
APPENDIX

**COUNTY, CITY, AND CITY AND COUNTY CHARTERS
AND CHARTER AMENDMENTS**

**as transmitted by the Secretary of State for inclusion in the official statutes in
accordance with Section 3, Article XI, of the California Constitution
as amended by vote of electors on November 5, 1974.**

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Charter Chapter 1—City of Roseville

Amendments to the Charter of the City of Roseville

[Filed with Secretary of State March 10, 1976.]

Section 7.21 of Article VII is amended to read as follows:

Sec. 7.21 Bids for contracts; certified checks or bid bonds; performance bonds.

Competitive prices or bids for all purchases and public works and improvements performed by contract shall be obtained where practicable and the purchase made from, or the contract awarded to, the lowest and best responsible bidder; provided, that the council may waive the bidding requirements prescribed in this section in the purchase of noncompetitive items. Sealed bids shall be asked for in all transactions involving the expenditure of five thousand (\$5,000.00) dollars or more, and the transaction evidenced by written contract submitted to and approved by the council. The council may reject any and all bids. In all transactions where sealed bids are required, the council may demand a deposit by each bidder in the form of a certified check or bid bond in an amount which shall be specified in the call for bids.

The council shall require a faithful performance or surety bond of the successful bidder. Calls for sealed bids shall be published in a newspaper of general circulation of the city, not less than five (5) days before the deadline for submission of bids, unless the council declares by resolution that an emergency exists. Detailed purchasing and contract award procedures shall be prescribed by ordinance.

Section 11.02 of Article XI is amended to read as follows:

Sec. 11.02. Board of Education.

The electors of the school district shall elect a board of education of five (5) members, at large, for terms of office provided in the California Education Code. Members of the board of education in office at the time of approval of this section shall continue to hold office and discharge their duties for the balance of the term for which they were elected, or until their successors are elected and qualified. Eligibility to hold office, the filling of vacancies on the board and other rules of procedure shall be in accordance with the provisions of the Education Code of the State of California as it now exists or as it may hereafter be amended.

Certified to be a true copy by Kenneth F. Royer, Mayor, and Pauline Brockman, City Clerk.

Date of municipal election: March 2, 1976.

Charter Chapter 2—City of Piedmont

Amendment to the Charter of the City of Piedmont

[Filed with Secretary of State March 17, 1976]

Article 6 is added to Section 38 to read as follows:

Article 6. The board of education shall hold an annual organizational meeting on a day within the period July 1 to July 15, inclusive. Unless otherwise provided by rule of the board of education, the day and time of the annual meeting shall be selected by the board at its regular meeting held immediately prior to such July 1, and the board shall notify the county superintendent of schools of the day and time selected. The secretary of the board shall, within 15 days prior to the date of the annual meeting, notify in writing all members of the date and time selected for the meeting.

At the annual meeting, the board of education shall organize by electing a president and vice president from its members who shall serve in such office during the period from the date of the annual organizational meeting to the following annual organizational meeting unless removed from such office by majority vote of all members of the board of education.

In the event of a vacancy occurring in the office of president or vice president, the board shall fill the vacancy from its members who shall serve until the next annual organizational meeting of the board unless removed from such office by majority vote of all members of the board of education.

Certified to be a true copy by Clark Galloway, Jr., Mayor, and Peg Rouse, City Clerk.

Date of municipal election: February 24, 1976.

 Charter Chapter 3—City of Torrance
Amendments to the Charter of the City of Torrance

[Filed with Secretary of State April 2, 1976.]

Section 601 is amended to read as follows:

Section 601. Eligibility for elective office.

No person shall be eligible to hold any elective office in this City unless he be a resident and elector therein and shall have resided in such City for at least thirty (30) days next preceding the date of his filing of nomination papers. If an elective officer shall cease to possess any of the qualifications for office herein set forth, or shall be convicted of a crime involving moral turpitude, or shall resign, or be adjudged an incompetent, his office shall immediately become vacant. In case a member of the City Council or Board of Education absents himself from all regular meetings of the body to which he shall belong, for a period of sixty (60) days consecutively, from and after the last regular meeting of such body attended by said member, unless by the expressed permission of such body duly recorded

in its official minutes, his office shall automatically become vacant and the same shall be filled as in case of other vacancies.

Section 810 is amended to read as follows:

Section 810. Eligibility.

No person shall be eligible to hold office as a member of the Board of Education unless he shall have been a qualified elector of the school district for at least thirty (30) days next preceding the date of his filing of nomination papers.

Section 604 is amended to read as follows:

Section 604. Compensation.

The members of the Board of Education shall receive no compensation for their services as such. The members of the City Council shall receive compensation in the amount of One Hundred Dollars (\$100.00) per month, payable in equal semi-monthly payments, and in addition thereto, shall receive their actual and necessary expenses while engaged on City business at the direction of the City Council. Any member of the City Council making demand for reimbursement for traveling or other expenses shall provide the Director of Finance with vouchers covering such expenses, together with a sworn statement to the effect that such expenses were actually incurred in good faith by said party while on official City business. The compensation of any member of the City Council appointed or elected to fill a vacancy shall be the same as that payable to such member whose office was vacated.

Section 620 is amended to read as follows:

Section 620. City Clerk.

It shall be the duty of the City Clerk to keep a full and true record of all the proceedings of the City Council in books that shall bear appropriate titles and be devoted exclusively to such purposes, respectively. Such books shall have a general index sufficiently comprehensive to enable a person readily to ascertain matters contained therein.

The City Clerk shall keep a book marked "Ordinances" into which he shall record all City ordinances with his certificate annexed to each of said ordinances stating the same to be a true and correct copy of an ordinance of said City, giving the number of said ordinances and stating that the same has been published or posted according to law. Said record with said certificate shall be prima facie evidence of the contents of each ordinance and of the passage and publication of the same and shall be admissible as such evidence in any court or proceedings.

The official records of the City in the custody of the City Clerk shall not be filed in any court proceedings or other action but shall be returned to the custody of the City Clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of ordinances in the usual way. The City Clerk shall be the custodian of the seal of the City.

The City Clerk may appoint a deputy, or deputies, from an eligible list to be prepared in accordance with the proceedings prescribed in the civil service system of the City, such deputy or deputies to receive such compensation as may be provided for by the City Council.

The City Clerk and his deputy, or deputies, shall have power to administer oaths or affirmations, to take affidavits and depositions pertaining to

the affairs and business of the City, which may be used in any court or proceedings in the State, and to certify the same.

The salary of the City Clerk shall be determined by the City Council.

The City Clerk shall devote his entire time to the interests of the City, and shall be entitled to receive expenses, vacation periods, and sick leave, with pay, the same as prescribed by the civil service ordinances of the City for heads of departments.

Section 1330 is amended to read as follows:

Section 1330. Residence; Officers.

All elective officers and all members of all appointive boards and commissions, excluding those composed of employees of the City of Torrance, shall be residents of the City of Torrance.

Section 1450 is amended to read as follows:

Section 1450. Contracts on Public Works.

As to contracts for the construction or improvements, excluding maintenance and repair, of public buildings, works, streets, drains, sewers, utilities, parks and playgrounds, and each separate purchase of materials and supplies for the same, the City Council shall establish by ordinance an expenditure limit therefor above which competitive bidding shall be required. Said expenditure limit may be revised from time to time by ordinance of the City Council. Every such contract involving an expenditure in excess of said expenditure limit shall be let to the lowest responsible bidder after notice by publication in the official newspaper by two (2) or more insertions, the first of which shall be at least ten (10) days before the time for opening bids; or if there is no newspaper, then by posting copies of such notice in at least three (3) public places in said City.

The City Council may reject any and all bids presented and may re-advertise in its discretion. After rejecting bids, or if no bids are received, the City Council may declare and determine that, in its opinion, the work in question may be performed better or more economically by the City with its own employees, or that the material or supplies may be purchased at a lower price in the open market, and after the adoption of a resolution to this effect by at least a five-sevenths vote, it may proceed to have said work done or such materials or supplies purchased in the manner stated, without further observance of the provisions of this Section. Such contract may be let and such purchases made without advertising for bids, if such work, or the purchase of such materials or supplies shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by at least a five-sevenths vote.

Certified to be a true copy by Ken Miller, Mayor, and Vernon W. Coil, City Clerk.

Date of municipal election: March 2, 1976.

Charter Chapter 4—City of Downey

Amendment to the Charter of the City of Downey

[Filed with Secretary of State May 14, 1976]

Section 501 is amended to read as follows:

Section 501. Eligibility. No person shall be eligible to hold office as a member of the City Council unless he is, at the time of filing his nominating papers or equivalent declaration of candidacy, a resident and qualified elector of the city and has been so for a period of not less than 30 days next preceding such date of filing, and a resident and qualified elector of the district from which he is elected or appointed at the time of filing his nominating papers or equivalent declaration of candidacy and for a period of not less than 30 days next preceding such date of filing.

Certified to be a true copy by Joseph E. DiLoreto, Mayor, and Robert L. Shand, City Clerk.

Date of municipal election: April 13, 1976.

 Charter Chapter 5—City of San Leandro
Amendments to the Charter of the City of San Leandro

[Filed with Secretary of State May 19, 1976]

Section 703.1 is added to Article VII to read as follows:

“Section 703.1: Expiration of term. Upon the effective date of this provision, the term of all members of appointive Boards and Commissions then holding office shall be extended from January 1 to June 30 of the calendar year in which said term expires. Thereafter, the term of succeeding members shall expire on June 30 of the fourth calendar year following commencement of said term.”

Section 805.1 is added to Article VIII to read as follows:

“Section 805.1: Expiration of term. Upon the effective date of this provision, the term of all members of the Civil Service Board then holding office shall be extended from January 1 to June 30 of the calendar year in which said term expires. Thereafter, the term of succeeding members shall expire on June 30 of the sixth calendar year following commencement of said term.”

Certified to be a true copy by Jack D. Maltester, Mayor, and Richard H. West, City Clerk.

Date of municipal election: April 13, 1976.

Charter Chapter 6—City of Seal Beach

Amendment to the Charter of the City of Seal Beach

[Filed with Secretary of State May 19, 1976.]

Section 1010 is amended to read as follows:

Section 1010. Contracts on Public Works. Every project involving an expenditure of more than Five Thousand Dollars for the construction or improvement of public buildings, works, streets, drains, sewers, utilities, parks or playgrounds shall be let by the City Council by contract to the lowest responsible bidder after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least ten days before the time for opening bids. Projects for the construction, resurfacing, maintenance or repair of public buildings, works, streets, drains, sewers, utilities, parks or playgrounds are excepted from the requirements of this paragraph if such work is performed by a City or County of Orange department.

All bids may be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City. Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein, or if no amount be so specified then in an amount not less than ten per cent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, within the time specified in the notice inviting bids or in the specifications referred to therein, the amount of his bidder's security shall be declared forfeited to the City and shall be collected and paid into its general fund, and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

The City Council may reject any and all bids presented and may re-advertise in its descretion.

The City Council, after rejecting bids, or if no bids are received, may declare and determine that in its opinion, based on estimates approved by the City Manager, the work in question may be performed better or more economically by the City with its own employees or the materials may be purchased more economically on the open market, and after the adoption of a resolution to this effect by at least three affirmative votes of the Council may proceed to have said work done in the manner stated, without further observance of the provisions of this Section. Such contracts likewise may be let without advertising for bids, if such work shall be deemed by the City Council to be of urgent necessity for the preservation of life, health, or property, and shall be authorized by resolution passed by at least three affirmative votes of the Council and containing a declaration of the facts constituting such urgency.

Certified to be a true copy by Thomas I. McKnew, Jr., Mayor, and Jerdys Weir, City Clerk.

Date of municipal election: March 30, 1976.

Charter Chapter 7—City of Oakland

Amendments to the Charter of the City of Oakland

[Filed with Secretary of State June 22, 1976]

Sections 2602, 2607, 2608, 2610, 2618, and 2619 are amended to read as follows:

Section 2602. The Board shall exercise the powers and perform the duties conferred on it by other sections hereof, and in addition thereto:

(a) Interest on Contributions. Shall credit contributions of members, of beneficiaries, and of the City with interest at a rate fixed by the Board from time to time.

(b) Actuarial Data. Shall keep in convenient form such data as shall be necessary for the actuarial valuation of the Retirement System. As of June 30, 1956, and thereafter at intervals of not to exceed three (3) years, the Board shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries, and further (1) with respect to persons exercising the option in Section 2600 and (2) with respect to persons who become members on and after the effective date of this Article, shall make an actuarial valuation of the assets and liabilities of the Retirement System. From time to time, the Board shall determine the rate of interest being earned on the Retirement Fund. Upon the basis of all or any of such investigation, valuation, and determination, the Board shall:

(1) Adopt for the Retirement System such interest rate and such mortality, service and other tables, or any of such items, as shall be deemed necessary;

(2) Make such revision in the City's and members' rates of contribution under the Retirement System with respect to persons who become members of the Police or Fire Department, after the effective date of this Article, as shall be deemed necessary to comply with Section 2619 of this Article.

(c) Additional Records. In addition to the other records and accounts shall keep such records and accounts as shall be necessary to show at any time:

(1) The total contributions of members made after the effective date hereof, with credited interest;

(2) The total contributions of retired members made after the effective date hereof, with credited interest; less the annuity payments made to such members;

(3) The accumulated contributions of the City held for the benefit of members on account of service rendered as members of the Retirement System;

(4) All other accumulated contributions of the City, which shall include the amounts available to meet the obligation of the City on account of benefits that have been granted.

