ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

52 July 31, 2012

SACHI A. HAMAI
EXECUTIVE OFFICER

THE CITY OF
POMONA
Office of the City Clerk

MARIE MICHEL MACIAS, MMC
City Clerk

July 2, 2012

Los Angeles County Board of Supervisors
Ms. Sachi A. Hamai, Executive Officer
Kenneth Hahn Hall of Administration
500 W. Temple Street, Room 383
Los Angeles, California 90012

*via Fax and USPS*

Dear Ms. Hamai,

Enclosed you will find certified copies of the following documents in preparation for the City's General Municipal Election to be held on November 6, 2012:

Resolution No. 2012-84
Calling for the holding of a General Municipal Election on Tuesday, November 6, 2012 for the election of three (3) members of the City Council, and (1) Mayor, as required by the provisions of the laws of the State of California relating to Charter Cities and for the submission to the voters of the City four (4) questions relating to: a) A Charter Amendment changing the method by which six Councilmembers are elected, b) Charter Amendments as proposed by the Charter Review Commission, c) A proposed two percent increase in the City's Transient Occupancy Tax (TOT), and d) A proposed increase in the City's Real Property Transfer Tax.

Resolution No. 2012-85
Requesting the Board of Supervisors of the County of Los Angeles to consolidate a General Municipal Election to be held on Tuesday, November 6, 2012, with the Statewide General Election to be held on the date pursuant to Section 10403 of the Elections Code.

Your prompt response to this request would be greatly appreciated. Please don't hesitate to contact the City Clerk's Office at (909) 620-2341 should you have any questions.

Very truly yours,

Marie Michel Macias, MMC
City Clerk

MM/plp

Enclosures

c: Dean C. Logan, L.A. County Registrar-Recorder/County Clerk

# RESOLUTION NO. 2012-84

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012, FOR THE ELECTION OF THREE MEMBERS OF THE CITY COUNCIL AND ONE MAYOR AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO CHARTER CITIES; AND FOR THE SUBMISSION TO THE VOTERS OF THE CITY FOUR QUESTIONS PERTAINING TO THE FOLLOWING: (A) A PROPOSED AMENDMENT TO THE CITY CHARTER RELATING TO THE METHOD BY WHICH SIX COUNCILMEMBERS ARE ELECTED, (B) PROPOSED AMENDMENTS TO THE CITY CHARTER BY THE CHARTER REVIEW COMMISSION, (C) A PROPOSED TWO PERCENT INCREASE IN THE CITY'S TRANSIENT OCCUPANCY TAX (TOT), AND (D) A PROPOSED INCREASE IN THE CITY'S REAL PROPERTY TRANSFER TAX.**

**WHEREAS,** under the provisions of the laws relating to Charter Cities in the State of California, a General Municipal Election shall be held on November 6, 2012, for the election of Municipal Officers; and

**WHEREAS,** the City Council is required to submit to the voters at the election a voter-initiated measure, which is a question pertaining to the method by which six (6) Council Members are elected and which, if adopted, would require that candidates for each of these offices be residents of such district, and nominated from such district, but the candidates would be elected by a vote of all City registered voters (*i.e.*, an "at-large" system); and

**WHEREAS,** the City Council is also required, pursuant to Pomona City Charter Sections 1601(c) and 1701, to submit to the voters at the election a question pertaining to the proposed amendments to the City Charter by the 2010-2011 Charter Review Commission; and

**WHEREAS,** the City Council desires to submit to the voters at the election a question pertaining to a proposed increase from ten percent (10%) to twelve percent (12%) to the City's Transient Occupancy Tax (TOT); and

**WHEREAS,** the City Council also desires to submit to the voters at the election a question pertaining to a proposed increase of the City's Real Property Transfer Tax from $1.10 per $500 of property value at time of sale to $2.20 per $500 of property value at time of sale.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** That pursuant to the requirements of the laws of the State of California relating to Charter Cities, there is called and ordered to be held in the City of Pomona, California, on Tuesday, November 6, 2012, a General Municipal Election for the purpose of

electing three (3) Members of the City Council for Districts 1, 4 and 6, and one (1) Mayor, for the full term of four (4) years.

