

RESOLUTION NO. 2022-067

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE HELD IN THE CITY OF SANTA ANA ON NOVEMBER 8, 2022 FOR THE SUBMISSION OF A BALLOT MEASURE TO THE QUALIFIED VOTERS FOR CHARTER CLEAN-UP AMENDMENTS, ADOPTION OF A LIFETIME BAN FOR THE MAYOR AFTER 4 TERMS AND A LIFETIME BAN FOR CITY COUNCILMEMBERS AFTER 3 TERMS, REQUIRING APPROVAL OF 2/3 OF THE CITY COUNCIL TO ADOPT A BUDGET, EXPANDING APPLICATION OF THE CODE OF ETHICS, AND PROVIDING FOR THE FILING OF ARGUMENT AND REBUTTAL STATEMENTS

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. By Resolution No. 2022-044, the City Council has declared that a General Municipal Election shall be held on November 8, 2022 for the election of municipal officers and the City Council asked that the General Municipal Election be consolidated by the County of Orange with the Statewide Election on November 8, 2022.

Section 2. The California Elections Code directs that the City Council approve the form of the ballot question to be submitted to the voters and the City of Santa Ana desires, on its own motion, to submit to the voters a question of whether clean-up amendments to modernize and streamline the City Charter, along with adoption of a lifetime ban for the Mayor after 4 terms and a lifetime ban for Councilmembers after 3 terms, requiring a 2/3 vote of the City Council for approval of the budget, and expanding the application of the Code of Ethics shall be submitted to the voters at the General Municipal Election to be held on Tuesday, November 8, 2022.

Section 3. In 2020, the Mayor created a Charter Review Ad Hoc Committee that considered numerous potential City Charter amendments. The Ad Hoc Committee ultimately recommend to the full City Council that 17 amendments to the City Charter be placed on the ballot for the November 2020 General Municipal Election. After consideration of the proposed Charter Amendments at a public meeting, the City Council declined, at that time, to place the recommended Charter amendments on the ballot.

Section 4. In 2022, the Mayor created a Charter Review Ad Hoc Committee that considered both the 2020 Charter amendment recommendations and some additional changes to the City Charter relating to City Council term limits, the term of the Mayor, City Council compensation, and adoption of the City budget. The 2022 Charter Review Ad Hoc Committee ultimately recommended to the full City Council placing 16 of the 17 2020 recommendations on the ballot, as well as, two new Charter amendments adopting a

lifetime ban for the Mayor after 4 terms and a lifetime ban for Councilmembers after 3 terms and requiring a 2/3 vote by the City Council to adopt the budget.

Section 5. The ballot question for the proposed Charter amendments shall be as follows, with identification as determined in accordance with the California Elections Code:

<u>MEASURE #</u>	Yes
Shall the Santa Ana City Charter be amended to update the Charter by imposing a lifetime ban for the Mayor after 4 terms and a lifetime ban for Councilmembers after completion of 3 terms, requiring approval of 2/3 of the City Council to adopt a budget, expanding the application of the Code of Ethics, utilizing gender neutral language throughout the Charter, changing references to the "Clerk of Council" to "City Clerk" and making other minor updates?	No

Section 6. The text of the Charter amendments to be submitted to the voters is attached to this Resolution as Exhibit "A" and incorporated herein by this reference.

Section 7. Should said measure be approved by the requisite vote of a majority of the qualified voters, in addition to the changes in Section 6 above, to modernize the language, (a) all references in the Santa Ana City Charter to he/his/him or his/her would be replaced with they/them/their; and (b) all references in the City Charter to the "Clerk of Council" would be changed to "City Clerk."

Section 8. If the ballot measure receives a majority of the votes cast on it at the election, the Charter amendments shall be enacted accordingly.

Section 9. That pursuant to Elections Code Section 9280, the City Council hereby directs the Clerk of Council to transmit a copy of the Ballot Measure to the City Attorney to prepare an impartial analysis of the Ballot Measure which shall not exceed 500 words in length.