(d) The mortality, service, and other tables and the City's members' rates of contribution with respect to persons who become members of the

Police or Fire Department after the effective date of this Article, as recommended by the actuary and the valuations determined by him and approved by the Retirement Board shall be conclusive and final, and the Retirement System shall be based thereon.

Section 2607. The following words and phrases, as used in this Article, unless a different meaning is plainly required by the context, shall have the following meaning:

“Retirement allowance,” “Death allowance,” or “allowance” shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life, unless a different term of payment is definitely provided by the context.

“Compensation” as distinguished from benefits under the Labor Code of the State of California, shall mean the monthly remuneration payable in cash, by the City, without deduction, for time during which the individual receiving such remuneration is a member of the Police or Fire Department, but excluding remuneration paid for overtime and for special details or assignments as provided in Sections 91 and 97* of the Charter.

“Benefit” shall include “retirement allowance,” “death allowance,” “allowance,” and “death benefit.”

“Compensation attached to the average rank held” shall mean the compensation attached to the lowest rank held during the three years immediately preceding retirement plus one thirty-sixth ($\frac{1}{36}$) of the difference between it and the compensation attached to any higher rank held during that period for each month, and fraction thereof, the higher rank was held.

For the purposes of the Retirement System established by this Article, the terms “member of the Police or Fire Department,” “member of the Department,” “member of the System,” or “member” shall mean any regularly appointed member of the Police or Fire Departments of the City of Oakland who became members of the Retirement System established by this Article, prior to July 1, 1976, including matrons or substitute matrons of the City Prison and emergency patrolmen and hosemen.

“Retirement System” or “System” shall mean the Police and Fire Retirement System established by this Article.

“Charter” shall mean the Charter of the City of Oakland.

“Interest” shall mean interest at the rate adopted by the Retirement Board.

“Retirement Board,” or “Board” shall mean the Police and Fire Retirement Board created by this Article.

“Children” shall include, with respect to service retirement, children adopted at least five (5) years prior to retirement, and with respect to disability retirement and death before retirement, children adopted at any time prior to such retirement or death.

Words used in the masculine gender shall include the feminine and neuter genders; singular numbers shall include the plural, and the plural the singular, and wife shall include husband, and widow shall include widower.

“Accumulated contributions” shall mean contributions made by the member since May 3, 1943, plus credited interest.

Section 2608.

(a) Any member of the Police or Fire Department who completes at

* This reference is to the Section or Article so designated in the former Charter

least ten (10) years of service in the aggregate (said service to be computed under Section 2609) may retire at his option on or after the twenty-fifth (25th) anniversary of his date of employment. Said member shall receive a retirement allowance equal to twenty percent (20%) of the compensation attached to the average rank held during the three (3) years immediately preceding such retirement, plus an additional allowance at the rate of two percent (2%) for each additional year of service beyond ten (10) years, not to exceed a period of an additional ten (10) years.

(b) Any member of the Police or Fire Department who completes at least twenty (20) years of service in the aggregate (said service to be computed under Section 2609), regardless of age, may retire at his option. Said member shall receive a retirement allowance equal to forty percent (40%) of the compensation attached to the average rank held during the three (3) years immediately preceding such retirement, plus an additional allowance at the rate of two percent (2%) for each additional year of service beyond twenty (20) years, not to exceed a period of an additional five (5) years.

(c) Any member of the Police or Fire Department who completes at least twenty-five (25) years of service in the aggregate (said service to be computed under Section 2609), regardless of age, or any member who completes at least twenty (20) years of service in the aggregate at or after attaining the age of fifty-five (55) years, may retire for service at his option.

(d) Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-five (65) years. Any such member who attains the age set forth in the preceding sentence as the compulsory age of retirement during any twelve (12) months, prior to the beginning of the twelve (12) months, shall be retired on the first day of the twelve (12) months.

(e) A member retired after meeting the requirements of paragraphs (c) or (d) next preceding, shall receive a retirement allowance equal to fifty percent (50%) of the compensation attached to the average rank held during the three (3) years immediately preceding such retirement, plus an additional allowance at the rate of one and two-thirds percent ($1\frac{2}{3}\%$) of said compensation for each year of service rendered after July 1, 1951, and after qualifying for service retirement, not to exceed ten (10) years. A member required to retire under paragraph (d) next preceding before completing twenty (20) years of service in the aggregate computed under Section 2609, shall receive a retirement allowance which bears the same ratio to the retirement allowance which said member would receive if he were entitled to be credited with twenty (20) years of service, as the service with which he is entitled to be credited, bears to twenty (20) years.

(f) Upon the death of a member after qualification for service retirement, or after retirement for service or because of disability, and if death shall result from other cause than injury received in or illness caused by the performance of duty, two-thirds ($\frac{2}{3}$ rds) of the retirement allowance to which the member would have been entitled if he had retired for service at the time of death, or two-thirds ($\frac{2}{3}$ rds) of the retirement allowance as it was at death, as the case may be, shall be continued, regardless

of the age of the surviving widow, to the dependents of the member in the order of succession as defined in Section 2612, provided that if retirement was for injury received in or illness caused by the performance of duty and if death occurs prior to the date upon which the member would have qualified for service retirement, the allowance continued shall be reduced upon said date in the same manner as it would have been reduced had the member not died.

(g) After having qualified for service retirement under the provisions of paragraph (a) of this section, a member shall be entitled to retire at any time thereafter and nothing shall deprive said member of said right.

(h) The age of a member which was accepted for appointment to the Police or Fire Departments shall be admissible in evidence as prima facie proof of his age for retirement purposes.

(i) If, at the date of retirement for service or disability, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued, regardless of dependents, a member retired under this Article, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued, regardless of dependents, as the case may be, partly in a lesser amount to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all of the conditions prescribed by the Council to govern similar election by members of the Oakland Municipal Employees' Retirement System.

Section 2610.

(a) Any member of the Police or Fire Department who is incapacitated for the performance of duty by reason of any injury received in, or illness caused by or arising out of the performance of duty may be retired not sooner than one (1) year after said member first became incapacitated by reason of said injury or illness unless the member requests and the Board grants earlier retirement; and, if not qualified for service retirement shall receive a retirement allowance equal to seventy-five percent (75%) of the compensation attached to the average rank held by such member during the one (1) year immediately preceding such retirement. Such retirement allowance shall be paid until the date upon which said member would have completed twenty-five (25) years of service and qualified for service retirement had such member rendered service without interruption, and on and after said date said retirement allowance shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the compensation attached to the average rank held during the one (1) year next preceding retirement. If at the time of retirement for disability, the member is qualified for retirement for service, said member shall receive a retirement allowance computed under the provisions of Section 2608.

(b) Any member of the Police or Fire Department who is incapacitated for the performance of duty for any cause not included in the provisions of the preceding paragraph (a) and who shall have completed at least five

(5) years of service in the aggregate, shall be retired upon a retirement allowance calculated under Section 2608, if he has attained the age of fifty-five (55) years, otherwise upon a retirement allowance equal to one and one-half percent ($1\frac{1}{2}\%$) of the compensation attached to the average rank held by such member during the three (3) years next preceding such retirement for each year of service, provided that said retirement allowance shall not be less than thirty-three and one-third percent ($33\frac{1}{3}\%$) of said compensation. The question of retiring a member under this section may be brought before the Board on the Board's own motion, by recommendation of the City Manager or by petition of said member or his guardian.

(c) The Board may at any time order any member who has been retired for disability to be examined by one or more physicians appointed by the Board for that purpose, and if it is found that the disability has ceased, shall order that the retirement allowance shall cease and said member shall be restored to the service in the rank occupied at the time of retirement.

Section 2618.

(a) Should a member of the System cease to be a member of the Police and Fire Department through any cause other than death or retirement prior to completing ten (10) years of service, the member's contributions, plus interest thereon credited in accordance with Section 2602(a), shall be refunded to such member.

(b) Should a member of the System cease to be a member of the Police or Fire Department after completing at least (10) years of service, said member may withdraw his contributions, plus interest thereon credited in accordance with Section 2602(a) from the fund at any time provided such person is not then an active member of the Police or Fire Department, but such person will not be entitled to a retirement allowance unless he is a member who has redeposited in the Fund in accordance with subsection (c) below and who has complied with the requirements of Section 2608.

(c) If any person who has been refunded his contributions under paragraph (a) preceding, or who has withdrawn his contributions under paragraph (b) preceding shall subsequently become a member of the Police or Fire Department, he shall redeposit in the Fund in a manner to be determined by the Board, the amount so refunded or withdrawn plus interest from the date of the refund or withdrawal to the date of the redeposit, in which event said member shall be entitled to credit for all service rendered prior to withdrawal as such member.

Section 2619. All payments provided for or on account of persons who are members under this Article and for or on account of persons who remain as members or who have been members of the Funds under Articles XIV and XV, shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The normal rate of contribution of each member who exercised the option in Section 2600 shall be five and one-half percent ($5\frac{1}{2}\%$). The normal rate of contribution of each person who became a member of the Police or Fire Department after the effective date of this Article and prior

to July 1, 1976, shall be based on his age taken to the next lower completed quarter year, at the date he becomes a member of the Police or Fire Department, and shall be such as, on the average for each such member, will provide, assuming service without interruption, one-fourth ($\frac{1}{4}$) of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying for retirement under Section 2608, and assuming the contribution to be made from the date of his entrance into the Police or Fire Department. Provided that said members' contribution rates shall never decrease below the table of members' contribution rates in effect as of January 1, 1971, and provided further that no member's contribution rate shall exceed thirteen percent (13%) so long as no improvements in the members' benefits occur after July 1, 1976.

(2) The dependent rate of contribution of each person who becomes a member of the Police or Fire Department after the effective date of this Article, shall be such as, on the average for such member, will provide, assuming service without interruption, and upon his first qualifying for service retirement under Section 2608, one-fourth ($\frac{1}{4}$) of the portion of his allowance which is to be continued under Section 2608, after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said members, or, as the case may be; a surviving husband whose age at said death is three years more than the age of said member. The dependent rate of contribution of each member who exercises the option in Section 2600, shall be one and one-half percent ($1\frac{1}{2}\%$). If at the date of retirement for service or retirement for disability, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith.

(3) The normal rate of contribution of persons who remain members under Article XIV and XV shall be five percent (5%). Such rate shall be applied to compensation, on and after the effective date of this Article, as described in paragraph (4) of this section. Such persons shall not have dependent contribution rates.

(4) There shall be deducted from each payment of compensation made to a member throughout his membership, a sum determined by applying the member's normal and dependent rates of contribution to such compensation payment. Except for persons who remain members under Article XIV and XV, the sum so deducted shall be accumulated with interest as set from time to time as provided in Section 2602(a). Such accumulated contribution shall be used to provide benefits for said members, or shall be paid to said member or his estate or beneficiary as provided in this Article.

(5) Members' contributions deducted from compensation earned prior to the effective date of this Article, and after May 3, 1943, shall not be considered in the determination of allowances, and shall be paid to the Retirement System, with interest, by the City when said accumulated contributions otherwise are payable to or on account of members by the Retirement System.

(6) The City shall contribute to the Retirement System such amounts

as may be necessary, when added to the contributions referred to in the preceding paragraphs of this Section, to provide the benefits payable under this Article and Articles XIV and XV. The City contributions made periodically during the year shall be such as when added to member contributions will actuarially fund all liabilities for all members prior to July 1, 1976, by July 1, 2016. Any fund established pursuant to the 1971 amendment to this subsection and implemented by Retirement Board Resolution No. 3968 which provided for payment of improved or additional benefits shall continue only for the purposes stated herein. Any monies held in such fund as of July 1, 1976, and any interest credited thereon pursuant to Section 2602(a) shall continue to be payable to members of this system as follows:

(a) For all individuals who received retirement allowances as of December 31, 1972, said allowance commencing January 1, 1973, shall be increased as follows:

(1) A computation of an additional one percent (1%) of the gross allowance due in December, 1972, shall be made for each said individual. Any additional monies added to the basic retirement allowance because of minor children under Charter Section 2612(a) shall not be included in the computation of said one percent (1%).

(2) The amount of each said December, 1972, one percent (1%) computation shall become a fixed, non-fluctuating amount which shall be added each month, commencing in January, 1973, to the retirement allowance of each said individual and to any continuation (and in the appropriate percentage to any partial continuation) of each said retirement allowance.

(b) For members of the System retiring after December 31, 1972, at the date of retirement, a computation of an additional five percent (5%) of the compensation attached to the average rank held by such member during the three (3) years next preceding said retirement shall be made for each individual retiring with at least twenty-five (25) years of service.

The amount of each said five percent (5%) computation shall become a fixed, non-fluctuating benefit amount which shall be added in monthly installments to the retirement allowance of each said individual retiring or who is considered as retiring with at least twenty-five (25) years of service and to any continuation (and in the appropriate percentage to any partial continuation) of each said retirement allowance.

No additional monies from any source whatsoever shall be paid into said fund, and said fund shall cease to exist when the monies held payable for the aforementioned purposes are expended.

