



City of San José Charter Review Commission

Specifics of San José's Charter

Prepared April 1, 2021 by CivicMakers, LLC

Outline

Review of San José governance model

San José City Charter Sections Covered In This Presentation

- Article IV: The Council
- Article V: The Mayor
- Article VIII: Administrative Organization
- Article IX: Officers and Employees
- Article X: Boards and Commissioners

Part I - Review of San José governance model

San José Form of Governance

Council-manager government with City Manager nominated by the Mayor and elected by Council.

Mayor & Council

- 10 council members elected by district
- Mayor elected at large
- Four-year terms; even-numbered districts beginning in 1994; Mayor and odd-numbered districts in 1996
- Mayor and Council limited to two successive terms; council member that has reached the term limit can be elected mayor, and vice versa

City Manager

- City Manager is the chief administrative officer of the City, and must present an annual budget for approval by the city council.
- When vacant, Mayor proposes candidate for City Manager, subject to Council approval. Council appoints City Manager for indefinite term, and may at any time remove the manager, or the electorate may remove the manager through a recall election.
- Council directly appoints: City Attorney, City Auditor, City Clerk, Independent Police Auditor

	Mayor-Council	Council-Manager	San Jose
Selection of Mayor	Elected	Elected (or chosen by Council)	Elected (at-large)
Removal of Mayor	Recall election	Recall (or removed by Council)	Recall
Conditions for removal of CEO	Recall election or end of term	Can be removed without cause at any time	Yes
Mayor is member of Council	No	Yes	Yes
Mayor votes with Council	No	Yes (or only in a tie)	Yes
Appointment & removal of CAO	Mayor	Council	<i>Appointment:</i> Council (Mayor nominates) <i>Removal:</i> Council or recall
Appointment & removal of department heads	Mayor (with or without council confirmation)	Manager (with or without Council confirmation)	<i>Council:</i> City Attorney, City Clerk, City Auditor, Independent Police Auditor <i>Mayor:</i> PIO <i>Manager:</i> all others
Appointment of advisory boards	Varies	Varies	Council
Policy development	Mayor can propose	Manager can recommend	Mayor and Manager
Policy advice	Staff	Manager and staff	Manager and staff
Policy approval	Council	Council	Council
Veto authority	Mayor sometimes has veto	Mayor rarely has veto	Mayor has no veto
Policy implementation	Mayor, no role for Council	Manager, no role for Council	Manager, no role for Council
Prepare budget	Mayor	CAO	Manager (no Mayoral review)

Part II - San José City Charter Specifics

Article IV: The Council

400. Powers Vested in Council.

401. Composition of Council.

- Mayor elected at a Regular Municipal Election from the City at large,
- Council elected at a Regular Municipal Election by one of ten (10) Districts

402. Mayor and Council Member Term Limits.

403. Elections by Districts.

- By no later than February 1 in the year following the decennial census, the Council shall appoint an Advisory Commission whose purpose shall be to study and make appropriate recommendations with respect to such redistricting.

404. Eligibility.

405. Judge of Qualifications.

406. Holding Other Office.

407. The Council; Salary.

408. Reimbursement.

409. When Office Becomes Vacant.

410. Filling of Vacancies.

Article IV: The Council

411. The Council; Interference With Administrative Matters.

Neither the Council nor any of its members nor the Mayor shall interfere with the execution by the City Manager of his or her powers and duties, nor in any manner dictate the appointment or removal of any City officers or employees whom the City Manager is empowered to appoint except as expressly provided in Section 411.1. However, the Council may express its views and fully and freely discuss with the City Manager anything pertaining to the appointment and removal of such officers and employees.

Except for the purpose of inquiries and investigations under Section 416, the Council, its members and the Mayor shall deal with City officers and employees who are subject to the direction and supervision of the City Manager, City Attorney, City Auditor, Independent Police Auditor or City Clerk, solely through the City Manager, City Attorney, City Auditor, Independent Police Auditor or City Clerk, respectively, and neither the Council nor its members nor the Mayor shall give orders to any subordinate officer or employee, either publicly or privately.

