

ARTICLE V

(Effective 01-01-2006, all executive authority, power, and responsibilities conferred upon the City Manager in this Article were transferred to the Mayor. See section 260.)

EXECUTIVE AND ADMINISTRATIVE SERVICE

Section 26: Administrative Code

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

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

(Amendment voted 11-08-1977; effective 01-20-1978.)

[Prior Language](#)

Section 26.1: Public Services Required

It shall be the obligation and responsibility of The City of San Diego to provide public works services, water services, building inspection services, public health services, park and recreation services, library services, and such other services and programs as may be desired, under such terms and conditions as may be authorized by the Council by ordinance.

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

Section 27: The City Manager

(Amendment voted 12-19-1933; effective 01-18-1935.)

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

(Section 27 was superseded by sections 260 and 265 from 01-01-2006 through 07-30-2010.)

(Repeal voted 06-08-2010; effective 07-30-2010; see sections 265(b)(7), (8), and (9).)

[Prior Language](#)

Section 28: Duties of the Manager

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

and shall charge such additional services against the appropriation of the respective Departments.

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

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

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

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

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

In case of general conflagration, rioting, flood, or other emergency menacing life and property, the Manager shall marshal all the forces of the different Departments of the City for the maintenance of the general security, and shall have the power to deputize or otherwise employ such other persons as he may consider necessary for the purpose of protecting the City and its residents. The Council may, however, in any such emergencies authorize the Mayor to take command of the police, maintain order and enforce the law.

And in such authorized emergencies the Manager shall be subordinate to and shall carry out such duties as may be assigned to him by the Mayor.

(Amendment voted 11-02-1976; effective 01-12-1977.)

[Prior Language](#)

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

The Manager 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 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, 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 City Manager 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 City Manager.

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

[Prior Language](#)

Section 30: Removal of Unclassified Officers and Employees

Officers and employees in the unclassified service appointed by the Manager or other appointing authority not under control of the Manager, with the exception of Deputy City Attorneys, 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. Procedures relating to the termination, suspension, and layoffs of Deputy City Attorneys as provided in Section 40 shall be established in compliance with the Meyers-Milias-Brown Act.

With the exception of Deputy City Attorneys, nothing contained herein shall be construed as in any way limiting the authority and power of the Manager or such other appointing authority not under the control of the Manager to remove any such unclassified officer or employee appointed or employed by them and any order effecting said removal shall be final and conclusive.

(Amendment voted 11-08-1977; effective 01-20-1978.)

(Amendment voted 11-02-2010; effective 12-22-2010.)

[Prior Language](#)

Section 31: Political Activities

- (a) No officer or employee of the City, except elected officers and unsalaried members of commissions, shall during regular hours of employment take an active part opposing or supporting any candidates in any City of San Diego political campaign or make contributions thereto in behalf of any candidates, nor shall such person seek signatures to any petition seeking to advance the candidacy of any person for any municipal office. Nothing in this section shall be construed to prevent any officer or employee, whether Classified or Unclassified, from

seeking election or appointment to public office or from being active in State or Federal political campaigns, in any bond issue campaign including municipal bond issues, or from being active in local political campaigns.

- (b) Every municipal employee shall prohibit the entry into any place under his control occupied for any purpose of the municipal government, of any person for the purpose of therein making, collecting, receiving, or giving notice of any political assessment, subscription, or contribution.

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

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

[Prior Language](#)

Section 32: Right of Manager and Other Officers in Council

The Manager and such other officers of the City as may be designated by a vote of the Council may attend all meetings of the Council but shall have no vote therein. The Manager or other officer so selected shall have the right to take part in discussions or matters properly before the Council relating to his office or may participate in discussions in such Council meetings when requested so to do by a member of the Council or a committee thereof.

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

The City Manager and all non-managerial officers of the City shall inform the Council of all material facts or significant developments relating to all matters under the jurisdiction of the Council as provided under this Charter except as may be otherwise controlled by the laws and regulations of the United States or the State of California. The Manager and all non-managerial officers shall also comply promptly with all lawful requests for information by the Council.

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

Section 33: Manager's Control Department

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

[Prior Language](#)

Section 34: Budget Officer

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

[Prior Language](#)

Section 35: Purchasing Agent

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

(Amendment voted 11-04-1958; effective 02-19-1959.)

(Amendment voted 11-04-1975; effective 12-1-1975.)

(Repeal voted 11-08-2016; effective 12-19-2016.)

[Prior Language](#)

Section 36: City Engineer

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

[Prior Language](#)

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 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 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 38: City Clerk

The City Clerk shall be elected by the Council for an indefinite term and shall serve until his successor has been elected and qualified. He shall maintain all official records of the City, the custody of which is not provided for in this Charter or by ordinances of the City, including the journal of all proceedings of the Council and all its ordinances and resolutions.

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

[Prior Language](#)

Section 38.1: Microfilming of Records.

(Addition voted 04-19-1949; effective 05-20-1949.)

(Repeal voted 11-04-1958; effective 02-19-1959.)

[Prior Language](#)

Section 39: Chief Financial Officer

The Chief Financial Officer shall be appointed by the Mayor and confirmed by the City Council for an indefinite term and shall serve until his or her successor is appointed and qualified. The Chief Financial Officer shall be the chief fiscal officer of the City. He or she 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 the Chief Financial Officer and approved by the Mayor and the Council. Subject to the direction and supervision of the Mayor, the Chief Financial Officer shall be responsible for the preparation of the City's annual budget. He or she shall also be responsible for oversight of the City's financial management, treasury, risk management and debt management functions. He or she shall submit to the 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 Chief Financial Officer shall certify in writing that the money required for such contract, agreement, or obligation for such year is or will be in the treasury to the credit of the appropriation from which it is to be drawn and that it is otherwise unencumbered. He or she shall perform the duties imposed upon chief municipal fiscal officers by the laws of the State of California, and such other duties as may be imposed upon him or her by ordinances of the Council, but nothing shall prevent the Mayor from transferring to other officers matters in charge of the Chief Financial Officer which do not relate directly to the finances of the City. The Chief Financial Officer shall prepare and submit to the Mayor such information as shall be required by the Mayor for the preparation of an annual budget. The Chief Financial Officer shall appoint his or her subordinates subject to the Civil Service provisions of this Charter. The authority, power and responsibilities conferred upon the Auditor and Comptroller by this Charter shall be transferred to, assumed, and carried out by the Chief Financial Officer.

(Amendment voted 06-04-1974; effective 08-13-1974.)

(Amendment voted 06-03-2008; effective 07-08-2008.)

