City may have been able to purchase in quantity at a reduced price.

Supplies shall be furnished upon requisition either from the stores under the control of the Purchasing Agent or by purchase, and whenever so purchased shall be paid for by the Department or office furnished therewith. It shall be the duty of the Purchasing Agent to inspect or cause to be inspected all purchases, and reject any of those which are not up to the standard specifications provided therefor, and he shall not approve any bid or voucher for articles which are not in conformity with specifications, or which are at variance with any contract. The Purchasing Agent shall not furnish supplies to any Department or office unless there be to the credit thereof an available unencumbered balance sufficient to pay for such supplies.

Materials, supplies or equipment not needed by a Department or office, but necessary to another Department or office, may be transferred by the Purchasing Agent and a proper record made of the transaction. He shall have charge of such storerooms and warehouses of the City as the ~~Manager~~ Mayor may provide or the Council by ordinance may authorize. The Council may, upon recommendation of the ~~Manager~~ Mayor, authorize the Purchasing Agent to purchase materials, supplies, or equipment in common use by the Departments and offices in large quantities and store the same until requisitioned by the Departments or offices for use. The Council shall provide a sufficient revolving fund in the annual appropriation ordinance of an adequate amount for the purpose of creating a store's account and stock for future supply of the Departments and offices when needed. The Purchasing Agent shall keep a record of all sources of supply, of all quotations received, of all awards made, of all inspections, of all requisitions filed, and of all vendors furnishing commodities to the City. He shall perform such other duties as may be prescribed by general law or ordinance or by the ~~Manager~~ Mayor.

Section 37: Personnel Director

The Personnel Director shall be appointed by the Civil Service Commission and shall have all powers and perform all duties prescribed for such Personnel Director in Section 116 of Article VIII. In addition thereto he shall exercise general supervision over the employment policy of the City, subject to the Civil Service provisions of this Charter and the directions of the Civil Service Commission. He shall keep a record of the personnel conditions in the City service and shall, upon the request of the ~~Manager~~ Mayor or of the Civil Service Commission, or on his own initiative, investigate problems relating to the securing of a better class of applicants for positions, and to the maintenance of efficiency among City Employees, and to any and all other matters relating to this department as may properly come before him.

The Personnel Director, with the approval of the Civil Service Commission and the ~~Manager~~ Mayor shall have jurisdiction to investigate working conditions of City service as they affect the health, welfare, efficiency, service and esprit de corps of the employees. He shall be accessible to any employee who shall desire to complain of any matter incident to his employment.

Section 39: City Auditor and Comptroller

The City Auditor and Comptroller shall be elected by the Council for an indefinite term and shall serve until his successor is elected and qualified. The City Auditor and Comptroller shall be the chief fiscal officer of the City. He shall exercise supervision over all accounts, and accounts shall be kept showing the financial transactions of all Departments of the City upon forms prescribed by him and approved by the ~~Manager~~ Mayor and the Council. He shall submit to the ~~Manager~~ Mayor and to the Council at least monthly a summary statement of revenues and expenses for the preceding accounting period, detailed as to appropriations and funds in such manner as to show the exact financial condition of the City and of each Department, Division and office thereof. No contract, agreement, or other obligation for the expenditure of public funds shall be entered into by any officer of the City and no such contract shall be valid unless the Auditor and Comptroller shall certify in writing that there has been made an appropriation to cover the expenditure and that there remains a sufficient balance to meet the demand thereof. He shall perform the duties imposed upon City Auditors and Comptrollers by the laws of the State of California, and such other duties as may be imposed upon him by ordinances of the Council, but nothing shall prevent the Council from transferring to other officers matters in charge of the City Auditor and Comptroller which do not relate directly to the finances of the City. He shall prepare and submit to the ~~Manager~~ Mayor such information as shall be required by the ~~Manager~~ Mayor for the preparation of an annual budget. He shall appoint his subordinates subject to the Civil Service provisions of this Charter.

Section 43: Advisory Boards and Committees

- (a) The City Council may by ordinance create and establish advisory boards. Such boards shall be advisory to the Mayor; or Council ~~or City Manager~~ as may be designated by ordinance. All members of such boards shall be appointed by the Mayor with Council confirmation, and the terms of office of

such members may extend beyond the elective term of the appointing Mayor. The members of such boards shall serve without compensation and it shall be their duty to consult and advise with the Mayor, ~~or Council or City Manager~~, as the case may be, but not to direct the conduct of any Department or Division. Members of such advisory boards shall be limited to a maximum of eight (8) consecutive years in office and an interval of four (4) years must pass before such persons can be reappointed.

- (b) The Mayor, ~~or Council or City Manager~~ may create and establish citizens' committees. Such committees shall be created and established only for the purpose of advising on questions with clearly defined objectives, and shall be temporary in nature, and shall be dissolved upon the completion of the objectives for which they were created. Committee members shall serve without compensation.
- (c) Whenever under the provisions of this Charter or ordinance the Mayor is vested with authority to appoint the members of boards or committees and does not take such action within forty-five (45) days after the board or committee has been established or a vacancy occurs, then the Council shall make such appointments. The Council may remove committee and board members by vote of a majority of the members of the Council.
- (d) Citizens' Review Board on Police Practices. Notwithstanding any other provision of this Charter, the ~~City Manager~~ Mayor shall have the exclusive authority to create and establish a citizens' review board on police practices to review and evaluate citizens' complaints against members of the San Diego Police Department and the San Diego Police Department's administration of discipline arising from such complaints. The ~~City Manager~~ Mayor shall establish such rules and regulations as may be necessary for this board to carry out its functions; provided, however, that such rules and regulations shall be consistent with the laws of the State of California concerning citizens' complaints against peace officers. Nothing in such rules and regulations shall interfere with the board's authority to independently refer a completed citizen complaint investigation to the grand jury, district attorney, or any other governmental agency authorized by law to investigate the activities of a law enforcement agency. The board shall submit semiannual reports to the ~~City Manager~~ Mayor and City Council concerning its evaluation of the San Diego Police Department's investigation of citizens' complaints; provided, however, that such reports shall not disclose any information required to be kept confidential by law.

Section 45: City Treasurer

The ~~Manager~~ Mayor shall appoint a Treasurer subject to confirmation by a majority of the members of the Council. He shall perform duties imposed upon City Treasurers by general law, the City Charter, or ordinances of the Council.

The office of the Treasurer shall consist of the Treasurer and such subordinate officers and employees as shall be authorized by ordinance.

The Treasurer shall receive, have the custody of, and disburse City moneys upon the warrant or check-warrant of the Auditor and Comptroller under the provisions of Section 53911 of the Government Code of the State of California. He shall keep such books and records as are necessary for the recording of all receipts and expenditures, together with a record of money in City depositories. Every Department officer, or institution which receives money directly from the public, shall deposit the same daily with the Treasurer, unless otherwise authorized by ordinance. The Treasurer shall demand and receive from the County Tax Collector moneys collected by him for use of the City. And it shall be the duty of such County official to deposit such money monthly with the City Treasurer.

The Treasurer shall determine pursuant to the general law of the state, the selection of depositories for City funds. All interest collected on City funds shall be accounted for monthly by the Treasurer.

Whenever any person is indebted to the City in any manner and the means of collection of such debt is not otherwise provided for by law or ordinance, the Treasurer shall be authorized to demand and receive the same. When any claim shall not be collectible by other methods, he shall report the same to the ~~City Manager~~ Mayor and the City Attorney for prosecution. When payment of a claim or any judgment thereon is made, he shall receive and receipt therefor in the name of the City.

The Treasurer shall issue notices for and collect special assessments previous to certification to the County Auditor, charges for permits for private use of public streets, and such other miscellaneous taxes, fees, assessments, licenses and privilege charges as may from time to time be assigned to him. He shall maintain a continuous inspection of the records and accounts of such taxes, licenses and privilege charges in order to effectuate their collection.

The Treasurer shall issue all permits and licenses except departmental permits and licenses which are by ordinance assigned to the particular Departments. Such permits and licenses shall be issued either directly by the Treasurer or upon specific authorization of the appropriate Department as may be required by ordinances, but all revenues derived therefrom shall be deposited with the Treasurer.

The Treasurer in office at the time this Charter is adopted by the people shall serve out the term of office for which he has been elected.

Section 53: Water Utility

There shall be included in the administrative organization of the City a separate utility to be known as the Water Utility. The financial information and records on which the accounts are to be kept shall be established and maintained by the City, in accordance with methods set forth in Section 109 of the City Charter.

All revenues of the Water Utility shall be deposited in a Water Utility Fund. The ~~Manager~~ Mayor shall include in the annual budget the estimated expenditure and reserve requirements of the Water Utility Fund. The City Council using such estimates as a basis shall include in the annual appropriation ordinance for the Water Utility Fund provision for operating and maintenance costs; replacements,

betterments, and expansion of facilities; payments necessary for obtaining water from the Colorado River; any other contractual obligations; reserves for future expansion of water utility plant; reserves for future water purchases. In addition thereto, the Council shall levy annually a tax sufficient to provide for the redemption of municipal bonds heretofore or hereafter issued for water purposes; together with a sum sufficient to pay the interest thereon. The amount of money necessary to be raised each year for the redemption of water bonds and the payment of interest thereon and for the retirement of any other funded or contractual indebtedness incurred by purchase or otherwise for the development, conservation or distribution of water shall be charged annually against the Water Utility on the accounts of the City. Only after providing the requirements for Water Utility purposes as set forth above may the City Council in the annual appropriation ordinance provide for the transfer to the General Fund of the City any excess revenues accruing to the Water Utility Fund.

