

**AN AMENDMENT TO THE CITY CHARTER OF THE CITY OF POMONA
ADDING A PREAMBLE OUTLINING THE CITY'S VALUES, MAKING CHANGES TO
VARIOUS SECTIONS OF THE CITY CHARTER REGARDING FILLING OF
VACANCIES IN ELECTED OFFICE, RESEQUENCING OF COUNCIL ELECTIONS,
INCREASING NOTICE OF PUBLIC MEETINGS, UPDATING RULES FOR
APPOINTED COMMISSIONS AND BOARDS, ADDING AN ETHICS COMMISSION
AND MAKING OTHER TECHNICAL CHANGES AS SET FORTH HEREIN**

PREAMBLE

We the people of the City of Pomona, under the constitution and laws of the State of California, do hereby adopt this charter to embrace our right to local self-government and to provide an honest, transparent, equitable, and accountable government with powers and restrictions pursuant to the procedures and governmental structure stated herein. Through this charter, we hope to affirm the values of representative democracy and open communication, participation in all aspects of our community, compassion for all living things, respect for the environment, historical preservation for this area's rich architectural and diverse cultural heritage, economic leadership in the region, and ensuring equality and inclusiveness for all of our residents.

ARTICLE I. - Name and Succession

Sec. 101. - Existence and Name.

The municipal corporation now existing, and known as the City of Pomona, herein called the City, shall remain and continue a municipal corporation organized and existing under the Constitution of the State of California.

The governance of the City shall be guided by the needs of its citizens, the requirements of the State of California and of the United States, and the concept that only that degree of government be instituted that is necessary for the well-being of the community.

Sec. 102. - Existing Regulations.

All lawful ordinances, resolutions, orders, rules, and other regulations of the City, or portions thereof, in effect at the time this Charter takes effect and which are not inconsistent or in conflict with the provisions of this Charter, are hereby continued in force and effect until duly repealed, superseded or amended.

Sec. 103. - Rights and Liabilities.

The City shall remain vested with, and continue to hold, own and control all rights and property of every nature and description held, owned or controlled by it at the time this Charter takes effect, and it shall be subject to all debts, obligations, contracts and other liabilities existing at that time.

ARTICLE II. - Boundaries of City and Council Districts

Sec. 201. - City Boundaries.

The boundaries of the City shall be the boundaries as established at the time this Charter takes effect, but said boundaries may be changed in the manner prescribed by law.

Sec. 202. - Council Districts.

The City is hereby divided into six (6) Council districts, to be defined by the City Council.

Sec. 203. - Changes in Boundaries of Council Districts.

The boundaries of said Council districts, but not the number thereof, may be changed by ordinance adopted by the Council by a five-sevenths (5/7) vote of all its members; provided, that districts established by the Council shall be as nearly equal in population and as compact as practical. Boundaries shall be evaluated within at least one (1) year subsequent to the availability of the information from each decennial United States census or on another basis adopted by five-sevenths (5/7) vote of the total membership of the Council; however, the Council shall not change the boundaries of districts more than once in any two-year period and no such change shall be made within the period of one hundred ~~twentyeighty~~ (180-20) days preceding a ~~general~~ municipal election. The preceding limitations shall not apply to changes made necessary by changes to the City boundaries. After the Council has once exercised its power to change the boundaries of districts, these changes shall immediately be reflected in the district boundaries specified by ordinance adopted by the Council.

ARTICLE III. - City Powers

Sec. 301. - Powers of the City.

The City shall have all powers possible for a city to have under the Constitution and laws of this State as fully and completely as though they were specifically enumerated in this Charter.

Sec. 302. - Extent of Powers.

The powers of the City under this Charter shall be construed liberally in favor of the City, to provide the City with all legal authority and powers to promote and protect the health, safety and general welfare of all of the citizens of the City, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the general powers granted in this article.

Sec. 303. - Intergovernmental Relations.

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or any state civil division or agency, or the United States or any of its agencies.

ARTICLE IV. - Elective Officers

Sec. 401. - Mayor and Members of the Council.

- (a) *Composition of Council.* The elective officers of the City shall constitute a Council, consisting of a Mayor and six (6) other members, elected at the times and in the manner provided in this Charter.
- (b) *Council Terms.* Except as provided in this Charter, the Mayor and the other members of the Council each shall serve for a term of four (4) years and until a successor qualifies. The elective term shall commence the first meeting in December on the second Monday in November of the year the member was elected or as soon as practical after election results are certified and the member is qualified to serve and is sworn into office.
- (c) *Mayor.* Candidates for the office of Mayor shall be nominated from the City at large and the Mayor shall be elected by a vote of the electors of the City at large.
- (d) *Other Members of the Council.* Each other member of the Council shall hold a separate office and one of such offices shall be assigned to each of the six (6) Council districts of the City. Candidates for each of these offices shall be nominated and elected by such district and shall be residents of such district.
- (e) *Council Elections Sequenced.* The Mayor and the members of the Council of the first, fourth and sixth Council districts shall be elected commencing in the year 2000 and in each fourth year thereafter. The members of the Council of the second, third and fifth Council districts shall be elected commencing in the year 2002, and in each fourth year thereafter.

Sec. 402. - Eligibility.

- (a) *Residency Requirement.* To be eligible to hold the office of Mayor or other member of the Council, a person must be a citizen of the United States, and must be a qualified elector of the City. Each member of the Council, excluding the Mayor, must also be a resident of the council district from which the member is nominated at the times the member is nominated and elected. In the event ~~any~~ any member of the Council shall cease to be a resident of the district from which the member was nominated and elected (or, in the case of an appointee, a predecessor) was nominated he or she shall cease to be a resident of the district the member was appointed to represent on the Council, the office shall immediately become vacant and shall be filled in the same manner as herein provided for other vacancies.
- (b) *Change of District Boundaries.* Notwithstanding subsection (a), if a member of the Council ceases to be a resident of the district ~~from which the member (or, in the case of an appointee, a predecessor) was nominated~~ solely because of a change in the boundaries of any ~~his or her~~ district as provided in this Charter ~~provided~~, the member shall not lose office during that term by reason of such change.

Sec. 403. - Vacancies.

- (a) *Events of Vacancy.* The office of Mayor or a Councilmember shall become vacant upon the ~~member~~ person's death, resignation, removal from office, ~~or forfeiture of office or for any other reason set forth in this Charter, California Government Code Section 1770 or any successor statute in any manner authorized by law.~~
- ~~(b) *Forfeiture of Office.* A Councilmember shall forfeit that office if the Councilmember:~~