(Amendment voted 06-07-2016; effective 07-18-2016.)

[Prior Language](#)

Section 39.1: Audit Committee

The Audit Committee is an independent body consisting of five members. Notwithstanding any other Charter provision to the contrary, the Audit Committee members must be appointed as provided under this section. To ensure its independence, the Audit Committee must be composed of two members of the City Council and three members of the public. The two Councilmembers must be appointed by the City Council, one of whom will serve as Chair of the Audit Committee. The three public members of

the Audit Committee must be appointed by the City Council from a pool of at least two candidates for each vacant position, to be recommended by a majority vote of a screening committee composed of the member of the City Council serving as the Chair of the Audit Committee, the Independent Budget Analyst and two outside financial experts appointed by the other members of the screening committee and confirmed by the City Council. Each outside financial expert on the screening committee may serve until replaced by the City Council's appointment of a new financial expert to the screening committee. The City Council may waive the requirement for appointment of a public member of the Audit Committee from a pool of at least two candidates when a sitting incumbent applies, and is eligible for reappointment. Public members of the Audit Committee must possess the independence, experience, and technical expertise necessary to carry out the duties of the Audit Committee. This expertise includes knowledge of accounting, auditing, and financial reporting. The minimum professional standards for public members must include at least 10 years of experience as a certified public accountant or as a certified internal auditor, or 10 years of other professional financial or legal experience in audit management. The public members of the Audit Committee serve for terms of four years and until their successors have been appointed and qualified. Public members of the Audit Committee are limited to two full consecutive terms, with one term intervening before they become eligible for reappointment.

Appointments must be made so that no more than one public member's term of office expires in any one year.

The Audit Committee has oversight responsibility regarding the City's auditing, internal controls, and any other financial or business practices required of this Committee by this Charter. The Audit Committee must evaluate applicants for the position of City Auditor and recommend to the City Council no fewer than three qualified candidates for consideration, based on the minimum qualifications set forth in section 39.2 of this Charter and other criteria determined by the Audit Committee. The Audit Committee may use staff from the Office of the Independent Budget Analyst and employ expert consultants, in accordance with City contracting rules, to assist in the process of evaluating City Auditor applicants. The Audit Committee is also responsible for directing and reviewing the work of the City Auditor, and the City Auditor must report directly to the Audit Committee. The Audit Committee recommends the annual compensation of the City Auditor and annual budget of the Office of City Auditor to the City Council and conducts an annual performance review of the City Auditor. The Audit Committee also recommends to the City Council the retention of the City's outside audit firm and, when appropriate, the removal of such firm. The Audit Committee must monitor the engagement of the City's outside auditor and resolve all disputes between City management and the outside auditor with regard to the presentation of the City's annual financial reports. All such disputes must be reported to the City Council. The City Council may specify additional responsibilities and duties of the Audit Committee by ordinance as necessary to carry into effect the provisions of this section.

(Addition voted 06-03-2008; effective 07-08-2008.)

(Amendment voted 11-06-2018; effective 12-24-2018)

(Amendment voted 03-03-2020; effective 05-20-2020)

Prior Language

Section 39.2: Office of City Auditor

The City Auditor must be appointed by the City Council, from those candidates identified by the Audit Committee, in accordance with the process set forth in section 39.1 of this Charter. The City Auditor must be a certified public accountant or certified internal auditor. The City Auditor is appointed for a term of five years. The City Council may reappoint the City Auditor to a second five-year term without considering other candidates, upon the City Auditor's application and a favorable recommendation from the Audit Committee. The City Auditor is limited to serving two full five-year terms or ten years in total. The City Auditor reports to and is accountable to the Audit Committee. Upon the recommendation of the Audit Committee, the City Auditor may be removed for cause by a vote of two-thirds of the members of the City Council. If the City Auditor vacates the office for any reason before the end of the City Auditor's term, then the principal assistant to the City Auditor will serve as interim City Auditor, if the principal assistant to the City Auditor is eligible to serve and is confirmed by the City Council. If the principal assistant is not eligible to serve or is not confirmed by the City Council, then the City Council may adopt procedures to fill the vacancy on an interim basis. An interim City Auditor may serve for that period of time necessary to complete a formal recruitment and appoint a successor City Auditor. An interim City Auditor may apply to serve as the City Auditor and, if appointed, may serve a full five-year term, with the opportunity to serve a second full five-year term, in accordance with this section. The City Auditor serves as the appointing authority of all City personnel authorized in the department through the normal annual budget and appropriation process of the City, and subject to the Civil Service provisions of this Charter.

The City Auditor must prepare annually an Audit Plan and conduct audits in accordance therewith and perform such other duties as may be required by ordinance or as provided by the Constitution and general laws of the State. The City Auditor must follow Government Auditing Standards. The City Auditor must have access to, and authority to examine any and all records, documents, systems and files of the City and other property of any City department, office, or agency, whether created by the Charter or otherwise. It is the duty of any officer, employee, or agent of the City having control of such records to permit access to, and examination thereof, upon the request of the City Auditor or his or her authorized representative. It is also the duty of any such officer, employee or agent to fully cooperate with the City Auditor, and to make full disclosure of all pertinent information. The City Auditor may investigate any material claim of financial fraud, waste, or impropriety within any City department and for that purpose may summon any officer, agent, or employee of the City, any claimant or other person, and examine him or her upon oath or affirmation relative thereto. All City contracts with consultants, vendors

or agencies will be prepared with an adequate audit clause to allow the City Auditor access to the entity's records needed to verify compliance with the terms specified in the contract. Results of all audits and reports must be made available to the public in accordance with the requirements of the California Public Records Act.

(Addition voted 06-03-2008; effective 07-08-2008.)

(Amendment voted 03-03-2020; effective 05-20-2020)

Prior Language

Section 39.3: Independent Budget Analyst.

Notwithstanding any other provision of this Charter, the City Council shall have the right to establish by ordinance an Office of Independent Budget Analyst to be managed and controlled by the Independent Budget Analyst. The Office of the Independent Budget Analyst shall provide budgetary and policy analysis for the City Council. The Council shall appoint the Independent Budget Analyst, who shall serve at the pleasure of the Council and may be removed from office by the Council at any time. Any person serving as the Independent Budget Analyst shall have the professional qualifications of a college degree in finance, economics, business, or other relevant field of study or relevant professional certification. In addition, such appointee shall have experience in the area of municipal finance or substantially similar equivalent experience. The Independent Budget Analyst shall be the appointing authority of all City personnel authorized in the department through the normal annual budget and appropriation process of the City, and subject to the Civil Service provisions of this Charter.