(7) During the absence of a member by reason of service with the armed forces of the United States, either during a war involving the United States as a belligerent, or in any other National Emergency and for six (6) months thereafter, and who is not dishonorably discharged or released therefrom, the City shall contribute for and on behalf of such member, amounts equal to the contributions which would have been made by such member and by the City to the Police and Fire Retirement Fund if he had not been so absent. The contributions made by the City pursuant to the provisions of this paragraph in lieu of contributions which

the member otherwise would have made, shall be made available only for the purpose of retirement and death after the completion of ten (10) years of service in the aggregate, and in the event of the resignation or dismissal of said member from service as a member of the Police or Fire Department prior to qualifying for service retirement, or in the event of the death of such member from causes not arising out of the performance of duty prior to the completion of ten (10) years of such service, any withdrawal of accumulated contributions by such member or any death benefit payable by reason of such death shall include only that portion of the accumulated contributions actually made by such member. For the purposes of this Article, a war involving the United States as a belligerent exists; (a) Whenever Congress has declared war and peace has not been formally restored; (b) whenever the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared; or (c) whenever the United States is assisting the United Nations, in actions involving the use of armed force, to maintain or restore international peace and security.

Sections 2100 and 2102 of the Charter are repealed.

Certified to be a true copy by George J. Vukasin, Vice Mayor, and Robert C. Jacobsen, City Clerk.

Date of municipal election: June 8, 1976.

Charter Chapter 8—City of Sacramento

Amendments to the Charter of the City of Sacramento

[Filed with Secretary of State June 24, 1976]

Article IX, Sections 53, 54, 55, and 56, is amended to read as follows:

Article IX. Board of Education

Section 53. Organization

The government of the Sacramento City Unified School District shall be vested in a board of education consisting of seven members who shall be nominated and elected from the district at large. Except as otherwise provided herein, the board of education shall be elected in accordance with, shall possess the powers prescribed by and shall be subject to the limitations contained in article IX of this Charter, as said article read on the day preceding the effective date of this section.

Section 54. Election; Compensation; Vacancies; Resident Requirements; Terms of Office

(a) The members of the board of education shall be elected for a term of four years, three to be elected at a regular election and four to be elected at the next regular election. Each member of the board shall receive the sum of \$20.00 per meeting attended not to exceed the sum of \$100.00 per month.

(b) Vacancies in the board of education from whatever cause shall be

filled by the remaining members of the board of education for the remainder of the unexpired term. If the remaining members fail to agree, the vacancy shall be filled as provided by general law.

(c) Members of the board of education shall be residents of the Sacramento Unified School District.

Section 55. Qualification

Candidates for election to the board of education shall be qualified electors of the district at the time of the filing of their nomination papers.

Section 56. Election by General Laws

On or after January 1, 1980, all other provisions of this article shall have no force and effect and the election, term of office, qualification and compensation of the board of education of the Sacramento City Unified School District shall be governed by the Education Code and general laws of the State of California.

Sections 25, 26, and 30 are amended to read as follows:

Section 25. Procedures of Council

The council shall act only by ordinance, resolution or motion. The affirmative vote of five members of the council shall be necessary to adopt any ordinance, resolution or motion. The vote upon the passage of all ordinances, resolutions or motions shall be taken ayes and noes and entered upon the journal. The council shall be a continuing body and no measure pending before such body shall abate or be discontinued by reason of the expiration of the term of office or removal of the members of said body or any of them.

Section 26. Ordinances, Requisites of

Every proposed ordinance shall be introduced in writing. The enacting clause of each ordinance enacted by the council shall be "Be it Enacted by the Council of the City of Sacramento." The enacting clause of each ordinance enacted by the initiative or referendum process shall be "Be it Enacted by the People of the City of Sacramento." Each ordinance shall contain a title which shall state in general terms the subject or subjects contained in the ordinance.

Section 30. Ordinances, Procedure for Adoption

Except as otherwise provided elsewhere in this Charter, and with the exception of ordinances which take effect immediately upon adoption, hereinafter referred to in section 31, no ordinance shall be adopted unless, (a) it is first passed by the Council for publication of title, (b) the title of the ordinance is published as hereinafter provided in this section, and (c) at least six (6) days have elapsed between the date it was passed for publication of title and the date it is adopted.

The title of an ordinance shall be deemed to have been "published", as said term is hereinabove used in this section if such title is printed in a newspaper of general circulation published within the city designated by the council as the official newspaper of the city, no later than the third day immediately preceding the date of its adoption. No part of any ordinance, or proposed ordinance, other than its title, need be published.

Ordinances which take effect immediately upon adoption, hereinafter referred to in this article, may be adopted without compliance with the above provisions of this section.

Section 31 is added to read as follows:

Section 31. Ordinances; Effective Date

Except as otherwise provided in this Charter, each adopted ordinance shall become effective at the expiration of thirty (30) days after adoption or at any later date specified herein.

The following ordinances shall take effect immediately upon adoption or at such later dates as may be specified therein:

- (a) An ordinance calling for or otherwise relating to an election;
- (b) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing a rate of ad valorem taxation or levying the annual tax on property;
- (c) An ordinance providing for a tax levy or annual appropriation for the usual current expenses of the city;
- (d) An ordinance adopted as and declared by the Council to be an emergency measure, containing a statement of the facts constituting such emergency, if adopted by the affirmative votes of at least six (6) members of the Council; provided, that no measure making a grant, renewal or extension of a franchise or other special privilege or regulating the rate to be charged for its service by a public utility may be so enacted; and
- (e) An ordinance adopted pursuant to a State law by virtue of which such ordinance shall be effective immediately.

Nothing contained in this section shall be deemed to require an ordinance when an ordinance is not otherwise required.

Section 52a is amended to read as follows:

Section 52a. Power and duties of the civil service board

(a) It shall be the duty of the civil service board to:

(1) Adopt and maintain the classification plan. The classification plan shall consist of classes of positions in the classified service defined by class specifications, including title, a description of duties and responsibilities and a statement of employment standards to be required of applicants for employment in each class. From time to time as it deems necessary, the board may establish additional classes and divide, combine, alter or abolish existing classes.

Each position in the classified service shall be allocated by the personnel officer to one of the classes established by the plan; provided, that whenever a new or additional position is authorized by the city manager, the personnel officer shall allocate each proposed position to an appropriate existing class or recommend the creation of new class to the civil service board.

When action is taken by the board to establish additional classes or to divide, combine, alter or abolish existing classes, or upon the reallocation of positions by the personnel officer, the civil service board shall determine the manner in which the incumbents of positions affected shall attain status.

(2) Formulate rules and regulations covering the examination of applicants for positions in the classified service and the promotion of employees in the classified service, including rules for preparation of examination announcement notices, accepting applications, administering examinations, eligibility for promotion, seniority credits, establishing eligible regis-

ters and reinstatement lists, certification, appointment, probationary period, and any other matter necessary to the recruitment and selection of employees.

(3) Hear appeals, upon written request from any employee in any city department in the classified service, who may be suspended without pay, demoted, dismissed, or otherwise disciplined by the appointing authority. The board shall define the manner, time and place by which such appeal shall be heard and the judgment of the board shall be final.

(4) Hear appeals, upon written request, from any employee in any city department in the classified service, with reference to the allocation or reallocation of his position by the personnel officer.

(5) Provide, by rule, for the interpretation and administration of ordinances affecting personnel, when specifically directed to do so by the city council; and to provide, by rule, for the regulation of any other matter pertaining to personnel administration not in contradiction with the provisions of this section.

(b) The board, subject to budgetary approval of the City Council, may employ or contract for hearing officers to hear appeals of the actions specified in paragraphs (3) and (4) of subsection a. of this section and to prepare recommendations for the board. The board may adopt rules and regulations to implement this subsection.

Certified to be a true copy by Phillip L. Isenberg, Mayor, and Jaci Pappas, City Clerk.

Date of municipal election: June 8, 1976.

Charter Chapter 9—City of San Bernardino

Amendments to the Charter of the City of San Bernardino

[Filed with Secretary of State June 19, 1976]

Article X, Section 186, is amended to read as follows:

SECOND: Basic Salary Schedule

(a) The monthly salaries of Local Safety members of the San Bernardino Police and Fire Departments included in classifications P1, P2, P3 steps "a" and "e" and P4, P5, P6 and P7 shall be fixed on August 1, 1976 for the balance of the current fiscal year and, thereafter, annually on August 1 of each succeeding year at an amount equal to the arithmetic average of the monthly salaries, paid or approved for payment to Local Safety members of like or most nearly comparable positions of the police and fire departments of ten cities of California with populations of between 100,000 and 250,000 as shown in the latest Annual Report of Financial Transactions of California Cities published by the State Controller.

(b) The ten cities used for fixing the monthly salaries shall be those ten cities remaining from an original and complete list of all California cities

in the 100,000 to 250,000 population range based on the latest Annual Report of Financial Transactions of California Cities, published by the State Controller after representatives of the City and the appropriate recognized employee organization have alternately struck the names of cities from the list one at a time until the names of ten cities remain. The representative to strike the first name from the list shall be determined by lot.

(c) In the event one or more of the ten cities does not have one or more of the comparable position classifications, the monthly salary for the particular classification shall be computed as the arithmetic average of the next highest and next lowest comparable position classification of that city.

(d) The salaries paid in step "a" shall be the same as the arithmetic average of the starting salaries of the comparable positions in the ten cities and the salaries paid in step "e" shall be the same as the average of the top salaries paid in the comparable positions in the ten cities. The salaries paid in steps "b", "c" and "d" shall be fixed at amounts which will cause the Local Safety members of the San Bernardino Police and Fire Departments to advance from the starting steps to the maximum pay steps in approximately equal salary advances.

THIRD: Special Salary Provisions

The following special provisions shall apply in addition to the compensation received in accordance with the above salary positions:

(a) Police Department: Each police officer assigned to traffic enforcement duties on a motorcycle shall be paid when performing such duties during the period of assignment at the rate of not less than fifty dollars per month in addition to the pay step to which he is entitled as extra-hazard pay for motorcycle duty. The Police Chief shall certify monthly as to the assignment and the period of time worked to validate entitlement to the extra-hazard pay.

(b) Police and Fire Departments: Any Local Safety member of the Fire and Police Departments temporarily acting in a position in a higher rank during periods of absence of the incumbent or during a vacancy in the position for more than ten (10) consecutive working days or five consecutive shifts, shall receive the same salary for the higher rank to which he would be entitled, were he promoted to that rank during the period in which the employee is acting in the higher rank. The Chief of the department in which the assignment to the higher rank occurs shall certify as to the assignment and the period of time worked in the higher rank to validate entitlement to the salary of the higher rank.

SIXTH: Definitions

The words and terms defined in this subsection shall have the following meanings in this section

(a) "Shift" means a 24-hour duty for the Fire Department, except for the positions of Chief, Assistant Chief, and local safety members working in the Fire Prevention Bureau, and such other local safety positions as may hereafter be granted a forty (40) hour average work week by resolution of the Common Council.

Article VII, Section 122, is amended to read as follows:

Section 122. Proceedings may be commenced for recall of the holder of any elective office of this City and the election of a successor of the holder sought to be removed by the service, filing and publication of a notice of intention to circulate a recall petition. Such proceedings may not be commenced against the holder of an office unless, at the time of commencement, the holder has held office for at least ninety days and no recall petition has been filed against such holder within the preceding six months. A petition demanding the recall of the officer sought to be recalled shall be submitted to the City Clerk. The petition shall be signed by not less than twenty-five percent (25%) of the voters of the City, or in the case of a City Councilman elected by ward twenty-five percent (25%) of the voters of that ward, according to the County Clerk's last official report of registration to the Secretary of State. No signature may be affixed to the petition until the proponents have served, filed and published a notice of intention to circulate a recall petition, containing the name of the officer sought to be recalled and the title of his office, a statement in not more than 500 words of the grounds on which the recall is sought, and the name and address of at least one, but not more than five proponents. The notice of intention shall be served, personally or by certified mail, on the officer sought to be recalled, and a copy thereof with a certificate of the time and manner of service shall be filed with the clerk of the legislative body. Within seven (7) days after the filing of the notice of intention, the officer sought to be recalled may file with the City Clerk an answer in not more than 500 words to the statement of the proponents, and if an answer is filed, shall serve a copy thereof, personally or by certified mail, on one of the proponents named in the notice of intention. At the time the proponents publish the notice and statement referred to above, the officer sought to be recalled may have the answer published at his expense. If the answer is to be published the officer shall file with the City Clerk at the time the answer is filed a statement declaring his intent that the answer be published. The statement and answer are intended solely for the information of the voters and no insufficiency in the form or substance thereof shall affect the validity of the election or proceedings. The notice and statement as referred to above, and the answer, if it is to be published shall be published at least once in a newspaper of general circulation, as described in Sections 6000 to 6066 of the Government Code, adjudicated as such.

Seven (7) days after the publication of the notice, statement and answer, if it is to be published, the recall petition may be circulated and signed. The petition shall bear a copy of the notice of intention, statement and answer, if any. If the officer has not answered, the petition shall so state. Signatures shall be secured and the petition filed within sixty (60) days from the filing of the notice of intention. If such petition is not filed within the time permitted by this section, the same shall be void for all purposes. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and such other identification as may be required by the registration law. One of the signers of each such paper shall make oath

before an officer qualified to administer oaths, that the statements therein made are true, and that each signature to the paper appended, is the genuine signature of the person whose name purports to be thereunto subscribed. Within thirty (30) days after the date of filing such petition the City Clerk shall examine and ascertain whether or not said petition is signed by the requisite number of qualified electors and, if necessary, the Council shall allow extra help for that purpose, and the City Clerk shall attach to said petition a certificate showing the result of said examination. If, by the City Clerk's certificate, the petition is shown to be insufficient, it may be amended within thirty (30) days from the date of said certificate. The City Clerk shall, within thirty (30) days after such amendment, make like examination of the amended petition, and, if his certificate shall show the same to be insufficient it shall be void for all purposes. If the petition shall be found to be sufficient, the City Clerk shall submit the same to the Council without delay and the Council shall thereupon order and fix a date for holding said election, not less than fifty (50) days, nor more than seventy (70) days from the date of the City Clerk's certificate to the Council that a sufficient petition is filed.