- (1) ~~lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law, or~~
- (2) ~~violates any express prohibition of this Charter.~~
- (b) *Filling of Vacancies.* Except as otherwise provided in this Charter, if a vacancy occurs, in the City Council shall, within sixty (60) days from the commencement of the vacancy, be filled the vacancy either by appointment or by calling a special election, as provided in California Government Code Section 36512 or any successor statute, for the remainder of the unexpired term, if any, at the next regular election following not less than sixty (60) days upon the occurrence of the vacancy. The Council may, by a majority vote of all its remaining members, shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office.
- (1) If the Council fails to appoint or de so call a special election within thirtysixty (360) days followingfrom the occurrencecommencement of the vacancy, the City Clerk shall call a special election to fill the vacancy, to be held not sooner than ninety (90) days and not later than 120one hundred fourteen (114) days following the occurrence of the vacancy, and to be otherwise governed by lawafter the call of the election.
- (2) Notwithstanding the requirement in Section 507, if at any time the membership of the Council is reduced to less than four (4) due to vacancies, the remaining members shall by majority action appoint additional members to raise the membership to seven (7), who shall serve until their offices are filled by general or special election to be held at the earliest time allowed by law that is not sooner than one hundred fourteen (114) days after the call of the election, consistent with Section 402 above.
- (3) A person appointed to fill a vacancy may not seek election to that office at the next general or special election.
- (c) *Vacancy Pending Recall Proceedings.* Notwithstanding the above, if the Mayor or another Councilmember resigns while subject to a recall election, the office shall not be filled by appointment but shall remain vacant until filled by a recall election called for that purpose pursuant to the California Elections Code. If the Mayor or another Councilmember is removed from office by a recall election, the office shall be filled immediately by the person who was elected to fill that office by the recall election and that person shall serve for the remaining term of that office. For purposes of this Section, an elected officer is "subject to a recall election" if a valid recall petition has been filed with the City Clerk against that elected officer and determined by the City Clerk and/or the Los Angeles County Elections Official to contain the minimum required number of Pomona voters' signatures and to be otherwise legally sufficient under the California Elections Code to qualify the question of recalling the elected officer for placement on the ballot, even if the recall election hasn't yet been officially ordered.
- (d) *Temporary City Council.* If all seats on the Council are vacant the seats shall be filled by the members of the Planning Commission, as temporary members of the Council. A Mayor shall be elected by that temporary Council from among the then-existing members. The positions of Mayor and other Councilmembers shall be filled by a special election that shall be called at the earliest time allowed by law that is not sooner than one hundred fourteen (114) days after the call of the election. within 14 days of the

~~seating of the temporary Council, to be held in accordance with the provisions of the Elections Code of the State of California relating to dates of election in general law cities.~~

- (e) *Vacancy Occurring Between Local Primary and General Election.* Notwithstanding the above, if a position for the office of Mayor or City Councilmember has already been subject to a local primary election pursuant to this Charter, but a general election either has not or will not occur for that position, the following shall apply in case the incumbent elected officer vacates that position:
- (1) If a candidate has secured majority voter approval in the local primary election for that position such that a general run-off election for that position is not required, the Council shall appoint the winning candidate to fill the vacancy for the remainder of the vacating incumbent's term. Once the vacating incumbent's term expires, the winning candidate shall then be sworn in to serve the new elected term to which the winning candidate was elected at the local primary election.
 - (2) If no candidate has secured majority voter approval in the local primary election for that position such that a general run-off election for that position will be required, the Council shall not appoint a person to fill the vacancy for the remainder of the vacating incumbent's term. The seat shall remain vacant until filled by the winning candidate at the general run-off election.

Sec. 404. - Compensation and Expenses.

- (a) *Compensation.* Compensation for the members of the City Council shall be established by ordinance in accordance with provisions of Section 36516(a) of the State of California Government Code ~~[Government Code § 36516(a)]~~ as such provisions now exist or thereafter may be amended, except that, the Mayor's compensation shall be twice that of the other Councilmembers. But no reduction in compensation for any such office shall affect the compensation of any person who holds the office at the time such question is voted upon, during the remainder of the Councilmember's existing term of office. Compensation of the Mayor and Councilmembers may be increased each calendar year by an amount equal to the inflationary change listed in the Consumer Price Index (CPI-U) for the metropolitan Los Angeles-~~Long Beach-Anaheim~~Anaheim-Riverside area published annually by the United States Bureau of Labor Statistics. If the Consumer Price Index changes, the index and area most applicable to the City of Pomona shall be used.
- (b) *Expenses.* The Councilmembers shall be entitled to reimbursement for their necessary expenses incurred in the performance of their official duties in connection with authorized city business. The maximum expense that a Councilmember or the Mayor can incur during a year of their term shall be the amounts in effect at the time this section becomes effective, adjusted annually for inflation based upon the Consumer Price Index (CPI-U) for the Los Angeles-Long Beach-Anaheim area. If the Consumer Price Index changes, the index and area most applicable to the City of Pomona shall be used.~~Los Angeles/Long Beach consumer price index.~~ The expense reimbursement ~~se~~ amounts may be changed by majority vote of the electors of the City voting on such change at any City election at which the question of such change may be submitted by the Council or pursuant to the power of initiative.
- (c) *Expense Reports.* Councilmembers shall submit all receipts from each transaction and also monthly expense reports listing the date of the transaction, vendor, cost, description of the item or service purchased and purpose of the purchase. The receipts and

expense reports for each preceding month shall be due no later than by the end of the business day of the last day of the month following the expenditure.

Sec. 405. — Absences from meetings.

If Any member of the Council may be is absent from the City or from all regular meetings of the Council for thirtysixty (3060) consecutive days from the last regular meeting he or she attended, his or her office becomes vacant and shall be filled as set forth in Section 403. With the consent of a majority of a quorum of the Council entered in its minutes, any member of the Council may be absent from the City or from all regular meetings of the Council for up to sixty (60) days. With the consent of a majority of a quorum of the Council entered in its minutes, any member may be absent from all regular meetings for a longer duration. Such absence may be excused for any good and sufficient reason including, but not limited to, official City business. In addition, the Council may honor those absences relating to physical injury or incapacitation, or family need. Without the required consent the Council shall declare the office vacant.

Sec. 406. - Mayor.

The Mayor, in addition to the powers and duties prescribed elsewhere in this Charter, shall have the power and duty:

- (a) To report to the Council on the affairs of the City and to recommend for its consideration such matters as may be deemed of current and on-going concern.
- (b) To report to the citizens the policies, programs and needs of City government and inform the people of any major change in those policies or programs.
- (c) To be the official head of the City for all ceremonial purposes.
- (d) To exercise and perform such other powers and duties as may be delegated to or required by this Charter or by the Council if not inconsistent with the provisions of this Charter.

ARTICLE V. - The Council

Sec. 501. - Powers and Duties.

All powers of the City shall be vested in the Council except as otherwise provided by law or in this Charter. The City Councilmembers, in addition to the powers and duties prescribed elsewhere in this Charter, shall have the responsibility and duties to:

- (a) Conduct Council business in a manner to benefit the entire City of Pomona, not strictly individual districts, areas, or constituencies;
- (b) Manage discretionary funds in a manner to benefit not only district needs, but needs of the entire City of Pomona;
- (c) Report to the City and to the residents on the local and City-wide impacts of issues that occur in a Councilmember's district;
- (d) Report to the Council and to the public the activities of commissions and boards to which the Councilmember is also a member, particularly where they have impacts on the City of Pomona;
- (e) Set goals for the improvement of the entire City of Pomona as well as improvements to individual districts;

- (f) Meet at least annually as the full Council, in the City of Pomona, to facilitate the establishment and/or review of goals for the City stressing improvements that benefit all residents; and
- (g) Actively communicate with the commissioners and board members that they have appointed and make an effort to meet with them at least once a year.

Sec. 502. - Composition.

The Council shall consist of the Mayor and the six (6) other members of the Council, each of whom shall have the right to vote on all questions coming before the Council, except where such participation and voting on a question would constitute an impermissible conflict of interest under Section 513 of this Charter or otherwise violate State law. The Mayor shall be the presiding officer of the Council. The Council shall designate one other of its members as Vice-Mayor, to serve on a rotating basis. In the temporary absence or disability of the Mayor or during such period as a vacancy exists in the office of Mayor, the Vice-Mayor shall preside at Council meetings and perform such other of the duties of the Mayor as the Council may assign.

Sec. 503. - Meetings.