Such revenue transferred to the General Fund shall be available thereafter for use for any legal City purpose. All such surplus funds so transferred shall be credited on the accounts of the City as a reimbursement credit for the monies paid by the City each year for the redemption of Water Bonds and the payment of interest thereon, costs of services and facilities furnished to the water Utility by other City departments and funds, and an amount equal to the estimated loss in taxation which would be paid to the City by the Water Utility if it were not municipally owned, together with a reasonable profit on the City's investment in the water system.

The Council shall have power to employ special counsel for the purpose of advising and representing the City in all matters, proceedings and things relating to or concerning the development, impounding and distribution of water.

Section 55: Park and Recreation

The ~~City Manager~~ Mayor shall have the control and management of parks, parkways, plazas, beaches, cemeteries, street trees, landscaping of City-owned property, golf courses, playgrounds, recreation centers, recreation camps and recreation activities held on any City playgrounds, parks, beaches and piers, which may be owned, controlled or operated by the City. The City Council shall by ordinance adopt regulations for the proper use and protection of said park property, cemeteries, playgrounds and recreation facilities, and provide penalties for violations thereof. The ~~Manager~~ Mayor is charged with the enforcement of such regulations.

All real property owned in fee by the City heretofore or hereafter formally dedicated in perpetuity by ordinance of the Council or by statute of the State Legislature for park, recreation or cemetery purposes shall not be used for any but park, recreation or cemetery purposes without such changed use or purpose having been first authorized or later ratified by a vote of two-thirds of the qualified electors of the City voting at an election for such purpose. However, real property which has been heretofore or which may hereafter be set aside without the formality of an ordinance or statute dedicating such lands for park, recreation or cemetery purposes may be used for any public purpose deemed necessary by the Council.

Whenever the ~~City Manager~~ Mayor recommends it, and the City Council finds that the public interest demands it, the City Council may, without a vote of the people, authorize the opening and maintenance of streets and highways over, through and across City fee-owned land which has heretofore or hereafter been formally dedicated in perpetuity by ordinance or statute for park, recreation and cemetery purposes.

The ~~City Manager~~ Mayor shall also have charge of the management, control, preservation, regulation, improvement and embellishment of all public burial grounds and cemeteries belonging to the City, and the sale of lots therein. At least twenty percent of the net proceeds from the sale of all cemetery lots shall be deposited with the City Treasurer and be kept in a fund to be known as the Cemetery Perpetuity Fund. This fund shall be administered by the Funds Commission and shall be invested in such income-producing securities as the Funds Commission may decide. The principal of the perpetuity fund (subject to such accretion or diminution as may result from investing the same) shall not be available for meeting expenses for maintenance or upkeep of the cemeteries in any manner whatsoever. All income derived from the investment of the moneys in said perpetuity fund, together with the balance of the sale price of said lots not placed in the perpetuity fund, shall be expended in the maintenance and upkeep of the cemeteries and the perpetual care and upkeep of all graves and lots in said cemeteries; provided, however, that if in any one year such income is more than needed for the purpose of such maintenance, upkeep and perpetual care the Council may direct that the excess over and above that needed as above provided may be used for any other municipal purpose. If the income from said investments of said perpetuity fund and the balance of the sale price of said lots each year are not sufficient to maintain the cemeteries and to provide perpetual care and upkeep of all graves and lots in said cemeteries the Council shall annually appropriate from other revenues an amount sufficient to enable the City to provide perpetual care and upkeep of all graves and lots in the cemeteries.

Section 57: Police Department

The Police Department shall consist of a Chief of Police and such other officers, members and employees as the Council may from time to time prescribe by ordinance. The Chief of Police shall be appointed by the ~~City Manager~~ Mayor and the appointment shall be confirmed by a majority of the Council, provided, however, that the Chief of Police may be removed by the ~~City Manager~~ Mayor at any time in the manner provided for in Section 30 of Article V of this Charter.

The Chief of Police, with the approval of the ~~City Manager~~ Mayor, shall appoint, direct and supervise the personnel, subject to Civil Service regulation, have charge of the property and equipment of the department and exercise all powers and duties provided by general laws or by ordinance of the Council. The Chief of Police shall have all power and authority necessary for the operation and control of the Police Department.

Section 58: Fire Department

The Fire Department shall consist of a Chief of the Fire Department and such other officers, members and employees as the Council may from time to time prescribe

by ordinance. The Chief of the Fire Department shall be appointed by the ~~City Manager~~ Mayor and the appointment shall be confirmed by a majority of the Council, provided, however, that the Chief of the Fire Department may be removed by the ~~City Manager~~ Mayor at any time in the manner provided for in Section 30 of Article V of this Charter. The Chief of the Fire Department shall have all power and authority necessary for the operation and control of the Fire Department and the protection of the lives and property of the people of the City from fire.

The Chief of the Fire Department, with the approval of the ~~City Manager~~ Mayor, shall direct and supervise the personnel. Members of the Fire Department shall be subject to all the Civil Service provisions of this Charter contained in Article VIII. This section shall not become effective until July 1, 1974.

Article VII

Section 69: Fiscal Year and ~~Manager~~ Mayor'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~~ Mayor 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~~ Mayor shall submit their annual budget estimates to the ~~Manager~~ Mayor, 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~~ Mayor 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.

Section 70: Power to Fix Salaries

The Council shall have the power to fix salaries of ~~the City Manager~~, the City Clerk, the City Treasurer, the City Auditor and Comptroller, and all other officers under its jurisdiction. All members of Commissions shall serve without compensation except where otherwise provided by State law or this Charter. Except as otherwise provided by law, the ~~City Manager~~ Mayor and other departmental heads outside of the departments under control of the ~~City Manager~~ Mayor shall have power to recommend salaries and wages subject to the personnel classification determined by the Civil Service Commission, of all other officers and employees within the total amount contained in the Annual Appropriation Ordinance for personal service in each of the several departments of the City Government. All

increases and decreases of salary or wages of officers and employees shall be determined at the time of the preparation and adoption of the budget, and no such increase or decrease shall be effective prior to the fiscal year for which the budget is adopted; provided, however, that if during any fiscal year, the Council should find and determine that because of a significant change in living costs, the salaries and wages fixed for such fiscal year are not comparable to the level of other salaries and wages of other public or private employments for comparable services and as a result, the best interests of the City are not being protected or are in jeopardy, said Legislative Body, upon recommendation of the ~~Manager~~ Mayor or other department head, and if funds are available, may revise such salary and wage schedules to the extent necessary to protect the City's interests.

Section 71: Preparation and Passage of Annual Appropriation Ordinance

Upon receipt of the ~~Manager's~~ Mayor'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.

Section 73: Transfer of Appropriations

Upon the written recommendation of the ~~Manager~~ Mayor, 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 74: Appropriation Required for City Debt

An appropriation on account of the debt of the municipality, at least equal to the amount or amounts, estimated by the ~~Manager~~ Mayor to be required for the purpose, shall be included in each Annual Appropriation Ordinance passed by the Council. If for any reason the Council fail to include such an appropriation in the Annual Appropriation Ordinance or shall appropriate for the debt of the municipality less than estimated by the ~~Manager~~ Mayor to be required for that purpose, or less than that actually required for that purpose, the Auditor and Comptroller shall nevertheless cause to be set up, an appropriation account for the full amount so estimated or actually required and shall, notwithstanding any other appropriation made by the Council, transfer to such account out of any moneys of the municipality derived from taxes and paid into the Treasury, such amount or amounts as may be necessary to bring the appropriation for the City debt up to the full amount of the ~~Manager's~~ Mayor's estimate or the sum actually required.

Any taxpayer of the City or owner of any bond thereof may bring suit against the Auditor and Comptroller in the Superior Court to enforce the provisions of this section and if, upon such suit, it be found that the Council has failed to make an appropriation for the full amount estimated by the ~~Manager~~ Mayor and actually required for the City debt and that the Auditor and Comptroller has failed to set up the appropriation account and provide for transfers thereto as required by this section, the court shall order the establishment of such appropriation account and the necessary transfers thereto as hereinbefore provided. And such action by the court shall have the same force and effect in regard to appropriations for the City debt as though taken by the Council in the Annual Appropriation Ordinance.

Section 81: Allotments

The ~~Manager~~ Mayor shall be responsible for establishing internal budgetary allotments based on the allocations contained in the annual appropriation ordinance for each department of the City.

Section 90.1: Waterworks

Subdivision 1. Unless the context otherwise requires, the definitions set forth in this subdivision govern the construction of this section.

“City” means The City of San Diego.

“This section” means this amended Section 90.1.

“Waterworks” means all facilities, property and works of the City for the development, obtaining, conservation, production, storage, treatment, transmission, furnishing and distribution of water for public and private use (whether located within or without the City) and shall comprise the public utility system of the City for water purposes, as mentioned in Section 1 of this Charter.

“Revenues” includes all moneys received from rates, tolls, or charges for water or for service from the waterworks or any part thereof, and all other income and receipts derived from the use of or operation of the waterworks or any part thereof, or otherwise arising from the waterworks or any part thereof, or any other income of the Water Department and includes interest on all funds derived from or established for the waterworks. “Revenues” shall not be construed to include taxes or assessments.

“Water rates” means rates, tolls or charges for water or for service by the waterworks or any part thereof.