**SECTION 2.** That the City Council, pursuant to its right and authority, does order submitted to the qualified voters of the City of Pomona, at the General Municipal Election, the following questions:

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| **MEASURE _____ POMONA CITIZEN'S RIGHT TO VOTE INITIATIVE MEASURE:** Shall an ordinance be adopted to change the method of electing the six City Council members from the current "by-district" method, where voters from each district vote for the candidate representing each respective district pursuant to the Pomona City Charter, to an "at-large" system where candidates representing each district are elected by voters citywide? | **YES** |
| | **NO** |

| | |
|---|---|
| **MEASURE _____ POMONA CITY CHARTER MEASURE:** Shall the Charter of the City of Pomona be amended as proposed by the Charter Review Commission, regarding setting Council district boundaries, Mayoral election as a stand alone election, "instant runoff" Councilmember elections, Council vacancy procedures, increasing contributions limits to Councilmembers, providing staff and legal counsel for Charter Commission, City budget and Capital Improvement Program appropriations, commitment to the Youth and Family Master Plan, and establishing violations of the Charter as misdemeanors, among other changes? | **YES** |
| | **NO** |

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| **MEASURE _____ POMONA TRANSIENT OCCUPANCY TAX INCREASE:** To ensure funding for essential general city services including police services, fire protection, street and park maintenance, business development, and park and recreation services, shall an ordinance be adopted to increase the tax charged only to persons who occupy hotels, as defined by Pomona City Code Section 50-81, otherwise known as the Transient Occupancy Tax (TOT), from ten percent (10%) to twelve percent (12%)? | **YES** |
| | **NO** |

| | |
|---|---|
| **MEASURE _____ POMONA REAL PROPERTY TRANSFER TAX INCREASE:** To ensure funding for essential general city services including police services, fire protection, street and park maintenance, business development, and park and recreation services, shall an ordinance be adopted to increase the tax charged when real property in the city is sold or transferred, otherwise known as the Real Property Transfer Tax, from $1.10 per $500 of property value at the time of sale to $2.20? | **YES** |
| | **NO** |

**SECTION 3.** That the proposed complete text of the measures submitted to the voters is attached hereto as Exhibits A, B, C and D, and incorporated herein by this reference.

**SECTION 4.** That the ballots to be used at the election shall be in form and content as required by law.

**SECTION 5**. That the City Clerk is authorized, instructed and directed to coordinate with the County of Los Angeles Registrar-Recorder/County Clerk to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

**SECTION 6**. That the polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, pursuant to Elections Code Section 10242, except as provided in Elections Code Section 14401.

**SECTION 7.** That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

**SECTION 8.** That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election in time, form, and manner as required by law.

**SECTION 9.** That in the event of a tie vote (if any two or more persons receive an equal and the highest number of votes for an office) as certified by the County of Los Angeles Registrar-Recorder/County Clerk, the City Council, in accordance with Election Code 15651(a), shall set a date and time and place and summon the candidates who have received the tie votes to appear and will determine the tie by lot.

**SECTION 10**. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

**SECTION 11.** That the City Clerk shall certify to the passage and adoption of this Resolution and it shall become effective immediately upon its approval.

**PASSED, APPROVED AND ADOPTED THIS 18th DAY OF JUNE 2012.**

**ATTEST:**

Marie Michel Macias, City Clerk

**CITY OF POMONA:**

Elliott Rothman, Mayor

**APPROVED AS TO FORM:**

Arnold M. Alvarez-Glasman, City Attorney

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STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, MARIE MICHEL MACIAS, CITY CLERK of the City of Pomona do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Pomona held on the 18th day of June, 2012 by the following vote:

AYES: COUNCILMEMBERS: Soto, Rodriguez, Lantz, Escobar, Atchley, Rothman
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: Carrizosa
ABSTAIN: COUNCILMEMBERS: None

Marie Michel Macias, City Clerk

EXHIBIT "A"

ORDINANCE NO. 2012-__

**AN ORDINANCE OF THE CITY OF POMONA AMENDING SECTION 401 OF THE POMONA CITY CHARTER REGARDING THE METHOD BY WHICH VOTERS ELECT MEMBERS TO THE CITY COUNCIL**

**WHEREAS,** on May 19, 2010, a Notice of Intent to circulate an initiative petition was filed with the City Clerk, proposing to amend Section 401 of the Pomona City Charter pertaining to the method by which six Council Members are elected;

**WHEREAS,** on April 18, 2011, the City Clerk certified the sufficiency of the petition for the initiative measure and, pursuant to Elections Code Section 6255, the City Council directed the City Clerk to include the initiative measure on the ballot for the General Municipal Election to be held on November 6, 2012; and

**WHEREAS,** pursuant to Section 1603 of the Pomona City Charter, an amendment to the City Charter may only become effective upon approval by a simple majority of the electors voting on the issue.

**THE PEOPLE OF THE CITY OF POMONA, CALIFORNIA DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Article IV, Section 401 of the Pomona City Charter is hereby amended to read as follows:

**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.* 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 on the second Monday in November of the year the member was elected.

(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.~~

(d) *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 residents of such district and shall be nominated by electors of such district and shall be elected by a vote of the electors of the City at large.**

(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.

**SECTION 2. Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people hereby declares that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

**SECTION 3. Amendment or Repeal.** This initiative may be amended or repealed only by the voters at a City election.

**SECTION 4. Authorization.** The Mayor is hereby authorized to attest to the adoption of this initiative by the voters of the City by signing where indicated below.