- (a) The Council shall hold regular meetings as may be prescribed by ordinance or resolution, at least once every calendar month. Any regular meeting may be adjourned to a date and hour fixed in the order of adjournment. Each adjourned meeting shall be a regular meeting for all purposes. Special meetings may be held as provided by this Charter and any other applicable law.
- (b) For any regular meeting of the Council, the City shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session, not later than six (6) calendar days before the regular meeting.
- (c) For any special meeting of the Council, the City shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session, not later than seventy two (72) hours before the special meeting.
- (d) Any agenda and notice of an emergency or dire emergency meeting of the Council shall be posted and given as provided in the Ralph M. Brown Act (Calif. Government Code §§54950 et. seq.)
- (e) The Council may take action on items of business not appearing on the posted agenda under any of the exceptions provided in the Ralph M. Brown Act (Calif. Government Code §§54950 et. seq.)
- (f) Except as otherwise provided herein, the City shall comply with the requirements of the Ralph M. Brown Act (Calif. Government Code §§54950 et. seq.) for those Council meetings subject to the Act.

Sec. 504. - Place of Meeting.

All meetings of the Council shall be open to the public, and shall be held in the Council Chambers or in such place to which the meeting may be adjourned; provided, that if by reason of fire, flood or other emergency it shall be unsafe or impractical to meet at the regular meeting

place, the Council may for the duration of the emergency meet at some other place designated by the Mayor or, if he or she fails to act, by any three (3) Councilmembers.

Sec. 505. - Proceedings and Quorum.

- (a) *Quorum.* A majority of the current members of the Council shall constitute a quorum for the transaction of business at any meeting, but a lesser number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as the Council may by ordinance prescribe. In the event all members of the Council are absent from any meeting, the City Clerk may declare the same adjourned to a stated day and hour in the manner provided by law.
- ~~(b) *Judge of Qualifications.* The Council shall judge the qualifications of its members as such qualifications are provided in this Charter. It shall judge all returns of City elections.~~
- (eb) *Rules of Conduct.* The Council shall establish rules for the conduct of its proceedings. In the event no rules are established, the current edition of Robert's Rules of Order shall apply. The Council by majority vote may evict any member or any other person for disorderly conduct at any meeting and may, to the extent permitted by law, prosecute any member or other person for such conduct.
- (ec) *Investigations.* Each member of the Council and the City Clerk shall have the power to administer oaths and affirmations in any investigation or proceedings pending before the Council. The Council shall have the power to issue subpoenas, to compel by subpoena the attendance of witnesses and the production of documents and other evidence, to examine witnesses under oath and to take and hear evidence, in relation to any matter pending before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. Disobedience of any subpoena or the refusal to testify upon other than legal grounds shall constitute a misdemeanor.
- (ed) *Payment of Monies.* Actions for the payment of money shall not be taken at other than a regular or adjourned regular meeting.
- (fe) *Recording of Votes.* The City Clerk shall call the roll and cause the ayes and noes to be entered in the minutes regarding any action requiring a vote. The City Clerk may use any manual, mechanical or electronic means to record the votes of the City Council.

Sec. 506. - Citizen Participation.

At each regular meeting the Council shall, if requested, grant any person, personally or through counsel, reasonable opportunity to present grievances or offer suggestions for the betterment of City affairs, subject to such rules for orderly procedure as the Council or its presiding officer may prescribe.

Sec. 507. - Vote Required.

Except in cases where a greater number of votes is required by any other provision of this Charter, a majority vote of the total membership of the Council shall be required for the adoption of any ordinance or resolution. Other actions may be taken by majority vote of the members present.

Sec. 508. - Adoption of Ordinances and Resolutions.

Ordinances, except ordinances which under this Charter may take effect upon adoption, shall not be adopted by the Council on the day of their introduction nor within five (5) days thereafter nor at any time other than at a regular or adjourned regular meeting. At the time of its

introduction an ordinance shall be delivered into the custody of the City Clerk. At the time of its adoption, the Clerk shall read the title thereof and shall then read the ordinance in full if a majority of the Council present so orders.

In the event that any ordinance is altered after its introduction, it shall not be adopted within five (5) days after it is altered nor at any time other than at a regular or adjourned regular meeting; provided, that the correction of typographical or clerical errors shall not be deemed an alteration within the meaning of this sentence.

The enacting clause of ordinances adopted by the Council shall be substantially as follows:

"Be it ordained by the Council of the City of Pomona as follows:"

All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk.

Sec. 509. - Posting.

Each ordinance of the City shall be posted in at least three (3) public places and ~~on the electronic media in the City's website~~ within fifteen (15) days after its adoption and shall remain posted for at least thirty (30) days.

Sec. 510. - When Ordinances may Become Effective.

Ordinances adopted by the Council shall become effective thirty (30) days after the date of their adoption, except the following, which may take effect upon adoption, or at such other time as the Council may specified [specify] therein:

- (a) An ordinance calling or otherwise relating to an election.
- (b) An ordinance relating to a local improvement adopted under law or procedural ordinance, or providing for the issuance of or otherwise relating to bonds of the City authorized by vote of its electors.
- (c) An ordinance declared by the Council to be necessary for the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and passed by a five-sevenths (5/7) vote of those present, unless Councilmember attendance is precluded by a natural disaster or other emergency. Such a disaster or emergency situation must be decreed by unanimous vote with at least four Councilmembers present, and upon such declaration, the ordinance would be passed and become effective immediately upon the majority vote of four Councilmembers.
- (d) Any other ordinance which the Constitution of the State or this Charter does not require be subject to the power of referendum.

The provision of any ordinance specifying an effective date less than thirty (30) days from and after the date of its adoption shall be severable, and if invalid, such provision shall not affect the validity of the remainder of the ordinance and such ordinance shall take effect thirty (30) days from and after the date of its adoption unless suspended by exercise of the power of referendum.

Sec. 511. - City Codes.

- (a) *Authentication and Recording.* The City Clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances, resolutions, and codes of technical regulations adopted by the Council.

- (b) *Codification.* Within three (3) years after the adoption of this section and at least every ten (10) years thereafter, the Council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or looseleaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of California, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the Pomona City Code. Copies of the Code shall be furnished to city officers upon request, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council. The Pomona City Code shall also be posted on the City's website for public access.
- (c) *Printing of Ordinances and Resolutions.* The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the Council. Following publication of the Pomona City Code and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the State of California, or the codes of technical regulations and other rules and regulations included in the code.

Sec. 512. - Codes of Technical Regulations.

- (a) The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that the requirements for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance.
- (b) Copies of any adopted code of technical regulations shall be made available by the City Clerk for reference or for purchase at a reasonable price. Adopted codes of technical regulations shall also be posted on the City's website or, alternatively, a link shall be provided to another website containing such regulations.

Sec. 513. - Conflicts of Interest.

The use of public office for private gain is prohibited. Within six (6) months of the enactment of this Charter, the Council shall implement this prohibition by ordinance. Regulations to this end shall include but not be limited to:

- (a) Acting in an official capacity on matters in which the official has a private financial interest clearly separate from that of the general public,
- (b) The acceptance of gifts and other items of value,
- (c) Acting in a private capacity on matters dealt with as a public official,
- (d) The use of confidential information, and
- (e) Appearances by City officials before other agencies of the City of Pomona on behalf of others' private interests.

This ordinance shall provide for reasonable public disclosure of personal finances by officials with major decision-making authority over City expenditures and contractual matters and, insofar as permissible under state law, shall provide for fines and imprisonment of violators.

Article VI. - City Manager

Sec. 601. - Office and Appointment.