Subdivision 2. Revenue bonds to provide money for the acquisition and construction of additions to and extensions and improvements of the waterworks of the City and the reconstruction and replacement of parts of such waterworks and the acquisition of all lands, easements, rights and property necessary for such purposes, may be issued as provided in this section. Any issue of revenue bonds may be for any or all of said purposes. Such revenue bonds, hereinafter sometimes called “bonds” or “revenue bonds” shall not constitute an indebtedness of the City but shall constitute obligations which shall be payable, principal and interest and any premiums upon the redemption thereof prior to maturity, only from a special fund which shall consist of such revenues of the Water Department as are in excess of the amount needed to operate and maintain the Water Department (and said special fund is presently designated and is sometimes hereinafter in this section called the “Water Department Revenue Bond Fund”); provided, however, that this shall not preclude the payment or redemption of such bonds from the proceeds of refunding bonds issued to refund said revenue bonds or the use of accrued interest and premiums paid upon the sale and delivery of the revenue bonds for the payment of principal thereof or interest thereon. Refunding revenue bonds for the purpose of refunding any revenue bonds issued under this section may be issued as provided in this section and shall be payable only from the fund from which the revenue bonds to be refunded are payable. No restriction or limitation upon or procedure for the issuance of bonds in other sections of this Charter shall apply to revenue bonds issued under this section (including refunding revenue bonds) and this section shall constitute complete authority for the issuance of such revenue bonds (including such refunding revenue bonds) and no action or proceeding not required by this section shall be necessary for the valid authorization and issuance of such revenue bonds. No revenue bond issued under this section or any interest payable thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the City or any other revenues of the City except such revenues of the

Water Department as are in excess of the amount needed to operate and maintain the Water Department.

Subdivision 3. The limitations upon bonded indebtedness of The City of San Diego contained in sections 76 and 90 of this Charter or in any other section or provision thereof shall not apply to revenue bonds issued under the provisions of this section and payable exclusively from the fund mentioned in Subdivision 2 hereof derived from revenues from the waterworks of the City and not payable from taxes levied by the City. Waterworks revenue bonds payable from a special fund derived from revenues of the Water Department shall not be deemed indebtedness of the City within the meaning of the debt limitation provisions contained in sections 76 and 90 of this Charter or in any other section thereof.

Subdivision 4.

- (a) To provide money for the acquisition and construction of additions to and extensions and improvements of the waterworks of the City and the reconstruction and replacement of parts of such waterworks and the acquisition of all lands, easements, rights and property necessary for such purposes, the Council may issue, in one issue or in separate issues or series from time to time, under this section, revenue bonds not to exceed \$11,000,000 in total principal amount. All waterworks revenue bonds in excess of said sum of \$11,000,000 shall be authorized by proceedings taken in the manner hereinafter provided in paragraph (b) of this subdivision.
- (b) Except as provided in paragraph (a) of this subdivision, revenue bonds payable from revenues of the Water Department may be authorized only in the manner provided in this paragraph (b).

The first step in the proceedings shall be a recommendation by the ~~City Manager~~ Mayor, which recommendation shall state generally the purposes of the proposed revenue bond issue and the principal amount thereof and his recommendation that revenue bonds be issued hereunder. Such recommendation need not be in any particular form.

After the recommendation by the ~~City Manager~~ Mayor has been received by the Council it may adopt an ordinance finding the need for the issuance of revenue bonds under this section in the amount and for the purposes set forth in the recommendation of the ~~City Manager~~ Mayor. The Council, by said ordinance, shall submit to the qualified voters of the City, at an election held for that purpose, the question of issuing revenue bonds pursuant to this section to provide moneys for the purposes stated in the recommendation of the ~~City Manager~~ Mayor.

The Council, by a vote of two-thirds of the members thereof, may adopt a resolution stating that it determines to proceed under this section without a recommendation by the ~~City Manager~~ Mayor and in that case such resolution shall constitute the first step in the proceeding. Any such resolution also shall state generally the purposes of the proposed revenue bond issue and the principal amount thereof, and in the event such resolution is adopted no recommendation of the ~~City~~

~~Manager~~ Mayor shall be required and the ordinance calling the election shall find the need for the issuance of revenue bonds under this section in the amount and for the purposes stated in such resolution. In the event the Council adopts a resolution to proceed without the recommendation by the ~~City Manager~~ Mayor, the ordinance calling the election may be adopted only by a vote of at least two-thirds of the members of the Council and at a meeting subsequent to that at which the resolution was adopted.

The ordinance calling the election shall:

- (a) state the purposes for which the bonds are to be issued;
- (b) state the principal amount of the bonds;
- (c) state the maximum rate of interest on the bonds, which shall not exceed six per cent per annum, payable semiannually;
- (d) call the election and fix the election date;
- (e) fix the manner of holding the election;
- (f) fix the manner of voting for or against the issuance of the bonds.

In all particulars not stated in said ordinance the election shall be held and the votes canvassed in the manner provided by law for general municipal elections in the City.

Any special election called for the purpose of voting upon a proposition of issuing bonds under this section may be consolidated with any municipal primary election or any general City election or any other election at which all of the qualified voters residing within the City are entitled to vote. Such consolidation may be made in any manner authorized under the Elections Code of the State of California or under the Elections Code of the City.

The ordinance shall be published once a week for two succeeding weeks in the official newspaper of the City, the first publication to be at least 21 days prior to the election. No other notice of such election need be given. If a majority of the voters voting on the proposition of issuing the bonds vote in favor of the issuance thereof bonds in an amount not exceeding the amount stated in the ordinance calling the election may be issued.

No error, irregularity or omission in the election or in any of the proceedings prior thereto which does not affect the substantial rights of the electors of the City or the voters voting at the election at which any revenue bonds are authorized under this section shall invalidate the election.

Subdivision 5.

- (a) The Council may issue all bonds authorized at an election or all bonds authorized under paragraph (a) of subdivision 4 of this section in one issue or may divide the principal amount thereof into two or more series

and fix different dates of issuance and maturities for the bonds of each series. The Council shall provide for any issue or series of bonds (if issued in series) by ordinance. The Council shall in said ordinance fix the date of issuance and the dates of maturity of each issue or series of bonds; provided, however, that no bond shall run more than 40 years from its date. Any ordinance providing for the issuance of bonds hereunder shall recite the objects and purposes for which the bonds are to be issued, the principal amount of the bonds to be issued pursuant to such ordinance, and the maximum rate of interest to be payable thereon, not to exceed six per cent per annum, payable semiannually.

- (b) Said bonds shall be issued in negotiable form and shall be negotiable. The recitals of regularity of proceedings in any revenue bond issued and sold under this section shall be conclusive evidence of compliance with the provisions of this Charter and of the validity of such bond and no bona fide purchaser of such bond containing the recital permitted by this section shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceedings required prior to the actual issuance and delivery of said bonds or to the application of the purchase price paid for said bonds.

Subdivision 6. In any ordinance providing for the issuance of revenue bonds under this section the Council may fix the terms and conditions thereof (including covenants) and may in any article, section, sentence or clause thereof make such provision (including covenant) as it may deem necessary or desirable to facilitate the issuance and sale of the bonds or for the protection or security of the holders thereof, including, without affecting the generality of the foregoing, any or all of the following:

- (a) The denomination or denominations of the bonds, the medium of payment thereof, the place or places of payment thereof, which may be within or without the State of California, the form of said bonds (including recitals of regularity) and of interest coupons pertaining thereto, the form, denomination and conditions of any temporary bonds or interim certificates (which temporary bonds or interim certificates may be issued without interest coupons), and the manual (one signature must be manual) and facsimile signatures to be affixed to said bonds (definitive or temporary) or interim certificates, and the facsimile signature to be affixed to interest coupons;
- (b) Provisions for the call and redemption prior to maturity of any part of or all of said bonds and the premiums to be paid upon such call and redemption;
- (c) Said bonds shall be designated "Waterworks Revenue Bonds" and each bond shall state on its face that it does not constitute an indebtedness of The City of San Diego but is an obligation payable, principal and interest, and premiums, if any, upon the redemption thereof, only from a special fund which shall consist of such revenues of the Water Department as are in excess of the amount needed to operate and

maintain the Water Department; provided, however, that the foregoing statement shall not preclude the payment or the redemption of said bonds from the proceeds of refunding bonds or the payment thereof from premium and accrued interest obtained upon the sale of the bonds. Such special fund is presently designated and is sometimes hereinafter in this section called the Water Department Revenue Bond Fund;

- (d) Covenants relating to rates for the use of water or for services from the waterworks system. Such rates and charges for the use of water or service from the waterworks system shall provide revenues at least sufficient to pay, as the same shall become due, principal of and interest on all outstanding revenue bonds payable out of the revenues of the Water Department, including premiums, if any, due upon the redemption of any thereof (and including all payments required to be made into reserve and sinking funds, if any, for said revenue bonds or any thereof), and all other obligations and indebtedness payable out of said revenues, in addition to paying, as the same shall become due, the necessary expenses of operating and maintaining the Water Department;
- (e) Covenants relating to the extent to which such services may be furnished or rendered to the City or to any government, department of government, public corporation or body free or at lower rates than otherwise charged;
- (f) The collection, deposit and safekeeping of the revenues, and the permissible uses thereof;
- (g) The construction fund into which the principal sums from the sale of the bonds shall be placed, the special fund or funds to be established and maintained for the payment of principal and interest of the bonds, including reserve, sinking, bond service, redemption, and trust funds, and any revenue bond payable from the Water Department Revenue Bond Fund may be paid from any such special fund established therefor; the permissible investments of moneys in said funds, or any thereof, the accounts and records to be kept, audits thereof and examination of such audits by bondholders and others;
- (h) Carrying of insurance upon the waterworks or any part of the waterworks system or property against any or all risks, and in case of loss the application of the insurance proceeds;
- (i) Prohibition against or limitations upon the sale, lease or other disposition or transfer of the waterworks of the City or any substantial part thereof, and the use of any funds derived from any sale, lease or other disposition or transfer permitted under the terms of such ordinance;
- (j) Limitations upon the issuance of any additional bonds payable out of the revenues of the Water Department, but no bonds shall be issued pursuant to this section or under any other provision of the Charter or any other law having any priority in payment of principal or interest out of the

revenues of the Water Department over any revenue bonds theretofore or thereafter issued and payable out of such revenues;

- (k) Provisions whereby the consent or agreement of a stated percentage or number of the holders of the bonds may bind all holders to modifications of such provisions of the ordinance, resolution or order authorizing or providing for the issuance of such bonds or the sale thereof as may be stated in such ordinance or to a refunding of said bonds and to calls or exchanges in connection with such refunding;
- (l) For the issuance of a duplicate in the manner and upon such terms and conditions as the Council may determine, in the event any bond, temporary bond, coupon or interim certificate of any such issue is lost, destroyed or mutilated;
- (m) Any other provision (including covenant) valid under the Constitutions of the State of California and the United States of America.