The City Council and the City Clerk shall make, or cause to be made, publication of notice and all arrangements for conducting, returning and declaring the results of such election in the same manner as other City elections. Any person sought to be removed may be a candidate to succeed himself and, unless he requests otherwise, in writing, the City Clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election, if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the party who received the highest number of votes should fail to qualify within ten (10) days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes he shall continue in office. The successor of any officer so removed shall hold office during the unexpired term of his predecessor.

Certified to be a true copy by W. R. Holcomb, Mayor, and Lucille Goforth, City Clerk.

Date of municipal election: June 8, 1976.

Charter Chapter 10—City of Santa Barbara

Amendments to the Charter of the City of Santa Barbara

[Filed with Secretary of State June 29, 1976.]

Section 1007 is amended to read as follows:

Section 1007. Suspension, Demotion and Dismissal. Every person holding an office or position in the Classified Service who shall have

completed the probationary period therein shall be entitled to retain his office or position during good behavior so long as it exists under the same or a different title, subject, however, to suspension, demotion or dismissal as in this section provided. Any such person may be suspended, demoted or dismissed by the appointing power, subject to the provisions of this Charter, for incompetence, habitual intemperance, immoral conduct, insubordination, repeated discourteous treatment of the public or fellow employees, dishonesty, conviction of a felony, inattention to duties, engaging in prohibited political activity, acts inimical to the public service, physical or mental incompetency, or other ground of penalty or forfeiture specified by the Constitution or by this Charter.

Any such person who is suspended, demoted or dismissed shall be entitled to receive upon his request, at the office of the board or officer taking such action, a written statement in which shall be separately stated each of the charges against him upon which such suspension, demotion or dismissal is based, a copy of which statement shall be furnished to the City Clerk for delivery to the Board of Civil Service Commissioners. Such statement shall be specific as to time, place and circumstances and shall be furnished to him within three working days after his request therefor, which request must be filed within five working days after he has been notified of such suspension, demotion or dismissal. He shall have ten days after receipt of such statement within which to file an answer to such statement of charges should he desire to do so.

In his answer, or otherwise if no statement of charges has been made available to him as required, such person may request a hearing by the Board of Civil Service Commissioners to review such suspension, demotion or dismissal. Such answer, or request for a hearing, shall be filed in the office of the City Clerk for delivery to the said Board. A public hearing shall be called and held on the matter by said Board within twenty days and written notice of the time and place thereof shall be given to the employee in person or by mail at least ten days before the hearing. Such employee shall be given the opportunity at such hearing to be heard in his defense in person or by counsel. Hearings may be conducted informally and the legal rules of evidence need not apply.

The Board shall make written findings which shall state as to each charge whether or not such charge is sustained. Such Board shall also set forth in writing its conclusions and recommendations based upon such findings and within ten days after concluding the hearing, it shall certify its findings, conclusions, recommendations and its decision based thereon to the board or officer from whose action the appeal was taken, and to the City Administrator and City Council. The same shall also be available to the public.

The decision of the Board shall affirm, modify or rescind the action taken as in its judgment shall seem warranted by the evidence and by the applicable provisions of this Charter and any ordinance, rules or regulations adopted hereunder; and such decision shall be final and conclusive.

Where an appeal is taken to the Board from an order of dismissal, the vacancy in the position shall be considered a temporary vacancy pending final action by the Board and may be filled only by a temporary appointment.

Notwithstanding any other provision of this Charter, a reduction in pay shall not constitute a demotion if it results from a position reallocation or reclassification as defined by ordinance or resolution or is a part of a plan to reduce salaries and wages in connection with a general economy or curtailment program.

Nothing in this section shall restrict the right to make bonafide reductions in force or to enact legislation requiring retirement for disability or age.

As used in this Charter, the words dismiss, remove and discharge, in all their forms and tenses, shall be synonymous and interchangeable.

Section 1211 is amended to read as follows:

Section 1211. Salaries. Annual Adjustment. In order to provide understandable methods of salary setting which will result in compensation reasonable to employees and tax payers alike, the salary administration policy and procedures for the City shall be implemented in a manner consistent with modern public personnel administration.

(a) The City Administrator shall annually review the salary schedules, rates of compensation, and related benefits of all the Officers, Management Employees, General Employees, and Police and Fire Employees of the City, as such employee groups may be defined by ordinance, in accordance with the wage compensation policy hereinafter set forth.

(b) The compensation which shall be paid to Police and Fire personnel shall be the salary or wage rate at least equal to the average rate for each comparable position paid by the twenty cities in California, the populations of which are nearest to that of the City as of January first preceding the adjustment specified in subsection (e) of this section and on file with the State Controller and known as the "Estimated Population" by the State Controller.

(c) The compensation of General Employees of the City shall be set forth by ordinance or resolution. Said compensation may be adjusted, annually or otherwise, to reflect the results, if any, of any employer/employee negotiations which may be required by law. Notwithstanding any provisions of this Charter, the economic ability of the City to pay compensation in any form shall be paramount.

(d) Compensation for Management Employees of the City shall be in accordance with the Management Compensation Plan specified by ordinance. The salaries of Management Employees shall be annually reviewed and adjusted on the basis of comparability with other public jurisdictions having departmental divisions of similar size and positions. In recommending salary adjustments to the Council, the City Administrator shall take into account cost-of-living indices, recruitment difficulties, staff organization, and responsibility.

(e) The City Council shall annually by ordinance or resolution effective on the first day of July of each year adjust the salary schedules and rates of compensation of all City officers and employees, other than City Councilmen, in accordance with the provisions of this section.

(f) This section shall become operative and effective on January 1, 1974.

(Approved by election held April 17, 1973.)

Notwithstanding the foregoing provisions of this Section: (1) when the functions, duties, demands or responsibilities of a position or classification are substantially changed, (2) when a sufficient number of applicants for a class or position is not available, (3) when the ability, capabilities, background or experience of the occupant of an office or position are substantially different from those of the previous occupant, or (4) when a new position is created, the City Council may change and establish the salary for any such office, position or classification so as to be fair and just and compatible with the facts, circumstances and considerations as above set forth. Salary schedules or rates shall not be changed except in accordance with this Section.

Certified to be a true copy by David T. Shiffman, Mayor, and Joyce Snider, City Clerk

Date of municipal election: June 8, 1976.

Charter Chapter 11—City of Albany

Amendments to the Charter of the City of Albany

[Filed with Secretary of State July 1, 1976]

Section 4 is amended to read as follows:

Section 4. The Council.

The legislative body of said city shall consist of five persons elected at large, which body shall be known as the council.

The members of the council shall be elected by the qualified voters of said city at a general municipal election to be held therein every even-numbered year as hereinafter provided. They shall hold office for the period of four years from and after the Monday next succeeding the day of their election and until their successors are elected and qualified; provided, however, that the members of the board of trustees who shall be in office at the time this Charter is approved by the legislature shall retain the office to which each was elected and become and constitute the council, and that three members of the council shall be elected at the regular municipal election held as herein provided in 1928 and two members thereof at such election in 1930 and hereafter in similar rotation each even-numbered year.

Each member of the council shall receive a compensation of five dollars (\$5.00) for each meeting attended, provided, however, that he shall not receive more than twenty-five dollars (\$25.00) in any one month, except as otherwise provided by Section 46 of this Charter. Members of the Council shall not be eligible to any other office or employment with the city, other than as in this Charter expressly provided.

No person not an elector of the City shall be eligible to hold office as a member of the city council, and no person shall be eligible for nomination for such office without having been a resident of the city for thirty

(30) days immediately preceding nomination.

Section 38 is amended to read as follows:

Section 38. Department of Education.

(a) The control of the school department shall be vested in a board of education which shall consist of five members elected at large by the qualified voters of the city at a general municipal election to be held therein every even-numbered year in the same manner and time as for the members of the council. They shall serve for a term of four years and until their respective successors qualify.

No person not an elector of the city shall be eligible to hold office as a member of the board of education, and no person shall be eligible for nomination for such office without having been a resident of the City for thirty (30) days immediately preceding nomination.

Three members of the board of education shall be elected at the regular municipal election as herein provided in 1954 and thereafter in similar rotation each even-numbered year.

Not more than 30 days after this section becomes effective, the board of education shall appoint a successor to replace the member of the city council serving on the board of education. The term of this appointee shall expire at the next regular municipal election.

(b) Regular meetings of the board shall be held at such times as the board may prescribe, provided that at least one regular meeting shall be held in each calendar month. All meetings of the board shall be open to the public.

(c) The board shall have the entire management of the public schools of the city and in addition to the powers and duties prescribed by the provisions of this Charter shall have all the powers that are now or may hereafter be conferred and discharge the duties imposed by law upon city boards of education.

(d) Inspection of accounts by city. Deleted.

(e) The board shall make such rules and regulations governing its meetings and procedure as may seem proper. A majority of the board shall constitute a quorum, but the affirmative vote of three members shall be necessary to authorize the payment of public money or the election of a superintendent, principals, teachers and all officers and employees whom the board is authorized to elect or appoint.

(f) Any vacancy of the board shall be filled by the vote of a majority of the board until the next general city election for municipal officers; when a member shall be elected to fill the unexpired term.

In the event that three or more such vacancies exist at one time, sufficient vacancies shall be filled by the appointment of the county superintendent of schools to make a majority of such board to act and fill the remaining vacancies. Each such appointed member shall hold office until the next general city election for municipal officers, when a member shall be elected to fill the unexpired term.

If any member of the board of education shall be removed from the city or absent himself therefrom for more than sixty days, consecutively with-

out permission of the board of education or shall fail to qualify his office shall thereupon become vacant.

Section 50, subsections (h) and (i), is amended to read as follows:

(h) Re-examination. Any person retired for disability under this act may be summoned before the board herein provided for at any time thereafter, and shall submit thereto for examination as to fitness for duty, and shall abide the decision and order of such board with reference thereto.

(i) Forfeiture of pension. Refund of contributions. When any person who shall have received any benefit from said fund shall fail to report for examination for duty as required by said board, under this act, in respect to said examination or duty, then such board shall order that such pension allowance as may have been granted to such person shall immediately cease, and such person shall receive no further pension, allowance or benefit under this act. Excepting nevertheless, that any member of the police or fire department, who, for any reason whatever ceases to be a member of the police or fire department, and who at the time of said cessation is not otherwise entitled to financial benefits under this law, shall be entitled to, and shall be paid within ninety (90) days after such cessation of being a member, all sums of money retained from and out of his or her salary as provided by subsection (1) of this law, together with three and one-half percent ($3\frac{1}{2}\%$) per annum interest on such sums, computed from the first day of July on each year. Provided further, that any member of the police or fire department who shall have ceased to be a member and shall have been paid any sum or sums of money in this section provided, shall be reinstated and again become a member of the police or fire department, said such sum or sums of money as shall have been so paid, together with interest at the rate of three and one-half percent ($3\frac{1}{2}\%$) per annum from the date of said payment as aforesaid shall be first deducted from any and all benefits thereafter by him received under this law.

Certified to be a true copy by Joyce A. Jackson, Mayor, and Patricia A. George, City Clerk.

Date of municipal election: April 13, 1976.

Charter Chapter 12—City of Palo Alto

Amendments to the Charter of the City of Palo Alto

[Filed with Secretary of State July 1, 1976.]

Article III, Section 2, is amended to read as follows:

Article III. Council

Sec. 2. Number; term. Commencing July 1, 1971, said council shall be composed of nine members, each of whom shall at the time of assuming such office be an elector and shall have been a resident of the City of Palo

Alto for at least thirty days next preceding the final filing date for nomination papers for such office. The members of said council shall be known as councilmen, councilwomen, or council members and their terms of office shall be four years, commencing on the first day of July next succeeding their election.

Article VII-A, Section 2, is amended to read as follows:

Article VII-A. Board of Education

Sec. 2. Effect of amendment; term. (c) Term of office. The term of office of the members of the Board of Education, except as provided in Section 2, subsection (b), of this Article, shall be five years from and after the first day of April succeeding their election and until their successors are elected and qualified.

Certified to be a true copy by Stanley R. Norton, Mayor, and Ann J. Tanner, City Clerk.

Date of municipal election: June 8, 1976.

Charter Chapter 13—County of Los Angeles

Amendments to the Charter of the County of Los Angeles

[Filed with Secretary of State July 6, 1976]

Section 33 is amended to read as follows:

Section 33. The Civil Service of the County is hereby divided into the unclassified and the classified service.

The unclassified service shall comprise:

- (a) All officers elected by the people.
- (b) Members of all commissions, committees and boards created by this Charter, statute or ordinance.
- (c) All heads of County agencies and departments.
- (d) In the office of the District Attorney: The Chief and one other deputy, one secretary, and three detectives, and special counsel and special detectives for temporary employment.
- (e) In the office of the Sheriff: The Undersheriff, or Chief Deputy. In the office of the Assessor: The Chief Deputy.
- (f) Superintendents, principals and teachers in the school system.
- (g) All officers and other persons serving the County without compensation.