**SECTION 5. Effective Date.** If a majority of voters voting in the City's General Municipal Election on November 6, 2012, approve of this initiative, this initiative shall become effective upon filing and acceptance by the California Secretary of State.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the people of the City of Pomona voting on the 6th day of November, 2012.

**ATTEST:**

_____

Marie Michel Macias, City Clerk

**CITY OF POMONA:**

_____

Elliott Rothman, Mayor

**APPROVED AS TO FORM:**

_____

Arnold M. Alvarez-Glasman, City Attorney

EXHIBIT "B"

ORDINANCE NO. 2012-__

# AN ORDINANCE OF THE CITY OF POMONA AMENDING THE POMONA CITY CHARTER AS PROPOSED BY THE 2010-2011 CHARTER REVIEW COMMISSION

**WHEREAS,** Article XVII, Section 1701 of the Pomona City Charter provides that the City Council shall appoint a Commission to consider and propose amendments to the existing Charter every 10 years;

**WHEREAS,** on June 20, 2011, the Charter Review Commission submitted its "Final Report of the City of Pomona Charter Review Commission 2010-2011" to the City Council and requested the proposed amendments be placed on the ballot for the General Municipal Election to be held on November 6, 2012; and

**WHEREAS,** pursuant to Section 1603 of the Pomona City Charter, an amendment to the City Charter may only become effective upon approval by a simple majority of the electors voting on the issue.

**THE PEOPLE OF THE CITY OF POMONA, CALIFORNIA DO ORDAIN AS FOLLOWS:**

**SECTION 1.** That the Pomona City Charter is hereby amended to read as proposed by the 2010-2011 Charter Review Commission, as indicated by the "Final Report of the City of Pomona Charter Review Commission 2010-2011," attached hereto as Attachment A.

**SECTION 2. Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people hereby declares that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

**SECTION 3. Amendment or Repeal.** This Ordinance may be amended or repealed only by the voters at a City election.

**SECTION 4. Authorization.** The Mayor is hereby authorized to attest to the adoption of this Ordinance by the voters of the City by signing where indicated below.

**SECTION 5. Effective Date.** If a majority of voters voting in the City's General Municipal Election on November 6, 2012, approve of this Ordinance, this Ordinance shall become effective upon filing and acceptance by the California Secretary of State.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the people of the City of Pomona voting on the 6th day of November, 2012.

**ATTEST:**

_____

Marie Michel Macias, City Clerk

**CITY OF POMONA:**

_____

Elliott Rothman, Mayor

**APPROVED AS TO FORM:**

_____

Arnold M. Alvarez-Glasman, City Attorney

Attachment A

# FINAL REPORT
# OF THE CITY OF POMONA
# CHARTER REVIEW COMMISSION
# 2010-2011

# The 2010-2011 Charter Review Commission

May 26, 2011

Dear Ms. Macias:

Attached, please find the Final Report of the 2010-2011 Charter Review Commission, including the Proposed Amendments to the Pomona City Charter, submitted pursuant to Article XVII of the City Charter.

Please place the following ballot question on the November 2012 General Municipal Election ballot for consideration by the City of Pomona electorate:

> **"Shall the Charter of the City of Pomona be amended as proposed by the 2010-2011 Charter Review Commission?"**

Respectfully submitted,

The Commissioners of the 2010-2011 Charter Review Commission

Eunice R. Russell, Co-Chair

Lucille Lyon, Co-Chair

John Clifford

Frank D. Delgado

Celia Gómez

Carlos Goytía

Arturo Jiménez

Debra Martin

Veronica Michalowski

John G. Nolte

Jerry Peréz

Julie Roberts-Fronk

Bernardo Rosa

Luis Rosales

De'Andre Valencia

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## CHARTER REVIEW COMMISSION

Eunice R. Russell, Co-Chair

Lucille Lyon, Co-Chair

John Clifford

Frank D. Delgado

Celia Gómez

Carlos Goytía

Arturo Jiménez

Debra Martin

Veronica Michalowski

John G. Nolte

Jerry Peréz

Julie Roberts-Fronk

Bernardo Rosa

Luis Rosales

De'Andre Valencia

Former commissioners: Victor Caceres, George Hunter, Edmund Simien, and Tomás Ursua

2010-11 CHARTER REVIEW COMMISSION

# PROPOSED AMENDMENTS TO THE POMONA CITY CHARTER

Note: The Charter Commission's proposed amendments are indicated herein by ~~strike-throughs~~ and *italics*. The rest of the current Charter is reproduced only for context in reviewing the proposed amendments. Proposed deletions are ~~struck through~~. Proposed insertions are *italicized*. Text that is italicized in the current Charter is <u>underlined</u> herein to avoid confusion with proposed insertions. The Commission's proposed amendments are formatted herein as intended by the Commission. Should there be herein any change to the formatting of the current Charter that is not connected to a proposed amendment, it is unintentional and is not part of the Commission's proposed amendments. It is the intention of the Commission that the Charter's table of contents reflect changes to the numbering of sections and/or changes to or additions of section titles as delineated in the proposed amendments.