- (a) *Chief Administrative Officer.* There shall be a City Manager who shall be the chief administrative officer of the City.
- (b) *Appointment and Qualifications.* The Council by a majority vote of the total membership of the Council shall appoint a City Manager ~~for an indefinite term~~ and fix the manager's compensation. The City Manager shall be appointed solely on the basis of executive and administrative qualifications.
- (c) *Duties and Compensation.* The City Manager shall devote full time to the discharge of the official duties of that position. The City Manager shall be paid a compensation determined by the Council commensurate with the responsibilities of the office.
- (d) *Separation of Powers.* Except as otherwise provided in this Charter, neither the Council nor any of its members shall interfere with the execution of the City Manager's powers and duties. The Council and its members shall deal with the administrative service under the City Manager solely through the City Manager. Councilmembers may make inquiries or discuss matters with subordinates of the City Manager; however, no Councilmember may direct staff in matters relating to setting or changing City policy.
- (e) *Removal.* The City Manager shall serve at the pleasure of the Council and may be removed at any time by a majority vote of the total membership of the Council.

Sec. 602. - Eligibility.

No person shall be eligible to appointment as City Manager while serving as a member of the Council nor within three (3) years after the end of such service.

Sec. 603. - Powers and Duties.

The City Manager shall be the head of the administrative branch of the City government and shall be responsible to the Council for the proper administration of the affairs of the City. Without limiting the generality of the foregoing sentence, the City Manager shall have the power and duty:

- (a) To appoint, and when necessary, to suspend or remove, any or all officers and department heads of the City except elective officers and except those officers and department heads the power of whose appointment is vested in the Council. All such appointments and removals shall be subject to the approval of the Council before becoming effective. The performance of all officers and department heads appointed by the City Manager shall be reviewed by the City Manager at least annually.
- (b) To serve as the chief personnel officer of the City.
- (c) To prepare annually and submit to the Council the proposed operating budget and capital improvement program, and after adoption be responsible for the administration of them.

- (d) To prepare and submit to the Council as of the end of each fiscal year, and at such other times as directed by the Council, a comprehensive report regarding the administrative activities of the City.
- (e) To keep the Council fully advised of the financial condition and future needs of the City and to make recommendations for Council consideration.
- (f) To prepare and periodically review rules and regulations governing the contracting for, purchasing, storing, distribution, use or disposal of all supplies, materials, equipment or other property or services required by the City or any office, department or branch of the City government, and to recommend such rules and regulations to the Council for adoption.
- (g) To see that all State and federal laws pertaining to the City, the provisions of this Charter and ordinances of the City are enforced.
- (h) To prescribe such general administrative rules and regulations, consistent with this Charter and City ordinances, as the City Manager may deem necessary or proper for the general conduct of the administrative offices and departments.
- (i) To attend all Council meetings unless excused from attendance by the Council or inability to attend because of sickness, scheduled vacation, executive leave or absence from the City on official business, and to participate in the deliberations of the Council but without the right to vote.
- (j) To exercise and perform such other powers and duties as may be prescribed by this Charter or which may be delegated to or required of the City Manager by the Council if not inconsistent with the provisions of this Charter.

Sec. 604. - Review of City Manager's Performance.

At least annually the City Manager's performance shall be reviewed by the Council.

Sec. 605. - Acting City Manager.

The City Manager, by letter filed with the City Clerk, shall always have a City employee designated to exercise the powers and perform the duties of City Manager during the Manager's temporary absence. In the case of a disability, a majority vote of the total membership of the Council may revoke such designation at any time and appoint another City employee to serve until the City Manager returns.

ARTICLE VII. - Other Officers, Departments and Employees and General Provisions

Sec. 701. - Administrative Organization.

The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe their functions except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other. The Council shall encourage that officers, deputies, and employees of the City be or become residents of the City. The City Manager shall prepare every five (5) years and submit to the Council a report on the number of officers, deputies and employees who are residents of the City, efforts made to recruit within the City and all incentives provided to employee to establish residency in the City and projected costs of any additional incentives that the Council should consider.

There shall be an office of City Clerk, City Attorney, Director of Finance/City Treasurer, ~~Director of Finance~~, and Chief of Police.

Sec. 702. - City Clerk.

The City Clerk shall be appointed by a majority of the total membership of the City Council, shall serve at the pleasure of the Council and may be removed at any time by the affirmative vote of a majority of the total membership of the Council. The City Clerk shall give notice of Council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are prescribed by ordinance or resolution, this Charter, or by state law or as requested by the City Manager. The City Clerk shall serve as the City's Elections Official and the duties required to effect the California Elections Code shall take precedence over other duties and responsibilities.

Sec. 703. - City Attorney.

There shall be a legal officer of the City, appointed by a majority of the total membership of the Council, who shall serve at the pleasure of the Council, and may be removed at any time by the affirmative vote of a majority of the total membership of the Council. The City Attorney shall serve as the chief legal advisor to the Council, the City Manager, and all City departments and appointed bodies, and shall have the authority to represent the City in all civil and criminal matters, and shall perform such other duties as prescribed by this Charter, by ordinance or resolution, or as requested by the Council or City Manager.

To be and remain eligible to hold the title of City Attorney, the person must be an attorney at law, duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of law for at least five (5) years prior to appointment.

Sec. 704. — [Reserved] ~~City Treasurer.~~

~~The Council, by a majority of the its total membership of the Council, shall appoint a City Treasurer. The Treasurer shall have the responsibility for receiving and investing City funds and shall perform such other duties as prescribed by ordinance or resolution, this Charter, by state law, or as requested by the City Council through the City Manager.~~

Sec. 705. - Department and Director of Finance/City Treasurer.

The City Manager shall appoint a department head who shall have the title of Director of Finance/City Treasurer. The Director of Finance/City Treasurer shall be the chief financial officer of the City, who shall have responsibility for financial reporting, expenditure control, purchasing, bond development, preparation of the City budget for the City Manager, receiving and investing City funds, and shall perform such other duties as prescribed by ordinance or resolution, this Charter or by state law, or as requested by the City Manager or by the City Council through the City Manager.

Sec. 706. - City Police Department/Chief of Police.

- (a) The City Manager, with the approval of a majority vote of the total membership of the Council, shall appoint a Police Chief whose function shall be the administration of the Pomona Police Department. The Chief of Police may not hold any other permanent or temporary managerial office.
- (b) Within the departments established, police services as required by law shall be performed by Pomona City Police Department employees. The City may not contract for

primary police services with the County of Los Angeles or other police agencies without a vote of the City's electorate. The City may contract for ancillary police-related services without a vote of the electorate.

Sec. 707. - Additional Departments.

All departments, offices and agencies shall be administered by an officer appointed by and subject to the direction and supervision of the City Manager. With the consent of the Council, the City Manager may serve as the head of one or more such departments, offices, or agencies and may appoint one person as the head of two (2) or more.

Sec. 708. - Personnel Policies.

The Council shall provide by ordinance or resolution, consistent with all applicable federal and state laws, for the establishment, regulation and maintenance of personnel policies necessary for effective administration of the City.

Sec. 709. - Power of Appointment by ~~Officers and~~ Department Heads.

Subject to the provisions of this Charter and personnel system provisions, each department head shall have the power and duty to appoint, suspend or remove department employees subject to approval by the City Manager.

Sec. 710. - Nepotism.

The Council shall not appoint or ratify the appointment of any person to any salaried position in the City government who is a relative by blood, adoption or marriage within the third degree of any member of the Council, nor shall the City Manager nor any officer or department head appoint any relative by blood, adoption or marriage of that officer or department head within ~~such~~the same degree to any such position.

Sec. 711. - Administering Oaths.

Each officer and designated deputies and each department head and designated deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to their offices or departments.

Sec. 712. - Retirement System.