The classified service shall include all other positions now existing or hereafter created.

Sections 33.5, 33.6, and 33.7 are amended to read as follows:

Sec. 33.5. Notwithstanding any other provision of this Charter, any person employed as a County department head on the effective date of this section and whose position as department head is removed from the classified service on said date and placed in the unclassified service, shall

continue to have the same rights as if his position had not been placed in the unclassified service.

Sec. 33.6. In the event that a member of the classified service is appointed to an unclassified position, he shall have the right to take a leave of absence from his position in the classified service while holding such appointment and, upon the termination of such appointment, to return to the status in the classified service which he held at the time of his appointment.

Sec. 33.7. The Board of Supervisors in making an appointment to the position of Department Head shall make such appointment from a list received from the Civil Service Commission certifying the candidates as meeting the standards for the position.

Certified to be a true copy by Baxter Ward, Chairman, Board of Supervisors, and James S. Mize, Executive Officer—Clerk of the Board of Supervisors.

Date of municipal election: June 8, 1976.

Charter Chapter 14—City and County of San Francisco

Amendments to the Charter of the City and County of San Francisco

[Filed with Secretary of State July 7, 1976]

Section 3.201 is amended to read as follows:

3.201 Functions, Powers and Duties

The chief administrative officer shall be responsible to the mayor and to the Board of Supervisors for the administration of all affairs of the city and county that are placed in his charge by the provisions of this charter and by ordinance, and to that end, except as otherwise provided in section 9.102 of this charter, and the general laws of this state respecting the registration of voters, the holding of elections and all matters pertaining to elections in a city and county, he shall have power and it shall be his duty to exercise supervision and control over all administrative departments which are under his jurisdiction; to appoint the heads of departments under his control and the members of advisory and other boards provided by this charter or by ordinance to be appointed by the chief administrative officer; to prescribe general rules and regulations for the administrative service under his control; to have a voice but no vote in the board of supervisors, with the right to report on or to discuss any matter before the said board concerning the affairs of the departments in his charge; to make such recommendations and propose such measures to the mayor, the board of supervisors, or committees thereof, concerning the affairs of the city and county in his charge as he may deem necessary; to coordinate the functioning of the several departments of the city and county charged with powers and duties relating to control of traffic; and

to provide for the budgeting and control of publicity and advertising expenditures of the city and county.

The chief administrative officer may designate an officer or an employee in any department under his jurisdiction to exercise the powers and perform the duties of any county office not specifically designated by this charter.

The chief administrative officer may designate the recorder to exercise the powers and perform the duties of the registrar of voters and to occupy the offices of registrar of voters and recorder, receiving a single salary therefor to be fixed in accordance with the salary standardization provisions of this charter.

Section 8.341 is amended to read as follows:

8.341 Dismissal for Cause

No person employed under the civil service provisions of this charter, exclusive of members of the police and fire departments as provided under section 8.343 hereof, in a position defined by the commission as "permanent" shall be removed or discharged except for cause, upon written charges, and after an opportunity to be heard in his own defense. Pending such hearing, the appointing officer may suspend the person so accused if the accusation against the accused person involves misappropriation of public funds or property, misuse or destruction of public property, drug addiction or habitual intemperance, mistreatment of persons, immorality, acts which would constitute a felony or misdemeanor involving moral turpitude, or acts which present an immediate danger to the public health and safety; but such suspension shall not be valid for more than thirty days, unless hearing upon the charges shall be delayed beyond such time by the act of the accused person. When charges are made, the appointing officer shall, in writing, notify the person accused of the time and place when the charges will be heard, by mailing such statement to his last known address. The appointing officer shall publicly hear and determine the charges, and may exonerate, suspend or dismiss the accused. If the employee is exonerated the appointing officer may, at his discretion, remit the suspension and may order payment of salary to the employee for the time under suspension, and the report of such suspension shall thereupon be expunged from the record of service of such employee. The civil service commission shall immediately be notified of the charges when made, of the hearing, and of the finding thereon. The finding of the appointing officer shall be final, unless within thirty days therefrom the dismissed employee appeals to the civil service commission. The appeal and all proceedings shall be in writing and shall briefly state the grounds therefor. The civil service commission shall examine into the case and may require the appointing officer to furnish a record of the hearing and may require in writing any additional evidence it deems material, and may, thereupon, make such decision as it deems just. The order or decision of the commission upon such appeal shall be final and shall forthwith be enforced by the appointing officer. If the civil service commission shall reverse or alter the finding of the appointing officer it may, in its discretion, order that the employee affected be paid salary from the time of his discharge or suspension.

The civil service commission may hear and determine any charge filed by a citizen or by the authorized agents of the commission when the appointing officer neglects or refuses to act. Removal or discharge may be made for any of the following causes: incompetence, habitual intemperance, immoral conduct, insubordination, discourteous treatment of the public, dishonesty, inattention to duties, or engaging in prohibited political activities.

Nothing in this section shall limit or restrict rules adopted by the commission governing lay-offs or reduction in force.

Section 8.362 is repealed.

Section 8.323 is amended to read as follows:

8.323 Protest of Tentative List of Eligibles

Following the completion of any examination, a tentative list of eligibles shall be posted for the inspection of the public and of participants. The posting period shall be for a minimum of three (3) working days for entrance examinations or five (5) working days for promotional examinations. During this period a fee for the inspection of the papers of each eligible shall be charged by the civil service commission. The amount of such fee shall be established by ordinance of the board of supervisors. The fee shall be waived for eligibles who wish to inspect their own papers. Inspection of papers shall include all documents supporting the eligible's rank and score, except neither the identity of the examiner giving any mark or grade in an oral examination nor the questions and answers on any continuous or standardized entrance or concurrent entrance and promotive written test, shall be provided. Only participants in the examination may review the questions used in the examination. The civil service commission shall receive any protests concerning ratings during the posting period for the purpose of correcting errors. If no protests are received during the posting period, the eligible list is automatically adopted. If protests are received, the investigation and action of the civil service commission shall be expedited so that final adoption of the eligible list is not delayed beyond sixty (60) days after the date of posting.

Section 2.203-2 is added to read as follows:

2.203-2 Employee Relations Director

Notwithstanding the provisions of section 3.510 of this charter, the employee relations director shall be appointed by the board of supervisors and shall hold office at the pleasure of said board.

Section 8.405 is amended to read as follows:

8.405 Salaries of Uniformed Forces in the Police and Fire Departments

(a) Not later than the 1st day of August of each year, the civil service commission shall survey and certify to the board of supervisors rates of compensation paid police officers or patrolmen employed in the respective police departments in all cities of 350,000 population or over in the State of California, based upon the latest federal decennial census. For the purpose of the civil service commission's survey and certification the rates contained in said certification shall be the average of the maximum rates paid to each police officer or patrolman classification performing the same or essentially the same duties as police officers or patrolmen in the City

and County of San Francisco.

Thereupon the board of supervisors shall have power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the police department whose annual compensations are set forth in section 3.531 of this charter and said rates shall be in lieu of said annual compensations and shall be effective from the 1st day of July of the current fiscal year.

The rates of compensation, fixed in said ordinance,

(1) for the fourth year of service and thereafter for police officers, police patrol drivers and women protective officers the compensation shall be fixed at a rate which is the average maximum wage paid to the police officers or patrolmen classifications in regular service in the cities included in the certified report of the civil service commission. "Average wage" as used in this paragraph shall mean the sum of the maximum averages certified by the civil service commission divided by the number of police officer classification in cities in said certification;

(2) for the first, second and third year of service for police officers, police patrol drivers and women protective officers shall be established in accordance with the general percentage differential between seniority steps found in the salary ranges included in the cities certified by the civil service commission for the same class;

(3) for said members of the police department other than police officers, police patrol drivers and women protective officers shall include the same per cent of adjustment as that established by said ordinance for police officers in the fourth year of service; and

(4) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The rates of compensation set forth in the budget estimates, the budget and the annual salary ordinance shall be those fixed by the board of supervisors as in this section provided and appropriations therefor shall be based thereon.

The expression "rates of compensation", as used in this section in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences of any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation".

Working benefits and premium pay differential of any type shall be allowed or paid to members of the police department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation" as used in this section, shall mean "salary attached to the rank" as used in section 166 of the charter of 1932, as amended, and, with the addition of fifteen dollars per month now provided in subsection (b) with

respect to members assigned to two-wheel motorcycle traffic duty, shall also mean "compensation earnable" as used in section 8.549.

The term "police officers or patrolmen" as used in this section shall mean the persons employed in the police departments of said cities of 350,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by police officers, police patrol drivers and women protective officers in the San Francisco Police Department.

In determining years of service necessary for a police officer, woman protective officer and police patrol driver to receive the annual compensation as provided for herein, service rendered prior to the effective date of this amendment shall be given full credit and allowed.

The absence of any police officer, woman protective officer, or police patrol driver on military leave, as defined by section 8.361 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

On the recommendation of the chief of police, the commission may reward any member of the department for heroic or meritorious conduct. The form or amount of said reward to be discretionary with the commission, but not to exceed one month's salary in any one instance.

If any member of the department appointed as an assistant inspector is a sergeant at the time of the appointment or is appointed a sergeant thereafter, he shall receive the rate of compensation attached to the rank of sergeant.

(b) Not later than the 1st day of August of each year the civil service commission shall survey, and certify to the board of supervisors, additional rates of pay paid to members assigned to two-wheel motorcycle traffic duty in the respective police departments of all cities of 350,000 population or over in the State of California, based upon the latest decennial census. For the purpose of the civil service commission's survey and certification the additional rates for two-wheel motorcycle traffic duty shall include the average additional amount paid to members assigned to two-wheel motorcycle traffic duty in the cities surveyed.

Thereupon the board of supervisors shall have power, and it shall be its duty, by ordinance, to fix the additional rate of pay for the members of the police department who are assigned to two-wheel motorcycle traffic duty. The additional rate of pay will be determined by the average additional wage paid to members in regular service in the cities included in the certified report of the civil service commission who are assigned to two-wheel motorcycle traffic duty. "Average wage" as used in this paragraph shall mean the sum of the additional rates of pay certified by the civil service commission divided by the number of cities in said certification. Said additional rates shall be in lieu of said annual compensations and shall be effective from the first day of July of the current fiscal year.

Said rate of pay shall be in addition to the rate of compensation provided for in subsection (a).

In no event shall the additional rate so fixed be less than \$15.00 per month.

(c) Not later than the 1st day of August of each year, the civil service commission shall survey and certify to the board of supervisors rates of compensation paid firemen employed in the respective fire departments of all cities of 350,000 population or over in the State of California, based upon the latest federal decennial census. For the purpose of the civil service commission's survey and certification the rates contained in said certification shall be the average of the maximum rates paid to each fireman classification performing the same or essentially the same duties as firemen in the City and County of San Francisco.

Thereupon the board of supervisors shall have the power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the fire department whose annual compensations are set forth or otherwise provided in section 3.542 of this charter, and said rates shall be in lieu of said annual compensations and shall be effective from the 1st day of July of the current fiscal year.

The rates of compensation, fixed in said ordinance,

(1) for the fourth year of service and thereafter the rate of compensation shall be fixed at a rate which is the average of the maximum compensation paid firemen classifications in regular service in the cities included in the certified report of the civil service commission. "Average wage" as used in this paragraph shall mean the sum of the maximum averages certified by the civil service commission divided by the number of firemen classifications in cities in said certification;

(2) for the first, second and third year of service for firemen shall be established in accordance with the general percentage differential between seniority steps found in the salary ranges included in the cities certified by the civil service commission for the same class;

(3) for said members of the fire department other than firemen shall include the same per cent of adjustment as that established by said ordinance for firemen in the fourth year of service; and

(4) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The expression "rates of compensation" as used in this section, in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences for any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation".

Working benefits and premium pay differentials of any type shall be allowed or paid to members of the fire department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation", as used in subsections (c) and (d) of this section shall mean "salary attached to the rank" as used in section 169 of the charter of 1932,

as amended and "compensation earnable" as used in section 8.549.

The term "firemen" as used in this section shall mean the persons employed, in the fire departments of said cities of 350,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by drivers, stokers, tillermen, truckmen, or hosemen, in the San Francisco Fire Department.

The expression "members of the fire department" does not include members of the fire commission.

The absence of any officer or member of the fire department on military leave of absence, as defined by section 8.361 of this charter shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided in this charter.

On the recommendation of the chief of department, the commission may reward any officer or member of the department for heroic or meritorious conduct, the form or amount of said award to be discretionary with the fire commission, but not to exceed one month's salary in any one instance.

The rates of compensation for the ranks of captain, bureau of fire prevention and public safety, and lieutenant, bureau of fire prevention and public safety, and lieutenant, bureau of fire investigation, shall be thirteen per cent (13%) above the compensation established for the ranks of captain and lieutenant as provided for in this section. The rates of compensation for the ranks of inspector, bureau of fire prevention and public safety, and investigator, bureau of fire investigation, shall be ten per cent (10%) above the compensation established for the rank of chief's operator as provided for in this section. The rate of compensation shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this subsection, half dollars being taken to the next higher dollar amount.