Section 10. That pursuant to Elections Code Section 9282, the City Council, or a member or members of the City Council authorized by the City Council, or an individual voter who is eligible to vote on the measure, or bona fide association of citizens or combination of voters and associations, may file a written argument for or against the Ballot Measure in accordance with Article 4, Chapter 3, Division 9 of the Elections Code. An argument shall not exceed 300 words in length.

Section 11. That pursuant to Elections Code Section 9287, if more than one argument for or more than one argument against the Ballot Measure is submitted to the Clerk of Council within the time prescribed by law, he or she shall select one of the arguments in favor and one of the arguments against the Ballot Measure for printing and distribution to the voters, giving preference in such selection in the following order:

1. The City Council, or a member or members of the City Council authorized by the City Council.
2. The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.
3. Bona fide association of citizens.
4. Individual voters who are eligible to vote on the measure.

Section 12. That pursuant to Elections Code Sections 9220 and 9285, when the Clerk of Council has selected the arguments for and against the Ballot Measure which will be printed and distributed to the voters, the Clerk of Council shall send copies of the argument in favor of the Ballot Measure to the author or authors of the argument against, and copies of the argument against the Ballot Measure to the author or authors of the argument in favor. The author or authors may submit a rebuttal argument to the direct argument not exceeding 250 words. Rebuttal arguments shall be printed in the same manner as the direct arguments and shall immediately follow the direct argument, which it seeks to rebut. All previous resolutions providing for the filing of rebuttal arguments for City measures are repealed, and this Section shall only apply to the election on the Ballot Measure to be held on November 8, 2022.

Section 13. In accordance with California Elections Code Section 10002, the City Council requests the Orange County Board of Supervisors to permit the county elections official to render specified services to the City relating to the conduct of an election, for which the City shall reimburse the County in full for the services performed upon presentation of a bill to the City. The Board of Supervisors is also requested to consent and agree to the consolidation of the City's general election with any other election occurring on November 8, 2022, and the City hereby consents to any such consolidation.

Section 14. The services requested by the City of the county elections official, or such other official as may be appropriate and authorized to perform, include: the preparation, printing, and mailing of sample ballots and polling place cards; the establishment or appointment of precincts, polling places, and elections officers; opening and closing of polling places, and making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths, and other necessary supplies or materials for polling places; the canvassing of the returns of the election and

the furnishing of the results of such canvassing to the Clerk of the Council; and the performance of such other election services as may be requested by the City.

Section 15. All persons qualified to vote at municipal elections in the City on the day of election herein provided shall be qualified to vote on the ballot measure hereby submitted at the general municipal election.

Section 16. In all particulars not recited in the Resolution, the election shall be held and conducted as provided by law for holding general municipal elections in the City.

Section 17. Notice of the time and place of holding the general municipal election is given, and the Clerk of the Council is authorized, instructed, and directed to give further or additional notice of the election in the time, form, and manner as required by law.

Section 18. The Clerk of the Council shall receive the canvass as it pertains to the general municipal election and shall certify the results to the City Council, as required by law.

Section 19. Pursuant to California Elections Code Section 9295, this Resolution and the attached ballot measure will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the sample ballot. The examination period will end on the day that is seventy-five (75) days prior to the date set for the election.

Section 20. If any section, subsection, sentence, clause, phrase or provision of this Resolution or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other provision or applications, and to this end the provisions of this Resolution are declared to be severable. The City Council hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, phrase or provision thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or provisions thereof be declared invalid or unconstitutional.

Section 21. This Resolution shall take effect immediately upon its adoption by a majority of the City Council.

Section 22. The Clerk of Council is hereby directed to certify to the passage and adoption of this Resolution and to file a certified copy of this Resolution with the Orange County Board of Supervisors and the Registrar of Voters of Orange County at least eighty-eight (88) days before the date of the election.

ADOPTED this 2nd day of August, 2022.