## 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. *The City Council may also consider the following factors: (a) topography, (b) geography, (c) cohesiveness, contiguity, integrity, and compactness or territory and (d) community of interest of the Districts. In considering the preceding factors, the Council may also consider:*

1) *Community Identity—boundaries should respect, support, and build the sense of local community.*

2) *Compactness and Contiguity—boundaries should enable ease of voter access to all parts of a District, and the District's area should be territorially linked.*

3) *Recognition of Natural and Man-Made Features – boundaries shall account for recognizable features that contribute to community identity and shape the social, political and economic life of the City.*

4) *Administrative Units— Boundaries should respect census tract and precinct boundaries, although irregularities in Council District boundaries lines may result.*

5) *Population Growth— Boundaries should reflect likely growth patterns and anticipate future population growth.*

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 twenty (120) 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.

***Sec. 304 Youth and Family Master Plan***

*The City declares its commitment to establishing a comprehensive process that fosters a community that cares and engages all members of the community and its leaders who have a stake in promoting positive youth and family development in the City. The City endorses a process that is inclusive and based on collaboration, focuses on preventive measures instead of negative social behaviors that have become entrenched, is supported by proven research, is specific to our community needs and one that will be sustainable. This comprehensive process will serve to develop, monitor and sustain the Youth and Family Master Plan.*

## 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. 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 on the second Monday in November of the year the member was elected.

(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 t~~ *T*he 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.

*(f) The mayor shall be elected commencing in 2017and 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 member of the Council shall cease to be a resident of the district from which the member (or, in the case of an appointee, a predecessor) was nominated, 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. 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 district as in this Charter provided, the member shall not lose office during that term by reason of such change.

**Sec. 403. Vacancies.**

(a) The office of a Councilmember shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner ~~authorized~~ *required* 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.

(c) Filling of Vacancies. A vacancy in the Council shall be filled 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 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. *A qualified person shall be defined as an individual who resides in the district where the vacancy occurred, and makes an application outlining his/her qualifications for the position. A Councilmember who resigned from the Council shall not be considered to fill their own vacancy.* If the Council fails to do so within thirty (30) days following the occurrence 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 120 days following the occurrence of the vacancy, and to be otherwise governed by law. Notwithstanding the requirement in Section 507, if at any time the membership of the Council is reduced to less than four (4), the remaining members shall by majority action appoint additional members to raise the membership to seven (7), consistent with Section 402 above.

(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 an election that shall be called 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.

**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. 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-~~Anaheim~~-Riverside-*Orange County Area Index* ~~area~~-published annually by the United States Bureau of Labor Statistics.

(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 Los Angeles~~/Long Beach consumer price index~~-*Riverside-Orange County Area Index*. These 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. Absentees.**

Any member of the Council may be absent from the City or from all regular meetings for thirty (30) consecutive days. ~~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 for a longer duration.~~ *Thereafter, any member of the Council may be absent for any longer period, provided that at least once every thirty (30) days the Council, with the consent of a majority of a quorum entered into its minutes, agrees to extend the absence.* Such *an extended* absence may be 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 City Council Members.***

*The City Council Members, in addition to the powers and duties prescribed elsewhere in this Charter, shall have the responsibility and duties to: Conduct business in a manner to benefit the*

*entire City of Pomona, not strictly individual districts, areas, or constituencies; Manage discretionary funds in a manner to benefit not only district needs, but needs of the entire City of Pomona; Report to the City and the citizenry on the local and city-wide impacts of issues that occur in a councilperson's district; Report to the council and 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; Set goals for the improvement of the entire City of Pomona as well as improvements to individual districts; 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 citizens; 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. 4067. 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.**

All powers of the City shall be vested in the Council except as otherwise provided by law or in this Charter.

**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. 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.**

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 law.

**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.

(c) 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 prosecute any member or other person for such conduct.

(d) 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.

(e) Payment of Monies. Actions for the payment of money shall not be taken at other than a regular or adjourned regular meeting.

(f) 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.

**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 in the electronic media in the City 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, 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

(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.

**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~~ *primarily* 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 return".

## 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.

There shall be an office of City Clerk, City Attorney, 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, 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. City Treasurer.**

The Council, by a majority of the 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.**

The City Manager shall appoint a department head who shall have the title of Director of Finance. The Director of Finance 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, 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 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 of that officer or department head within such 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 officer or candidate or proposed appointee 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 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 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.

**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) No person 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 employee shall knowingly or willfully solicit or receive any contribution to the campaign funds of any political party or committee to be used in a City election in support of or in opposition to any candidate for election to City office or City ballot issue. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions 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.

(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 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, handicap, 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) All appointive boards and commissions shall have the 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.

(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.

