

Long Beach, California, City Charter >> - CHARTER >> **ARTICLE XIV. - WATER DEPARTMENT >>**

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[Section 1400. - ESTABLISHMENT OF WATER DEPARTMENT.](#)

[Sec. 1401. - RULES OF PROCEDURE.](#)

[Sec. 1402. - WATER RIGHTS.](#)

[Sec. 1403. - POWERS AND DUTIES.](#)

[Sec. 1404. - DEMANDS AGAINST WATER DEPARTMENT FUNDS.](#)

[Sec. 1405. - ANNUAL BUDGET.](#)

[Sec. 1406. - DESIGNATION OF ALTERNATES.](#)

[Sec. 1407. - USE OF WATER DEPARTMENT FUNDS.](#)

[Sec. 1408. - REVOLVING FUND.](#)

[Sec. 1409. - TRUST AND SPECIAL DEPOSIT FUNDS.](#)

[Sec. 1410. - ACQUISITION OR SALE OF REAL PROPERTY.](#)

[Sec. 1411. - IMPROVEMENT OF WATER WORKS AND SEWER SYSTEM.](#)

[Sec. 1412. - REPAYMENT OF BONDS.](#)

[Sec. 1413. - EMERGENCY LOANS.](#)

[Sec. 1414. - WATER DEPARTMENT'S POWER TO ACT AS CONTRACTOR.](#)

Section 1400. - ESTABLISHMENT OF WATER DEPARTMENT.

There is hereby created a Water Department which shall be under the exclusive jurisdiction and control of five commissioners who shall be known as the Board of Water Commissioners. Said Water Department shall have full and complete jurisdiction over all water works necessary and incidental to the use, sale and distribution of water owned and controlled by the City and all of the City's sewer system.

Sec. 1401. - RULES OF PROCEDURE.

The officers, their terms and duties, dates and times of meetings, form of minutes, and other procedural matters shall be established by the Commission to govern its activities under this Charter.

Sec. 1402. - WATER RIGHTS.

The City shall continue in the ownership and enjoyment of all water and water rights vested in it, and ownership of the right to develop, economize, control, use, conserve, and utilize all water flowing or being beneath the surface of any and all lands now owned or that may be hereafter acquired by it. No water rights now or hereafter owned or controlled by the City, shall ever be sold, leased or disposed of, in whole or in part, without the assent of two thirds (2/3) of the qualified voters of the City, voting on the proposition at a general or special election at which such proposition shall be lawfully submitted.

Sec. 1403. - POWERS AND DUTIES.

The Commission shall have the complete and exclusive power and duty:

(1)

To supervise, control, regulate and manage the Water Department, and to make and enforce all necessary rules and regulations therefore, and for the exercise of such other powers as are conferred upon the Commission by this Charter.

(2)

To appoint a General Manager who shall be the chief administrative officer of the Water Department, and who shall exercise the management of all activities placed under the jurisdiction of the Commission and to ratify the employment by the General Manager of an Assistant General Manager and of Deputy General Managers. The Assistant General Manager shall perform the duties of the General Manager in the event of the absence or disability of the General Manager and shall perform such other duties as the General Manager shall direct. The General Manager shall hold office during the pleasure of the Commission. No such General Manager or Assistant General Manager, shall be, nor have been for at least six (6) months prior to employment at the Water Department, a member of the Commission.

(3)

To create positions of employment to be filled by the General Manager, and to establish the duties, authority and range of compensation for those positions provided that the positions for classified service shall be subject to the Civil Service provisions of this Charter. The Commission shall establish a plan of succession describing who shall perform the duties and have authority of the General Manager, Assistant General Manager, and other key employees which plan succession shall take effect in the event of a natural disaster, an emergency, or other catastrophe. All positions of employment in the permanent service of the Commission shall be created by resolution. The compensation fixed by the Commission for all officers and employees in the Water Department shall be subject to the prior approval of the City Council by resolution. All other privileges and benefits to which such officers and employees shall be entitled, except as provided by this Charter or other applicable law, shall be such as shall be prescribed by the City Council by ordinance or resolution.