Vicente Sarmiento
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: 
Laura A. Rossini
Chief Assistant City Attorney

AYES:	Councilmembers	<u>Hernandez, Mendoza, Penaloza, Phan, Bacerra, Sarmiento (6)</u>
NOES:	Councilmembers	<u>Lopez, Sarmiento (2)</u>
ABSTAIN:	Councilmembers	<u>None (0)</u>
NOT PRESENT:	Councilmembers	<u>None (0)</u>

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Clerk of the Council, do hereby attest to and certify the attached Resolution No. 2022-067 to be the original resolution adopted by the City Council of the City of Santa Ana on August 2, 2022.

Date: 8/4/22


for Clerk of the Council
City of Santa Ana

Proposed Charter amendments: additions are underlined and deleted language is stricken.

Sec. 400. - Number, selection and terms of members.

The City Council shall consist of seven (7) members elected at the times and in the manner provided in this charter, each of whom, except for the mayor, shall serve a term of four (4) years. The term of each member shall begin at 6:00 p.m. on the first regularly scheduled meeting or at a special meeting ~~second Tuesday of December~~ following certification of election results, and each shall serve except as otherwise provided for in this charter, until the member's ~~his or her~~ successor is elected and qualified. Each office of councilmember shall be a separate office and, except for the mayor, one (1) of such offices shall be assigned to each of the wards of the City. Councilmembers shall be residents of their respective wards, and nominated and elected only by the voters of their respective wards. The Mayor shall be elected from the City at large.

Sec. 401. Qualifications of members.

To be eligible to be elected to the office of councilmember, a person must be a qualified voter and a thirty (30) day resident of the ward from which the candidate is nominated at the time nomination papers are issued as provided for in the Elections Code of the State of California, except that the mayor need only be a registered voter and thirty (30) day resident of the city at such time. In the event any councilmember other than the mayor shall cease to be a resident of the ward from which the councilmember (or, in the case of an appointee, the councilmember's predecessor) was elected, or in the event the mayor shall cease to be a resident of the city, the office shall immediately become vacant and shall be filled in the same manner as herein provided for other vacancies; provided, that where a councilmember ceases to be a resident of the ward from which the councilmember (or, in case of an appointee, the councilmember's predecessor) was elected solely because of a change in boundaries of any ward as in this charter provided, the councilmember shall not lose the office by reason of such change. If a member of the city council shall be convicted of a crime involving moral turpitude, the office shall immediately become vacant and be so declared by the city council.

~~A person who has served three (3) consecutive terms of four (4) years each shall be eligible for appointment, nomination for or election to the office of councilmember (regardless of wards represented by that person during such period) no sooner than for a term beginning eight (8) years after completion of that councilmember's third consecutive full term.~~

~~Short or partial terms shall not be considered in determining eligibility for appointment, nomination or election. For purposes of this Charter, short or partial terms shall only be those where the councilmember was elected or appointed to replace another councilmember who left office before the latter official's term expired. Any councilmember who assumed office at the beginning of a term and left office early for any reason whatsoever shall be deemed to have served a full term; provided, however that any person who has served twenty (20) consecutive years in office, as both a council member and mayor, regardless of the order in which they served, shall not be eligible for appointment, nomination or election as a council member or as mayor, no sooner than for a term beginning eight (8) years after completion of the council member or mayoral term, or vice versa. The provisions of this section related to short or partial terms is deemed to be declaratory of existing law.~~

Sec. 401.01.- Term limits. (NEW SECTION)

A. Councilmembers

A person shall only serve three (3) terms of four (4) years each in the office of councilmember (regardless of wards represented by that person during such period and regardless of whether service is consecutive or nonconsecutive). This term limit of a total of twelve (12) years of service shall be deemed to apply to anyone elected in or after the 2012 general municipal election.