(d) The rates of compensation fixed pursuant to the provisions of subsection (a) (1), (2) and (3) and the rates of compensation fixed pursuant to the provisions of subsection (c) (1), (2) and (3) shall be the same. Such rates shall not exceed the highest average rate of compensation fixed pursuant to subsections (a) (1), (2) and (3) and (c) (1), (2) and (3) above, whether it be paid to police officers, patrolmen or firemen; provided, further, that the minimum rate of compensation attached to the rank of sergeant in the police department shall be equal to the rate of compensation attached to the rank of lieutenant in the fire department.

(e) Not later than the 25th day of August the board of supervisors shall have the power and it shall be its duty, subject to the fiscal provisions of the charter but, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance as necessary to include the provisions of paying the rates of compensation fixed by the board of supervisors as in this section provided for uniformed members of the police and fire departments for the then current fiscal year.

(f) Not later than the 1st day of August of each year, the civil service

commission shall determine and certify to the board of supervisors the percentage of increase or decrease in the cost of living during the twelve-month period ending March 31st of that same year as shown by the Consumer Price Index, All Items, San Francisco, and the percentage of increase or decrease in the cost of living during the same period as shown by the Consumer Price Index, All Items, in the cities included in the certified report of said commission. The Consumer Price Index referred to herein is defined as that certain index issued by the U.S. Bureau of Labor Statistics and published in the Monthly Labor Review or a successor publication. In the event the U.S. Bureau of Labor Statistics discontinues the compilation and publication of said indexes, the board of supervisors shall have the power, and it shall be its duty, to appoint a statistical fact finding committee to determine the same data pursuant to the methods theretofore used by the U.S. Bureau of Labor Statistics. The cost of living adjustments as hereinafter provided shall be based upon the percentage of such increases or decreases. The board of supervisors may, in addition to the rates of compensation as established herein, and at the same time said rates of compensation are established, increase said rates of compensation by an amount equal to the difference between the average cost of living increase of the cities included in the certified report of the civil service commission and the actual cost of living increase for San Francisco. In the event the board of supervisors elects not to grant such cost of living increase in any year in which any such increase might be granted, the board of supervisors shall, upon a written request filed with the clerk of the board of supervisors not later than the 10th day of September of said year by representatives of the uniformed members of the police and fire departments, as designated by the police and fire commissions, respectively, submit the question of said cost of living increase to the qualified electors of the city and county at the next succeeding citywide election. In the event said cost of living increase is approved by a majority of the qualified electors voting thereon, said cost of living increase shall be effective as of the first day of the then current fiscal year.

(g) Notwithstanding any of the provisions contained in this section, no uniformed member of the police or fire department employed before July 1, 1976 whose compensation is fixed pursuant to the formula contained herein, shall suffer a salary reduction by the application of any new compensation schedules, and the rates for fiscal year 1975-76 shall continue until such time as the new schedules equal or exceed the current salary increment schedules; provided, however, that such time shall not be extended beyond June 30, 1979, and provided further that this prohibition against reduction of compensation for the designated employees shall not be deemed to supersede the provisions of section 8.406 of this charter.

Section 8.324 is amended to read as follows:

8.324 Veterans Preference in Examinations

Veterans with thirty days or more actual service, and widows or widowers of such veterans, who become eligible for appointment by attaining the passing mark in any entrance examination, shall be allowed an additional credit of five percent in making up the list of eligibles established by such examination. The term "veteran" as used in this section shall be

taken to mean any person who has been mustered into, or served in, or enlisted in the United States Army, the United States Navy, the United States Marine Corps, the United States Army Air Corps, the United States Air Force, or the United States Coast Guard, and served on active duty in said branch of the armed forces of the United States, not including reserve service, at any time for a period of thirty (30) days or more in time of war and been separated from active duty and under conditions other than dishonorable and not resulting from courts martial, except no individual entering the armed forces on or after January 27, 1973, the date of the creation of the volunteer army, shall receive veterans preference in a civil service entrance examination for service of any type in the armed forces of the United States. In addition, an individual qualifying for veterans preference as herein defined shall be deemed entitled thereto on his or her date of separation from active duty in the armed forces. No person so qualified shall be granted veterans preference unless he or she indicates qualification therefor on an examination application received by the civil service commission not later than ten years from the date of his or her first entitlement thereto. When an eligible has secured a permanent appointment from a list of eligibles derived from an entrance examination, in which he or she has been allowed additional credits of five percent as herein provided, and has served the full probationary period therein as provided in this charter, such other additional credits of five percent that have been allowed him or her on the list of eligibles derived from other entrance examinations shall be automatically cancelled, and his or her rank on such other list of lists revised to accord with his or her relative standing before such additional credits were added and he or she shall not be allowed such additional credits in any other examinations. The civil service commission may, for services or employment specified by the commission, allow general or individual preference, but not more than ten percent, for entrance appointment of veterans who have suffered permanent disability in the line of duty, provided that such disability would not prevent the proper performance of the duties required under such service, or employment, and provided that such disability is of record in the United States Veterans' Administration.

Definition of Time of War

In the administration hereafter of the provisions of this section of this charter, the expression "time of war" shall include the following periods of time:

(a) The period of time from the commencement of a war as shown by any declaration of war, of the Congress of the United States, or by any statute or resolution of the Congress a purpose of which is to declare in any manner the existence of a state of war, until the time of termination thereof by any truce, treaty of peace, cessation of hostilities, or otherwise.

(b) The period of time during which the United States is or has been engaged in active military operations against any foreign power, whether or not war has been formally declared.

(c) The period of time during which the United States is or has been assisting the United Nations or any nation or nations in accordance with existing treaty obligations, in active military operations against any foreign

power, whether or not war has been formally declared.

(d) The period of time during which the United States is engaged in a campaign or expedition in which a medal has been authorized by the government of the United States; provided, however, that no person shall be eligible for the benefits provided for veterans in this section unless he shall have been eligible to receive such a medal.

Section 8.401-1 is added to read as follows:

8.401-1 Duration of Compensation Schedules

Notwithstanding any of the provisions of sections 8.400 or 8.401 or any other provisions of this charter, in fixing schedules of compensation as provided in section 8.401, the board of supervisors may fix said schedules for periods in excess of one year with respect to any or all classifications of employment.

Any ordinance fixing schedules of compensation which is adopted pursuant to this section for a period of more than one year shall contain a provision to the effect that during said period of time it shall be unlawful for the employees receiving the compensation so fixed, to engage in a strike or conduct hindering, delaying or interfering with work at city and county facilities.

Schedules of compensation fixed in excess of one year shall not be deemed to conflict with any present language of the charter or any subsequent amendments to the charter, relating to prevailing rates of compensation.

Certified to be a true copy by Quentin L. Kopp, President, Board of Supervisors, and Gilbert H. Boreman, Clerk of the Board and City Clerk.
Date of municipal election: June 8, 1976.

Charter Chapter 15—City of Industry

Charter of the City of Industry

[Filed with Secretary of State July 19, 1976]

CHARTER OF THE CITY OF INDUSTRY

We, the People of the City of Industry, State of California, do ordain and establish this Charter as the organic law of the City of Industry under the Constitution of the State of California.

Article I

Incorporation and Succession

Section 100. Name and Boundaries. The City of Industry, hereinafter termed "City", shall continue to be a municipal corporation under its present name, "City of Industry". The boundaries of the City shall be as established at the time this Charter takes effect, or as they may be changed thereafter in the manner authorized by law

Section 101. Rights and Liabilities of the City. The City shall continue to own, possess, and control all rights and property of every kind and

nature owned, possessed, or controlled by it at the time this Charter takes effect and shall be subject to all its legally enforceable debts, obligations, liabilities, and contracts.

Section 102. Ordinances, Codes and Other Regulations. All ordinances, codes, resolutions, rules, regulations, and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, shall continue in force until they shall have been duly repealed, amended, changed, or superseded by proper authority as provided herein.

Section 103. Officers and Employees. Subject to the provisions of this Charter, the present officers and employees of the City shall continue to perform the duties of their respective offices and employments under the same conditions as those of the existing offices and positions until the election or appointment and qualification of their successors, subject to such removal and control as herein provided.

Section 104. Pending Actions and Proceedings. No action or proceeding, civil or criminal, pending at the time when this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or anything herein contained.

Article II

Powers of City

Section 200. Powers. The City shall have all powers possible for a City to have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter. Specifically, but not by way of limitation, the City shall have the power to make and enforce all laws and regulations with respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the Constitution of the State of California. It shall also have the power to exercise any and all rights, powers and privileges heretofore or hereafter established, granted, or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise under the Constitution of the State of California. The enumeration in this Charter of any particular power, duty or procedure shall not be held to be exclusive of, or any limitation or restriction upon, this general grant of power. Without limiting the generality of the foregoing, the City may: acquire land for and acquire, construct, reconstruct, lease, sublease, build, furnish, refurnish or repair buildings for convention and exhibition halls, trade and industrial buildings and centers, auditoriums, opera houses, music halls and centers, coliseums, stadiums, sports arenas, sports pavilions, or other buildings or facilities for holding fairs, sports events, athletic contests, contests of skill, exhibitions and other public meetings, libraries, historical and cultural buildings and centers, museums, hospitals and health care facilities, buildings and facilities for the promotion and development of domestic and foreign trade and commerce, and buildings for other public purposes together with related facilities necessary therefor; acquire land and construct buildings, structures, improvements and facilities thereon for public purposes, in whole or in part with City funds, or by contract or lease with

any nonprofit association or corporation provide for the acquisition of land or the construction of such buildings, structures, improvements and facilities, or all or any part thereof, for any such public purposes, upon such terms as the Council may determine; lease any real property owned by the City and available for public purposes to any person, firm, corporation or nonprofit association or corporation for such public purposes, or any thereof, and in addition thereto, if the Council so determines, provide for such person, firm, corporation, or nonprofit association or corporation to lease the real property as improved back to the City for use for the public purposes stated in the lease; lease any real property or interest therein owned by the City and available for public purposes to any person, firm, corporation or nonprofit association or corporation for such public purposes or any thereof, any such lease by which such property is let as aforesaid to require the lessee therein to construct on the demised premises such buildings, structures, improvements and facilities, or any thereof, for the use of the City during the term thereof, and also to provide that title to such improvements shall vest in the City at the expiration of said term and to contain such other terms and conditions as the Council may deem to be in the best interests of the City; lease or sublease any buildings, structures, improvements or facilities to any person, firm, corporation, nonprofit association or corporation which agrees to use the buildings, structures, improvements or facilities so leased to it for the public purposes for which the same were or are to be built, or contract with any person, firm, corporation, nonprofit association or corporation for the maintenance, operation and management, or any thereof, of such buildings, structures, improvements or facilities or any part thereof; contribute funds or property of the City at such time or times, in such manner, and in such amounts as the Council may determine to any organization, group, corporation, trust, community chest, fund, or foundation, organized and operated exclusively for charitable, community, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Section 201. Intergovernmental Cooperation. The City may exercise any of its powers or perform any of its functions, including, without limitation, the financing thereof, jointly or in cooperation, by contract or otherwise, with the state or any department, subdivision or public entity thereof, any county, city, district or any other public entity, or any agency of any of the foregoing, any other state or agency thereof, or the United States or any agency thereof; and, in addition to the foregoing, the City may delegate the exercise of its powers or the performance of any of its functions to any of the foregoing.

Article III

The City Council

Section 300. City Council. The City Council, hereinafter termed

“Council”, shall consist of five Council members elected to office from the City at large in the manner provided in this Charter. The term of office shall be four years. Alternatively, and successively, three four-year terms shall be filled at one general municipal election and two four-year terms at the next such election, consistent with the sequence of terms of Council members existing on the effective date hereof. The term of a Council member shall commence on the first Tuesday following his or her election, and he or she shall serve until his or her successor qualifies. Any ties in voting shall be settled in such manner as the Council shall determine by ordinance. The Council shall meet on the Tuesday after the general municipal election and choose one of its members as Mayor, and one of its members as Mayor Pro Tempore.

Each Council member in office at the time this Charter takes effect shall continue in office until the end of the term for which he or she was elected or appointed subject to the right of the people to recall a Council member from office as provided herein.

Section 301. Eligibility. No person shall be eligible to hold the office of Council member unless he or she is a voter and resident of the City at the time of filing of nomination papers.

Section 302. Compensation. Compensation for Council members is hereby set in the amount established by Ordinance No. 388 of the City of Industry and may be increased by an ordinance enacted by the City Council in the manner provided by Section 36516.2 of the Government Code. Such compensation may otherwise be increased or decreased other than as set forth above by an affirmative vote of a majority of the voters voting on the proposition at any election. Council members shall also be reimbursed for their actual and necessary expenses incurred in the performance of official duties.

Section 303. Vacancies, Forfeiture of Office, Filling of Vacancies.

(a) A vacancy shall exist on the Council, and shall be declared by the Council, upon the occurrence of any of the events enumerated in the provisions of the Government Code pertaining to vacancies in public offices.

(b) A declaration by the Council of a vacancy resulting from forfeiture of office shall be subject to judicial review, provided that within two weeks after such declaration an appropriate action or proceeding for review is filed in a court having jurisdiction of the action or proceeding. During the pendency of any such action or proceeding, anyone appointed by the Council or elected by the people to fill such vacancy shall have all the rights, duties, and powers of a Council member and shall continue in such office as provided herein unless and until said court rules the declaration of the Council invalid and such ruling has become final.

(c) The method of filling vacancies on the Council shall be as prescribed by ordinance of the Council.

Section 304. Powers Vested in the Council. All powers of the City shall be vested in the Council except as otherwise provided in this Charter.