(Addition voted 06-03-2008; effective 07-08-2008.)

Section 40: City Attorney

A City Attorney shall be elected for a term of four years in the manner prescribed by Section 10 of this Charter. The City Attorney shall hold office for the term prescribed from and after 10 a.m. on the tenth day of December next succeeding the election and until a successor is elected and qualified. If the tenth day of December falls on a weekend or holiday, the term shall begin at 10 a.m. on the next calendar day that is not a weekend or a holiday.

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

The City Attorney shall be the chief legal adviser of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties, except in the case of the Ethics Commission and the Commission on Police Practices, which each shall have its own legal counsel independent of the City Attorney, and in the case of the Office of the City Auditor, which may retain and use independent legal

counsel for the City Auditor, the City Auditor's subordinates, and the Audit Committee on the conditions set forth in Charter section 40.2. The attorney and his or her deputies shall devote their full time to the duties of the office and shall not engage in private legal practice during the term for which they are employed by the City, except to carry to a conclusion any matters for which they have been retained prior to taking office. The City Attorney must be licensed to practice law in the State of California and must have been so licensed for at least ten years at the time he or she submits nominating petitions.

The City Attorney shall appoint such deputies, assistants, and employees to serve him or her, as may be provided by ordinance of the Council, but all appointments of subordinates other than deputies and assistants shall be subject to the Civil Service provisions of this Charter. The City Attorney may appoint no more than six Assistant City Attorneys and four other assistants, who shall serve at the pleasure of the City Attorney and may be removed by the City Attorney at any time.

No Deputy City Attorney, who has served continuously as a Deputy City Attorney in the Office of the City Attorney for one year or more shall be terminated or suspended without good cause, except that any Deputy City Attorney may be subject to layoff due to lack of work or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel in the Office of the City Attorney.

To ensure that Deputy City Attorneys conduct their legal work with the highest level of integrity, honesty, and professionalism, good cause for purposes of termination or suspension includes, but is not limited to, failure to comply with the California Rules of Professional Conduct.

It shall be the City Attorney's duty, either personally or by such assistants as he or she may designate, to perform all services incident to the legal department; to give advice in writing when so requested, to the Council, its Committees, the Manager, the Commissions, or Directors of any department, but all such advice shall be in writing with the citation of authorities in support of the conclusions expressed in said written opinions; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party; to prosecute for all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required of the City Attorney by law; to prepare in writing all ordinances, resolutions, contracts, bonds, or other instruments in which the City is concerned, and to endorse on each approval of the form or correctness thereof; to preserve in the City Attorney's office a docket of all cases in which the City is interested in any of the courts and keep a record of all proceedings of said cases; to preserve in the City Attorney's office copies of all written opinions he or she has furnished to the Council, Manager, Commission, or any officer. Such docket, copies and papers shall be the property of the City, and the City Attorney shall, on retiring from

office, deliver the same, together with all books, accounts, vouchers, and necessary information, to his or her successor in office.

The City Attorney shall have charge and custody of all legal papers, books, and dockets belonging to the City pertaining to his office, and, upon a receipt therefor, may demand and receive from any officer of the City any book, paper, documents, or evidence necessary to be used in any suit, or required for the purpose of the office.

The City Attorney shall apply, upon order of the Council, in the name of the City, to a court of competent jurisdiction for an order or injunction to restrain the misapplication of funds of the City or the abuse of corporate powers, or the execution or performance of any contract made in behalf of the City which may be in contravention of the law or ordinances governing it, or which was procured by fraud or corruption.

The City Attorney shall apply, upon order of the Council, to a court of competent jurisdiction for a writ of mandamus to compel the performance of duties of any officer or commission which fails to perform any duty expressly enjoined by law or ordinance.

The City Attorney shall perform such other duties of a legal nature as the Council may by ordinance require or as are provided by the Constitution and general laws of the State.

The Council shall have authority to employ additional competent technical legal attorneys to investigate or prosecute matters connected with the departments of the City when such assistance or advice is necessary in connection therewith. The Council shall provide sufficient funds in the annual appropriation ordinance for such purposes and shall charge such additional legal service against the appropriation of the respective Departments.

Effective December 10, 2020, the salary paid to the City Attorney will be equal to the salary prescribed by law and as adjusted by law for judges of the Superior Court for the State of California, provided that the salary of the City Attorney may not be decreased during a term of office.

Whenever a vacancy exists in the office of the City Attorney, an Assistant City Attorney, previously designated by the City Attorney to fulfill duties in the event of a vacancy and whose name has been recorded with the City Clerk as the Interim City Attorney in the event of a vacancy, shall fulfill the duties of the City Attorney as the Interim City Attorney until a replacement can be appointed or elected as provided by this Charter. The Interim City Attorney shall have the full authority of the Office.

(Amendment voted 04-20-1943; effective 05-04-1943.)

(Amendment voted 04-15-1947; effective 05-01-1947.)

(Amendment voted 11-04-1958; effective 02-19-1959.)

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

*(Amendment voted 11-04-1975; effective 12-01-1975.)
(Amendment voted 06-02-1992; effective 07-13-1992.)
(Amendment voted 11-02-2004; effective 01-21-2005.)
(Amendment voted 11-02-2010; effective 12-22-2010.)
(Amendment voted 06-03-2014; effective 07-24-2014.)
(Amendment voted 11-08-2016; effective 12-19-2016.)
(Amendment voted 11-06-2018; effective 12-24-2018)
(Amendment voted 11-03-2020; effective 12-18-2020)
(Amendment voted 03-05-2024; effective 05-09-2024)*

[Prior Language](#)

Section 40.1: Concurrent Jurisdiction of City Attorney with District Attorney.

The City Attorney shall have concurrent jurisdiction with the District Attorney of the County of San Diego to prosecute persons charged with or guilty of the violation of the state laws occurring within the city limits of The City of San Diego for offenses constituting misdemeanors.

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

Section 40.2: Legal Counsel for the Office of the City Auditor and Audit Committee

The Office of the City Auditor, acting through the City Auditor, may retain and use legal counsel, independent of the City Attorney, for legal support and advice in audits, investigations, and related activities within the authority and duties of the Office of the City Auditor, subject to the limitations set forth in this section.

The Office of the City Auditor must retain independent legal counsel by contract approved by the City Council in a manner consistent with the Charter, including the City's required competitive procurement processes and other applicable laws. The City Council has discretion to determine and appropriate funding for the Office of the City Auditor's independent legal counsel. The City Council is not mandated to provide any minimum level of funding for the independent legal counsel on an annual or regular basis and must determine funding consistent with the City Council's budgetary authority under the Charter. The City Council may, by ordinance, establish additional rules and procedures to implement this section.