(4)

To construct, operate, maintain, extend, manage and control works and property heretofore or hereafter acquired for the use

of, or paid for directly or indirectly out of the funds of, the Water Department, and to acquire and take by purchase, lease, condemnation, or otherwise, and to hold in the name of the City any and all property situated within or without the City, and within or without the State, that may be necessary or convenient for such use; and also to have, exercise and enjoy in the name of and for and on behalf of the City of Long Beach, all powers, rights and privileges, that are granted to the City, or any of its officers or bodies, under an Act of Legislature known as Chapter 429 of the Statutes of 1927 (Stat. 1927, p. 694), approved by the Governor of the State of California on the 10th day of May, 1927, and all acts amendatory thereto.

(5)

To regulate and control the use, sale and distribution of water owned or controlled by the City, the collection of water charges and the granting of permits for connections with said water works; and to fix the rates to be charged for such connection including connections installed for other departments of the City; and, subject to the approval of the City Council by ordinance, to fix the rates to be charged for water for use within or without the City, including rates for water delivered to other departments of the City, and to fix rates to be charged the Fire Department for standby service to fire hydrants; and to prescribe the time and manner of payment of the same; provided that nothing in this Charter shall prevent payment to the Water Department by other departments of the City for water delivered or service rendered or labor or materials furnished to said other departments. Such rates shall be fair and reasonable, taking into consideration, among other things, the nature of the use, the quantity supplied and the value of the service; provided, however, that the rates inside the City may be less, but not greater, than the rates outside the City for the same or similar uses.

(6)

To supervise, regulate, control, construct, operate, maintain, extend and manage the City's sewer system, the collection of sewer charges and the granting of permits for connections with said sewer system; and to fix the rates to be charged for such connection including connections installed for other departments of the City; and, subject to the approval of the City Council by ordinance, to fix the rates and charges for sewer service, and to prescribe the time and manner of payment of the same; provided that nothing in this Charter shall prevent payment to the Water Department by other departments of the City for sewer service rendered or labor or materials furnished to said other departments. Such rates and charges shall be fair and reasonable, taking into consideration, among other things, the nature of the use and the value of the service.

(7)

To supply and distribute, at rates fixed as herein before provided, any surplus water owned or controlled by the City and not required for the use of consumers served by the City within its limits, to consumers outside the City for their own use, and to municipal corporations outside the City for municipal uses, for resale, disposal or distribution, to consumers within their limits; provided that the supplying or distribution of such surplus water shall in any case be subject to the paramount right of the City at any time, to discontinue the same, in whole or in part, and to take and hold or to distribute such surplus water for the use of the City and its inhabitants; provided, further, that contracts for supplying surplus water by the City to municipal corporations outside the City, or for any exchange of surplus water with any such outside municipal corporation, may be made by the Commission in the name of the City, for periods not exceeding fifteen years, and upon such terms and conditions, and for such compensation to the City as shall be prescribed by resolution adopted by the Commission and approved by ordinance or resolution of the City; but in every such contract, the right shall be reserved to the City to terminate the same upon three years' written notice to such municipal corporation, to be given by said Commission whenever it shall determine and declare by resolution adopted by the Commission and approved by an ordinance or resolution of the City Council, that the water to be supplied under such contract, is required for the City and its inhabitants, and every such contract must, before execution thereof, be assented to by a majority of the qualified electors of the City, voting upon the proposition at a general or special election, at which such proposition shall be submitted.

(8)

To sue and be sued in the name of the Commission, and to exercise complete control over all litigation wherein it is involved, or which pertains to any matters within the jurisdiction of the Commission; provided, however, that the City Attorney shall represent the Commission in all matters to which it is a party and shall be the sole and exclusive legal adviser of the Commission with reference to any of its functions, powers or duties under this Charter.

(9)

To sell or cause to be sold from time to time such personal property belonging to the Water Department as shall be no longer necessary or suitable for the use of the department.