Subdivision 7. Any ordinance providing for the issuance of any revenue bonds under this section and all other ordinances, resolutions or orders in the proceeding for the issuance of said bonds shall constitute a contract with the holders of the bonds and may be enforced by any holder by mandamus, injunction or any other applicable legal action, suit, proceeding or other remedy.

Subdivision 8. Bonds issued under this section shall be sold only at public sale following such notice as the Council, by order or resolution, may prescribe; provided, however, that if no bid is received or if the bid or bids received are not satisfactory the Council may reject all bids received, if any, and may thereafter sell such bonds at public or private sale; provided, further, that the provisions of this subdivision shall not apply to the exchange of any refunding bonds for outstanding bonds. Any revenue bonds issued hereunder may be sold at a fixed rate of interest or the bidders may be invited to state the rate or rates of interest at which they will purchase said bonds, but no rate of interest on any of the bonds shall exceed six per cent per annum, payable semiannually. If the bidders are invited to state the interest rate or rates, then upon the acceptance of a bid the Council shall by resolution or order, which shall not be subject to referendum, fix such interest rate or rates as have been bid by the successful bidder as the rate or rates of interest on bonds sold. Said bonds shall be sold for not less than par and accrued interest to date of delivery.

Subdivision 9. The proceeds from the sale of bonds issued hereunder (except premium and accrued interest which shall be paid into the bond service or other fund designated or established for the payment of principal and interest of the bonds) shall be paid into the construction fund designated by the ordinance providing for the issuance of said bonds and shall be applied exclusively to the objects and purposes set forth in such ordinance; provided, however, (1) that the Water Department Revenue Bond Fund from which the bonds are payable may be reimbursed from such proceeds for expenditures for purposes for which the bonds were issued made from such fund after the issuance of the bonds has been authorized at the election thereon, (2) that said proceeds may be used for the

payment of interest on said bonds during the period of acquisition and construction and for the first six months thereafter; and (3) that when the objects and purposes for which the bonds are issued have been accomplished any remaining unexpended funds derived from the sale of the bonds shall be used for the payment of principal and interest of said revenue bonds or for the redemption of any callable bonds thereof.

Subdivision 10. Refunding revenue bonds may be issued for the payment or redemption of any revenue bonds issued pursuant to this section and such refunding bonds may be issued in principal amount sufficient to refund the outstanding bonds proposed to be refunded thereby, including payment of accrued interest and of any premiums thereon and all expenses of such refunding. Refunding revenue bonds shall be authorized, issued and sold substantially in the manner provided for the issuance and sale of other revenue bonds hereunder or may be exchanged for the outstanding bonds to be refunded upon such terms and conditions as may be stated in the ordinance authorizing such refunding bonds, except that no election shall be necessary to authorize the issuance of refunding bonds hereunder.

Subdivision 11. To the extent that any provision of any ordinance authorizing the issuance of revenue bonds pursuant to this section or any provision of any ordinance, resolution or order pertaining to such revenue bonds adopted pursuant to the authority of this section is inconsistent with any of the provisions of any other section of this charter the provisions of such ordinance, resolution or order shall control so long as any of the bonds or coupons to which the same pertain are outstanding and unpaid. No bond shall be deemed to be outstanding and unpaid within the meaning of this section if moneys for the purpose of paying the same or redeeming the same prior to maturity and sufficient therefor have been irrevocably set aside in a bond service fund, sinking fund, redemption fund, or other trust fund created to insure the payment or redemption thereof.

The Council is authorized to take any and all steps and proceedings necessary or convenient for the authorization, issuance and sale of revenue bonds under this section and for the payment or redemption thereof.

Section 90.2: Sewer

Unless the context otherwise requires, the definitions contained in this section shall govern the construction thereof.

“This section” as used in this section means this Section 90.2.

“City” means The City of San Diego.

“Council” means the Council of The City of San Diego.

“Bond” or “bonds” means sewer revenue bonds issued hereunder payable from the Sewer Revenue Fund.

“Sewer” or “sewers” as used in this section means sanitary sewers of the City.

“Sewer system” as used in this section means all sanitary sewers, sewer works, sewage treatment and disposal works and facilities of the city for the collection, transmission, treatment or disposal of sewage and comprises the entire system of sewers and sewer works and facilities of the city and includes all parts thereof, whether physically connected to other parts of the system or otherwise, and shall include all additions thereto, whether physically connected to other parts of the system or otherwise, and all extensions and improvements of the sewer system or any part thereof. Nothing herein shall preclude the construction of facilities for the reclamation of water from sewage in the sewer system and the city may at any time determine whether such facilities or any portion thereof shall be constructed and operated as a part of the sewer system or as a part of the water system, or otherwise.

“Sewer service charges” as used in this section means charges, fees, tolls, rates and rentals established or imposed by the city for service by or for the use of the sewer system or any part thereof.

“Revenues” as used in this section means all sewer service charges received, and any sums received by the city from other cities, districts or public corporations (including the United States of America and the state of California) under contracts providing for the transmission, treatment or disposal of sewage from such other cities, districts or public corporations through or by means of the sewer system or any part thereof, and all other income and revenue derived by the city from the operation of the “sewer system” or any part thereof.

“Revenues” shall not be construed to include taxes or assessments levied by the city.

“Sewer Revenue Fund” as used in this section means the Sewer Revenue Fund heretofore established into which revenues from the sewer system have been paid, and said fund has been, is and shall be derived from “revenues.”

Subsection 1. Revenue bonds to provide money for the acquisition and construction of sewer mains, interceptor sewers, pumping plants, trunk sewers, outfall sewers, sewer works, sewage treatment plants, works and facilities, and sewage disposal works or facilities which will be additions to, extensions and improvements of the sewer system, and for the reconstruction or replacement of parts of the sewer system, including all necessary equipment, appurtenances and appurtenant work and the acquisition of all lands, easements and property necessary therefor and for facilities for the reclamation of water from sewage in the sewer system (if such reclamation facilities are to be constructed and operated as a part of the sewer system) may be issued as provided in this section. Any issue of revenue bonds may be for any or all of said purposes. To any extent necessary or convenient, any of the sewers, plants, works or facilities or any part thereof may be located outside the city.

Subdivision A. Revenue bonds issued under this section shall not constitute an indebtedness of the city but shall constitute obligations which shall be payable, principal and interest, and any premiums upon the redemption

thereof prior to maturity, only from the Sewer Revenue Fund; provided, however, that this shall not preclude the payment or redemption thereof from the proceeds of refunding bonds issued to refund said revenue bonds, or the use of accrued interest and premiums paid upon the sale and delivery of the revenue bonds for the payment of principal thereof or interest thereon, or the payment out of the proceeds of any bonds of the whole or a part of the interest accruing on said bonds during the period of acquisition and construction of the work to be paid for out of such proceeds and for the first six months thereafter.

Subdivision B. Refunding revenue bonds for the purpose of refunding any revenue bonds issued under this section may be issued as provided in this section and shall be payable from the Sewer Revenue Fund. No restriction or limitations upon or procedure for the issuance of bonds in other sections of this charter shall apply to revenue bonds issued under this section (including refunding revenue bonds) and this section shall constitute complete authority for the issuance of such revenue bonds (including such refunding revenue bonds) and any action or proceeding not required by this section shall not be necessary for the valid authorization and issuance of such revenue bonds. No revenue bond issued under this section or any interest payable thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the city or any other revenues of said city except such revenues as are required under the provisions of this section to be paid into the Sewer Revenue Fund.

Subdivision C. The limitations upon bonded indebtedness of The City of San Diego contained in Sections 76 and 90 of this charter or in any other section or provision thereof shall not apply to revenue bonds issued under this section or under any provisions of this charter or under any general law of the State of California where such revenue bonds are payable exclusively from a special fund derived from revenues obtained from any public utility or improvement of the city and are not payable from taxes levied by the city and such revenue bonds shall not be deemed indebtedness of the city within the meaning of the debt limitation provisions contained in Sections 76 and 90 of this charter or in any other section thereof.

Subsection 2. To provide money for the purpose of the acquisition and construction of sewer mains, interceptor sewers, pumping plants, trunk sewers, outfall sewer, sewer works, sewage treatment plant, works and facilities, sewage disposal works and facilities and submarine ocean outfall sewer, which will be additions to, extensions and improvements of the sewer system, including for the foregoing all necessary equipment, appurtenances and appurtenant work and including the acquisition of all lands, easements and property necessary therefor, and including reconstruction or replacement of parts of sewers and reconstruction of sewer facilities necessary for any of the foregoing, the Council is hereby authorized to issue, in one issue or in separate issues or series from time to time, under this section, revenue bonds in total principal amount not to exceed \$42,500,000. The maximum rate of interest on said bonds shall not exceed six per cent per annum, payable semiannually. Revenue bonds, if any, issued under this section in excess of

said sum of \$42,500,000 shall be authorized by proceedings taken in the manner hereinafter provided under Subsection 3.

Subsection 3. Except as provided in Subsection 2 above and except refunding sewer revenue bonds, revenue bonds payable from the Sewer Revenue Fund shall be authorized in the manner provided in this Subsection 3.