Before the Office of the City Auditor may use the independent legal counsel who is under contract, the Audit Committee must determine that the use on an audit, investigation, or related activity is within the "public interest," as that term is defined by generally accepted government auditing standards promulgated by the United States Government Accountability Office or successor agency.

The Audit Committee may use retained independent legal counsel under the conditions set forth in this section for legal support and advice related to the Audit Committee's oversight responsibilities.

Independent legal counsel retained and used under this section will only be responsible for legal support and advice related to those activities within the authority of the Office of the City Auditor, acting through the City Auditor, and the Audit Committee's oversight responsibilities. Any attorney-client relationship between independent legal counsel and the City Auditor, the City Auditor's subordinates, and the Audit Committee must be formed in a manner consistent with California law and the Rules of Professional Conduct of the State Bar of California.

(Addition voted 03-05-2024; effective 05-09-2024.)

Section 41: Commissions

The Mayor shall appoint, subject to the confirmation of the Council, members of all commissions, established pursuant to this section, except the members of the Commission on Police Practices and the Ethics Commission, whose appointment and service are governed by Section 41.2 and 41.3 of this Charter. Whenever the Mayor does not appoint a member within forty-five (45) days after a vacancy occurs, the Council shall make such appointment. The commissioners shall be limited to two (2) full consecutive terms, with one (1) term intervening before they become eligible for reappointment; and this provision shall apply to anyone who has served two (2) full consecutive terms by January 1972. The terms of commissioners may extend beyond the elective term of the appointing Mayor. The Mayor shall fill, subject to the confirmation of the Council, any vacancy and such appointment shall be for the unexpired term of the office being filled. The City Council may remove a member of the Civil Service Commission for cause by vote of two-thirds (2/3) of the members of the Council. However, before the Council may remove a member of the Civil Service Commission, written charges shall be made against the commission member and an opportunity afforded for public hearing before the Council upon such charges. The City Council may remove members of all other commissions established pursuant to this section for cause by vote of a majority of the members of the Council.

(a) Funds Commission. This Commission shall have supervision and control over all trust, perpetuity, and investment funds of the City and such pension funds as shall be placed in its custody, and shall administer them subject to the laws of the State and ordinances of the Council. The membership of this Commission shall be appointed by the Mayor and confirmed by the Council and shall be one bank official, two unclassified citizens, and the City Attorney and City Treasurer,

ex officio. They shall serve without compensation for terms of four (4) years and until their successors are elected and qualified. Notwithstanding any other provision of this section, appointments shall be made so that not more than one (1) term of office shall expire in any year.

(b) Civil Service Commission. There shall be a Civil Service Commission consisting of five members who shall be electors of the City. Not more than three members of the Commission shall be of the same sex. The Mayor, with the approval of the Council, shall appoint the members of the Commission. The members of the Commission shall be appointed to serve for five years and until their successors have been appointed and qualified. Notwithstanding any other provision of this section, appointments shall be made so that not more than one (1) term of office shall expire in any year. The Mayor, with the approval of the Council, shall fill any vacancy.

Members of the Civil Service Commission shall not hold any other office in City Government.

(c) City Planning Commission. The City Planning Commission shall be organized as provided by the laws of the State and have such powers and perform such duties as are prescribed by such laws. The duties of the Commission shall also include advising upon public buildings, bridges, retaining walls, approaches, park and harbor structures, the improvement of Pueblo lands and such other improvements as the Council may by ordinance determine. The Commission shall consist of seven (7) members appointed by the Mayor, subject to the confirmation of the Council. The City Engineer, and the City Attorney, or their designated representatives, shall be members ex officio, but neither of said officers shall have a vote. The members of this Commission shall serve without compensation for terms of four years and until their successors are elected and appointed and qualified.

Notwithstanding any other provisions of this section, appointments to this Commission shall be made so that not more than three (3) members are appointed in any one year. To accomplish this, initial appointments to this Commission, after the effective date of this amendment, shall be made so as to provide that the terms of office of two (2) members shall be for four (4) years; two (2) members for three (3) years; two (2) members for two years; and one (1) member for one (1) year.

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

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

(Amendment voted 03-05-2002; effective 04-24-2002.)

(Amendment voted 11-02-2004; effective 01-21-2005.)

(Amendment voted 11-03-2020; effective 12-18-2020.)
(Amendment voted 11-05-2024; effective 12-26-2024.)

[Prior Language](#)

Section 41.1: Salary Setting Commission

(Addition voted 11-06-1973; effective 12-07-1973.)
(Repeal voted 11-06-2018; effective 12-24-2018)

[Prior Language](#)

Section 41.2: Commission on Police Practices

A Commission on Police Practices is established, which supersedes the Community Review Board on Police Practices. The Commission on Police Practices is referred to in this section as the “Commission,” the Police Department of the City of San Diego is referred to as the “Police Department,” and an officer of the Police Department is referred to as an “officer” or “police officer.”

The Commission is an investigatory body of the City of San Diego, independent of the Mayor and the Police Department.

The Commission has certain mandatory duties and discretionary powers, as described in this section. The City Council may, by ordinance, mandate additional duties and authorize additional powers for the Commission, consistent with this section and applicable federal and state law. The City Council may also establish rules and procedures to implement this section. Subject to any limitations set forth in governing federal or state law, the Commission is authorized to refer any matter before the Commission to the grand jury, district attorney, or other governmental agency that is authorized by law to investigate the activities of a law enforcement agency.

The City Council must appoint the members of the Commission. The City Council may remove members of the Commission for cause by a vote of a majority of the members of the City Council. The City Council must, by ordinance, establish the number, term length, qualifications, and method for appointing members of the Commission, and define the circumstances and process under which the City Council determines there is cause for removal of a member of the Commission.

The Commission will be composed of members of the Community Review Board on Police Practices serving at the time this section takes effect, until the City Council has formally appointed members to the Commission, in accordance with the ordinance described in this section.

The City Council must appoint and establish the initial annual compensation for the Commission's Executive Director, who serves at the direction and will of the Commission. The Commission must conduct the annual performance review of the Executive Director, and may modify the Executive Director's annual compensation, consistent with the compensation schedules established by the City Council in adopting the annual salary ordinance. The Executive Director serves as the appointing authority for additional employees assisting the Commission, who must be appointed and serve in accordance with this Charter. The Executive Director is authorized to employ outside experts or consultants to assist with the Commission's work on a contractual basis, consistent with the City's contracting rules. The Commission must retain its own legal counsel, who is independent of the City Attorney, for legal support and advice in carrying out the Commission's duties and actions.