Short or partial terms shall not be considered in determining eligibility for appointment, nomination or election. For purposes of this Charter, short or partial terms shall only be those where the councilmember was elected or appointed to replace another councilmember who left office before the latter official's term expired. Any councilmember who assumed office at the beginning of a term and left office early for any reason whatsoever shall be deemed to have served a full term. The provisions of this section related to short or partial terms is deemed to be declaratory of existing law.

B. Mayor

A person shall only serve four (4) terms of two (2) years each (regardless of whether service is consecutive or nonconsecutive). This term limit of a total of eight (8) years of service shall be deemed to apply to anyone elected in or after the 2012 general municipal election.

Short or partial terms shall not be considered in determining eligibility for appointment, nomination or election as mayor. For purposes of this Charter, short or partial terms shall only be those where the mayor was elected or appointed to replace another mayor who left office before the latter official's term expired. Any mayor who assumed office at the beginning of a term and left office early or before the term expires for any reason whatsoever shall be deemed to have served a full term. The provisions of this section related to short or partial terms is deemed to be declaratory of existing law.

C. Absolute Term Limit

(1) Notwithstanding any other previously enacted provision of law or of this Charter, during their lifetime, a person may serve no more than three (3) terms of four (4) years each as a member of the Santa Ana City Council, and may also serve no more than four (4) terms of two (2) years each as Mayor of Santa Ana.

The City Clerk, or other election official authorized by law, shall not accept or verify the signatures on any nomination paper for any person, including any paper seeking election as a write-in candidate, nor shall he or she certify or place on the list of certified candidates, nor print or cause to be printed on any ballot, ballot pamphlet, sample ballot or ballot label, the name of any person whose candidacy, if successful, will result in a new Mayoral or City Council term that exceeds the limits set forth herein.

(2) No person who has already served three terms as a member of the City Council may be appointed to serve on the City Council, and no person who has already served four terms as Mayor may be appointed to serve as Mayor, whether said appointment is in lieu of a Municipal Election or to fill a vacancy on the City Council.

(3) No person who has already served three terms as a member of the City Council may run for special election to fill a vacancy on the City Council. No person who has already served four terms as Mayor may run for special election to fill a vacancy in the office of Mayor.

Sec. 401.05. - Code of ethics and conduct.

The City of Santa Ana shall adopt a Code of Ethics and Conduct for elected officials, the City Attorney, the City Manager, the Clerk of Council, the Police Chief, directors of all City departments, and members of appointed boards, commissions, and committees to assure public confidence in the integrity of local government elected and appointed officials. The City Council shall periodically review ~~adopt~~ the Code of Ethics and Conduct and make any amendments by ordinance or resolution ~~within six months of the effective date of this Charter section.~~

Any person alleging a violation of the Code of Ethics and Conduct by the Police Chief, or department director, shall provide a written document to the City Manager with their name and contact information and a brief description of the alleged violation. The City Manager shall review and respond to the complaint in writing and report to the City Council every thirty (30) days of the status of the review.

Any person alleging a violation of the Code of Ethics and Conduct by any member of the City Council, the City Manger, the City Attorney, the Clerk of Council, or members of appointed boards, commissions, and committees shall provide a written document to all members of the City Council with their name and contact information and a brief description of the alleged violation. The City Council shall refer the complaint to an ad hoc committee of the Council for review. The Council ad hoc committee may then make a recommendation to the full City Council for futher review, investigation or action. When a review or investigation is completed, the City Council may impose sanctions which may include, a reprimand, formal censure, or loss of committee assignments or in the case of members of boards, commissions or committees, removal from the board, commission, or committee. A complaint concerning an alleged violation by one of the Council's appointed employees shall be handled as a personnel matter.

Sec. 404. Presiding officer, mayor.

The mayor shall be a member of the City Council and shall preside over the meetings of the City Council. The mayor shall have voice and vote in all of the City Council's proceedings and shall be recognized as head of the City government for all ceremonial purposes. The mayor shall have no administrative duties but shall perform such other duties as may be prescribed by this charter, or imposed by the City Council, consistent with his office.