(10)

To lease, sell or dispose of any property, or any interest therein, belonging to the Water Department whenever in judgment of the Commission said property, or any interest therein, or part thereof, is no longer required for the purposes of the Water Department; said property may be leased for any purpose which does not interfere with the use of the same for the purpose of the Water Department. Any compensation received from the sale or lease of said property shall be paid into the Water Revenue Fund or such other fund of the Water Department as may be designated by the Commission, and shall be used for the purposes of the Water Department; provided, however, that except as otherwise provided in this Article, nothing herein shall authorize the Commission to sell, lease or dispose of any water rights, reservoir space or storage capacity, or any interest or space therein. Provided, further, the Commission shall not have authority to make any lease, contract or other agreement providing for the drilling for, developing, producing, extracting, processing, taking or removing, storing and disposing of oil, gas or other hydrocarbon substances from, under, across or through any land under the control and jurisdiction of the Commission, and any such lease, contract or other agreement shall be made upon authorization of the City Council.

(11)

To purchase supplies and equipment that may be necessary or convenient to the use of the Water Department.

(12)

To make contracts in the name of the Commission to carry into effect the powers granted the Commission in this Charter; provided, that all contracts wherein the expenditure of funds of the Water Department exceeds the amount established by ordinance of the City Council for City departments, except contracts for labor, materials or supplies for actual emergency work, shall be made and entered into upon competitive bidding as provided in this Charter, and all powers and duties therein conferred or imposed upon the City Council and/or City Manager are hereby conferred and imposed upon the Commission. At the time of publication of notice inviting bids, specifications of the supplies or materials required, or the plans and specifications of the work to be done, must be on file in the office of the Commission, subject to public inspection. Except as provided in this Charter, all supplies and/or materials, not required to be obtained upon competitive bidding, or for actual emergency work, shall be procured for the Commission by the City Purchasing Agent or City Procurement Service Officers, in accordance with procedures prescribed therefore by the City Manager as shall not be in conflict with this Charter or other

applicable law.

(13)

To expend all money received in connection with the operation of the Water Department or management of properties under the control of the commission; provided that all such monies shall be deposited in the City Treasury to the credit of funds to be known as the "Water Revenue Fund," the "Sewer Revenue Fund" or to the credit of such other funds as the Commission may by resolution establish. Any interest or increment received on the money in such fund or funds shall be paid into such fund or funds and become a part thereof; and the monies deposited in such fund or funds shall be kept separate and apart from other money of the City and, except as may be allowed by other provisions of this Charter, shall be expended only for the purposes for which said fund was established. The Commission shall file with the City Auditor a notice giving the names and signatures of persons, designated by the Commission to sign demands and payroll authentication.

The City Manager and City Council shall have jurisdiction of revenue derived from the development and production of oil and gas on lands under the management and control of the Commission.

(14)

To supervise, control, regulate, construct, operate, maintain, extend and manage such other works and property as may be delegated or conferred upon the Commission by the City Council consistent with the provisions of this Charter.

(15)

To delegate to the General Manager such powers and duties as the Commission deems appropriate.

Sec. 1404. - DEMANDS AGAINST WATER DEPARTMENT FUNDS.

The City Auditor shall approve no demand against any fund under the control of the Commission, excepting redemption of bonds and interest coupons, unless the same shall be signed and authenticated as hereinabove provided, and by means of checks or warrants on the City Treasurer issued by the City Auditor. If the City Auditor, upon examination, believes that any demand is not a proper claim against any fund under the control of the Commission, he shall immediately return said demand to the Commission with his objections endorsed thereon. Such demand shall again be considered by the Commission, and if it shall again be allowed by the Commission, and said allowance over the objection of the City Auditor be certified by the signatures of the president or vice president and the secretary of the Commission, the said objection of the City Auditor shall be thereby overruled. Any demand upon which the objections of the City Auditor have been overruled by the Commission shall be again returned to the City Auditor, who shall issue a check or warrant upon the City Treasurer for the same in like manner as if it had been approved by the City Auditor.

Sec. 1405. - ANNUAL BUDGET.