The Executive Director serves as custodian of the Commission's records and must comply with all applicable laws related to records retention, protection, confidentiality, and disclosure. The Police Department must make available its records, relating to any matter under investigation, review, or evaluation by the Commission, subject to the restrictions of applicable federal and state law.

The Commission has the power to conduct investigatory proceedings, subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, and require by subpoena the production of any books, papers, records, or other items material to the performance of the Commission's duties or exercise of its powers, subject to the restrictions of and in accordance with this section and applicable federal and state law. The Commission may enforce its administrative subpoenas by initiating contempt procedures, upon a majority vote of the Commission and in the manner provided by applicable state law.

The Commission must independently investigate all deaths occurring while a person is in the custody of the Police Department; all deaths resulting from interaction with an officer of the Police Department; and all City police officer-related shootings. The Commission has this duty whether or not a complaint has been made against a police officer or the Police Department. These investigations must be conducted by Commission staff or contractors who are independent of the Police Department, and in accordance with the officer's federal and state law rights.

The Commission may, but is not required to, investigate complaints against officers of the Police Department, which do not involve in-custody deaths, deaths resulting from an interaction with a police officer, or police officer-related shootings. However, the Commission must not investigate a complaint where the complainant has requested that the complaint be handled without investigation or where no specific allegation or police officer can be identified.

In determining whether to investigate a complaint that the Commission has the discretionary power, but not the mandatory duty, to investigate, the Commission must consider whether the complaint arises from any of the following: (1) an incident in which the use of force by a City police officer against a person resulted in great bodily injury; (2) dishonesty by a City police officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by another peace officer or custodial officer, including an allegation of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence; (3) an incident that has generated substantial public interest or concern; (4) an incident in which data shows a pattern of misconduct by any Police Department officer; or (5) an incident in which data shows a pattern of inappropriate policies, procedures, or practices of the Police Department or its members.

The Commission must receive, register, review, and evaluate all complaints against officers of the Police Department, except the Commission must not review or evaluate a complaint where the complainant has requested that the complaint be handled without investigation or where no specific allegation or police officer can be identified.

The Commission may, but is not required to, review, evaluate, and investigate allegations of inappropriate sexual conduct, physical assault, or domestic violence by officers of the Police Department, whether or not a written complaint has been submitted to the Commission or the Police Department.

The Commission must review and evaluate all factual findings and evidentiary conclusions of the Police Department arising from investigations of police misconduct and all disciplinary decisions proposed by the Chief of Police or designee following sustained findings of police misconduct, with the terms “police misconduct” and “police officer misconduct,” to be defined by the City Council by ordinance. The Commission may, but is not required to, review and evaluate the Police Department’s administration of discipline arising from sustained complaints, which do not involve allegations of police misconduct, and from matters investigated by the Commission. The Commission may, but is not required to, make recommendations to the Police Department on the discipline of individual officers against whom complaints have been made or about whom the Commission has conducted an investigation.

The Commission must review and evaluate the Police Department’s compliance with federal, state, and local reporting laws and requirements. The Commission must also prepare and submit semi-annual reports to the Mayor and City Council regarding the exercise of the Commission’s duties and powers. These reports must be public, but must not disclose any information required to be kept confidential by controlling federal or state law.

The Commission may, but is not required to, review and evaluate the policies, procedures, practices, and actions of the Police Department. The Commission may make specific recommendations to the Police Department, the Mayor, and the City Council on any policies, procedures, practices, and actions of the Police Department.

The Chief of Police must consider the Commission's evaluation of proposed police officer discipline, prior to imposition of the discipline, to the extent permitted within applicable federal and state law, and only if the evaluation is completed before the statutory timelines, set forth in the California Public Safety Officers Procedural Bill of Rights or subsequent, applicable state laws, for the Police Department to act on the evaluation. The Chief of Police retains authority and discretion to discipline subordinate employees in the Police Department, in accordance with Section 57 of this Charter.

Any sustained findings of police officer misconduct by the Commission are subject to appeal, as required by California law. These sustained findings may be appealed to the City's Civil Service Commission.

(Addition voted 11-03-2020; effective 12-18-2020.)

Section 41.3: Ethics Commission

The Ethics Commission is an independent body that monitors, administers, and enforces the City's governmental ethics laws, proposes new governmental ethics law reforms, conducts investigations, refers violations to appropriate government and law enforcement agencies, audits disclosure statements, and advises and educates City officials and the public about governmental ethics laws. The City Council may, by ordinance, mandate additional duties and discretionary powers consistent with this section and applicable state and federal law.

This Charter provision and the implementing ordinance shall control the appointment process to the Ethics Commission. The Commission shall consist of seven members who are appointed and removed by procedures approved by ordinance of the Council. The Commission must possess the independence, experience, and technical expertise necessary to carry out the duties of the Commission. Members of the Commission shall serve for terms of four years and until their successors have been appointed and qualified. Members of the Commission are limited to two full consecutive terms, with at least one term intervening before they become eligible for reappointment.

The Commission shall appoint an Executive Director who shall serve at the direction and pleasure of the Commission. The Executive Director is the appointing authority for all City personnel authorized in the department through the normal annual budget and appropriation process of the City. The Executive Director, who shall act in accordance with policies and regulations adopted by the Ethics Commission and with applicable

law, is authorized to initiate investigations and complaints, subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items material to the performance of the Commission's duties or exercise of its powers.

The Commission shall be authorized to retain its own legal counsel, independent of the City Attorney, for legal support and guidance in carrying out its responsibilities and duties, and to retain additional legal counsel to handle cases within its jurisdiction. City Council shall allocate funds sufficient for the Commission to carry out the responsibilities described herein. The Executive Director may refer a matter and divulge evidence of possible unlawful conduct discovered during an investigation to another governmental or law enforcement agency for appropriate action at any time.

(Addition voted 11-05-2024; effective 12-26-2024.)

Section 42: Membership Selection

The appointing authority in selecting appointees to commissions, boards, committees or panels shall take into consideration sex, race and geographical area so the membership of such commissions, boards, committees or panels shall reflect the entire community.

(Amendment voted 04-15-1947; effective 05-01-1947.)

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

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

(Addition voted 11-6-1973; effective 12-7-1973.)

Prior Language

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, 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, 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, City 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.

(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-04-1969; effective 01-29-1970.)
(Amendment voted 11-08-1988; effective 04-03-1989.)
(Amendment voted 11-08-2016; effective 12-19-2016.)
(Amendment voted 11-03-2020; effective 12-18-2020.)