The mayor shall be elected by the voters of the City at large at each general municipal election in November of even-numbered years for a two-year term commencing on the same date as the terms of other council members elected in such year. No person may be a candidate for mayor and a candidate for any other office on the City Council in the same election. In the event an incumbent City Council member other than the mayor is elected mayor such other office shall become vacant at the time he or she assumes office as mayor and the City Council shall call a special election to fill the vacancy.

To be eligible to be elected to the office of mayor a person must be a qualified voter as provided for in the Elections Code of the State of California. If the mayor is convicted of a crime involving moral turpitude, the office shall immediately become vacant and be so declared by the city council.

~~A person who has served four (4) consecutive terms of two (2) years each, commencing with the term entered as a result of the November 2012 election, shall be eligible for appointment, nomination for or election to the office of mayor no sooner than for a term beginning eight (8) years after completion of the mayor's fourth consecutive full term. This eight year "cooling off" period shall not apply to eligibility for appointment, nomination for or election to a council member office; provided, however, that any person who has served twenty (20) consecutive years in office, as both a council member and mayor, regardless of the order in which they served, shall not be eligible for appointment, nomination or election as a council member or as mayor, no sooner than for a term beginning eight (8) years after completion of the council member or mayoral term.~~

~~Short or partial terms shall not be considered in determining eligibility for appointment nomination or election as mayor. For purposes of this Charter, short or partial terms shall only be those where the mayor was elected or appointed to replace another mayor who left office before the latter official's term expired. Any mayor who assumed office at the beginning of a term and left office early or before term expires for any reason whatsoever shall be deemed to have served a full term. The provisions of this section related to short or partial terms is deemed to be declaratory of existing law.~~

Sec. 405. - Mayor pro tem.

Each calendar year, at the In the first meeting in January. ~~of the City Council following any general or special election at which members of the City Council are elected,~~ the City Council shall elect a mayor pro tem who shall act as mayor during the absence from the City or disability of the mayor, or during any vacancy in the office of mayor until otherwise filled in accordance with [section 403](#). All members of the City Council, other than the mayor, shall be eligible to serve as mayor pro tem regardless of their seniority or whether they previously served a term or terms as mayor pro tem. The mayor pro tem from the previous year cannot be selected as mayor pro tem the next year. The mayor pro tem shall serve at the will and pleasure of the Council and may be replaced by four affirmative votes of the Council.

Sec. 406. - Council judge of elections and qualifications of members.

| The City Council shall be the judge of the election and qualifications of its member(s) as
| defined in section 401 of this charter and shall meet on the first regularly scheduled
| meeting or at a special meeting after election returns are certified for any municipal
election at which members of the City Council are elected, declare the results thereof,
and install elected members, if any.

Sec. 413. - Adoption (resolutions and ordinances).

Every ordinance shall be introduced in writing. A copy of each ordinance and written resolution shall be available in the council's chambers for public inspection during any council meeting at which the same is to be passed or adopted. No ordinance shall be passed finally on the day it is introduced, except for emergency ordinances as hereinafter defined in Section 415, nor within six (6) days thereafter, nor at any time other than at a regular or adjourned regular meeting. A proposed ordinance may not be amended or modified between the time of its first reading introduction and the time of its second reading final passage, except for correction of typographical or clerical errors ~~providing its general scope and original purpose are retained~~. Any alterations, other than typographical or clerical corrections, shall cause the ordinance to be subject to a new first reading. The rights and powers conferred on the City Council shall be exercised by ordinance, resolution or motion as may be prescribed by the Constitution or Laws of the State of California, and the provisions of this Charter; provided, that each act of the City Council establishing a fine or other penalty or granting a franchise shall be by ordinance.

No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting, except when a state of emergency has been declared or at an emergency meeting properly convened.

All ordinances and written resolutions shall be signed by the mayor and attested by the Clerk of the Council as soon as possible, but no later than 72 hours from its adoption by the Council. If the mayor is not available or does not sign an ordinance or resolution, the Clerk of Council shall first ask the mayor pro tem to sign and then any Councilmember who voted to approve the ordinance or resolution.