Commission shall, prior to the first day of June of each calendar year, adopt a departmental budget for the forthcoming fiscal year covering the anticipated revenue and expenditures of the Water Department. Such departmental budget shall conform, as far as practicable, to the form provided in this Charter for the general City budget. Each such budget shall contain a sum to be known as the "Unappropriated Balance," which sum shall be available for appropriation by the Commission, by resolution, in the ensuing fiscal year to meet contingencies as they may arise. A copy of every resolution making an appropriation from said unappropriated balance shall promptly be filed with the City Auditor and City Manager. Two certified copies of said budget shall forthwith, after adoption by the Commission be filed with the City Clerk for presentation to the City Council and one certified copy shall forthwith be filed with the City Auditor. Such budget shall be subject to the approval of the City Council as in this section provided. The City Council shall, not later than the first day of July of each calendar year, approve such budget adopted by the Commission or shall amend said budget and approve the same as amended not later than the first day of July of each calendar year. In the event the City Council shall not approve said budget or amend the same and adopt said budget as amended on or before said first day of July, the same shall become effective as the official budget of the Water Department for the forthcoming fiscal year. In the event the City Council shall amend said budget and approve the same as amended, as above provided, a certified copy of said approved budget as amended shall be filed with the Commission and the City Auditor. No expenditure shall be made or financial obligation incurred by the Commission, its officers or employees, except as authorized by said annual departmental budget or appropriations made subsequent to said annual budget as herein provided. Said annual departmental budget, when effective, shall constitute an appropriation covering the anticipated revenues and expenditures of the Water Department as therein set forth.

Sec. 1406. - DESIGNATION OF ALTERNATES.

Whenever provision is herein made for the discharge of specific duties by a specified appointee, the Commission may designate an employee in said department with full power to act in place of such appointee in case of such appointee's absence or inability to act.

Sec. 1407. - USE OF WATER DEPARTMENT FUNDS.

None of the money in or belonging to the Water Revenue Fund, the Sewer Revenue Fund or such other funds as are established by the Commission, shall be appropriated or used for any purpose except for the purposes for which said fund was established, as follows:

(1)

For the necessary expense of operating and maintaining the water works and the sewer system, and for such preliminary surveys, reconnaissances, options, estimates, engineering data, experimentation and investigation, as in the discretion of the Commission shall be necessary, or as shall be incidental to the extension or betterment of the physical properties, or the business of the department and/or the acquisition of additional lands, water, water rights and/or other property.

(2)

For the payment of the principal and interest, or either, due or coming due upon outstanding notes, certificates or other evidences of indebtedness issued against revenues from said water works and sewer system in accordance with this Charter, or bonds or other evidences of indebtedness heretofore or hereafter issued for the purpose of such water works and sewer system, or parts thereof.

(3)

For the necessary expense of constructing, extending and improving such water works and sewer system, including purchases of lands, water, water rights, and other property; also the necessary expenses of conducting and extending the business of the Water Department.

(4)

To return and pay into the general fund of the City, from time to time, upon resolution of the Commission, from any surplus money in the Water Revenue Fund or other funds established as aforesaid, any sums paid by the City from funds raised by taxation or the payment of the principal or interest of any municipal bonds issued by the City for and on account of the water works or sewer system.

(5)

To be transferred to the general fund of the City, if and when, in the judgment of the Commission, such monies are no longer necessary for the purposes of the Commission.

Sec. 1408. - REVOLVING FUND.

For the use and benefit of the Water Department or for the use and benefit of that division or branch of the City's service charged with the duty of collecting monies due and payable to the Water Department, the Commission may, by resolution, create and establish a revolving fund, the monies of which shall not be subject to transfer at the close of the fiscal year; and any resolution creating and establishing such a fund shall provide that the City Treasurer shall transfer to such revolving fund from the "Water Revenue Fund", not to exceed Five Thousand Dollars (\$5,000); and such revolving fund shall be used for the purpose of making change in connection with collections of the Water Department and for such other purposes as the Commission may prescribe by such resolution.

Sec. 1409. - TRUST AND SPECIAL DEPOSIT FUNDS.

The Commission may, by resolution, create and establish such trust and special deposit funds as shall be necessary and convenient for the deposit of monies received by the City or the Water Department as security for the payment of charges made for water or other commodities furnished or service rendered by said department, or for the deposit of monies received by the Water Department as advance payment in connection with the furnishing of water or other commodity or the rendering of any service by the Water Department, or deposited with the Water Department in trust or for any special purpose in connection with the operation of the Water Department; and the fund, or funds, created and established under the authority herein contained shall be continuing funds, the monies of which shall not be subject to transfer at the close of a fiscal year, and, anything in this Charter to the contrary notwithstanding, any such resolution may provide that disbursements from any such fund, or funds, may be made for the purpose of the trust or according to the terms and conditions of the special deposit under which the monies in such fund, or funds, were received, without the necessity of demands, vouchers, or warrants drawn on the City Treasurer, and that such disbursements may be made in accordance with such rules and regulations as shall be prescribed in and by any such resolution.