Authority and power are hereby vested in the City, its Council and its several officers, agents and employees to do and perform any act, and to exercise any authority granted, permitted or required under the provisions of the California Public Employee's Retirement Law, as it now exists or may hereafter be amended, to enable the City to continue as a contracting City under the California Public Employees' Retirement System. The Council may terminate any contract with the Board of Administration of the California Public Employees' Retirement System only under authority granted by ordinance adopted by a majority vote of the electors of the City voting on such proposition at an election at which such proposal is presented.

Sec. 713. - Political Activity.

If a City elected officer or candidate for elective office, or a proposed appointed de officer to any City office, shall use or promise to use, directly or indirectly, any official authority or influence, whether then possessed or merely anticipated, to aid any other person to secure any elected or appointed office ~~or appointment~~ in the service of the City or any increase of salary,

upon the condition that such other person's vote or political influence shall be given or used, or upon any other corrupt condition, shall be guilty of a misdemeanor.

If the person convicted is a City elected or appointed officer, that person shall, in addition to any other punishment imposed, be deprived of office and be forever debarred and disqualified from holding any position in the service of the City, to the maximum extent permitted by law.

Sec. 714. - Prohibitions.

(a) *Activities Prohibited.*

- (1) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, or appointment under the provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- (2) No person who seeks employment, appointment or promotion to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion.
- (3) Except as otherwise permitted by State law, No personCity officer, department head or employee shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any City election from any City employee.
- (4) No City officer, department head or employee shall, during his or her working hours for the City, knowingly or willfully solicit or receive any contribution to the campaign funds of any candidate, political party or committee to be used in a City election in support of or in opposition to any candidate for City ~~election to City~~ office or any City ballot ~~issue~~measure. This section shall not be construed to limit any ~~person~~City officer's or employee's ~~right to~~ exercise of his or her rights as a private citizen during non-working hours for the City, to express opinions, actively participate in political campaigns or to cast a vote ~~nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government in support of or in opposition to a candidate for City elected office or a City ballot measure.~~

- (b) *Penalties for Violation.* Any person convicted of a violation of this section shall be ineligible for a period of five (5) years following such conviction, to hold any City office or position and, if an officer or employee of the City, shall immediately forfeit that office or position. The Council shall establish by ordinance such further penalties as it may deem appropriate.

Sec. 715. - Oath of Office.

Each officer, department head and employee of the City, including each member of a board or commission of the City, before undertaking any duties, shall take the oath of office required by the Constitution of the State of California and shall file the same with the City Clerk.

Sec. 716. - Nondiscrimination.

No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city contract, city position or appointive city administrative office because of race, gender, age, handicapdisability, religion, marital status, sexual orientation, country of origin or political affiliation. The City shall abide by all state and federal nondiscrimination regulations. No officer, department head or employee of the City shall belong to or be a member of any party, organization, or association which advocates the overthrow of the government or Constitution of the United States or the State by force or violence.

ARTICLE VIII. - Appointive Boards and Commissions

Sec. 801. - In General.

- (a) AllThe appointive boards and commissions enumerated in this Charter shall have the powers and duties stated herein, and such additional powers and duties, consistent with the provisions of this Charter, as may be granted to them by ordinance of the City Council. same number of members as there are members of the Council. Each Councilmember within sixty (60) days of assuming office, shall appoint one member who shall be a resident of the City to each board or commission. In addition, the Council, by ordinance, may create such additional appointive boards and commissions as in its judgment are required; may abolish or change the same, may provide for the number, qualifications, manner of appointment, terms of office if any, compensation if any, and removal of the members thereof, and may grant to such boards and commissions such powers and duties as are consistent with the provisions of this Charter. The City Council shall provide for adequate funding, staffing, training, and resources for each board and commission to perform the duties specified in the charter and implementing ordinances.
- (b) Such appointed term shall be for four (4) years and shall commence with the term of the appointing Councilmember. No person shall sit on a board or commission after the expiration of his or her term. In the case of a re-appointment, the appointee must be re-appointed and sworn prior to resuming such seat. In the absence of a valid appointment, no person shall sit on a board or commission. Unless otherwise specified in this Charter or by ordinance, appointive boards and commissions shall have the same number of members as there are members of the Council and shall be appointed one-to-one by the Mayor and each Councilmember within sixty (60) days of their assuming elective office. The initial term of board members and commissioners shall generally be for four (4) years. Board members and commissioners may continue to serve until their successors are appointed or until removed by a majority vote of the Council. Each board or commission shall request replacement of a member when a majority of the members determine that such replacement is necessary for the proper functioning of the board or commission.
- (c) Any mid-term vacancy on a board or commission shall be filled by the appointing authority as specified in this Charter or applicable ordinance by the appropriate Councilmember within sixty (60) days of the vacancy to serve out the unexpired portion of the term being filled. Except as otherwise provided by this Charter, Any appointee may be removed by a majority vote of the Council. If no appointment is made within sixty (60) days of assuming office or following a mid-termthe vacancy, the Mayor shall have thirty (30) days to appoint a member to the vacant seat. If a board or commission vacancy remains unfilled for ninety (90) days, the Council shall fill the vacancy by majority vote of its membership. Any member of the Council, and the applicable board

or commission on a majority vote, may recommend qualified members for Council consideration.

Sec. 802. - Qualifications.

City officials, when recommending or nominating persons to serve on boards and commissions, shall seek outstanding individuals whose commitment and talents will contribute to the purposes and functions of the body and who reflect the geographic and demographic diversity of the city. Each member of a board or commission shall be a resident of the City and no voting member of any board or commission shall hold any other office or position in the City government for which compensation is paid.

Sec. 803. - Meetings; subpoena power.

Each board or commission shall hold regular meetings as required by this Charter or by ordinance and such special meetings as such board or commission may require. All proceedings of the board or commission shall be open to the public, except as provided by State law. Except as may be otherwise provided in this Charter, the City Manager shall designate a secretary for the recording of minutes for each board and commission, who shall keep an adequate record of its proceedings. Each board and commission may prescribe its own rules and regulations which shall be consistent with this Charter and applicable City ordinances. Copies of each board's or commission's rules and regulations shall be kept on file in the Office of the City Clerk and available for public inspection. Each board or commission may request from the City Council the power to compel the attendance of witnesses, to compel the production of evidence before it and to administer oaths and affirmations. The City Council, by resolution, shall have sole discretion to provide such power to boards and commissions, except as otherwise provided herein.

Sec. 804. Notice of Meetings of Boards and Commissions.

- (a) For any regular meeting of a City board or commission subject to the requirements of the Ralph M. Brown Act (Calif. Government Code §§54950 et. seq.), the City shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session, not later than six (6) calendar days before the regular meeting.
- (b) For any special meeting of a City board or commission subject to the requirements of the Ralph M. Brown Act (Calif. Government Code §§54950 et. seq.), the City shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session, not later than seventy two (72) hours before the special meeting.
- (c) An agenda and notice of an emergency or dire emergency meeting of a City board or commission shall be posted and given as provided in the Ralph M. Brown Act (Calif. Government Code §§54950 et. seq.)
- (d) A City board or commission may take action on items of business not appearing on the posted agenda under any of the exceptions provided in the Ralph M. Brown Act (Calif. Government Code §§54950 et. seq.)

- (e) Except as otherwise provided herein, the City shall comply with the requirements of the Ralph M. Brown Act (Calif. Government Code §§54950 et. seq.) for City board and commission meetings subject to the Act.

Sec. 805. – Ethics Commission.