Section 305. Council Organization, Meetings and Rules of Order. Officers of the Council, the time, place and method of calling meetings and the rules of order for the conduct of proceedings by the Council shall

be as established by ordinance of the Council.

Section 306. Adoption of Ordinances and Resolutions. With the exception of ordinances which take effect upon adoption pursuant to this Article, no ordinance shall be adopted by the Council on the day of its introduction, nor within five days thereafter. An ordinance effective upon adoption as provided herein may be introduced and adopted at the same time. All ordinances shall be read by title only either at the time of introduction or at the time of adoption unless three members of the Council request that the ordinance be read in full. In the event that any ordinance is altered after its introduction, it shall not be finally adopted except at a meeting held not less than five days after the date upon which such ordinance was altered. Correction of a typographical or clerical error shall not constitute an alteration within the meaning of the foregoing sentence.

Unless otherwise required by this Charter, the affirmative votes of at least three members of the Council shall be required for the enactment of any ordinance, or order for the payment of money.

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

Any ordinance declared by the Council to be necessary as an urgency measure for preserving the public peace, health, or safety and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if it is passed by at least four affirmative votes.

Section 307. Ordinances, Posting. The City Clerk shall cause each ordinance to be posted in at least three public places in the City in lieu of publication unless publication is requested by the Council or otherwise required by law.

Section 308. Adoption of Codes by Reference. Detailed regulations pertaining to any subject, when arranged as a comprehensive code, may be adopted by reference by the passage of an ordinance for such purpose. Such code need not be posted or published in the manner required for the enactment of ordinances. Any or all ordinances of the City may be compiled, consolidated, revised, indexed, including such restatement and substantive change as is necessary in the interest of clarity, and arranged as a comprehensive code. Such ordinance code may be adopted by reference as provided herein.

Section 309. Ordinances, When Effective. An ordinance shall become effective after the thirtieth day following its adoption, or at any later date specified therein, except the following, which shall take effect upon adoption:

- (a) An ordinance calling or otherwise relating to an election.
- (b) An ordinance declaring the amount of money necessary to be raised by taxation, fixing the rate of taxation, levying the annual tax upon property, or levying any other tax.
- (c) An urgency ordinance adopted in the manner provided for in this Article.

Article IV City Manager

Section 400. City Manager. The Council may adopt an ordinance creating a City Manager form of government pursuant to Chapter 7 of Division 2 of Title 4 of the Government Code.

Article V City Clerk, City Treasurer

Section 500. City Clerk. There shall be a City Clerk who shall be appointed by and serve at the pleasure of the Council.

Section 501. Powers and Duties. The City Clerk or a duly authorized representative shall:

(a) Attend all meetings of the Council and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the Council in books that shall bear appropriate titles and be devoted to such purpose.

(b) Maintain separate books, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each document stating that said document is the original or a correct copy, and with respect to an ordinance, stating that said ordinance has been posted or published in accordance with this Charter.

(c) Be the custodian of the seal of the City.

(d) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City, and certify copies of official records.

(e) Conduct all City elections.

(f) Perform such other duties as may be prescribed by the Council.

Section 502. Treasurer. There shall be a treasurer who shall be appointed by and serve at the pleasure of the Council. The Treasurer shall be under the administrative direction of the Council and shall perform those duties required by law and provided by ordinance or resolution.

Article VI City Attorney

Section 600. City Attorney, Powers and Duties. There shall be a City Attorney who shall be appointed by and serve at the pleasure of the Council. The City Attorney shall serve as chief legal adviser to the Council, the administration and all City departments, offices, and agencies and shall be under the administrative direction of the Council. The City Attorney shall represent the City in all legal proceedings and shall perform such other duties as may be prescribed by the Council. The City Attorney, with the consent of the Council, may appoint such deputy City Attorneys as necessary to carry out the duties of his office.

Article VII Officers and Employees

Section 700. Administrative Departments.

(a) The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices, and agencies. The Council may contract with and employ any persons for the furnishing to the City of special services

and advice, including, but not limited to, economic, accounting, engineering, legal, financial or administrative matters if such persons are specially trained, experienced or otherwise competent to perform the special services required. The Council may pay from any available funds such compensation to such persons as it deems proper for the services rendered.

(b) The Council may provide for the number, titles, and compensation of all officers and employees and their supervisors.

Section 701. Official Bonds. The Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officers or employees who are required by ordinance or resolution to give such bonds. All bonds shall be executed by a responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City.

There shall be no personal liability upon, or any right to recover against, a superior officer, or his or her bond, for any wrongful act or omission of his or her subordinate, unless such superior officer was a party to, or conspired in, such wrongful act or omission.

Article VIII

Commissions, Committees, and Agencies

Section 800. In General. The commissions and committees heretofore established by the Council shall continue to exist and exercise the powers and perform the duties conferred upon them; provided, however, that the Council may abolish any and all of said commissions and committees and may alter the structure, membership, powers and duties thereof.

In addition, the Council may create such other agencies as in its judgment are required and may grant to them such powers and duties as are not inconsistent with the provisions of this Charter

Section 801. Appropriations. The Council shall appropriate such funds as the Council shall determine to be sufficient for the efficient and proper functioning of commissions, committees and agencies.

Section 802. Appointment, Removal, Terms of Office and Procedural Rules. The election, appointment, removal, and terms of office of commissioners, committee and agency members and the rules and regulations pertaining to the conduct of commission, committee or agency business shall be as prescribed by ordinance or resolution of the Council.

Section 803. Existing Membership. The members of the commissions and committees holding office when this Charter takes effect shall continue to hold office thereafter until their respective terms of office shall expire and until their successors are appointed and qualify, subject to being removed from office as provided herein.

Section 804. Compensation. The members of commissions and agencies shall receive such compensation as may be specified by the Council and shall also receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures are authorized by the Council.

Article IX

Elections

Section 900. General Municipal Elections. General municipal elections for the election of officers and for such other purposes as the Council may prescribe shall be held in the City on the day designated by the Legislature for general municipal elections in general law cities except as otherwise provided by ordinance of the Council.

Section 901. Special Municipal Elections. Other municipal elections shall be known as special municipal elections and may be called from time to time by the Council.

Section 902. Procedure for Holding Elections. Unless otherwise provided by ordinance hereafter enacted, all elections shall be held in accordance with the provisions of the Elections Code for the holding of municipal elections, so far as the same are not in conflict with this Charter.

Section 903. Initiative, Referendum and Recall. There are hereby reserved to the voters of the City the power of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code governing the initiative and referendum and the recall of municipal officers shall apply so far as the same are not in conflict with this Charter unless the Council otherwise provides by Ordinance.

Article X

Fiscal Administration

Section 1000. Fiscal Year. The fiscal year of the City government shall begin on the first day of July of each year and end on the thirtieth day of June of the following year. The Council may by ordinance change the fiscal year.

Section 1001. General Tax Limits. The Council shall not levy a property tax for general municipal purposes in excess of the maximum rate applicable to the City on the effective date of this Charter; provided, however, that a tax in excess of such rate may be levied if authorized for general law cities by the general laws of the State or if authorized by the affirmative votes of a majority of the voters voting on a proposition to increase such levy. Nothing herein contained shall preclude the Council from establishing separate taxing areas within the City for the levy of property taxes, nor preclude the levy of a tax in excess of such maximum rate if authorized by the general laws of the State or if authorized by the affirmative votes of a majority of the voters within the City voting on a proposition to increase such levy.

Section 1002. Tax Procedure. The procedure for the assessment, levy, and collection of taxes may be prescribed by ordinance of the Council; and in the absence of such an ordinance, the procedure applicable thereto shall be that prescribed by the general laws of the State.

Section 1003. Contracts on Public Works. The Council may provide by ordinance for the construction of public works to be let by the Council by contract in such manner as it may see fit. The Council may declare and determine that, in its opinion, the work in question may be performed better or more economically by the City with its own employees and, after the adoption of a resolution to this effect by at least four affirmative votes, may proceed to have said work done without further observance of the provisions of this section.

Such contracts may be let and such purchases made without advertising for bids, if such work shall be deemed by the Council to be of urgent necessity for the preservation of life, health, or property, and shall be authorized by resolution passed by at least four affirmative votes of the Council and shall contain a declaration of the facts constituting such urgency.

Section 1004. Presentation and Audit of Demands. Any demand against the City must be in writing and may be in the form of a bill, invoice, payroll, or formal demand. Each such demand shall be presented, examined and paid in such manner as the Council shall determine by ordinance.

Section 1005. Claims Against the City. The provisions of the general laws of the State establishing conditions precedent to the commencement of any action or proceeding or suit against the City, its officers, and employees shall govern, except as modified by the Council.

Section 1006. Independent Audit. The Council shall employ a certified public accountant who shall, at such times as may be specified by the Council, examine the books, records, inventories and reports of all officers and employees who receive, handle, or disburse public funds, and all such officers, employees, or departments as the Council may direct. As soon as practicable after the end of the fiscal year, a final certified audit and report shall be submitted by such accountant to the Council.

Article XI

Miscellaneous

Section 1100. Definitions. Unless the provision or the context otherwise requires, as used in this Charter:

- (a) "Shall" is mandatory, and "may" is permissive.
- (b) "City" is the City of Industry and "department", "board", "commission", "committee", "agency", "officer", or "employee" is a department, board, commission, committee, agency, officer, or employee, as the case may be, of the City.
- (c) "City Code" is the Code of the City.
- (d) "Council" is the City Council of the City.
- (e) "Council member" is a member of the Council.
- (f) "Departmental administrator" is the person in charge of a City department or function.
- (g) "Government Code" is the California Government Code as it exists upon adoption of this Charter, or as thereafter amended.
- (h) "Law" includes ordinance.
- (i) "State" is the State of California.
- (j) "Voter" is a legally registered voter.

Section 1101. Violations. A violation of this Charter or of any ordinance of the City shall constitute a misdemeanor and may be prosecuted in the name of the People of the State of California and may be redressed by civil action filed by the City. Such remedies shall not be mutually exclusive. The maximum fine or penalty for any violation of a City ordinance shall be the same as established by the general laws for a misdemeanor.

Section 1102. Use of General Laws. The use by this City of any part of any general law of the State of California shall not require the use of the entire law nor shall any limitations or restrictions contained in such law be binding upon the City except to the extent incorporated by reference by the Council or required by the Constitution of the State of California.

Section 1103. Validity. If any provision of this Charter, or the application thereof to any person or circumstance, is held invalid, the remainder of the Charter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Certified to be a true copy by John Ferrero, Mayor, and Marynelle Bussola, City Clerk.

Date of municipal election: June 8, 1976.

Charter Chapter 16—City of Richmond

Amendments to the Charter of the City of Richmond

[Filed with Secretary of State July 21, 1976.]

Section 3 of Article V is amended to read as follows:

Sec. 3. Petitions shall be filed in the office of the City Clerk for the nomination of Councilmen not earlier than the ninetieth day nor later than 12 o'clock noon of the sixtieth day prior to the day fixed for the election of the same, asking that the person named therein be a candidate for the office of Councilman and giving the residence of said person within the City of Richmond; provided, that the City Council may, from time to time, by ordinance establish a period for filing of such nomination petitions which differs from the period set forth above. Such petitions shall be signed by not less than twenty (20) nor more than thirty (30) qualified and registered voters. A filing fee in the amount of two per cent (2%) of the annual salary of the office to which nomination is sought shall be paid to the Clerk at the time of filing the petition for nomination.

Sections 2 and 3 of Article III are amended to read as follows:

Sec. 2. Said Council shall be composed of nine members, each of whom shall have been an elector of the City of Richmond for at least one year next preceding his election.

The members of said Council shall be known as councilmen, and their terms of office shall be six years commencing on the second Monday after their election, subject to the provisions of the third paragraph of Section 3 of this Article III.

Sec. 3. On the second Monday of May, 1909, an election shall be held within said city for the purpose of electing nine members of said Council.

The nine members elected at such election, shall, at the first regular meeting in July, 1909, so classify themselves by lot that three of said members shall hold office for the term of two years, three for the term of four years, and three for the term of six years.

On the second Tuesday of May, 1977, an election shall be held for the election of three councilmen to succeed the three members of the City Council whose terms expire. The two councilmen elected at such election who receive the highest and next to the highest number of votes shall serve for a term of six years and the other councilman elected at such election shall serve for a term of four years, commencing on the second Monday after their election. Thereafter, on the second Tuesday in May of each odd-numbered year, an election shall be held for the election of councilmen to succeed the members of the City Council whose terms expire and each councilman elected shall serve for a term of four years. Also, at each of the elections required by this paragraph a councilman shall be elected for any unexpired term that may exist.

The electors, in form and manner prescribed in Section 2 of Article VIII, may by ordinance provide for the division of the city into districts or wards and require that one councilman to be elected at each election shall be a resident of each ward at the time of his election, provided that all councilmen shall be voted for at large.

The City Council may, by resolution, change the date of any general or primary election for City councilmen to another date in order to consolidate said election with an election of any other public agency which is held within one month of the dates set forth in this Charter for municipal elections. A notice of the change in the date of a general election shall be published for five days not earlier than the 120th day nor later than the 100th day prior to the date fixed for the election. If a general election is held earlier than the second Tuesday in May, the terms of office of the elected councilmen shall commence on the second Monday after said second Tuesday in May, notwithstanding any other provision of this Charter to the contrary.

Certified to be a true copy by Nathaniel Bates, Mayor, and Harlan J. Heydon, City Clerk.

Date of municipal election: June 8, 1976.