The first step in the proceedings shall be a recommendation by the ~~City Manager~~ Mayor that bonds be issued hereunder, which recommendation shall state generally the purposes of the revenue bond issue and the principal amount thereof. Such recommendation need not be in any particular form. After the recommendation by the ~~City Manager~~ Mayor has been received by the Council it may adopt an ordinance finding the need for the issuance of revenue bonds under this section for the purposes set forth in the recommendation of the ~~City Manager~~ Mayor. The Council, by said ordinance, shall submit to the qualified voters of the city at an election held for that purpose the question of issuing revenue bonds pursuant to this section to provide moneys for the purposes stated in the recommendation of the ~~City Manager~~ Mayor.

The Council, by a vote of two-thirds of the members thereof, may adopt a resolution stating that it determines to proceed under this section without a recommendation by the ~~City Manager~~ Mayor. Any such resolution also shall state generally the purposes of the proposed revenue bond issue and the principal amount thereof and in the event such resolution is adopted the recommendation of the ~~City Manager~~ Mayor shall not be required and the ordinance shall find the need for the issuance of revenue bonds under this section for the purposes stated in the resolution and the purposes stated in the proposition submitted to the qualified voters of the city shall be the purposes stated in such resolution. In the event the Council adopts a resolution to proceed without the recommendation by the ~~City Manager~~ Mayor, the ordinance calling the election may be adopted only by a vote of at least two-thirds of the members of the Council and at a meeting subsequent to that at which the resolution was adopted.

Subdivision A. The ordinance calling the election also shall:

- (1) state the purposes for which the bonds are proposed to be issued;
- (2) state the principal amount of the bonds;
- (3) state the maximum rate of interest on the bonds, which shall not exceed six per cent per annum, payable semiannually;
- (4) call the election and fix the election date;
- (5) fix the manner of holding the election;
- (6) fix the manner of voting for or against the issuance of the bonds.

In all particulars not stated in said ordinance the election shall be held and the votes canvassed in the manner provided by law for general municipal elections in the city.

Subdivision B. The proposition shall be submitted at a special election called for that purpose and any special election called for the purpose of voting upon a proposition to issue bonds under this section may be consolidated with any city or other election at which all of the qualified voters residing within the city are entitled to vote. Such consolidation may be made in the manner authorized under the Elections Code of the State of California or under the Elections Code of the city.

Subdivision C. The ordinance shall be published once a week for two succeeding weeks in the official newspaper of the city, the first publication to be at least 21 days prior to the election. No other notice of such election need be given. If a majority of the voters voting on the proposition of issuing the bonds vote in favor of the issuance thereof bonds in an amount not exceeding the amount stated in the ordinance calling the election may be issued. No error, irregularity or omission in the election or in any of the proceedings prior thereto which does not affect the substantial rights of the people of the city or the electors voting at the election at which any revenue bonds are authorized under this section shall invalidate the election.

Subsection 4. The Council may issue all bonds authorized at an election in one issue or in two or more series and may fix different dates and maturities for the bonds of each series. It may issue all bonds authorized by Subsection 2 hereof in one issue or in two or more issues or series and may fix different dates and maturities for the bonds of each issue or series. The bonds of any issue or series issued under this section may be serial bonds or term bonds or any combination thereof with such maturities as may be determined by the Council, but no bond shall run more than forty (40) years from its date.

Any ordinance providing for the issuance of bonds hereunder shall recite the objects and purposes for which the bonds are to be issued, fix the principal amount of the bonds to be issued pursuant to such ordinance, the maximum rate of interest to be payable thereon, not to exceed six per cent per annum, payable semiannually, the date of said bonds, and the maturities thereof.

Said bonds shall be issued in negotiable form and shall be negotiable. The recitals of regularity of proceedings in any revenue bond issued and sold under this section shall be conclusive evidence of compliance with the provisions of this section and of the validity of such bonds, and no bona fide purchaser of any such bond containing the recital permitted by this section shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceeding required prior to the actual issuance and delivery of said bonds or to the application of the purchase price paid for said bonds.

Subdivision A. REVENUE BONDS - TERMS AND CONDITION: In any ordinance providing for the issuance of revenue bonds under this section, the Council may fix the terms and conditions thereof (including covenants) and may in any article, section, sentence or clause thereof make such provision (including covenant) as it may deem necessary or desirable to facilitate the issuance and sale of the bonds or for the protection or security of the holders

thereof, including, without affecting the generality of the foregoing, any or all of the following:

- (1) The denomination or denominations of the bonds, the medium of payment thereof, the place or places of payment thereof, which may be within or without the State of California, the form of said bonds (including recital of regularity) and of interest coupons pertaining thereto, the form, denomination and conditions of any temporary bonds or interim certificates, and the manual (one signature must be manual) and facsimile signatures to be affixed to said bonds (definitive or temporary) or interim certificates, and the facsimile signature to be affixed to interest coupons;
- (2) The terms and conditions under which said bonds or any part thereof may be paid and redeemed before maturity (including the premiums, if any, payable upon bonds redeemed prior to maturity), exchanged, registered, transferred, or negotiated;
- (3) Covenants or provisions relating to rates (called in this section Sewer Service Charges). Such sewer service charges shall be fixed by the Council of said city and, with reasonable allowances for contingencies, must be at least sufficient, together with other revenues, if any, payable into the Sewer Revenue Fund, to provide revenues sufficient to pay, as the same becomes due, principal and interest of all revenue bonds payable out of said Sewer Revenue Fund (including all payments required to be made into reserve and sinking funds, if any, for said revenue bonds) and all other obligations payable from the Sewer Revenue Fund, and the necessary expenses of maintaining and operating the "sewer system." The ordinance may also state the extent, if any, to which such sewer service may be furnished or rendered to the city free or to the United States of America, the State of California, or to any city or other public corporation or body at lower rates than otherwise charged;
- (4) The collection, deposit and safekeeping of the revenues and the permissible uses thereof; provided, however, that the cost of maintenance and operation of the sewer system (and only such cost) shall be payable from the Sewer Revenue Fund prior to the payment of principal and interest of the revenue bonds or the setting aside in the bond service, sinking, redemption, reserve, or other fund, monthly or otherwise, of funds therefor;
- (5) The special fund or funds to be established and maintained for the payment of principal and interest of the bonds; including reserve, sinking, bond service, redemption, and trust funds, and any revenue bond payable from the Sewer Revenue Fund may be paid from any such special fund set up therefor; the permissible investments of moneys in said funds, or any thereof; the accounts and records to be kept, audits thereof and examination thereof by bondholders and others;

- (6) Carrying of insurance upon any sewers, sewage treatment plant or plants or sewage disposal works against any or all risks, and in case of loss the application of the insurance proceeds;
- (7) Prohibition against or limitations upon the sale, lease or other disposition or transfer of the sewer system or any substantial part thereof, and the use of any funds derived from any sale, lease or other disposition or transfer permitted under the terms of said ordinance;
- (8) Limitations upon the issuance of any additional bonds payable from the Sewer Revenue Fund, but no bond shall be issued pursuant to this section or under any other provision of this charter or any other law having any priority in payment of principal or interest out of such fund or out of any revenues payable into such fund over any revenue bonds theretofore issued and payable out of said fund;
- (9) Provisions whereby the consent or agreement of a stated percentage or number of the holders of the bonds may bind all holders to modifications of provisions of any ordinance, resolution or order authorizing or providing for the issuance of such bonds or the sale thereof, or to a refunding of said bonds and to calls or exchanges in connection with such refunding;
- (10) For the issuance of a duplicate in the manner and upon such terms and conditions as the Council may determine, in the event any bond, temporary bond, coupon or interim certificate of any such issue is lost, destroyed or mutilated;
- (11) Any other provision (including covenant) valid under the Constitution of the State of California and the United States of America. Such ordinance shall be subject to referendum in the manner that other ordinances of the City are subject to referendum. Any ordinance providing for the issuance of any revenue bonds under this section and all other ordinances, resolutions or orders in the proceeding for the issuance of said bonds shall constitute a contract with the holders of the bonds and may be enforced by any holder by mandamus, injunction or any applicable legal action, suit, proceeding or other remedy.

Subsection 5. LIMITATIONS. Revenue bonds issued under this section shall be issued substantially in compliance with the following limitations:

- (a) No bond shall run more than forty years from its date;
- (b) Said bonds shall be designated "Sewer Revenue Bonds" and each bond shall state on its face that it does not constitute an indebtedness of the City but is an obligation payable, principal and interest, and premiums, if any, upon the redemption thereof only from the Sewer Revenue Fund. Such statement shall not preclude the payment or redemption thereof from the funds or moneys specified in Subdivision A of Subsection 1;

- (c) Said bonds shall be sold only at public sale following such notice as the Council by resolution or order may prescribe; provided, however, that if no bid or no satisfactory bid is received pursuant to such notice the Council may reject all bids received, if any, and may thereafter sell such bonds at public or private sale; provided, further, that the provisions of this subsection shall not apply to the exchange of any refunding bonds for outstanding bonds. Any such revenue bonds may be sold at a fixed rate of interest or the bidders may be invited to state the rate or rates of interest at which they will purchase said bonds, but no rate of interest on any of the bonds shall exceed the maximum rate stated in the ordinance calling the election to vote upon the issuance of said bonds or as to bonds authorized by Subsection 2 hereof the maximum rate stated in said Subsection 2. If the bidders are invited to state the interest rate or rates, then upon the acceptance of a bid the Council shall by resolution or order, which shall not be subject to referendum, fix such interest rate or rates as have been bid by the successful bidder as the rate or rates of interest on the bonds sold;
- (d) Said bonds shall be sold for not less than par and accrued interest to date of delivery. The proceeds from the sale (except premium and accrued interest which shall be paid into the bond service or other fund designated or established for the payment of principal and interest of the bonds) shall be paid into the construction fund designated by the ordinance providing for issuance of such bonds and shall be applied exclusively to the objects and purposes set forth in such ordinance; provided, however, (1) that the Sewer Revenue Fund from which the bonds are payable may be reimbursed from such proceeds for expenditures for purposes for which the bonds were issued made from such Sewer Revenue Fund after the issuance of the bonds has been authorized by the voters or as to bonds authorized by Subsection 2 hereof, after the date this amendment becomes effective; (2) that said proceeds may be used for the payment of interest on said bonds during the period of acquisition and construction and for the first six months thereafter; and (3) that when the objects and purposes for which the bonds are issued have been accomplished any remaining unexpended funds derived from the sale of said bonds shall be used for the payment of principal and interest of said revenue bonds or for the redemption of any callable bonds thereof.