The Pomona City Council shall, by ordinance, establish an Ethics Commission which shall be responsible for:

- (a) Monitoring and advising on applicable governmental ethics laws as set forth in State law, this Charter or City ordinance, regulation or policy, including but not limited to campaign finance limits and disclosure, nepotism, lobbying, conflict of interest and open meeting laws, to assure fairness, openness, honesty and integrity in City government, including compliance by the City of Pomona, its elected officials, officers, employees, boards and commissions with said laws, regulations or policies;
- (b) Education and responding to issues regarding the aforementioned laws, regulations and policies, and;
- (c) Impartial and effective administration and implementation of programs to accomplish the goals and purposes of the Commission as defined by this Section.

Sec. 806. - Other Boards and Commissions.

The Council shall by ordinance create a Planning Commission and any other necessary boards or commissions, with appropriate guidelines incorporating applicable provisions of this Charter.

ARTICLE IX. - Elections

Sec. 901. - General Municipal Elections.

General municipal elections for the election of Councilmembers and for such other purposes as the Council may prescribe shall be held in the City on the first Tuesday after the first Monday in November in each even-numbered year.

Sec. 902. - Special Municipal Elections.

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

Sec. 903. - Procedure for Holding Elections.

Unless otherwise provided by ordinance, all elections shall be held in accordance with the provision of the Elections Code of the State of California, as the same now exist or hereafter may be amended, for the holding of municipal elections, so far as the same are not in conflict with this Charter.

Sec. 904. - Initiative, Referendum and Recall.

The powers of the initiative and referendum and of the recall of elected City officers are hereby reserved to the electors of the City. The provisions of the Elections Code of the State of

California, as the same now exist or may hereafter be amended or superseded, governing the exercise of the powers of initiative and referendum in cities, and governing the exercise of the power of recall of municipal officers, shall apply to the exercise of those powers in the City insofar as such provisions are not in conflict with the provisions of this Charter.

ARTICLE X. - Financial Procedures

Sec. 1001. - Fiscal Year.

The fiscal year of the City shall begin on the first day of July and end on the next following last day of June.

Sec. 1002. - Preparation of Proposed Annual Budget.

On such date in each year as determined by the City Manager, each department, agency, board and commission shall submit to the City Manager through the Director of Finance/[City Treasurer](#) written estimates of the necessary expenditures and estimates of revenues expected to accrue to the City during the next fiscal year. The City Manager, with the advice and assistance of the Director of Finance/[City Treasurer](#), shall review such estimates, hold conferences thereon with each department, agency, board or commission, and may revise any estimates.

Sec. 1003. - Submission of Budget and Budget Message.

At least 45 days prior to the beginning of each fiscal year, the City Manager shall submit to the Council a proposed budget for the next fiscal year and an accompanying budget message.

Sec. 1004. - Budget Message.

The City Manager's message shall explain the budget in both fiscal and in work program terms. It shall outline the proposed financial policies of the City, describe the important features of the budget, indicate any major changes from the preceding year in financial policies, expenditures, and revenues, together with the reasons for such changes, summarize the City's debt position, and include such other information as the City Manager deems necessary.

Sec. 1005. - Budget.

The budget shall provide a complete financial plan of all City operating funds and activities for the next fiscal year and shall be in such form as the City Manager deems desirable or the Council may require. The budget shall contain a clear general summary of its contents; show all revenues in detail and by fund totals; and show all proposed expenditures, including debt service, by department and by fund[.] It shall also contain comparative figures for actual and estimated revenues and expenditures of the current fiscal year and revenues and expenditures of the preceding year. It shall further contain:

- (a) Proposed goals, objectives and expenditures presented for each fund by organizational unit, program, or activity, and the method of financing such expenditures; and
- (b) Proposed capital expenditures during the next fiscal year for each fund and the method of financing.

Sec. 1006. - Council Action on Budget.

- (a) *Notice and Hearing.* To achieve wide dissemination of information to the residents, the Council shall publish a general summary of the budget in one or more general circulation newspapers. The Council is encouraged to publish the summary in additional media including foreign language newspapers and electronic media. The message shall include:
 - (1) Times and places where copies of the budget message are available for inspection by the public, and
 - (2) Time and place, not less than ~~two (2) weeksten~~ (10) days after such publication, for a public hearing on the budget.
- (b) *Modification Before Adoption.* After the public hearing, the Council may adopt the budget with or without modification. Any modification may add or increase programs or amounts, or delete or decrease programs or amounts, except restricted program amounts, and except expenditures required by law or for debt service. However, no modification shall increase the total authorized expenditures to any amount greater than total estimated revenue plus the ~~carried forward~~ unreserved fund balance.
- (c) *Adoption.* The Council shall adopt the budget on or before the last day of each fiscal year. To implement the adopted budget, the Council shall concurrently adopt an appropriation resolution making appropriations by department or major organizational unit in the General Fund and by fund total for all other funds. If the Council fails to adopt the budget by this date the amounts appropriated for current operation for the prior fiscal year shall be deemed adopted for the current fiscal year on a month to month basis, with all items in it prorated accordingly, until such time as the Council adopts a budget for the current fiscal year.

Sec. 1007. - Amendments after Adoption.

- (a) *Supplemental Appropriations.* If during the fiscal year the City Manager determines that there are available revenues in excess of those estimated in the budget, the Council by resolution may make supplemental appropriations for the year up to the amount of such excess.
- (b) *Reduction of Appropriations.* If during the fiscal year it appears probable to the City Manager that the revenues or fund balances will be insufficient to finance the expenditures for which appropriations have been authorized, the City Manager, after evaluation, shall report to the Council without undue delay, indicating the estimated amount of deficit, any remedial action taken by the City Manager and recommendations for any further action. The Council shall then take such further action as deemed necessary to prevent or reduce any deficit.
- (c) *Transfer of Appropriations.* At any time during the fiscal year the Council may by resolution transfer part or all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for another department or major organizational unit within the same fund.
- (d) *Limitation.* No appropriations for debt service may be reduced or transferred below the amount required for debt service, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance.

Sec. 1008. - Lapse of Appropriations.

Every appropriation, except an appropriation for a capital improvement expenditure, shall lapse at the close of the fiscal year. Encumbered funds may be carried to the next fiscal year by resolution as recommended by the City Manager and adopted by the Council. An appropriation for a capital improvement expenditure shall continue in force, with written justification, until expended, revised or repealed. The purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation. Projects will also be considered abandoned, with any remaining appropriation removed, if five (5) years pass with less than ten percent (10%) of the project budgeted expended or encumbered.

Sec. 1009. - Overspending of Appropriations Prohibited.

No payment shall be made or obligation incurred except in accordance with appropriations duly made, or in the case of an emergency situation only with written City Manager authorization. A violation of this provision may be cause for removal of any person who knowingly authorized or made such payment or incurred such obligation.

Except where prohibited by law, however, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, but only if such action is made or approved by resolution of the Council.

Sec. 1010. - Capital Improvement Program.

- (a) *Submission to City Council.* The City Manager shall prepare and submit to the Council a five (5) year or longer capital improvement program no later than the final date for submission of the operating budget.
- (b) *Contents.* The capital improvement program shall include:
 - (1) Clear general summary of the contents;
 - (2) List of all capital improvements proposed to be undertaken during the next five (5) fiscal years, with appropriate supporting information of the necessity of each;
 - (3) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
 - (4) Method of financing each capital project; and
 - (5) Estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above shall be revised and extended each year for capital improvements still pending or in process of construction or acquisition.

Sec. 1011. - City Council Action on Capital Improvement Program.

