
ARTICLE III

LEGISLATIVE POWER

Section 11: Legislative Power

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

Section 11.1: Legislative Power — Nondelegable

The same prohibition against delegation of the legislative power which is imposed on the State Legislature by Article XI, Section 11a of the Constitution of the State of California shall apply to the City Council of The City of San Diego, so that its members shall not delegate legislative power or responsibility which they were elected to exercise in the adoption of any ordinance or resolution which raises or spends public monies, including but not limited to the City's annual budget ordinance or any part thereof, and the annual ordinance setting compensation for City employees, or any ordinance or resolution setting public policy.

The City Council shall annually adopt an ordinance establishing salaries for all City employees. The City Council shall adopt this ordinance not later than May 30 of each year after considering all relevant evidence including but not limited to the needs of the citizens of the City of San Diego for municipal services, the ability of the citizens to pay for those services, local economic conditions and other relevant factors as the Council deems appropriate. The City Council shall give priority in the funding of municipal services to the need of the citizens for police protection in considering adoption of this salary ordinance and the annual budget ordinance.

The prohibition imposed by this section against unlawful delegation of the legislative responsibility to set compensation for city employees shall extend to any scheme or formula which seeks to fix the compensation of City of San Diego employees at the level of compensation paid to employees of any other public agency whose governing board is not elected by and not accountable to the people of the City of San Diego. This prohibition shall also extend to any scheme or formula which seeks to fix, establish, or adjust the compensation of City of San Diego employees at the level of the largest cities in California or the State of California.

(Addition voted 06-03-1980; effective 07-16-1980.)

(Amendment voted 11-04-1980; effective 12-31-1980.)

(Amendment voted 06-03-1986; effective 09-08-1986.)

Section 11.2: Legislative Power — Memorandum of Understanding

Notwithstanding any provisions of this Charter to the contrary, nothing in the Charter shall be construed to preclude the Council from entering into a multiple year memorandum of understanding with any recognized City employee organization concerning wages, hours and other terms and conditions of employment if, in the prudent exercise of legislative discretion as provided in this Charter, the Council determines it is in the best interests of the City to do so; and further provided that said exercise of legislative discretion is expressed affirmatively by a two-thirds vote of the entire Council. *(Addition voted 06-03-1986; effective 09-08-1986.)*

Section 12: The Council

- (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.

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- (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.

(Amendment voted 11-08-1949; effective 12-20-1949.)

(Amendment voted 06-05-1956; effective 01-10-1957.)

(Amendment voted 11-06-1962; effective 01-21-1963.)

(Amendment voted 09-17-1963; effective 02-11-1964.)

(Amendment voted 11-04-1969; effective 01-29-1970.)

(Amendment voted 11-05-1974; effective 12-01-1975.)

(Amendment voted 11-04-1975; effective 12-01-1975.)

(Amendment voted 11-06-1979; effective 12-17-1979.)

(Amendment voted 11-08-1988; effective 04-03-1989.)

(Amendment voted 11-06-1990; effective 02-19-1991.)

(Amendment voted 06-02-1992; effective 07-13-1992.)

(Amendment voted 11-03-1992; effective 12-18-1992.)

(Amendment voted 06-07-1994; effective 08-18-1994.)

(Section 12(a) is superceded in its entirety by Charter section 270 during the operative period of Charter Article XV. See Charter § 260(a).)

Section 12.1: Councilmanic Salaries

On or before February 15 of every even year, the Salary Setting Commission shall recommend to the Council the enactment of an ordinance establishing the salary of members of the Council for the period commencing July 1 of that even year and ending two years thereafter. The Council may adopt the salaries by ordinance as recommended by the Commission, or in some lesser amount, but in no event may it increase the amount. The ordinance shall be subject to the referendum provisions of this Charter and upon the filing of a sufficient petition, the ordinance shall not become effective and shall be repealed by the Council or shall forthwith be submitted to a vote of the people at the next general statewide election.

(Addition voted 11-06-1973; effective 12-07-1973.)

Section 13: Meetings of the Council

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. *(Amendment voted 11-06-1962; effective 01-21-1963.)*
(Section 13 is superceded in its entirety by Charter section 270 during the operative period of Charter Article XV. See Charter § 260(a).)