Subsection 6. Refunding revenue bonds payable from the Sewer Revenue Fund may be issued for the payment or redemption of any revenue bonds, issued pursuant to this section and such refunding bonds may be issued in principal amount sufficient to refund the outstanding bonds proposed to be refunded thereby, including payment of interest to maturity on any noncallable bonds to be refunded and of accrued interest to date of redemption and of any premiums payable upon redemption of bonds which by their terms are subject to call and redemption prior to maturity, and all expenses of such refunding. Refunding revenue bonds may be authorized, issued and sold substantially in the manner provided for the issuance and sale of other revenue bonds hereunder or may be exchanged for the outstanding bonds to be refunded upon such terms and conditions as may be stated in the ordinance authorizing such refunding bonds, except that no election shall be necessary to authorize the issuance of refunding bonds hereunder and the first step

in the proceeding shall be the ordinance of issuance. The ordinance providing for the issuance of refunding bonds shall be subject to referendum in the same manner as other ordinances of the city.

Subsection 7. To the extent that any provision of any ordinance authorizing the issuance of revenue bonds pursuant to this section or any provision of any ordinance, resolution or order pertaining to such revenue bonds adopted pursuant to the authority of this section is inconsistent with any of the provisions of any other section of this charter the provisions of such ordinance, resolution or order shall control so long as any of the bonds or coupons to which the same pertain are outstanding and unpaid. No bond shall be deemed to be outstanding and unpaid within the meaning of this section if moneys for the purpose of paying the same or redeeming the same prior to maturity and sufficient therefor have been irrevocably set aside in a bond service fund, sinking fund, redemption fund, or other trust fund created to insure the payment or redemption thereof. The Council is authorized to take any and all steps necessary or convenient for the authorization, issuance and sale of revenue bonds under this section and for the payment or redemption thereof.

Subsection 8.

Subdivision A. The Council may at any time establish and provide for the collection of sewer service charges and must establish and provide for the collection of such sewer service charges as are required by any ordinance providing for the issuance of revenue bonds under this section. Sewer service charges shall not be deemed taxes or assessments within the meaning of any section of this charter and shall not be enforceable by any lien upon real property. "Sewer service charges" may be collected with water rates, fees or charges (herein called "water rates") of The City of San Diego. The Council may provide and covenant that where the city furnishes water to the property receiving sewer service the sewer service charges shall be collected with and not separately from the water rates of said city and that all charges shall be billed upon the same bill and collected as one item and may also provide and covenant that in the event of nonpayment of any part of the bill for the sewer service charge and water rate, the water service shall be shut off within such time as may be or shall have been prescribed by the Council. Delinquent sewer service charges may be collected by suit in any court of competent jurisdiction. The Council may provide additional methods of collecting sewer service charges. The Council also may prescribe and establish penalties for the nonpayment of sewer service charges. The Council may take any and all steps to establish and provide for the collection of sewer service charges.

Subdivision B. All revenues shall be paid into the Sewer Revenue Fund and shall be used only for the following purposes: (1) paying the cost of maintenance and operation of the sewer system; (2) paying principal and interest (including payments into any reserve or sinking fund) and premiums, if any, upon redemption, of sewer revenue bonds issued under this section and payable from said Sewer Revenue Fund; (3) paying all or any part of the cost and expense of extending, reconstructing or improving the sewer system or any part thereof or making additions to such system; (4) transferring from any surplus in the Sewer Revenue Fund to the Capital Outlays Fund, at one time

or from time to time, all or any part of the sums expended from said Capital Outlays Fund after July 1, 1960, for any purpose for which revenue bonds may be issued under this section; (5) paying from any surplus in the Sewer Revenue Fund principal or interest, or both, or any part thereof, of general obligation bonds heretofore or hereafter issued for any purpose for which revenue bonds may be issued under this section. Any ordinance providing for the issuance of revenue bonds hereunder may contain covenants defining, limiting or restricting the use of moneys in said Sewer Revenue Fund and said covenants shall control so long as any bonds issued under said ordinance are outstanding and unpaid within the meaning of this section.

Subdivision C. Interest (including interest on investments) on the Sewer Revenue Fund or on any fund created by or under the authority of this section shall be credited to the particular fund.

Subsection 9.

Subdivision A. The City may issue general obligation bonds for sewer purposes. General obligation bonds of the city may also be issued to refund any revenue bonds, principal, interest and premium, if any, issued under this section, if authorized by a two-thirds vote of the qualified electors of the city voting upon the question of the issuance thereof at an election called and held for that purpose. Such election may be called by ordinance in the same manner as any other special election is called under the charter of the city.

The city may expend funds derived from taxes for the acquisition and construction of sewers, and to the extent that may legally be done under this section may expend funds derived from taxes for the maintenance and operation of sewers, but no funds derived from taxes shall be considered revenues as in this section defined and no such funds derived from taxes shall be paid into the Sewer Revenue Fund and no revenue bond issued under this section or any interest thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the city.

Subdivision B. The city may levy special assessments for the acquisition and construction of sewers or sewer works and such assessments shall not be construed as "revenues" as defined in this section and shall not be paid into the Sewer Revenue Fund.

Nothing in this section shall be construed to restrict the power of the city to consent to the formation or organization of special districts for the purpose of collection, transmission, treatment or disposal of sewage within portions of the city which are not at that time served by the city sewer system and which in the opinion of the Council cannot conveniently be served by or through the city sewer system. Before any such district is formed or organized which includes territory of the city therein the consent of the city to the inclusion therein of such territory shall be manifested by ordinance of the Council. The Council shall have authority to provide reasonable terms and conditions under which the portion of the city may be included in said district and upon which the district may operate its facilities within The City of San Diego.

Nothing in this section shall be construed as implying any doubt of the power of the city to establish and collect service charges for service by or for the use of sewers under its general charter powers.

Subsection 10. This section and every part thereof shall be liberally construed to promote the objects thereof and to carry out its intents and purposes.

If the application of any subsection, subdivision, paragraph, sentence, clause or word of this section to any person or circumstance is held invalid the application of such subsection, subdivision, paragraph, sentence, clause or word to any other person or in any other circumstance shall not be affected thereby. If any part of this section is held invalid the remainder of the section shall remain in full force and effect.

Section 94: Contracts

In the construction, reconstruction or repair of public buildings, streets, utilities and other public works, when the expenditure therefor shall exceed the sum established by ordinance of the City Council, the same shall be done by written contract, except as otherwise provided in this Charter, and the Council, on the recommendation of the ~~Manager~~ Mayor or the head of the Department in charge if not under the ~~Manager's~~ Mayor's jurisdiction, shall let the same to the lowest responsible and reliable bidder, not less than ten days after advertising for one day in the official newspaper of the City for sealed proposals for the work contemplated. If the cost of said public contract work is of a lesser amount than the figure established by ordinance of the City Council, the ~~Manager~~ Mayor may let said contract without advertising for bids, but not until the Purchasing Agent of the City shall have secured competitive prices from contractors interested, which shall be taken under consideration before said contract is let. The Council may, however, establish by ordinance an amount below which the ~~Manager~~ Mayor may order the performance of any construction, reconstruction or repair work by appropriate City forces without approval by Council. When such Council approval is required, the ~~Manager's~~ Mayor's recommendation shall indicate justification for the use of City forces and shall indicate whether the work can be done by City forces more economically than if let by contract.

In case of a great public calamity, such as extraordinary fire, flood, storm, epidemic or other disaster the Council may, by resolution passed by a vote of two-thirds of the members elected to the Council, determine and declare that the public interest or necessity demands the immediate expenditure of public money to safeguard life, health or property, and thereupon they may proceed, without advertising for bids or receiving the same, to expend, or enter into a contract involving the expenditure of any sum required in such emergency, on hand in the City treasury and available for such purpose. All contracts before execution shall be approved as to form and legality by the City Attorney.

Each bidder shall furnish with his bid such security or deposit insuring the execution of the contract by him as shall be specified by the Council or as provided by general law.

For contracts exceeding \$100,000.00, the Council shall require each contractor to insure the faithful performance of his contract by delivering to the City a surety bond in an amount specified by the Council, executed by a surety company authorized to do business in the State of California; provided, however, that in all contracts the Council shall require the retention of sufficient payments, under the contract to insure the protection of the City against labor or material liens.

The Council, on the recommendation of the ~~Manager~~ Mayor, or the Head of the Department not under the jurisdiction of the ~~Manager~~ Mayor, may reject any and all bids and readvertise for bids. The Council may provide that no contract shall be awarded to any person, firm or corporation if prison or alien labor is to be employed in performing such contract, or if the wage schedule for employees engaged in performing such contract is based on more than eight hours of labor per day. Any contract may be let for a gross price or on a unit basis and may provide for liquidated damages to the City for every day the contract is uncompleted beyond a specified date. It shall be competent in awarding any contract to compare bids on the basis of time completion, provided that when any award has been made in consideration, in whole or in part, of the relative time estimates of bidders for the completion of the work, the performance in accordance with such time limits shall be secured by a surety bond as hereinabove provided with adequate sureties and penalties, and provided further, that for any contract awarded solely or partially on a specified time for completion the Council shall not extend such time limits unless such extension be recommended by the ~~Manager~~ Mayor and the Head of the Department concerned.