- (a) *Notice and Hearing.* To achieve wide dissemination of information to the residents, the Council shall publish a general summary of the capital improvement program in one or more general circulation newspapers. The Council is encouraged to publish the summary in additional media including foreign language newspapers and electronic media. The message shall include:
 - (1) Times and places where copies of the capital improvement program are available for inspection by the public, and

- (2) Time and place, not less than ~~two (2) weeks~~ ten (10) days after such publication, for a public hearing on the capital improvement program.
- (b) *Adoption.* The Council by resolution shall adopt the capital improvement program with or without amendment after the public hearing, and on or before the last day of the fiscal year.

Sec. 1012. - Public Records.

Copies of the operating budget, capital improvement program and budget resolutions shall be public records and shall be made available to the public at suitable places in the City.

Sec. 1013. - Bonded Indebtedness and Certificates of Participation.

- (a) *Bonded Indebtedness.* The City and its agencies may issue general obligation bonds when authorized by the affirmative vote of not less than two-thirds (2/3) of the electors voting on the issue.
- (b) *Certificates of Participation and Similar Debt Instruments.* The City may issue Certificates of Participation and similar debt instruments not to exceed five (5) percent of the total assessed valuation of real and personal property in the City for purposes of City taxation when authorized by the affirmative vote of not less than five-sevenths (5/7) of the total membership of the Council. Additionally, the sum of interest and principal payments of these current year obligations charged to the General Fund may not exceed twenty percent (20%) of the previous year's revenue of the General Fund.
- (c) *Debt Limit.* The total indebtedness authorized by subsections (a) and (b) above shall not exceed fifteen (15) percent of the total assessed valuation of real and personal property in the City for purposes of City taxation. Additionally, the sum of the interest and principal payments of all obligations (referenced in (a) and (b) above) charged to any fund may not exceed 30 percent of the previous year's revenue of that fund.

Sec. 1014. - Demands.

All monetary demands, except liability demands, against the City must be in writing, and must specify the date, nature and amount of each item. Each such demand shall be presented to the Director of Finance/City Treasurer for examination and auditing. If the amount is legally due and payable and an unexhausted appropriation balance at the fund level remains against which the amount may be properly charged, the Director of Finance/City Treasurer shall approve such demand and make payment. Otherwise the Director of Finance/City Treasurer shall refer the demand to the City Manager for resolution.

Sec. 1015. - City Taxes.

All proposed, increased or extended City taxes ~~imposed on all taxpayers~~ shall not be effective unless and until approved by ~~affirmative vote of a majority of~~ the electors voting on the issue as set forth in State law.

Sec. 1016. - Independent Audit.

The Council shall provide for an independent annual audit of all City accounts and may provide for more frequent audits as necessary. Such audits shall be public records and made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City or any of its employees. The Council may designate such accountant or firm annually for a period not exceeding three (3) years with an option to extend

the contract for an additional two (2) years, but the designation for any particular fiscal year shall be made no later than ~~thirty (30)~~ sixty (60) days after the beginning of such fiscal year.

ARTICLE XI. - Revenue Bonds

Sec. 1101. - Authority to Issue and Required Vote.

- (a) The City shall have the power to issue revenue bonds for the purpose of financing the acquisition, construction, extension, improvement or repair of any municipal utility or other revenue producing facilities. Such bonds shall be proposed either by initiative or by the affirmative vote of five-sevenths (5/7) of the total membership of the Council. Said bond shall be issued if authorized by the affirmative vote of a majority of those electors voting on the question of incurring such indebtedness at any election at which such question is submitted to the electors of the City.
- (b) The Council may issue and sell authorized bonds, may fix the terms and conditions thereof, and may make, fix and establish such covenants, conditions, terms and provisions as necessary or desirable to facilitate the issuance and sale of the bonds or for the protection and security of the bondholders.
- (c) Bonds issued pursuant to this article shall not be general obligations of the City but shall be payable, principal and interest, solely from revenues or other special funds specifically pledged to that purpose.

ARTICLE XII. - Contracts and Purchasing

Sec. 1201. - In General.

Except as otherwise provided in this Charter, the City shall not be bound by any contracts unless made in writing and authorized by the Council. The Council shall adopt all necessary requirements to implement this section.

Sec. 1202. - Centralized Purchasing.

The City Manager shall establish a centralized purchasing system for the City. The Council shall adopt all necessary requirements to implement this section.

Sec. 1203. - Competitive Bidding.

The Council shall adopt all necessary requirements to set limits for competitive bidding.

Sec. 1204. - Illegal Interest in Contracts.

No member of the Council or other officer, ~~or~~ department head or employee of the City shall have any financial interest in any contract, sale or transaction to which the City is a party if having such interest constitutes a violation of the State law pertaining to interest in contracts. Any such person having any such prohibited interest shall be guilty of a misdemeanor, and upon conviction thereof, in addition to such penalties as may be imposed by the court, such person shall forfeit his office. Any contract, sale or transaction in which there shall be any such prohibited interest shall become void at the option of the City when so declared by resolution of the Council.

Sec. 1205. - Split Bidding Prohibited.

It shall be expressly forbidden to split or separate into smaller projects or job tasks any requirements for goods and services for the purpose of evading the competitive bidding limits as set by the Council.

ARTICLE XIII. - Franchises**Sec. 1301. - Requirement and Granting of Franchises.**

Except as provided by Federal or State law, aAny person or organization furnishing the City or its inhabitants with any public utility product or service, or traversing any portion of the City for the transmitting or conveying of any such product or service elsewhere, or using or occupying public streets, alleys, ways or places within the City for any purpose, shall be required by ordinance to have a franchise from the City.

The Council may grant a franchise to any person or organization, whether operating under an existing franchise or not, and may set the terms and conditions of any such grant, including the compensation to be paid to the City.

The Council may also provide the method of and procedure for the application for the granting of any such franchise and any other terms and conditions of such grants as specified in Section 1302.

Sec. 1302. - Procedure.

- (a) Before granting any franchise, the Council shall adopt a resolution declaring its intention to grant the franchise stating the name of the proposed grantee, the character of the proposed franchise, and the terms and conditions upon which it is proposed to be granted. Such resolution shall provide for a public hearing.
- (b) *Notice and Hearing.* To achieve wide dissemination of information to residents, the Council shall publish a general summary of the proposed franchise in one (1) or more general circulation newspapers. The Council is encouraged to publish the general summary in additional media including foreign language newspapers and electronic media. The message shall include:
 - (1) Times and places where copies of the proposed franchise are available for inspection by the public, and
 - (2) Time and place, not less than ~~two (2) weeks~~ ten (10) days after such publication, for a public hearing on granting the franchise.

Thereafter the franchise may be granted by ordinance on the terms and conditions specified in the resolution. Any ordinance granting a franchise shall not be adopted as an urgency ordinance to take immediate effect. Such ordinance is subject to the power of referendum as provided for elsewhere in this Charter.

Sec. 1303. - Terms of Franchise.

Every franchise shall state the term for which it is granted, which shall not exceed ten (10) years unless approved by five-sevenths (5/7) of the total membership of the Council. If a franchise is granted for or in connection with a public utility subject to the jurisdiction, regulation and control of the State Public Utilities Commission it may be indeterminate.

Indeterminate franchises shall remain in effect until:

- (a) voluntarily surrendered or abandoned,
- (b) purchased,
- (c) acquired through eminent domain, or
- (d) forfeited due to noncompliance.

Sec. 1304. - Eminent Domain.

No franchise, or grant of a franchise, shall in any way, or to any extent, impair or affect the right of the City to acquire the property of the possessor by purchase or condemnation, and nothing therein contained shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to the property of the possessor of any franchise. Every franchise granted by the City is granted upon the condition, whether expressed in the grant or not, that such franchise shall not be given any value before any court or other public authority in any proceeding of any character in excess of any amount actually paid by the grantee to the City at the time of the grant.