[Prior Language](#)

Section 43.1: Commissions, Boards, Committees - Appointments

(Addition voted 09-17-1963; effective 02-11-1964.)
(Repeal voted 11-04-1969; effective 01-29-1970.)

[Prior Language](#)

Section 44: Directors of Departments

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

[Prior Language](#)

Section 45: City Treasurer

The Manager shall appoint the Treasurer. He or she 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 Chief Financial Officer under the provisions of section 53911 of the Government Code of the State of California. He or she 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 or her 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 or she shall report the same to the City Manager and the City Attorney for prosecution. When payment of a claim or any judgment thereon is made, he or she 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 or her. He or she 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.

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

(Amendment voted 06-03-2008; effective 07-08-2008.)

[Prior Language](#)

Section 46: Department of Public Works. Street Superintendent

(Amendment voted 04-21-1953; effective 05-29-1953.)

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

[Prior Language](#)

Section 47: Division of Streets

(Repeal voted 04-21-1953; effective 05-29-1953.)

[Prior Language](#)

Section 48: Division of Sewers

(Repeal voted 04-21-1953; effective 05-29-1953.)

[Prior Language](#)

Section 49: Division of Refuse Collection and Disposal

(Repeal voted 04-21-1953; effective 05-29-1953.)

[Prior Language](#)

Section 50: Division of Public Buildings

(Repeal voted 04-21-1953; effective 05-29-1953.)

[Prior Language](#)

Section 51: Division of Shops

(Repeal voted 04-21-1953; effective 05-29-1953.)

[Prior Language](#)

Section 52: Division of Pueblo Lands and Unimproved City Property

(Repeal voted 04-21-1953; effective 05-29-1953.)

[Prior Language](#)

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 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.

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

(Amendment voted 03-11-1947; effective 03-24-1947.)

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

[Prior Language](#)

Section 54: Harbor Department

(Amendment voted 03-23-1937; effective 04-14-1937.)

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

(Amendment voted 06-08-1954; effective 01-10-1955.)

(Amendment voted 06-07-1960; effective 01-09-1961.)

(Amendment voted 06-05-1962; effective 06-29-1962.)

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

[Prior Language](#)

Section 55: Park and Recreation

The City Manager 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 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 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 recommends it, and the Council finds that the public interest demands it, the 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 Council may, without a vote of the people, authorize a lease of the property occupied by San Diego High School to the San Diego Unified School District for educational, cultural, recreational, and civic programs and activities, provided that the property is used for a public high school. The property occupied by San Diego High School means the area used by the San Diego Unified School District for San Diego High School as of the date this amendment is effective, and further described in the legal description on file with the City Clerk as Document No. OO-20721.

The City Manager may, without a vote of the people, authorize childcare at recreation facilities and buildings on 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 or recreation purposes. For purposes of this section, childcare means any State-licensed childcare facility, other than in-home family day care, in which nonmedical care and supervision is provided for children under age 18 in a group setting for less than 24 hours per day, excluding educational or instructional use provided by public, private, home, or charter schools.

The City Manager 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.

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

(Amendment voted 03-11-1947; effective 03-24-1947.)

(Amendment voted 04-21-1953; effective 05-29-1953.)

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

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

(Amendment voted 11-08-2016; effective 12-19-2016.)

(Amendment voted 11-08-2022; effective 01-09-2023.)

[Prior Language](#)

Section 55.1: Mission Bay Park - Restrictions upon Commercial Development

Notwithstanding any other provision of this Charter to the contrary, the total land and water area of all leases in Mission Bay Park shall not exceed twenty-five percent (25%) of the total dedicated land area or six and one-half percent (6.5%) of the total dedicated water area respectively of the park without such lease being authorized or later ratified by vote of 2/3's of the qualified electors of the City voting at an election for such purpose.

(Amendment voted 11-03-1987; effective 12-17-1987.)

Section 55.2: Mission Bay Park and Regional Parks Improvement Funds

- (a) For the purpose of this Section, the following definitions shall apply and the words shall appear in italics:
 - (1) *Capital Improvement* means physical assets, constructed or purchased, or the restoration of some aspect of a physical or natural asset that will increase its useful life by one year or more or which constitutes an environmental improvement of a natural asset.
 - (2) *Mission Bay Baseline Chart* shall be defined as the Mission Bay dredging plans on file with the City Clerk as Document No. OO-19776. It shall serve as the baseline for depths for navigable waters within Mission Bay. Depths may be increased or decreased for specific areas within Mission Bay only if, after review of these areas by the San Diego Fire Department or the *Mission Bay Park Improvement Fund Oversight Committee*, it is found that either the original depth no longer supports or ensures safe navigation, is inconsistent with the *Mission Bay Park Master Plan*, or needs to be modified in order to create sustainable shorelines. Any changes must be adopted by ordinance of the City Council and shall act as amendments to the original dredging plans.

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- (3) *Mission Bay Park* means the area described in the Mission Bay Park Record of Survey 16891, filed on February 28, 2001, in the Office of the County Recorder as File No. 2001-0113422, and any City-owned property heretofore or hereafter dedicated for park purposes that is contiguous to *Mission Bay Park* and has been determined by ordinance of the City Council to be part of *Mission Bay Park* for purposes of this Charter section 55.2.
- (4) *Mission Bay Park Improvement Zone* means those areas encompassed within the boundaries of *Mission Bay Park*, Oceanfront Walk from the Mission Bay jetty to Crystal Pier and the adjoining seawall, coastal parks and ocean beaches contiguous thereto, Rose Creek from its terminus in Mission Bay to the southern end of the Santa Fe Road flood control channel, Tecolote Creek from its terminus in Mission Bay to the western end of the Tecolote Creek flood control channel and the San Diego River as it passes through the boundaries of *Mission Bay Park* as described herein. The boundaries of the San Diego River, Rose Creek and Tecolote Creek shall be the width of those waterways to the nearest property line.
- (5) *Mission Bay Park Improvement Fund* means a separate interest bearing monetary fund maintained by the City of San Diego to receive and spend the *Mission Bay Park Lease Revenues* identified herein for the benefit of the *Mission Bay Park Improvement Zone*.
- (6) *Mission Bay Park Improvement Fund Oversight Committee* means the committee determined by ordinance of the City Council to carry out the oversight responsibilities described herein.
- (7) *Mission Bay Park Lease Revenues* means all revenues collected by the City of San Diego from commercial and non-profit sources within *Mission Bay Park*, including but not limited to all monetary consideration received under leases of city owned property within *Mission Bay Park*, as well as revenue collected from contracts for concessions or any other revenues collected for the use of city owned property within *Mission Bay Park*. The term does not include revenue from the Mission Bay Golf Course, unless privately leased; mooring fees; any revenues from taxes including but not limited to Transient Occupancy Taxes, sales taxes, possessory interest taxes, property taxes; or permit fees such as park and recreation fees or special event fees to the extent those fees are levied to recover actual costs incurred by the City of San Diego.
- (8) *Mission Bay Park Master Plan* means the Master Plan adopted by the City Council for Mission Bay Park in 1994, the Natural Resources Management Plan, and any amendments or updates that are subsequently adopted by the

City Council or any such similar replacement plan that may be subsequently adopted by the City Council. For purposes of this Section, the definition shall also include adopted plans for areas located within the *Mission Bay Park Improvement Zone*.