(c) Any ~~mid-term~~ vacancy shall be filled by appointment by the appropriate Councilmember within sixty (60) days to serve out the unexpired portion of the term being filled. Any appointee may be removed by a majority vote of the Council. If no appointment is made within sixty (60) days of vacancy, the Mayor shall appoint a member to the vacant seat. *If no appointment is made within thirty (30) days by the Mayor, then any member of the City Council may nominate a candidate for approval by the City Council at the next regularly scheduled council meeting.*

**Sec. 802. Boards and Commissions.**

The Council shall by ordinance create a Planning Commission, *a Police Commission,* and any other necessary board or commission, with appropriate guidelines.

## 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. *Elections for Mayor shall be held on the first Tuesday after the first Monday in November of each odd-numbered year per section 401(e) of this charter.*

**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.**

*(a)* Unless otherwise provided by ordinance, all elections shall be held in accordance with the provisions 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.

*(b) All elections for Mayor and Councilmembers shall be by ballot, using a system of instant runoff voting without a separate runoff election. The City Clerk shall implement an instant runoff voting protocol for mayoral and council elections according to these guidelines:*

*(1) The ballot shall allow voters to rank candidates in order of choice.*

*(2) If a candidate receives a majority of votes (i.e., over 50 percent of first choices), that candidate is elected.*

*(3) If no candidate receives a majority of first choices, an instant runoff retabulation shall be obtained by the City Clerk, and/or his/her designee, within five business days of the election. The instant runoff retabulation shall be conducted in rounds with the candidate having the fewest votes after each round being eliminated. In each round, each voter's ballot shall count as a single vote for whichever continuing candidate the voter has ranked highest. The elimination of candidates having the fewest votes after each round shall continue until only two candidates remain, with the candidate then having the greatest number of votes being elected.*

*(4) The Council may adopt additional regulations consistent with this section to implement these standards.*

*(5) Notwithstanding any other provision of this Charter, the City elections for Mayor and Councilmembers shall use a system of instant runoff voting once the Los Angeles County Registrar Recorder-County Clerk is able to conduct the election on behalf of the City in accordance with the protocol and guidelines contained in this section, including any additional regulations added pursuant to subsection (4).*

**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 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, 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~~ *30* 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~~ *budget document* 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 *for the General Fund* and by fund *for all other funds and agencies*~~[.]~~ 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~~ *attempt* dissemination of information to the residents, the Council shall *distribute a press release that includes information about public hearing for budget discussion and where to obtain information about the budget, to reporters at at least one English and at least one Spanish general circulation newspaper. The Council shall also* publish *a notice of public hearing for budget discussion on the City's webpage and posted in the City's public notices board.* ~~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~~ *notice* 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 *ten (10) days* ~~two (2) weeks~~ 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)~~*(c)* 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 budget expended or encumbered.*

**Sec. 1009. Overspending of Appropriations Prohibited.**

No ~~payment shall be made or~~ obligation *shall be* 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~~ *attempt* dissemination of information to the residents, the Council shall *distribute a press release that includes information about public hearing for capital improvement program discussion and where to obtain information about the capital improvement program, to reporters at at least one English and at least one Spanish general circulation newspaper. The Council shall also* publish a *notice of public hearing on the City's webpage and posted on the City's public notices board* ~~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~~ *notice* 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 (213) 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 (517) 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 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 shall approve such demand and make payment. Otherwise the Director of Finance 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.

**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)~~ *five (5)* years, but the designation for any particular fiscal year shall be made no later than ~~thirty (30) days after~~ *ninety (90) days prior to* 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 (517) 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. Local Preference*

*In any contract, sale, purchase, or transaction to which the City is a party, preference shall be given so far as practicable to individuals and businesses within the City of Pomona insofar as the same is not in conflict with the Constitution or general laws.*

### Sec. 12045. Illegal Interest in Contracts.

No member of the Council or other officer or department head 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. 12056. 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.

Any 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 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 (517) 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~~ *five-hundred* dollars (~~$250~~*500*) *within the previous twelve (12) months* 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 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 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 report of a Charter Commission created as specified in Article XVII.

**Sec. 1602. Elections.**

Elections shall be governed by the California Elections Code.

**Sec. 1603. Adoption of Amendment.**

Amendments shall become effective by approval of a simple majority of the electors 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 voters.

## Article XVII. Charter Commission

**Sec. 1701. Charter Commission**

Beginning in ~~January~~ *December* of the year 20~~00~~*19*, and in ~~January~~ *December* of every tenth year thereafter, the Council shall appoint a Commission to *review,* consider, and propose amendments to the existing charter. *Said Commission shall attend an orientation meeting no later than January 30. Thereafter the Commission will meet on a schedule to be determined by the members.* No later than twelve (12) months from ~~each inception~~ *the first meeting after the orientation,* the Commission shall submit its proposals to the City Clerk for placement on the ballot at the next scheduled election.