No officer, whether elected or appointed, of The City of San Diego shall be or become directly or indirectly interested in, or in the performance of, any contract with or for The City of San Diego, or in the purchase or lease of any property, real or personal, belonging to or taken by said City or which shall be sold for taxes or assessments or by virtue of legal process or suit of said City. Any person willfully violating this section of the Charter shall be guilty of a misdemeanor and shall immediately forfeit his office and be thereafter forever barred and disqualified from holding any elective or appointive office in the service of the City. No officer, whether elected or appointed, shall be construed to have an interest within the meaning of this section unless the contract, purchase, lease, or sale shall be with or for the benefit of the office, board, department, bureau or division with which said officer is directly connected in the performance of his duties and in which he or the office, board, department, bureau or division he represents exercises legislative, administrative or quasi-judicial authority in the letting of or performance under said contract, purchase, lease or sale.

All contracts entered into in violation of this Section shall be void and shall not be enforceable against said City; provided, however, that officers of this municipality may own stock in public utility service corporations and the City permitted to contract for public utility service when the rates for such service are fixed by law or by virtue of the Public Utilities Commission of the State of California; and provided further, that no officer shall be prohibited from purchasing the services of any utility whether publicly or privately owned, whether or not the rates are fixed by law or by the Public Utilities Commission of the State of California; and provided

further, that in designating any bank as a depository for the funds of said City, any officer interested as a stockholder or otherwise in such bank shall not be deemed to have an interest in such City contract within the meaning of this section, and in each of the cases enumerated herein such contracts shall be valid and enforceable obligations against the municipality.

Section 94.1: Job Order Contracts

Notwithstanding any provisions of this Charter to the contrary, the City is not prohibited from awarding public works contracts on a unit cost basis for all necessary labor, materials, and equipment provided such contracts are secured on a competitive basis as otherwise required by this Charter. The City Council shall establish by ordinance guidelines for the award and use of such unit cost contracts, and may set an amount below which the ~~City Manager~~ Mayor may award such contracts.

Section 94.2: Design-build Contracts

Notwithstanding any provisions of this Charter to the contrary, the City is not prohibited from awarding contracts for the combined design and construction of public works pursuant to a process of competitive negotiation, provided the process of competitive negotiation is conducted as may otherwise be required by this Charter or the Municipal Code. The City Council shall establish by ordinance guidelines for the award, use, and evaluation of such design-build contracts, and may set an amount below which the ~~City Manager~~ Mayor may award such contracts.

Section 94.4: Construction Manager At Risk Contracts

Notwithstanding any provisions of this Charter to the contrary, the City is not prohibited from awarding contracts for the construction of public works using a combination of: (1) design review and management services; and (2) construction management services procured from a single person or entity for a guaranteed maximum price pursuant to a process of competitive negotiation, provided the process of competitive negotiation is conducted as may otherwise be required by this Charter or the Municipal Code. The City Council shall establish by ordinance guidelines for the award, use, and evaluation of such construction manager at risk contracts, and may set an amount below which the ~~City Manager~~ Mayor may award such contracts.

Section 98: Alteration in Contracts

Whenever it becomes necessary in the opinion of the ~~City Manager~~ Mayor to make alterations in any contract entered into by the City, such alterations shall be made only when authorized by the Council upon written recommendation of the ~~Manager~~ Mayor, whenever the cost of such alterations increases the amount of the contract by more than the amount authorized by ordinance passed by the Council. No such alterations, the cost which exceeds the amount authorized by ordinance, shall be valid unless the new price to be paid for any supplies, materials, or work under the altered contract shall have been agreed upon in writing and signed by the contractor and the ~~Manager~~ Mayor prior to such authorization by the Council. All other

alterations shall be made by agreement in writing between the contractor and the ~~Manager~~ Mayor.

Section 103: Franchises

The Council shall have power to grant to any person, firm or corporation, franchises, and all renewals, extensions and amendments thereof, for the use of any public property under the jurisdiction of the City. Such grants shall be made by ordinance adopted by vote of two-thirds (2/3) of the members of the Council and only after recommendations thereon have been made by the ~~Manager~~ Mayor and an opportunity for free and open competition and for public hearings have been given. No ordinance granting a franchise or a renewal, extension or amendment of an existing franchise shall be effective until thirty days after its passage, during which time it shall be subject to the referendum provisions of this Charter. No franchises shall be transferable except with the approval of the Council expressed by ordinance. For purposes of this section, a Council approved transfer shall be required when there is any change in the legal structure of the entity which holds the franchise, which change alters the ownership or control of the entity.

Such changes include, but are not necessarily limited to, sale, lease, assignment, corporate merger, stock swap, leveraged buy-out reorganization, or any other method heretofore or hereafter devised which results in a change of ownership or control of the entity. Absent Council approval, the franchise shall not be deemed to have been transferred to the new entity. This amendment is intended to be declaratory in nature as an explanation of the existing transfer of franchise provisions as set forth above and in the various City franchises presently in existence.

Section 104: Term and Plan of Purchase

Within six months after this Charter takes effect, copies of all franchises existing at the time shall be deposited with the Manager. The Council shall certify to the existence of such franchises and shall recognize them for periods not longer than the date of expiration on each. The ~~Manager~~ Mayor shall keep a public record of all franchises, leases or permits granted for the use of the public property of the City. The Council may fix the term of each new franchise in accordance with the laws of the State of California, provided that any franchise may be terminated by ordinance whenever the City shall determine to acquire by condemnation or otherwise the property of any utility necessary for the welfare of the City, such termination to be effective upon and not before payment of the purchase price for the property to be acquired. The method of determining the price to be paid for the property so acquired shall be that provided by law affecting the purchase of public utility properties in effect at the time of the purchase or condemnation of such public utility property.

Section 111: Audit of Accounts of Officers

Each year the Council shall provide that an audit shall be made of all accounts and books of all the Departments of the City. Such audit shall be made by independent auditors who are in no way connected with the City. Upon the death, resignation or removal of any officer of the City, the Auditor and Comptroller shall cause an audit

and investigation of the accounts of such officer to be made and shall report to the ~~Manager Mayor~~ and the Council. Either the Council or the ~~Manager Mayor~~ may at any time provide for an independent examination or audit of the accounts of any or all officers or Departments of the City government. In case of death, resignation or removal of the Auditor and Comptroller, the ~~Manager Mayor~~ shall cause an audit to be made of his accounts. If, as a result of any such audit, an officer be found indebted to the City, the Auditor and Comptroller, or other person making such audit, shall immediately give notice thereof to the Council, the ~~Manager Mayor~~ and the City Attorney and the latter shall forthwith proceed to collect such indebtedness.

Section 112: Appraisal of City Assets

The Auditor and Comptroller shall show in his records the cost or value of all real estate, buildings, structures, furniture and fixtures, equipment and property of any kind owned by the City, and may require every officer or Commission to assist him in procuring the data required therefor. Proper depreciation shall be made of all property of any kind which is used by the City for utility purposes. A proper balance sheet under classified heads shall be presented to the ~~Manager Mayor~~ for inclusion in the annual budget and shall be published in the annual report of the Auditor and Comptroller. This balance sheet shall show all convertible and other assets and all liabilities of the City.

Section 114: Bureau of Information and Publicity

The Council may establish a bureau of information and publicity under the supervision and control of the ~~Manager Mayor~~, who shall designate some official in his Department or in that of the City Clerk to compile the annual report of the City giving a summary of the Council proceedings and a summary of the operations of the administrative Departments for the previous fiscal years; have charge of the editing, printing and distribution of all municipal records, reports and documents; collect and compile information and statistics concerning all Departments and offices of the City, and other municipalities; and publish as often as necessary a City Bulletin, which shall contain the transactions and proceedings of the Council, the legal advertising of the City and such other information relating to the affairs of the City as shall be determined by ordinance or as the ~~Manager Mayor~~ may designate. The City Bulletin shall be published in lieu of the awarding of a contract for publication of official advertising in a newspaper of the City when the Council shall determine that it is to the best advantage of the City. The City Bulletin shall be published, distributed or sold in such manner and on such terms as the Council may determine. No unofficial advertising shall be published in the City Bulletin, nor shall the City Bulletin be used to promote the candidacy of any person, or be used as a medium for any personal controversy.

Article IX

Section 144: Board of Administration (amended by Prop H - Nov. 2, 2004)

Effective April 1, 2005, the system shall be managed by a newly constituted Board of Administration which shall consist of 13 members. Seven members shall constitute a quorum of the Board and the concurring vote of seven members shall

be required for the Board to take any action. Prior to April 1, 2005, in anticipation of the effective date, and thereafter, members shall be selected to serve as follows:

- (a) Seven (7) members shall be appointed by the Mayor and confirmed by the Council. No person who is a City employee, participant in the Retirement System, or City union representative may be eligible for appointment in this category. Such appointees shall have the professional qualifications of a college degree in finance, economics, law, business, or other relevant field of study or a relevant professional certification. In addition, such appointees shall have a minimum of fifteen (15) years experience in pension administration, pension actuarial practice, investment management, real estate, banking, or accounting. Members of the Board serving in this category shall serve staggered terms of four (4) years each (inaugural appointments shall have three (3) members serving two year terms) and members in this category shall be limited to a maximum of eight (8) consecutive years in office and an interval of four (4) years must pass before such persons can be reappointed. Such appointees shall not have any other personal interests which would create a conflict of interest with the duties of a Board member and trustee.
- (b) One (1) police safety member of the Retirement System elected by the active police safety members to serve a four (4) year term, except that the inaugural member elected in 2005 to fill the seat in this category shall serve a two (2) year term.
- (c) One (1) fire safety member of the Retirement System elected by the active fire safety members to serve a four (4) year term.
- (d) Two (2) general members of the Retirement System elected by active general members of the Retirement System to serve a four (4) year term.
- (e) One (1) retired member of the Retirement System elected by the retired members of the Retirement System to serve a four (4) year term, except that the inaugural member elected in 2005 to fill the seat in this category shall serve a two (2) year term.
- (f) One (1) City management employee in the administrative service appointed by the ~~City Manager~~ Mayor to serve at the pleasure of the ~~City Manager~~ Mayor selected from the following: City Manager, City Treasurer, Deputy or Assistant City Manager, or person in a similar position who reports to the ~~City Manager~~ Mayor.