- (9) *San Diego Regional Parks* means those parks that serve regional residents and/or visitor populations as determined by ordinance of the City Council. *San Diego Regional Parks* shall initially include Chollas Lake Park, Balboa Park, Mission Trails Regional Park, Otay River Valley Park, Presidio Park, San Diego River Park, open space parks, and coastal beaches along with coastal parks contiguous thereto. For the purposes of this Section, this definition shall specifically exclude the *Mission Bay Park Improvement Zone*.
 - (10) *San Diego Regional Parks Improvement Fund* means a separate interest bearing monetary fund maintained by the City of San Diego to receive and spend the *Mission Bay Park Lease Revenues* identified herein for the benefit of the *San Diego Regional Parks*.
 - (11) *San Diego Regional Parks Improvement Fund Oversight Committee* means the committee determined by ordinance of the City Council to carry out the oversight responsibilities described herein.
- (b) Subject to the City of San Diego's State law obligations as a trustee of tidelands within *Mission Bay Park*, *Mission Bay Park Lease Revenues* up to the threshold amount in each fiscal year shall be deposited into the San Diego General Fund and may be used for any municipal purpose, including but not limited to, police, fire, streets, sewers, water delivery, roads, bridges, and operation of parks. All *Mission Bay Park Lease Revenues* in excess of the threshold amount shall be allocated in the City of San Diego budget to two distinct funds. Thirty-five percent (35%) of the *Mission Bay Park Lease Revenues* in excess of the threshold amount, or three million five hundred thousand dollars (\$3,500,000) whichever is greater, shall be allocated to the *San Diego Regional Parks Improvement Fund* that solely benefits the *San Diego Regional Parks* and sixty-five percent (65%) of the *Mission Bay Park Lease Revenues* over the threshold amount, or the remainder of those revenues if less than 65% is available after the allocation to the *San Diego Regional Parks Improvement Fund*, shall be allocated to the *Mission Bay Park Improvement Fund* that solely benefits the *Mission Bay Park Improvement Zone*. The threshold amount shall be \$23 million beginning fiscal year 2010 and ending fiscal year 2014. The threshold amount shall be \$20 million beginning fiscal year 2015 and shall remain \$20 million thereafter.

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- (c) Funds in the *Mission Bay Park Improvement Fund* may be expended only in the *Mission Bay Park Improvement Zone*, to restore wetlands, wildlife habitat, and other environmental assets within the *Mission Bay Park Improvement Zone*; to preserve the beneficial uses of the *Mission Bay Park Improvement Zone* including, but not limited to, water quality, boating, swimming, fishing, and picnicking by maintaining navigable waters and eliminating navigational hazards; to restore embankments and other erosion control features; and to improve the conditions of the *Mission Bay Park Improvement Zone* for the benefit and enjoyment of residents and visitors, consistent with the *Mission Bay Park Master Plan*.
- (1) To achieve these goals, all of the following identified priorities are intended to be authorized, have a funding plan adopted by City Council, and proceed to completion in the order provided below, subject to section (c)(2) below authorizing projects to proceed concurrently:
- (A) Restoration of navigable waters within *Mission Bay Park* and elimination of navigational hazards. When depth conditions no longer support and ensure safe navigation, those areas that pose a danger or impede the passage of watercraft shall be dredged in accordance with the *Mission Bay Baseline Chart*.
 - (B) Wetland expansion and water quality improvements and the protection and expansion of eelgrass beds as identified in the *Mission Bay Park Master Plan*.
 - (C) Restoration of shoreline treatments within the *Mission Bay Park Improvement Zone* including restoration of beach sand and stabilization of erosion control features.
 - (D) Expansion of endangered or threatened species preserves and upland habitats on North Fiesta Island and along the levee of the San Diego River floodway as identified in the *Mission Bay Park Master Plan*.
 - (E) Deferred maintenance projects that are also *Capital Improvements* within the *Mission Bay Park Improvement Zone* as may be recommended by the *Mission Bay Park Improvement Fund Oversight Committee* and approved by the City Council such as, but not limited to, completion of bicycle and pedestrian paths and bridges as identified in the *Mission Bay Park Master Plan*, installation of sustainable lighting in the *Mission Bay Park Improvement Zone*, installation of signage and landscaping at points of entry to *Mission Bay Park* and the South Shores, the repair,

resurfacing and restriping of parking lots within the *Mission Bay Park Improvement Zone*, the repair of playgrounds and comfort stations, and the restoration of the seawall and bulkhead on Oceanfront Walk to a condition no less than the quality of restoration previously performed in 1998 from Thomas Street to Pacific Beach Drive or to conditions as may be required by historic standards.

- (2) After a priority project identified in (c)(1)(A-E) above has been authorized and has a funding plan adopted for it by City Council, funds may be committed to and expended on a subsequent project of a lesser priority and construction of a subsequent project may proceed concurrently with a greater priority project provided construction of a lesser priority project does not preclude completion of a greater priority project. The City Council shall be required to make findings that completion of a greater priority project will not be precluded by expending funds on a lesser priority project before approving said expenditure.
 - (3) Once the projects identified in (c)(1)(A-E) have completed, additional projects shall be prioritized and funded only for *Capital Improvements* as identified in the *Mission Bay Park Master Plan*, recommended by the *Mission Bay Park Improvement Fund Oversight Committee*, and approved by the City Council.
 - (4) To the extent items (c)(1)(A-E) require additional funding or are later in need of additional *Capital Improvements*, then those items shall again have priority over other *Capital Improvements* only if approved by the City Council.
 - (5) Except as may be specifically authorized above in this subsection, funds in the *Mission Bay Park Improvement Fund* may not be expended for commercial enterprises or improvements of leasehold interests; for any costs associated with utilities, including, but not limited to, water and sewage; or for roads, vehicle bridges, or vehicular ramps; or on costs that cannot be capitalized; or on daily, weekly, monthly, or annual upkeep of the *Mission Bay Park Improvement Zone* and there shall be no expenditure for contracted labor or services or for city employee salaries, pensions or benefits unless those expenses can be capitalized, and only then at the then-standard rates used by the City of San Diego for all other capital improvement projects.
- (d) Funds in the *San Diego Regional Parks Improvement Fund* may be expended only for non-commercial public *Capital Improvements* for the *San Diego Regional Parks* and only for park uses. Funds in the *San Diego Regional Parks*

Improvement Fund may not be expended for commercial enterprises or improvements of leasehold interests; for any costs associated with utilities, including, but not limited to, water and sewage; or for roads, vehicle bridges, or vehicular ramps; or on daily, weekly, monthly, or annual upkeep of the *San Diego Regional Parks*.