Sec. 1410. - ACQUISITION OR SALE OF REAL PROPERTY.

Any action by the Commission authorizing the acquisition or sale of real property, approval of contracts which obligate the City for a longer period of time than one year, or which involves a rule of general application to be followed by the public, shall be taken by the Commission by order or resolution. Every order or resolution adopting a rule of general application to be followed by the public, shall be published once in a daily newspaper of general circulation and shall take effect upon such publication.

Sec. 1411. - IMPROVEMENT OF WATER WORKS AND SEWER SYSTEM.

The Commission shall provide for the cost of extensions and betterments of said water works and sewer system, from the funds derived from the sale of bonds, so far as such funds are, or shall be, made available for the use of the Commission for said purpose, from income received from the revenue of the Water Department, and from the proceeds of loans contracted as provided in this Charter.

Sec. 1412. - REPAYMENT OF BONDS.

The Commission shall each year apportion and set apart, out of the revenue funds of the Water Department, in the City Treasury, an amount sufficient to pay at maturity all sums coming due in said year for principal and interest upon all outstanding bonds issued for the water works or the sewer system and said amount shall be transferred forthwith into a special fund in the City Treasury, to be designated by a name indicating the nature or purpose of such special fund, and the money in such special fund shall be subject to apportionment by the City Auditor as may be required to make such payments of the principal and interest of said bonds and for no other purpose. Any interest or increment received on the money in any such special fund shall be paid into such special fund and become a part thereof. The foregoing provisions of this section shall apply to all such bonds now outstanding or hereafter issued; provided, however, that payments out of revenue, as provided, of the principal and interest of general obligation bonds hereafter issued for securing water from new sources, shall be required only to the extent determined by the Commission, approved by a majority vote of the City Council, prior to the submission to the electors of the City of the proposition of authorizing such general obligation bonds. Such resolutions shall be subject to amendment only by resolution of the Commission, approved by majority vote of the City Council, and assented to by a majority of the electors of the City, voting on the question of approving such resolution at a general or special election at which such questions shall be lawfully submitted.

Notwithstanding all or any part of this section, nothing herein shall be construed as a limitation upon the power of the City or of any department thereof to issue revenue bonds without an election, under State law or procedural ordinance and nothing in this section or elsewhere in this Charter shall be construed to prevent a pledge of revenues to pay, or secure the payment of, the principal and interest of such revenue bonds, which pledge may have priority over any allocation of revenues to pay the principal and interest of general obligation bonds.

Sec. 1413. - EMERGENCY LOANS.

The Commission shall have power, upon determination that an emergency exists which justifies it in so doing, to borrow money upon such terms and conditions, and under such procedure, as may be prescribed by resolution, for the purpose of acquiring, constructing, reconstructing, repairing, extending or improving works, for supplying the City and its inhabitants with water and sewer service, and to issue notes, certificates, or other evidences of indebtedness therefore, subject to the following provisions:

(a)

The whole amount of any such indebtedness shall be payable in not exceeding five years from the time of contracting the same; provided, that any such indebtedness, or part thereof, made payable after one year from the time of contracting the same, shall be subject to the right of the Commission to pay the same with accrued interest thereon on any interest due date, after said one year period.

(b)

The total outstanding indebtedness incurred under the provisions of this section, for the purpose of the Water Department, must not exceed 331/3% of the gross operating revenue from the Water Department during the preceding fiscal year.

(c)

The rates for water and sewer service shall be so fixed as to provide for payment at maturity of the principal and interest of such indebtedness in addition to all other obligations and liabilities payable out of the revenues of the Water Department.

(d)

Such indebtedness shall be payable only from the revenue of the Water Department, and shall not be an obligation of the City.

Sec. 1414. - WATER DEPARTMENT'S POWER TO ACT AS CONTRACTOR.

The Water Department is empowered to act as contractor for, and do the work embraced in, the construction, reconstruction, extension or installation of water and sewer mains, piping, conduits, tunnels, hydrants, pump stations, and other necessary works and appliances for the purpose of providing water and sewer service.