The Board of Administration may establish such rules and regulations as it may deem proper; shall elect one of its members president and appoint a secretary and may appoint such other employees as may be necessary. Such appointments, except the actuary, shall be made under the provisions of Article VIII of this Charter.

The Board of Administration shall be the sole authority and judge under such general ordinances as may be adopted by the Council as to the conditions under which persons may be admitted to benefits of any sort under the retirement system; and shall have exclusive control of the administration and investment of such fund

or funds as may be established; and shall be permitted to invest in any bonds or securities which are authorized by General Law for savings banks; and, further, shall be permitted to invest in such additional classes or types of investments as are approved by resolution of the Council of the City of San Diego; provided, however, that individual investments within the classes or types approved by the Council must be approved by independent investment counsel; and, provided, further, the board may place such funds in the hands of the Funds Commission for investment. Provided, however, that the Auditor and Comptroller shall refuse to allow any warrant drawn for payment of a retirement allowance if, in the opinion of the Auditor and Comptroller, such retirement allowance has been granted in contravention of this Article or any ordinances passed under the authority granted herein.



Section 250: Purpose and Intent

The City of San Diego has operated under a governance structure known as the City Manager form of government since its current Charter was adopted in 1931. Under the City Manager form of government, the City is governed by a Council consisting of eight members elected by district and a Mayor who is elected citywide. Also under this form of government, the policies, rules, and decisions of the Council are implemented by a city manager. The purpose of this Article is to modify the existing form of governance for a trial period of time to test implementation of a new form of governance commonly known as a Strong Mayor form of government.

Section 255: Operative Date; Sunset of Article; Future Action by Voters

- (a) The date for the provisions of this Article to become operative is January 1, 2006.
- (b) After January 1, 2006, the provisions of this Article shall remain in effect for a period of five years (until December 31, 2010) at which time this Article shall be automatically repealed and removed from the Charter. However, the Council and the people reserve the right to propose amendments to the Charter at the November 2010 election or sooner to extend, make permanent, shorten or repeal the effective period of this Article and to consider increasing the number of Council districts to nine at the time of the next City Council district reapportionment which follows the national decennial census in 2010.

Section 260: Integration of Article with Charter

- (a) For the period of time this Article is operative, the following sections or subsections of the Charter shall be deemed inoperative and this Article shall supersede and completely govern the subjects:

Section 12(a) The Council [superseded by section 270]

Section 13 Meetings Of The Council [superseded by section 270]

Section 16 Introduction And Passage Of Ordinances And Resolutions [superseded by sections 275, 280, 285, and 290]

Section 17 When Ordinances And Resolutions Take Effect; Emergency Measures [superseded by section 295]

Section 22 Interference By Individual Members Of Council With Administrative Service Prohibited [superseded by sections 270(g) and 270(h)]

Section 24 Mayor [superseded by section 265]

Section 25 Deputy Mayor [superseded by section 265]

Section 27 The City Manager [superseded by sections 260 and 265]

- (b) All executive authority, power, and responsibilities conferred upon the City Manager in Article V, Article VII, and Article IX shall be transferred to, assumed, and carried out by the Mayor during the period of time this Article is operative.

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 Comptroller, subject to Council confirmation;
 - (11) Notwithstanding contrary language in Charter sections 30, 39, 57 or 58, authority to dismiss the City Auditor and Comptroller, 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 a 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.

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.

Section 275: Introduction and Passage of Ordinances and Resolutions

- (a) Ordinances shall be introduced in the Council only in written form. An alteration necessary only to correct a typographical or clerical error or omission may be performed by the City Clerk with the written approval and concurrence of the City Attorney, so long as the alteration does not materially or substantially alter the contents, requirements, rights, responsibilities, conditions, or prescriptions contained in the original text of the ordinance. A typographical or clerical error shall include, but is not limited to, incorrect spelling, grammar, numbering, punctuation, transposed words or numbers, and duplicate words or numbers.
- (b) All ordinances except annual appropriation ordinances and ordinances codifying or rearranging existing ordinances, shall be confined to one subject, and the subject or subjects of all ordinances shall be clearly expressed in the title.
- (c) The following ordinances may be passed by the Council on the day of their introduction: ordinances making the annual tax levy; the annual appropriation ordinance; ordinances calling or relating to elections; ordinances recommended by the Mayor or independent department heads transferring or appropriating moneys already appropriated by the annual appropriation ordinance; ordinances establishing or changing the grade of a public highway; and emergency ordinances as defined by section 295 of this Charter. Other ordinances, however, shall be passed by the Council only after twelve calendar days have elapsed from the day of their introduction.

- (d) Each ordinance shall be read in full prior to passage unless such reading is dispensed with by a vote of five members of the Council, and a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.
- (e) The yeas and nays shall be taken upon the Council's passage of all resolutions and ordinances and entered upon the journal of the proceedings of the Council.
- (f) The enacting clause of ordinances passed by the Council shall be "Be it ordained by the Council of the City of San Diego." The enacting clause of ordinances submitted by initiative shall be "Be it ordained by the People of the City of San Diego."

Section 280: Approval or Veto of Council Actions by Mayor

- (a) The Mayor shall have veto power over all resolutions and ordinances passed by Council with the following exceptions:
 - (1) The Mayor's veto power shall not extend to matters that are exclusively within the purview of Council, such as selection of the Independent Budget Analyst, the selection of a presiding officer, or the establishment of other rules or policies of governance exclusive to the Council and not affecting the administrative service of the City under the control of the Mayor.
 - (2) The Mayor's veto power shall not extend to those matters where the Council has acted as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented.
 - (3) Emergency Ordinances.
 - (4) The Annual Appropriation Ordinance.
 - (5) The Salary Ordinance, which instead shall be subject to veto in accordance with the process described in section 290.
- (b) Matters that are not subject to the Mayor's veto power shall be clearly indicated as such on the Council's agenda and within the body of the resolution or ordinance, which, pursuant to section 40, shall be signed as to form and legality by the City Attorney.
- (c) The following shall apply to each resolution and ordinance that has been passed by the Council and is subject to the Mayor's veto:
 - (1) Each such resolution or ordinance shall, within forty-eight hours of passage, be transmitted to the Mayor by the City Clerk with appropriate notations of the action taken by the Council.

- (2) The Mayor shall act upon each resolution or ordinance within ten business days of receiving the City Clerk's transmittal.
- (3) The Mayor shall either approve the resolution or ordinance by signing and returning it to the City Clerk within the specified time limit, or shall veto any resolution or ordinance and return it to the City Clerk with his or her written objections within the specified time limit.
- (4) Failure to return the resolution or ordinance within the specified time limit shall constitute approval and such resolution or ordinance shall take effect without the Mayor's signed approval. The City Clerk shall note this fact on the official copy of such resolution or ordinance.

Section 285: Enactment Over Veto

The Council shall reconsider any resolution or ordinance vetoed by the Mayor. If, after such reconsideration, at least five members of the Council vote in favor of passage, that resolution or ordinance shall become effective notwithstanding the Mayor's veto. If more than five votes are required for the passage of any resolution or ordinance by the provisions of this Charter or other superseding law, such larger vote shall be required to override the veto of the Mayor. If a vetoed resolution or ordinance does not receive sufficient votes to override the Mayor's veto within thirty calendar days of such veto, that resolution or ordinance shall be deemed disapproved and have no legal effect.

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.

Section 295: When Resolutions and Ordinances Take Effect; Emergency Measures

- (a) In the case of a resolution or ordinance for which the Mayor has veto power:
- (1) The date of approval by the Mayor pursuant to section 280(c) shall be deemed the date of its final passage.

- (2) If the time for approval or veto by the Mayor has expired and no action has been taken by the Mayor, the date of expiration of that time shall be deemed the date of its final passage.
- (3) If a resolution or ordinance is adopted by Council overriding the Mayor's veto, then the date of Council's override vote shall be deemed the date of final passage.
- (b) In the case of a resolution or ordinance for which the Mayor has no veto power, the date of passage by the Council shall be deemed the date of its final passage.
- (c) Resolutions shall become effective immediately upon their final passage, unless otherwise stated therein.
- (d) Ordinances making the annual tax levy, the annual appropriation ordinances, ordinances calling or relating to elections, and emergency measures, shall take effect at the time indicated therein. All other ordinances passed by the Council shall take effect at the time indicated therein, but not less than thirty calendar days from the date of their final passage. Ordinances adopted by vote of the electors shall take effect at the time indicated therein or the date the final canvass is issued by the County Registrar of Voters, whichever occurs later.
- (e) An emergency measure is an ordinance to provide for the immediate preservation of the public peace, property, health, or safety, in which the emergency claimed is set forth and defined in the preamble thereto. The affirmative vote of at least six members elected to the Council shall be required to pass any ordinance as an emergency measure. No measure making or amending a grant, renewal, or extension of a franchise or other special privilege shall ever be passed as an emergency measure. No situation shall be declared an emergency by the Council except as defined in this section, and it is the intention of this Charter that the courts shall strictly construe compliance with such definition.