Priority for *Capital Improvements* hereunder shall be recommended by the *San Diego Regional Parks Improvement Fund Oversight Committee*, in accordance with the master plans for each of the *San Diego Regional Parks*, and approved by the City Council.

- (e) The *Mission Bay Park Improvement Fund Oversight Committee* and the *San Diego Regional Parks Improvement Fund Oversight Committee* shall meet at least quarterly to audit and review the implementation of this Charter Section, to recommend priorities for expenditures and *Capital Improvements* hereunder in accordance with the master plans for each of the *San Diego Regional Parks* or with the *Mission Bay Park Master Plan* or within the priorities identified in (c)(1)(A-E), as applicable; and to verify that the appropriate funds are collected, segregated, retained and allocated according to the intent of this Section, and spent as prioritized in this Section and consistent herewith.
The San Diego City Auditor, in cooperation with each committee, shall establish and oversee a mechanism to ensure public accountability by effectively reporting and communicating the extent and nature of revenues, expenses and improvements generated hereunder and compliance with the requirements outlined herein. This shall include, at a minimum, an annual audit report to the Mayor, City Council and public. Each report shall, at a minimum, contain a complete accounting of all revenues received, the amount and nature of all expenditures, a report as to whether in each committee's view the expenditures have been consistent with the priorities and provisions hereof, whether the City of San Diego has complied with sections (c), (d), (f), (g) and (h). In the event that either committee finds that there has been a violation of this Charter Section by the City of San Diego, it should set forth the alleged violation in a written communication to the City Manager and members of the San Diego City Council. If the alleged violation is not resolved to the satisfaction of the aggrieved committee within 30 days, the San Diego City Council shall docket an action item for a public meeting of the San Diego City Council within 60 days. If evidence presented to the San Diego City Council by the aggrieved committee establishes a violation of this Section, the San Diego City Council shall forthwith cure the violation including but not limited to the restoration of inappropriately expended funds.
- (f) The City of San Diego shall take all steps necessary to ensure the collection and retention of all *Mission Bay Park Lease Revenues* for purposes described herein

and to utilize those revenues only for the purposes described herein and consistent with the priorities and intentions described herein. The City of San Diego may issue bonds, notes or other obligations to expedite the *Capital Improvements* contemplated herein, utilizing the revenue stream from *Mission Bay Park Lease Revenues* designated herein.

- (g) The annual budgets allocated for park operations and maintenance in the *Mission Bay Park Improvement Zone* and the *San Diego Regional Parks* shall not be reduced at a greater rate or increased at a lesser rate relative to the overall annual budget of park and recreation as a result of monies available hereunder.
- (h) The City of San Diego is encouraged to seek other sources of funding for the purposes of improving the *Mission Bay Park Improvement Zone* and the *San Diego Regional Parks*, including but not limited to grant funding from other governmental agencies, private individuals, or foundations. In the event the City of San Diego receives any such additional funds, they shall be in addition to, and shall not offset or reduce funds dedicated to the *Mission Bay Park Improvement Fund* or *San Diego Regional Parks Fund* under this Section.
- (i) Nothing contained herein shall prevent the City of San Diego from spending funds in excess of the *Mission Bay Park Improvement Fund* or *San Diego Regional Parks Fund* for the purposes of improving the *Mission Bay Park Improvement Zone* or the *San Diego Regional Parks*.
- (j) This Section shall take effect and be in force on July 1, 2009, and will expire on June 30, 2069. Before the expiration of this Section, the City Council shall place on the ballot no later than the last regularly scheduled election prior to June 30, 2069 a measure to amend the Charter to extend the effect of this Section for an additional 30 years.
- (k) In the event of a conflict between any provision of Section 55.2 and any other provision of this Charter or the Municipal Code, Section 55.2 shall govern.

(Addition voted 11-04-2008; effective 12-16-2008.)

(Amendment voted 11-08-2016; effective 12-19-2016.)

[Prior Language](#)

Section 56: Bureau of Safety

(Repeal voted 04-21-1953; effective 05-29-1953.)

[Prior Language](#)

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 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 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, 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.

(Amendment voted 11-06-1956; effective 01-10-1957.)

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

(Section 57 is modified by contrary language in section 265(b) effective 01-01-2006.)

[Prior Language](#)

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 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 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, 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.

(Amendment voted 11-06-1956; effective 01-10-1957.)

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

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

(Section 58 is modified by contrary language in section 265(b) effective 01-01-2006.)

[Prior Language](#)

Section 59: Department of Inspection

(Amendment voted 04-17-1951; effective 05-03-1951.)

(Amendment voted 04-21-1953; effective 05-29-1953.)

(Amendment voted 06-08-1954; effective 01-10-1955.)

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

[Prior Language](#)

Section 60: Department of Public Health

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

[Prior Language](#)

Section 60.1: Plumbing Permits and Inspections Regulated by Council

(Addition voted 04-19-1949; effective 05-20-1949.)

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

[Prior Language](#)

Section 60.2: Authority to Consolidate Department of Public Health with the County of San Diego

(Addition voted 11-04-1952; effective 01-17-1953.)

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

[Prior Language](#)

Section 61: Social Service Department

(Amendment voted 04-21-1953; effective 05-29-1953.)

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

[Prior Language](#)

Section 62: Playground and Recreation Department

(Repeal voted 03-11-1947; effective 03-24-1947.)

[Prior Language](#)

Section 63: Library Department

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

[Prior Language](#)

Section 64: Support of Educational and Cultural Institutions

The Council shall annually make appropriations for the support of all institutions of an educational, scientific, historical and cultural character, and which have a tendency to promote the welfare of the City and its inhabitants, which are now or which may

hereafter be controlled by The City of San Diego and partially or wholly operated and maintained by said City for the benefit of its inhabitants.