Sec. 1305. - Right of the City to use Poles.

In connection with the establishment, operation or maintenance by the City of any fire, police, or other alarm, telephone or other communication system, the City shall have the right to use poles placed in the streets by any public utility company, whether or not such right has been expressly set forth and reserved in the franchise of such company.

Article XIV. - Municipal Campaign Financing and Conflict of Interest

Sec. 1401. - Voluntary Expenditure Ceiling.

- (a) Pursuant to California Government Code Section 85400(c) [Government Code § 85400(c)] or its successor statutes, a voluntary expenditure ceiling not to exceed, in the aggregate, twenty-five cents (\$0.25) per resident of the district, shall apply to each election in the district in which the candidate is seeking elective office.
- (b) The twenty-five cents (\$0.25) per resident basis shall be increased by twenty-five percent (25%) of any increase subsequently permitted by California Government Code Section 85400(c) [Government Code § 85400(c)] or its successor statutes regarding voluntary expenditure ceilings for municipal candidates.

Sec. 1402. - Use of Surplus Funds from Campaign for Public Office.

All funds that exceed election campaign expenses for public office, or the repayment of campaign loans, or expense as specified in California Government Code Sections 89519(a) and 85305(c) [Government Code §§ 89519(a) and 85305(c)] or any successor statutes, known as "surplus campaign funds" or "surplus funds," shall be turned over to the City's General Fund within ninety (90) days after withdrawal, defeat, or election to office.

Sec. 1403. - Conflict of Interest.

A Councilmember shall not cast a vote on any matter relating to any person or business entity that has contributed more than two hundred fifty dollars (\$250) to all said Councilmember's City election campaigns for the current term. The vote of any Councilmember violating the above shall be invalid.

ARTICLE XV. - Definitions and Miscellaneous**Sec. 1501. - Definitions.**

Unless the provision or the context requires otherwise, the following terms as used in this Charter shall have the following meanings:

- (a) "Shall" is mandatory and "may" is permissive.
- (b) "City" is the City of Pomona and "office," "department," "board," "commission," "officer," "department head" or "employee" is an office, department, board, commission, officer, department head or employee as the case may be, of the City of Pomona.
- (c) "County" is the County of Los Angeles.
- (d) "State" is the State of California.
- (e) "Federal" is the United States of America.
- (f) "Agency" or "agencies of the City" shall not include the [Successor Agency to the Former](#) Redevelopment Agency or the Pomona Public Financing Authority.

Sec. 1502. - Violations.

Except as provided elsewhere in this Charter, the violation of any provision of this Charter or of any ordinance of the City shall constitute, at the discretion of the Council, a misdemeanor or infraction and may be prosecuted in the name of the people of the State of California or may be redressed by civil action. Any such violation, if a misdemeanor, shall upon conviction be punishable by a fine or by imprisonment, or both, not to exceed the amount provided in the California Penal Code for the punishment of misdemeanors. If an infraction, the fine shall not exceed the amount provided in the California Penal Code for the punishment of infractions.

ARTICLE XVI. - Charter Amendment**Sec. 1601. - Proposal of Amendment.**

Amendments to this Charter may be proposed and placed on the ballot:

- (a) by the voters of the City following procedures for Initiatives as specified in the California Elections Code.
- (b) by ordinance [or resolution](#) of the Council containing the full text of the proposed amendment and passed by five-sevenths (5/7) of the total membership of the Council.

- (c) by one or more report(s)/charter amendment proposal(s) of athe Charter Commission created and operating as specified in Article XVII.

Sec. 1602. - Elections.

Except as provided in this Charter or by Council ordinance, Elections shall be governed by the California Elections Code and other applicable State law.

Sec. 1603. - Adoption of Amendment.

Amendments to this Charter shall become effective by only if approved edat of by a simple majority of the City's electorsvoters voting on the issue. If approved by the voters, any amendment shall become effective at the time fixed in the amendment, or, if no time is fixed, thirty (30) days after its adoption by the votersby State law.

ARTICLE XVII. - Charter Commission

Sec. 1701. - Charter Commission.

Beginning in January of the year 2010, and in January of every tenth year thereafter, the Council shall appoint a Commission to consider and propose amendments to the existing Charter. No later than twelve (12) months from each inception, the Commission shall submit its proposals to the City Clerk for placement on the ballot at the next scheduled election.

- (a) In June of the year 2029 and in June of every tenth year thereafter, the City Council shall appoint a Commission to review, consider, and propose amendments to the existing City Charter as more specifically set forth in Section 1702.
- (b) Members of the Commission shall attend an orientation meeting no later than July of the year of their appointment. Thereafter, the Commission shall meet on a schedule as determined by its members.
- (c) By no later than its first meeting after the orientation meeting, the Commission shall adopt its by-laws and select a Chair from amongst its members to serve for as long as the Commission is seated or until the Commission selects another Chair. Should the Commission fail to select a Chair by the end of its first meeting after the orientation meeting then the Mayor's appointee to the Commission shall serve as the Chair.
- (d) No later than twenty-four (24) months after the orientation meeting, the Commission may approve and submit single or multiple Charter amendment proposals in one or more reports to the City Clerk for direct placement on the ballot in one or more elections pursuant to Section 1601(c). After submission by the Commission, the City Clerk shall agendize each proposal for City Council action, who shall immediately place the proposal on the ballot at the next available scheduled City election under the California Elections Code or other applicable law. The City Council shall not be required to conduct noticed public hearings on any Commission-proposed Charter amendment prior to placing it on the ballot.

- (e) At the Commission's request, the City Council may suggest revisions to a draft Charter amendment under consideration by the Commission. The Commission may accept, accept in part, or reject the City Council's suggested revisions. The City Council may not alter a draft Charter amendment without the Commission's consent. Once the Commission submits a Charter amendment proposal to the City Clerk as set forth in subsection (d) above, the Council shall place the Charter Amendment proposal on the ballot as approved by the Commission without alteration.
- (f) The Commission shall otherwise have those powers and duties of an elected charter commission as provided by State law.

Sec. 1702. - Composition of Commission

- (a) The Commission shall be composed of seven (7) members and seven (7) alternates, who shall each be electors residing within the City of Pomona. Such Commission members shall not hold any elective office within the City. The Commission shall be appointed by the City Council. Each Council member shall appoint one (1) member and one (1) alternate. Council members shall make reasonable good faith efforts to select Commissioners and alternates from their respective electoral districts, however Councilmembers shall not be required to do so. The Mayor shall appoint one (1) member and one (1) alternate at-large. If any Council member fails to appoint a Commission member or alternate within 30 days of a vacancy, then the Mayor shall make the appointment to fill the vacancy.
- (b) An alternate shall replace his/her appointed Commission member at a meeting if that appointed Commission member is absent from the meeting and shall replace his/her appointed Commission member permanently if that appointed member resigns, is removed or otherwise cannot serve his/her full term on the Commission. An alternate replacing an appointed Commission member shall be counted toward a quorum and may cast a vote on matters coming before the Commission in lieu of the appointed Commission member. Commission members and alternates shall serve a term of twenty-four (24) months without regard to the remaining term of the Council member/Mayor that appointed them, or until such earlier date as determined by the Commission. No member of the Commission may be removed during their term except upon the request of a majority of the Commission and upon a 5/7 vote of the City Council.

Sec. 1703. - Staff and Legal Counsel

The Commission shall have an administrative staff member who shall be the principal liaison between City administration and the Commission. The staff person shall have full access to all City documents, personnel, and materials required by the Commission for the carrying out of their duties. In addition, an attorney shall be made available to the Commission at their meetings to provide independent legal advice to the Commission.