Sec. 607. Same—Further consideration and adoption.

After the conclusion of the public hearing, the City Council may further consider the proposed budget and make any revisions thereof that it may deem advisable. On or before the thirty-first (31st) day of July the City Council shall adopt the budget with revisions, if any, by the affirmative votes of at least two-thirds ~~a majority~~ of its members. Upon final adoption, the budget shall be in effect for the ensuing fiscal year. Between the first (1st) day of July and any subsequent date on which the budget, is adopted the several offices, departments and divisions shall be authorized to expend, each calendar month subject to the controls established in other sections of this charter, amounts of money equal to the expenditures of each such office, department or division during the preceding June.

The budget adopted by the City Council shall provide for the support of public recreation programs at least the equivalent of six cents (6) on each one hundred dollars (\$100) of the assessed value of taxable property in the City on the legal assessment date for the previous fiscal year.

A copy of the adopted budget, certified to by the Clerk of the Council, shall be filed with the director of finance and a further copy shall be placed, and shall remain on file, in the office of the Clerk of the Council where it shall be available for inspection. The budget so certified shall be reproduced and copies made available for the use of all officers, offices, departments, and other agencies of the City and for the use of civic organizations.

Sec. 613. - Claims—Formalities; treasury payment warrants.

Any claim against the City shall be in writing and may be in the form of a bill, invoice, payroll, or formal demand. The director of finance, with approval of the City Manager, may prescribe the form ~~at or forms, on in~~ which claims against the City shall be presented. ~~to him~~. Each such claim shall be presented to the ~~director of finance department~~. ~~The director of finance shall prescribe internal controls for examination and audit of each claim, who shall examine and audit it.~~ If the claim is correct in all respects, has not previously been paid nor certified for payment, is provided for by an appropriation or legally enforceable court or administrative order for the purpose or object that gave rise to it, and if sufficient funds for the payment thereof remain unencumbered in such appropriation if applicable, and if the claim is otherwise legally due and payable, the director of finance ~~shall so certify on the original form evidencing the claim and~~ shall authorize payment from ~~draw his warrant on~~ the treasury, and against the proper fund, for the payment thereof.

All claims certified for payment by the director of finance, and payments warrants drawn by ~~the finance director him~~ for the payment thereof, shall be transmitted by ~~the finance director him~~ to the City Manager together with a list of such payments warrants payable from each fund, showing for each payment warrant the number, date, and amount of the payment warrant and the name of the payee. The City Manager may approve or disallow any of the claims so certified for payment. Any person dissatisfied with the refusal of the director of finance and/or the City Manager to approve any claim, in whole or in part, may present such claim to the City Council. The City Council, after examination into the matter, may approve or disapprove the claim in whole or in part, and, if properly payable under an existing appropriation, may order the director of finance to make payment of the claim or portion thereof ~~draw his warrant on the treasury in payment thereof~~. For any such claim for which no provision, by way of appropriation, exists, but which is approved for payment by the City Council, appropriation by the City Council shall be made therefor before the director of finance is ordered to make payment ~~draw his warrant in payment~~ thereof.

Payment due Warrants on the City treasury which are not paid for lack of funds shall be registered. All registered payments warrants shall be paid in the order of their registration when funds therefor are available and shall bear interest from date of registration at such rate as shall be fixed by the City Council by resolution.

ARTICLE X. - CIVIL SERVICE

Sec. 1000. - Civil service system.

A civil service system shall be as follows in addition to necessary rules of implementation to be established by ordinance, and as may be recommended by the personnel board:

- (a) That the most qualified and competent employees shall be appointed and promoted, based upon fair and equitable competition for the positions to ensure the highest quality City government.
- (b) That no political or other outside influences shall affect appointments or promotions.
- (c) That there shall be equal opportunity for all persons regardless of membership in a protected class as specified in state or federal law, age, sex, race, religion, creed, marital status, physical handicap, or national origin.
- (d) That there is equitable treatment of all civil service employees in matters of discipline, layoff or dismissal from the City service.