Section 14: Council Rules

The Council shall be the judge of the election and qualification of its members, and in such cases, shall have power to subpoena witnesses and compel the production of all pertinent books, records and papers; but the decision of the Council in any such case shall be subject to review by the courts. The Council shall determine its own rules and order of business. It shall have power to compel the attendance of absent members, and may punish its members for disorderly behavior after notification of the charge and opportunity to be heard in defense.

Section 15: Quorum

A majority of the members elected to the Council shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. Except as otherwise provided herein the affirmative vote of a majority of the members elected to the Council shall be necessary to adopt any ordinance, resolution, order or vote; except that a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his own official conduct or in which his own personal interests are involved.

Section 16: Introduction and Passage of Ordinances and Resolutions

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 Manager 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."

(Amendment voted 03-10-1953; effective 04-20-1953.)

(Amendment voted 09-17-1963; effective 02-11-1964.)

(Amendment voted 11-04-1969; effective 01-29-1970.)

(Amendment voted 11-04-1975; effective 12-01-1975.)

(Section 16 is superceded in its entirety by Charter sections 275, 280, 285 and 290 during the operative period of Charter Article XV. See Charter § 260(a).)

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

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.

(Amendment voted 04-22-1941; effective 05-08-1941.)

(Amendment voted 09-17-1963; effective 02-11-1964.)

(Section 17 is superceded in its entirety by Charter section 295 during the operative period of Charter Article XV. See Charter § 260(a).)

Section 18: Authentication and Publication of Ordinances and Resolutions

Upon its final passage each ordinance or resolution shall be authenticated by the signatures of the Mayor and the City Clerk and shall be recorded in a book kept for that purpose. Within fifteen days after final passage the title and number of each ordinance or resolution of a general nature, together with a digest thereof prepared by the City Attorney, shall be published at least once in such manner as may be provided by this Charter or by ordinance. The publication shall be accompanied by the notice that the full text of the ordinance or resolution is available for perusal in the office of the City Clerk.

(Amendment voted 11-05-1974; effective 12-01-1975.)

(Amendment voted 11-07-1978; effective 01-12-1979.)

Section 19: Effect of Other Ordinances

All ordinances and resolutions in force at the time this Charter takes effect, not inconsistent with its provisions, shall continue in force until amended or repealed.

Section 20: Codification of Ordinances

The Council may by ordinance codify all of the ordinances of a general nature of the City into a Municipal Code. When so codified such Municipal Code and all sections thereof shall be admissible in all courts as prima facie evidence of the due passage and publication of the ordinances as codified.

(Amendment voted 03-10-1953; effective 04-20-1953.)

Section 21: Courts

(Repeal voted 03-10-1953; effective 04-20-1953.)

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

- (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.

(Amendment voted 09-17-1963; effective 02-11-1964.)

(Section 22 is superceded in its entirety by Charter sections 270(g) and 270(h) during the operative period of Charter Article XV. See Charter § 260(a).)

Section 23: Initiative, Referendum and Recall

The right to recall municipal officers and the powers of the initiative and referendum are hereby reserved to the people of the City. Ordinances may be initiated; and referendum may be exercised on any ordinance passed by the Council except an ordinance which by the provisions of this Charter takes effect immediately upon its passage; and any elective officer may be recalled from office. The Council shall include in the election code ordinance required to be adopted by Section 8, Article II, of this charter, an expeditious and complete procedure for the exercise by the people of the initiative, referendum and recall, including forms of petitions; provided that the number of signatures necessary on petitions for the initiation of an ordinance for the consideration of the Council shall be three percent of the registered voters of the City at the last general City election; that for the direct submission of a measure to the people it shall require a petition signed by ten per cent of the registered voters of the City at the last general City election; that for a referendum upon an ordinance passed by the Council it shall require a petition signed by five per cent of the registered voters of the City at the last general election; and that for the recall of an elected officer who is elected by all of the electors of the City, it shall require a petition signed by fifteen per cent of the registered voters of the City at the last

general City election; and that for the recall of a Council member other than the Mayor it shall require a petition signed by fifteen percent of the registered voters of the Councilmanic District at the last general City election.

(Amendment voted 04-22-1941; effective 05-08-1941.)

(Amendment voted 11-08-1988; effective 04-03-1989.)