***Sec. 1702. Composition of Commission***

*The Commission shall be composed of 15 citizens whose primary residence is within the City of Pomona. Such commissioners shall not hold any other elective or appointive office within the City. The Commission shall be appointed by the City Council with each Councilmember appointing 2 members and the mayor appointing 3 members. Commissioners shall be appointed for a term of 1 year. No commissioner shall be removed during their term without a 5/7 vote of the City Council.*

***Sec. 1703. Staff & Counsel***

*The Commission shall have an administrative staff member who will be the principal liaison between the City and the Commission. This 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 from the City Attorney's office shall be available to advise the Commission at the request of the Commission.*

***Sec. 1704. Violations***

*A violation by a member of the City Council of his or her responsibility under Section 1701 of Article XVII shall constitute a misdemeanor. Any such violation 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.*

## STATEMENTS OF THE INTENT OF THE CHARTER REVIEW COMMISSION PERTAINING TO PROPOSED AMENDMENTS

**Section 203.**
The intent of the added language is to bring the section in line with current practice.

**Section 304.**
The intent is to recognize and affirm the role of the Pomona Youth and Family Master Plan.

**Sections 401 (e) and (f).**
The intent is that Council and Mayor should not run in the same elections to provide equal opportunity for all to run for the office of Mayor.

**Section 403 (a).**
The intent is to clean up the Charter language.

**Section 403 (c).**
The intent is to define qualifications of candidates for the filling of vacancies.

**Sections 404 (a) and (b).**
The intent is to conform the sections with local practice.

**Section 405.**
The intent is to have the Council periodically review extended absences of Councilmembers.

**Section 406.**
The intent is to define duties of the Councilmembers.

**Section 801 (c).**
The intent is to put in place a deadline for making appointments to boards and commissions, with the goal of maintaining full and active boards and commissions.

**Section 802.**
The intent is to require the formation of a Police Commission.

**Section 901.**

The intent is that Council and Mayor should not run in the same elections to provide equal opportunity for all to run for the office of Mayor. The intent of the Commission is that the Mayor elected in 2012 shall serve until a new Mayor is elected in 2017.

**Section 903.**
The intent is to establish instant runoff voting for Mayor and City Council once the Los Angeles County Registrar Recorder-County Clerk is able to conduct the election on behalf of the City in accordance with this section.

**Section 1003.**
The intent is to allow City personnel to have more time to prepare the budget.

**Section 1004.**
The intent is to clean up the Charter language.

**Section 1005.**
The intent is to clean up the Charter language.

**Section 1006.**
The intent is to save money by publishing notice on the City's webpage instead of requiring publication in newspapers. The change from two weeks to ten days was intended to expedite the budget hearing process upon completion of the document.

**Section 1007.**
The intent is to bring the section in line with current practice.

**Section 1008.**
The intent is to bring the section in line with current practice.

**Section 1009.**
The intent is to clean up the Charter language.

**Section 1011.**
The intent is to save money by publishing notice on the City's webpage instead of requiring publication in newspapers. The change from two weeks to ten days was intended to expedite the budget hearing process upon completion of the document.

**Section 1016.**
The intent is to bring the section in line with current practice.

**Section 1204.**
The intent is to give priority in contracts, sales, purchases, and transactions to Pomona-based business and Pomona residents.

**Section 1403.**

The intent is to align this section with the City of Pomona's campaign contribution limit ordinance.

**Article 17.**
The intent is to codify the formation, process, and procedures of the Charter Review Commission.

EXHIBIT "C"

ORDINANCE NO. 2012-__

**AN ORDINANCE OF THE CITY OF POMONA AMENDING CHAPTER 50, ARTICLE III OF THE POMONA CITY CODE REGARDING THE CITY'S TRANSIENT OCCUPANCY TAX**

**WHEREAS,** pursuant to Revenue and Taxation Code Sections 7280 *et seq.*, the City of Pomona ("City") is authorized to tax persons staying 30 days or less in hotels, motels, and similar lodgings, a so-called "Transient Occupancy Tax" or "TOT";

**WHEREAS,** in 1965, the City established a TOT at the rate of four percent (4%) of the rent charged by the operator;

**WHEREAS,** over the years, the TOT gradually increased from four percent (4%) to five percent (5%) (1968), to six percent (6%) (1970), and to eight percent (8%) (1986);

**WHEREAS,** in 1994, the City established the current TOT rate of ten percent 10%, so that the current rate has remained unchanged for the last 18 years;

**WHEREAS,** on June 18, 2012, the City Council of the City of Pomona called a General Municipal Election to be held on November 6, 2012, and submitted a measure to the City's voters, proposing an increase in the TOT rate from 10 percent (10%) of the rent charged, to 12 percent (12%).

**THE PEOPLE OF THE CITY OF POMONA, CALIFORNIA DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 50, Article III, Section 50-82 of the Pomona City Code is hereby amended to read as follows:

**Sec. 50-82. - Imposed.**

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of **twelve** ~~ten~~ percent of the rent charged by the operator. Such tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the city treasurer may require that such tax shall be paid directly to the city treasurer.