The system should be established in such a manner to ensure the accomplishment of the foregoing standards in appointments, promotions, discipline, layoffs or dismissals of civil service employees.

The civil service rules and regulations shall provide for such matters as the City Council and the personnel board, with the concurrence of the City Council, may deem necessary, proper or expedient to carry out the intent and purpose of the civil service provisions of this charter. These rules and regulations shall provide:

- (a) Preference for veterans for appointment to civil service positions consistent with the principle of merit.
- (b) Vacancies in positions of the higher classes in the civil service of the City shall be filled with preference to employees occupying positions of lower classes having duties and responsibilities which can reasonably be considered as affording training and experience for the performance of the duties of the higher class.
- (c) That persons achieving eligibility for a position in the civil service shall retain that eligible status for a time sufficient to offer an opportunity to be appointed to a position in the civil service.
- (d) That the right to exercise disciplinary and dismissal powers is vested respectively in the officers of the City who have the power of appointment as to any position in the personnel system. Actions relating to suspension, demotion or dismissal for reasonable and sufficient cause may be taken by the officer having the power of appointment to the position.

Sec. 1002. - Civil service and excepted service.

The civil service system of the City shall cover all employees of the City not excepted by this section.

(a) The excepted service shall comprise the following offices and positions:

- (1) The individual offices held by all elective officers;
- (2) The City Manager and the City Manager's his assistants, if any;
- (3) The City Attorney and the City Attorney's his legal assistants, if any;
- (4) The Clerk of the Council;
- ~~(5) The director of finance;~~
- ~~(6) The director of personnel, if any;~~
- ~~(57) The head of each department of the City as specified by ordinance or resolution not otherwise specified herein, ~~and the chief administrative officer of the community redevelopment agency of the City of Santa Ana~~, and of the housing authority of the City of Santa Ana, but not including the police chief or the fire chief;~~
- ~~(68) One private secretary to the City Manager;~~
- ~~(79) All members of boards and commissions;~~
- ~~(840) Positions occupied by persons employed to render professional, scientific, technical, or expert service of an occasional and exceptional nature;~~
- ~~(944) Positions in any class or grade created for a special or temporary purpose, and which are to exist for a period of not longer than ninety (90) days;~~
- ~~(12) Positions of any class or grade exempted from the civil service for a maximum of six (6) months in any calendar year provided that the personnel board upon application of the City Manager and after public notice and hearings recommends to the City Council such exemption and the City Council grants such exemption by motion adopted by two-thirds (2/3) of its members. Any such exemption shall not affect the tenure of any person whose appointment has become final under civil service;~~
- ~~(103) Part-time positions or employments, requiring less than twenty (20) regular hours of employment per week;~~
- ~~(14) School crossing guards;~~
- ~~(115) All positions occupied by persons employed to replace employees ordered to active duty, enlisted, or drafted for military service during a national emergency or when this country has declared war and until the expiration of the time when such replaced employee could demand his former position of employment under federal or state statutes.~~

(b) The civil service shall comprise all positions not specifically included by this section in the excepted service.

(c) In the event an officer or employee of the City holding a position in the civil service is appointed to a position in the excepted service and should subsequently be removed therefrom within twelve months of the employee's appointment to the excepted service, the employee shall revert to the employee's his former position in the civil service without loss of any rights or privileges and upon the same terms and conditions as if the employee had remained in said position continuously.

Sec. 1010. - Prohibitions.