Article IV: The Council

411. The Council; Interference With Administrative Matters.

411.1 Department Heads; Policy Objectives; Consent to Hire.

- a. The Council shall adopt a written Statement of Policy with broad goals, objectives and aspirations for each City Department under the administration of the City Manager.
- b. When Department Head position becomes vacant, the Council shall review/amend the previously approved Statement of Policy, and adopt a set of questions for prospective appointees concerning the goals, objectives and aspirations therein.

Prior to appointing any Department head, the City Manager shall submit responses from proposed appointee to the Council for its review, and shall seek the Council's advice and consent. The appointment shall be made only by the affirmative majority vote of Council. (Does not apply to the appointment of any "acting" department head to serve in an interim capacity.)

Article IV: The Council

412. Meetings of the Council.

413. **Citizen Participation.**

Within the established rules for the conduct of its official proceedings, no person shall be denied the right personally, or through authorized representatives, to present grievances or offer suggestions for the betterment of municipal affairs at any regular meeting of the Council.

414. Quorum.

415. Rules and Procedure.

416. Investigations.

Article V: The Mayor

500. The Mayor.

501. Political Position.

502. The Mayor; Powers and Duties.

- a. The Mayor shall have the power to make recommendations to the Council on matters of policy and program which require Council decision.
- d. If the Mayor recommends any increases in the City budget, the Mayor shall recommend the method of financing such expenditures. If the Mayor proposes the curtailment of any service, the Mayor shall provide specific recommendations and the reasons for the proposal.
- e. The Mayor shall preside at meetings of the Council and shall have a vote as a member of the Council. The Mayor shall have no veto powers;
- g. The Mayor shall have the power to direct and supervise the Public Information Office of the City.
- h. The Mayor shall exercise such other powers and perform such other duties as may be prescribed by the Council, provided the same are not inconsistent with this Charter.

503. Vice-Mayor.

504. Vacancy.

Article VIII: Administrative Organization

800. Administrative Organization; General Provisions.

- a.
 - The Council may establish new City offices, departments and agencies and prescribe their functions, powers and duties;
 - The Council may at any time prescribe additional functions, powers or duties or take away, reduce or otherwise change the functions, powers or duties of any office, department or agency;
 - The Council may at any time abolish or discontinue any office, department or agency **other than those established by the Charter (Police, Fire, Public Works, Parks and Recreation, Personnel, Planning, Airport, Library)**
- b. Subject to the limitations hereinafter specified in subsection (c) of this Section, the Council may contract with public and private agencies.
- c. No power, duty or function assigned to the office of City Clerk, City Attorney, City Auditor, Independent Police Auditor or to the Finance Department, shall be discontinued, assigned or transferred to any other office, department or agency, nor to any “public agency” or “private agency”

Article VIII: Administrative Organization

801. Direction by City Manager.

Except as otherwise provided elsewhere in this Charter, all offices, departments and agencies established by or pursuant to the provisions of this Article shall be administered by an officer appointed by and subject to the direction and supervision of the City Manager.

802. Organization, Conduct and Operation of Departments.

803. Office of City Attorney.

804. Office of City Clerk.

Article VIII: Administrative Organization

805. Office of the City Auditor.

The City Auditor shall have the following powers and duties:

- a. Conduct or cause to be conducted annual post audits of all the fiscal transactions and accounts kept by or for the City.
- b. Conduct performance audits, as assigned by Council.
- c. Conduct special audits and investigations, as assigned by Council.

805.2. City Auditor Performance Audit.

The Council shall contract with an independent audit firm, which has no other contracts with the City, to conduct a performance audit of the City Auditor's office at least every two years. The report of the performance audit shall be available to the public.

806. Finance Department.

Article VIII: Administrative Organization

807. **Administrative Organization; Other Departments.**

- a. The following Charter departments are hereby established: A Police Department, a Fire Department, a Public Works Department, a Parks and Recreation Department, a Personnel Department, a Planning Department, an Airport Department and a Library Department.
- b. Additional departments may be created by Council from time to time pursuant to Section 800.
- c. Each department shall have such functions, powers and duties as Council may from time to time prescribe.