**SECTION 2. Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people hereby declares that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

If any portion of this Ordinance is held by a court of competent jurisdiction to be invalid, we, the voters of the City of Pomona, indicate our strong desire that: (i) the City Council use its best efforts to sustain and cure such portion, and (ii) the City Council implement this Ordinance by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Ordinance.

**SECTION 3. Authorization.** The Mayor is hereby authorized to attest to the adoption of this Ordinance by the voters of the City by signing where indicated below.

**SECTION 4. Majority Approval; Effective Date.** If a majority of voters voting in the City's general municipal election on November 6, 2012, approve of this Ordinance, the Ordinance shall be considered adopted and effective upon the earliest date legally possible after the City Clerk certifies the vote on the Ordinance by the voters of the City of Pomona ("Effective Date"). The Mayor will sign the Ordinance, and the City Clerk will attest and certify to the passage and adoption of this Ordinance. Upon the Effective Date of this Ordinance, the City Manager is directed to promptly take appropriate actions needed to implement this Ordinance.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the people of the City of Pomona voting on the 6th day of November, 2012.

**ATTEST:**

_____
Marie Michel Macias, City Clerk

**CITY OF POMONA:**

_____
Elliott Rothman, Mayor

**APPROVED AS TO FORM:**

_____
Arnold M. Alvarez-Glasman, City Attorney

EXHIBIT "D"

ORDINANCE NO. 2012-__

**AN ORDINANCE OF THE CITY OF POMONA AMENDING CHAPTER 50, ARTICLE VI OF THE POMONA CITY CODE REGARDING THE CITY'S REAL PROPERTY TRANSFER TAX**

**WHEREAS,** in 1967, the City of Pomona ("City") established a Real Property Transfer Tax, which is applied at the time of sale or transfer of real property by the County Auditor-Controller's office and remitted to the City;

**WHEREAS,** in 1967, the Real Property Transfer Tax rate was $0.275 per $500.00 valuation of the property, and in 1991, the rate was increased to $1.10 per $500.00 valuation;

**WHEREAS,** the current $1.10 tax rate has remained unchanged since 1991, or for the last 21 years;

**WHEREAS,** on June 18, 2012, the City Council of the City of Pomona called a General Municipal Election to be held on November 6, 2012, and submitted a measure to the City's voters, proposing an increase in the Real Property Transfer Tax from $1.10 per $500.00 valuation, to $2.20 per $500.00 per valuation; and

**WHEREAS,** although Revenue and Taxation Code Section 11911 limits the amount of a real property transfer tax for general law cities, since the City of Pomona is a charter city, the City of Pomona may consider additional real property transfer taxes beyond the Section 11911 rate.

**THE PEOPLE OF THE CITY OF POMONA, CALIFORNIA DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 50, Article VI, Section 50-251 of the Pomona City Code is hereby amended to read as follows:

**Sec. 50-251. - Imposed.**

There is hereby imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the city shall be granted, assigned, transferred or otherwise conveyed to or vested in the purchaser or any other person, by his direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrances remaining thereon at the time of sale, exceeds $100.00 a tax at the rate of **$2.20** ~~$1.10~~ for each $500.00 or fractional part thereof.

**SECTION 2. Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people hereby declares that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

If any portion of this Ordinance is held by a court of competent jurisdiction to be invalid, we, the voters of the City of Pomona, indicate our strong desire that: (i) the City Council use its best efforts to sustain and cure such portion, and (ii) the City Council implement this Ordinance by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Ordinance.

**SECTION 3. Authorization.** The Mayor is hereby authorized to attest to the adoption of this Ordinance by the voters of the City by signing where indicated below.

**SECTION 4. Majority Approval; Effective Date.** If a majority of voters voting in the City's general municipal election on November 6, 2012, approve of this Ordinance, the Ordinance shall be considered adopted and effective upon the earliest date legally possible after the City Clerk certifies the vote on the Ordinance by the voters of the City of Pomona ("Effective Date"). The Mayor will sign the Ordinance, and the City Clerk will attest and certify to the passage and adoption of this Ordinance. Upon the Effective Date of this Ordinance, the City Manager is directed to promptly take appropriate actions needed to implement this Ordinance.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the people of the City of Pomona voting on the 6th day of November, 2012.