- (a) No officer or employee of the City shall in any way favor or discriminate against any employee of the City or any applicant for employment with the City because of the employee's his or her race, age, color, religion, sex or national origin, Membership in a protected class under state or federal law.
- (b) No officer or employee of the City shall engage in any political activities in violation of Chapter 9.5 of Division 4 of Title 1 of the California Government Code (commencing with Section 3201) as the same exists on the date of adoption of this section or as the same may be thereafter amended, or in violation of any other provisions of applicable law.
- (c) No officer or employee of the City and no candidate for any City office shall, directly or indirectly, solicit any assessment, subscription, or contribution, whether voluntary or involuntary, for any political candidate, for Santa Ana municipal office from anyone on an eligible list, or, with the exception of elective officers and members of appointive boards and commissions, anyone holding a position in the service of the City.
- (d) No person shall willfully or through culpable negligence make any false statement, certificate, mark, rating, or report in regard to any application, test certification, or appointment held or made under the provisions of this article or in any manner commit or attempt any fraud preventing the impartial execution of such provisions of this article or of the rules and regulations made hereunder.
- (e) No officer or employee shall use nepotism in contracting, hiring, promotion, discipline or any other employment decision. The City Council shall adopt an anti-nepotism policy.

Sec. 1011. - Contract for performance of administrative functions.

The City Council, upon recommendation of the City Manager, may contract with the governing body of any other City or of any county within this state, or with any state department or other state agency for the preparing or conducting of competitive examinations for positions in the service of the City or for the performance of any other human resources ~~personnel~~ administration service.

Sec. 1014. — Reserved. Work stoppages.

~~Any officer or employee of the City who engages in any strike, sickout, or other partial or total stoppage of work shall be summarily subject to suspension, demotion or dismissal by the appointing authority without right of appeal to the personnel board.~~

Sec. 1208. - Enforcement.

(a) Any person who knowingly or willfully violates sections [1206](#) or [1207](#) of this charter is guilty of a misdemeanor.

(b) Any resident of the City may bring an action, at a time during an election period or thereafter, in a court of competent jurisdiction to enjoin actual or threatened violations of, or to compel compliance with, or to obtain a judicial declaration regarding compliance with, [section 1206](#) or [1207](#).

(c) The City Attorney may maintain, in the name of the City, or a resident of the City may maintain, in his or her own name, a civil action to recover from a candidate or a committee controlled by a candidate any contributions received by such candidate or committee in excess of the contribution limitations established by [section 1206](#). Any money recovered in any such action shall be deposited in the City's general fund.

(d) The City may contract with a State or County entity to enforce the provisions of this section.

Sec. 1400. - Employees' retirement system.

(a) *Duty to provide retirement system.* Except as hereinafter otherwise provided, the council shall provide, by ordinance or ordinances, for the creation, establishment and maintenance of a retirement plan or plans for all officers and employees of the City. Such plan or plans need not be the same for all officers and employees. Subject to other provisions of this article, the council may at any time, or from time to time, amend or otherwise change any retirement plan or plans or adopt or establish a new or different plan or plans for all or any officers or employees.

(b) *Authority to join other systems.* Subject to other provisions of this article, the City, by and through its council, is hereby empowered, but not required, to join or continue as a contracting agency in any retirement or pension system or systems existing or hereafter created under the laws of the State of California or of the United States of America to which municipalities and municipal officers or employees are eligible for membership.

(c) *Continuance of existing retirement system.* Until otherwise provided by ordinance, the City shall continue to participate in the Public Employees' Retirement System of the State of California, as the same now exists or may hereafter be amended. The City Council may not terminate any such contract with the Public Employees' Retirement System of the State of California, and may not amend any such contract in a manner which would decrease or eliminate any benefit accruing to persons employed by the City at the time of such contract termination or amendment, unless such amendment shall substitute a retirement system or systems providing equal or greater benefits for said persons.

(d) *Exclusions.* The council in its discretion may exclude all or any of the following persons from any or all retirement plans, to wit:

Persons mentioned in subsections (a)(1), (5)-(10) (b) of Charter Section 1002, (a)(1), (6), (7), (8), (9), (10), (11) and (13) — of section 1002 of this charter,

Persons in City service primarily for training, study or educational purposes;

Persons employed or paid on a part-time, per diem, per hour or any basis other than a monthly basis.