808. **Public Information Office.**

- A Public Information Office is hereby established that shall be administered by a Public Information Officer appointed by and under the direction and supervision of the Mayor.
- This office shall gather and disseminate to the public and media timely, accurate and complete information concerning the policies of the Council and other information regarding the City, and to perform other duties assigned by the Council.

Article VIII: Administrative Organization

809. Office of the Independent Police Auditor

- The Independent Police Auditor shall be appointed by the Council for a a 4 year term, or, in event of a vacancy, the remainder of the incumbent's term.
- The Council may remove an incumbent with affirmative votes of 10 members for the reasons of misconduct, inefficiency, incompetence, inability or failure to perform duties, or negligence in performance of duties. Council must provide reasons for removal in writing and provide the incumbent an opportunity to be heard before the Council.
- The Independent Police Auditor shall have the following powers and duties:
 - a. Review Police Department investigations of complaints against police officers to determine if the investigation was complete, thorough, objective and fair.
 - b. Make recommendations with regard to Police Department policies and procedures based on the Independent Police Auditor's review of investigations of complaints against police officers.
 - c. Conduct public outreach to educate the community on the role of the Independent Police Auditor and to assist the community with the process and procedures for investigation of complaints against police officers.

810. Retirement Board or Boards.

Article IX: Officers and Employees

900. **Officers and Employees; Enumeration.**

Mayor, members of the Council, the City Manager, the City Attorney, the City Clerk, the City Auditor, the Independent Police Auditor, the directors or heads of the various City offices or departments, the members of various boards and commissions (and other officers in Charter or by action of Council)

901. **Officers and Employees; Appointment and Removal.**

- Council shall appoint/remove City Manager, City Attorney, City Clerk, City Auditor and Independent Police Auditor (as well as Acting).
- All other officers, department heads and employees of the City, except members of boards and commissions, shall be appointed by the City Manager (Exceptions: PIO appointed by Mayor).
- The Mayor and Councilmembers shall appoint any assistants to serve in his or her office.
- The City Manager appoints heads of departments and offices, other than City Clerk, City Attorney, City Auditor, Independent Police Auditor and Public Information Officer.

Article IX: Officers and Employees

- 902. Compensation.
- 903. Oath of Office.
- 904. Administering Oaths.
- 905. Official Bonds.
- 906. Prohibited Interests.
- 907. Nepotism.
- 908. Discrimination.

Article X: Boards and Commissioners

1000. **Planning Commission.**

The Planning Commission shall have the following powers and duties:

- a. Make recommendations to the Council respecting the adoption, amendment, or repeal of master, general, comprehensive, precise or specific plans for future physical development of the City or any part thereof, and periodically review the same;
- b. Make recommendations to the Council respecting the adoption, amendment or repeal of land use and development regulations, including but not limited to zoning and subdivision regulations;
- c. Make recommendations to the Council respecting the adoption, amendment or repeal of plans or programs for the redevelopment, rehabilitation or renewal of any areas of the City;
- d. Make recommendations to the Council respecting capital improvement programs; and
- e. Exercise such other powers and perform such other functions and duties as may be expressly given to it by other provisions of this Charter, or exercise such other powers or perform such other functions as may be prescribed by the Council not inconsistent with the provisions of this Charter.

Article X: Boards and Commissioners

1002. **Other Boards and Commissions.**

- The Council may create other boards and commissions and grant them functions, powers and duties consistent with the provisions of this Charter.
- Council may create such temporary committees as it may deem advisable to render counsel and advice to the Council, the City Manager or any board or commission on any specified matter within the jurisdiction of such authorities.
- All boards, commissions and committees created by the Council shall be subject direction and supervision of Council; the members thereof shall be appointed by the Council, or by the Mayor if authorized by Council; Council will set terms.

1003. Reimbursement for Expenses.