**ATTEST:**

_____

Marie Michel Macias, City Clerk

**CITY OF POMONA:**

_____

Elliott Rothman, Mayor

**APPROVED AS TO FORM:**

_____

Arnold M. Alvarez-Glasman, City Attorney

# RESOLUTION NO. 2012-85

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 6, 2012, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE.**

**WHEREAS**, the City Council of the City of Pomona called a General Municipal Election to be held on November 6, 2012 for the purpose of the election of three (3) Members of the City Council for Districts 1, 4 and 6, and one (1) Mayor, for the full term of four (4) years; and

**WHEREAS,** the City Council is required to submit to the voters at the election a voter-initiated measure, which is a question pertaining to the method by which six (6) Council Members are elected and which, if adopted, would require that candidates for each of these offices be residents of such district, and nominated from such district, but the candidates would be elected by a vote of all City registered voters (*i.e.*, an "at-large" system); and

**WHEREAS,** the City Council is also required, pursuant to Pomona City Charter Sections 1601(c) and 1701, to submit to the voters at the election a question pertaining to the proposed amendments to the City Charter by the 2010-2011 Charter Review Commission; and

**WHEREAS,** the City Council desires to submit to the voters at the election a question pertaining to a proposed increase from ten percent (10%) to twelve percent (12%) to the City's Transient Occupancy Tax (TOT); and

**WHEREAS,** the City Council also desires to submit to the voters at the election a question pertaining to a proposed increase of the City's Real Property Transfer Tax from $1.10 per $500 of property value at time of sale to $2.20 per $500 of property value at time of sale; and

**WHEREAS**, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date, and that within the City, the precincts, polling places and election officers of the two (2) elections be the same, and that the County Election Department of the County of Los Angeles canvass the returns of the General Municipal Election, and that the election be held in all respects as if there were only one (1) election.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1**. That pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Los Angeles is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 6, 2012, for the purpose of the election of three (3) Members of the City

Council for Districts 1, 4 and 6, and one (1) Mayor, for the full term of four (4) years, and for the purpose of submitting to the voters four (4) measures.

**SECTION 2**. That four (4) measures are to appear on the ballot as follows:

| | |
|---|---|
| **MEASURE _____ POMONA CITIZEN'S RIGHT TO VOTE INITIATIVE MEASURE:** Shall an ordinance be adopted to change the method of electing the six City Council members from the current "by-district" method, where voters from each district vote for the candidate representing each respective district pursuant to the Pomona City Charter, to an "at-large" system where candidates representing each district are elected by voters citywide? | **YES** |
| | **NO** |

| | |
|---|---|
| **MEASURE _____ POMONA CITY CHARTER MEASURE:** Shall the Charter of the City of Pomona be amended as proposed by the Charter Review Commission, regarding setting Council district boundaries, Mayoral election as a stand alone election, "instant runoff" Councilmember elections, Council vacancy procedures, increasing contributions limits to Councilmembers, providing staff and legal counsel for Charter Commission, City budget and Capital Improvement Program appropriations, commitment to the Youth and Family Master Plan, and establishing violations of the Charter as misdemeanors, among other changes? | **YES** |
| | **NO** |

| | |
|---|---|
| **MEASURE _____ POMONA TRANSIENT OCCUPANCY TAX INCREASE:** To ensure funding for essential general city services including police services, fire protection, street and park maintenance, business development, and park and recreation services, shall an ordinance be adopted to increase the tax charged only to persons who occupy hotels, as defined by Pomona City Code Section 50-81, otherwise known as the Transient Occupancy Tax (TOT), from ten percent (10%) to twelve percent (12%)? | **YES** |
| | **NO** |

| | |
|---|---|
| **MEASURE _____ POMONA REAL PROPERTY TRANSFER TAX INCREASE:** To ensure funding for essential general city services including police services, fire protection, street and park maintenance, business development, and park and recreation services, shall an ordinance be adopted to increase the tax charged when real property in the city is sold, otherwise known as the Real Property Transfer Tax, from $1.10 per $500 of property value at the time of sale to $2.20? | **YES** |
| | **NO** |

**SECTION 3**. That the County Election Department is authorized to canvass the returns of the General Municipal Election. The vote requirement for passage of each measure shall be a majority of votes cast (50% plus 1). The election shall be held in all respects as if there were only one (1) election and only one (1) form of ballot shall be used.

**SECTION 4**. That the Board of Supervisors is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election.

**SECTION 5**. That the City of Pomona recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

**SECTION 6.** That the City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the County Election Department of the County of Los Angeles.

**SECTION 7.** That the City Clerk shall certify to the passage and adoption of this resolution and it shall become effective immediately upon its approval.

**PASSED, APPROVED AND ADOPTED THIS 18th DAY OF JUNE 2012.**

**ATTEST:**

Marie Michel Macias, City Clerk

**CITY OF POMONA:**

Elliott Rothman, Mayor

**APPROVED AS TO FORM:**

Arnold M. Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, MARIE MICHEL MACIAS, CITY CLERK of the City of Pomona do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Pomona held on the 18th day of June, 2012 by the following vote:

AYES: COUNCILMEMBERS: Soto, Rodriguez, Lantz, Escobar, Atchley, Rothman
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: Carrizosa
ABSTAIN: COUNCILMEMBERS: None

Marie Michel Macias, City Clerk