Charter Chapter 17—City of San Diego

Amendments to the Charter of the City of San Diego

[Filed with Secretary of State July 22, 1976]

Section 129 is amended to read as follows:

Section 129. Removals, Suspension and Layoffs.

Any officer or employee of the City in the classified service may be removed from office or employment for cause by the appointing authority. Written notice of removal given to any officer or employee, or written notice left at or mailed to his or her usual place of residence, shall be sufficient to put any such removal into effect. The person so notified may, within five days after such notice, demand a written statement of the reasons therefor and the right to be heard before the Civil Service Com-

mission. Upon such demand the appointing authority ordering the removal shall supply the person notified thereof and the Civil Service Commission with a written statement of the reasons therefor, and the Commission shall fix a time and place for a public hearing. Following the public hearing, and such investigation as the Civil Service Commission may see fit to make, the Commission shall report its findings and recommendations to the authority responsible for the removal as specified in the notice. Thereupon the authority making the removal shall make such final disposition of the matter as may be determined by the Civil Service Commission. The decision of the Civil Service Commission in any such case shall be final. A copy of the written statement of reasons given for any removal, and a copy of any written reply thereto by the officer or employee involved, together with a copy of the decision of the Civil Service Commission shall be filed as a public record in the office of the Civil Service Commission.

Any officer or employee of the City in the classified service may be suspended from office or employment for cause or for investigation of misconduct by the appointing authority. Written notice of suspension given to any officer or employee, or written notice left at or mailed to his or her place of residence, shall be sufficient to put any such suspension into effect. The person so notified may, within five days after such notice, demand a written statement of the reasons therefor and a right to appeal said suspension for cause. Upon such demand the officer making the suspension shall supply the person notified thereof and the Civil Service Commission with a written statement of the reasons therefor. The appellant shall be accorded all rights and privileges pursuant to law. The Civil Service Commission shall by rules or regulations, establish procedures for conducting hearings and/or investigations, and reporting findings and recommendations to the appointing authority. All findings and recommendations in any such case shall be final.

The Civil Service Commission shall promulgate rules and regulations necessary to govern layoffs for lack of funds, lack of work, or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel in any office or department of the City of San Diego.

Section 129.1 is added to read as follows:

Section 129.1. Removal of Striking Employees.

No employee of The City of San Diego employed under the civil service provisions of this Charter shall instigate, participate in, afford leadership to a strike against The City of San Diego, or engage in any form of concerted action to withhold service from said City. In the event of any such strike or concerted action against the City, it shall be the duty of the City Manager or other appointing authority to ascertain the identity of any employee of the City under his jurisdiction who is in violation of the provisions of this section and to initiate dismissal proceedings against such employee in accordance with the applicable provisions of this Charter. Any citizen of the City may file written charges against an employee in violation of the provisions of this section. The appropriate appointing authority shall, upon receipt of such written charges, investigate without delay any such written charge, and forthwith inform said citizen of the

findings and action, or proposed action, to be taken thereon.

Appointing authorities shall cause timely hearings to be held for any employees charged hereunder. If the City Manager or other appointing authority, after a hearing, determines that the charges are supported by the evidence submitted, and that the employee willfully engaged in the strike or action, said appointing authority shall dismiss the employee involved, and said person shall not be reinstated or returned to The City of San Diego employment except as a new employee who is employed in accordance with the regular employment practices of the City in effect at that time for the particular position of employment.

No officer, board or commissioner of the City, elected or appointed, shall have the power to grant amnesty to any person charged with a violation of any of the provisions of this section.

Every employee of The City of San Diego employed under the civil service provisions of this Charter on the effective date of this section, and each person employed pursuant to the civil service provisions of this Charter on or after the effective date of this section, shall be furnished a copy and apprised of the provisions of this section and shall make under oath and file in the office of the Civil Service Commission the following declaration:

"I hereby acknowledge receipt of a copy of the provisions of Section 129.1 of the Charter of The City of San Diego and hereby declare that during the term of my employment with said City I shall neither instigate, participate in or afford leadership to a strike against said City or engage in any concerted action to withhold my services from the city."

In the event of any strike or concerted action to withhold service from The City of San Diego by an employee organization, or employees represented thereby, the City Council is hereby prohibited from granting any improvement in wages, hours or working conditions beyond those in effect or last offered to the striking organization or employees represented thereby by the City prior to the commencement of such strike or concerted activity, and is prohibited from considering the granting of any such improvement beyond that which may have been last offered by the City prior to the strike or concerted activity until the commencement of meet and confer negotiations in the next subsequent calendar year at the time regularly scheduled for commencement under adopted City Council policy governing such negotiations.

Notwithstanding any other provision of this Charter, a dismissal imposed pursuant to this section shall not be appealable to the Civil Service Commission.

Certified to be a true copy by Pete Wilson, Mayor, and Edward Nielsen, City Clerk.

Date of municipal election: June 8, 1976.

Charter Chapter 18—County of Santa Clara

Revised Charter of the County of Santa Clara

[Filed with Secretary of State July 22, 1976.]

We, the People of the County of Santa Clara, adopt this Charter to facilitate the governing of the county, promote equal justice and enable our elected and appointed officers to meet the social, economic, physical and environmental needs and goals of the people.

Article I

Powers of the County

Section 100

The County of Santa Clara is a political subdivision of the State of California. It has all the powers provided by the Constitution and laws of the state and this Charter. It has such other powers as are necessarily implied.

Section 101

The county seat is San Jose.

Section 102

The initiative and referendum may be invoked by the voters of the county in the manner provided by general law.

Section 103

An elective officer may be recalled by the voters of the county after the officer has held office six months in the manner provided by general law.

Article II

Board of Supervisors

Section 200

The governing body of the county is a board of supervisors of five members elected by district. Districts are apportioned pursuant to general law.

Section 201

A candidate for election or appointment as supervisor shall be an elector in the district and shall have resided in the district prior to appointment or nomination for election for the period of time fixed by law.

Section 202

The term of office of supervisor is four years. The term of office commences at noon on the first Monday in January.

Supervisors for the Second, Third, and Fifth Districts shall be elected at the general election held in November of 1976. Supervisors for the First and Fourth Districts shall be elected at the general election held in November of 1978.

A candidate is elected who receives a majority of all votes cast at the primary election. When no candidate is so elected, the two candidates who received the highest number of votes shall be the candidates at the November election.

No charge shall be imposed for a candidate's statement of qualifications

to be included in the voter's pamphlet. In all other respects the elections shall be conducted pursuant to general law.

If Assembly Constitutional Amendment 61 of the 1975–76 Regular Session is adopted by the people, the first and second sentence in Section 202 shall be amended to read: "The term of office of supervisor is four years or until the election and qualification of the successor. The term of office commences at noon on the 30th day following the election." If Assembly Constitutional Amendment 61 is not adopted by the people, this paragraph is repealed.

Section 203

Whenever a vacancy occurs in the office of supervisor, the vacancy shall be filled by appointment by the Board of Supervisors. If the appointment is not made within 45 days from the occurrence of the vacancy, the Governor shall make the appointment.

The appointee shall hold office until the election and qualification of the successor. A special election shall be held on the next established election date provided by general law following the vacancy. The candidate having the highest number of votes shall be elected for the unexpired term. No election shall be held to fill a vacancy in the year preceding the year in which the term expires.

If Assembly Constitutional Amendment 61 of the 1975–76 Regular Session is adopted by the people, the last sentence in the second paragraph of Section 203 shall be amended to read: "No election shall be held to fill a vacancy in the year in which the term expires." If Assembly Constitutional Amendment 61 is not adopted by the people this paragraph is repealed.

Section 204

Salaries of supervisors shall be fixed by ordinance and shall be based upon the time required for the proper performance of their public duties and commensurate with their responsibilities.

Section 205

The Board of Supervisors, annually, at the first meeting following the first Monday in January, shall elect a presiding officer and a presiding officer pro tem. The presiding officer shall preside at all meetings. In the absence or inability to act of the presiding officer, the presiding officer pro tem shall act with all the authority of the presiding officer.

Three members of the board shall constitute a quorum for the transaction of business. No act of the board shall be valid unless three members concur.

Section 206

The Board of Supervisors shall convene in regular session at least once each week and shall provide by ordinance for the manner and time of holding all regular and special meetings.

Section 207

No supervisor, during the term of office or for one year thereafter, shall be eligible for appointment to any county office, position or employment

carrying compensation, exclusive of traveling and other authorized expenses.

Article III

Powers and Duties of the Board of Supervisors

Section 300

The Board of Supervisors shall have all the jurisdiction and powers granted to it by the Constitution, this Charter and laws of the state, except as such laws may be inconsistent with this Charter.

The county may exercise its powers only through the Board of Supervisors or officers acting under its authority or of law or of this Charter.

Section 301

The Board of Supervisors shall:

(a) Adopt a statement of the goals of the county reflecting the quality and direction of the activities of county government for the enhancement of human and physical resources of the county. The board shall annually during July review the adopted goals and may modify them as necessary.

(b) Appoint, suspend, or remove subject to the provisions of this Charter the County Executive, County Counsel and members of boards and commissions.

(c) Adopt an administrative code by ordinance which shall prescribe the powers and duties of appointive departments and officers and the procedures and rules of operation of all departments and officers of the county.

(d) Provide for the number and compensation of all officers and employees.

(e) Adopt such ordinances as may be necessary to establish and carry into effect the provisions of this Charter.

Section 302

The Board of Supervisors shall have power to:

(a) Consolidate, segregate, transfer, abolish, or reassign the powers, duties, and functions of any appointed county office, commission, department, or division thereof, whenever the respective duties thereof are not inconsistent. The board shall have similar power as to elected county officers to the extent authorized by general law. If the Board of Supervisors consolidates two or more offices pursuant to general law or this Charter, the department head of the consolidated office need not possess the qualifications required of the occupant of any of the separate offices which are consolidated if the board finds that sufficient personnel possessing the qualifications required are employed in the consolidated office to assure that decisions made by the department head are based upon competent professional advice.

(b) Provide for the assumption by the county of functions of cities or special districts within the county whenever the discharge of such functions is authorized by the cities or special districts.

(c) Inquire into the conduct of any office or department to which the county contributes money, and require periodic or special reports there-

from and examine all records and accounts thereof.

(d) Require the attendance of any officer or employee of the county at any meeting of the board for the purposes of information, advice, or assistance.

Section 303

Except for the purposes of inquiry and information, neither the Board of Supervisors nor any member thereof shall deal with any administrative officer or employee appointed by or under the County Executive except through the County Executive, and neither the Board of Supervisors nor any member thereof shall give orders to the subordinates of the County Executive either publicly or privately.

Article IV

County Executive

Section 400

The County Executive is the chief administrative officer of the county. The County Executive is appointed by the Board of Supervisors and shall be chosen on the basis of executive and administrative qualifications and experience. The County Executive shall not engage in any other business or occupation. The County Executive shall receive a salary commensurate with the responsibilities as chief administrative officer of the county to be fixed by ordinance.

Section 401

The County Executive serves at the pleasure of the Board of Supervisors. In the event of the removal of the County Executive from office, upon request, the Board of Supervisors shall provide the County Executive with a written statement specifying the reasons for such action within three days after receipt of such request.

Section 402

When a vacancy occurs in the office of County Executive, the Board of Supervisors shall immediately appoint a county officer or employee to serve as Acting County Executive until such time as a county executive is appointed.

Section 403

The County Executive shall appoint, subject to the approval of the Board of Supervisors, a county officer or employee to serve as County Executive pro tem. The appointment shall be made in writing and filed with the Board of Supervisors. The County Executive pro tem shall serve during any temporary absence or disability of the County Executive and at the pleasure of the Board of Supervisors.

Section 404

The County Executive is the head of the administrative branch of the county. The County Executive is responsible to the Board of Supervisors for the proper administration of all affairs of the county. Without limiting the foregoing general grant of powers, responsibilities and duties, the County Executive shall have power and be required to:

(a) Appoint, supervise, suspend, or remove subject to the provisions of this Charter all officers and department heads of the county except elective officers and those officers and department heads whose power of appointment is vested by this Charter in another body.

(b) Recommend to the Board of Supervisors needed amendments to the Administrative Code.

(c) Coordinate the work of all offices and departments, both elective and appointive, and devise ways and means whereby efficiency and economy may be secured in the operation of all offices and departments.

(d) Supervise and direct the preparation of the annual budget of the county for the Board of Supervisors and be responsible for its administration after adoption. The proposed budget and an explanatory budget message shall be submitted by the County Executive on or before June 30th of each year. The County Executive shall require each office and department of the county, whether elective or appointive, to submit budget estimates to the Auditor-Controller for the next ensuing fiscal year.

(e) Formulate and present to the Board of Supervisors plans for the implementation of goals adopted by the Board of Supervisors.

(f) Prepare and submit to the Board of Supervisors, as of the end of each fiscal year, a report on the finances and administrative activities of the county for the preceding year, together with recommendations for the betterment of public service.

(g) Have charge of all county property, buildings, works and improvements.

(h) Make temporary transfers of employees from one county office or department to another when the workload requires such transfer.

(i) Perform such other duties required by the Board of Supervisors as are consistent with this Charter.

Section 405

The County Executive may attend any meeting of the Board of Supervisors except when it is considering the removal of the County Executive. The County Executive shall have the right to participate in the deliberations of the board but shall have no vote.

Article V

Officers, Boards and Commissions

Section 500

Officers, boards, and commissions created by this Charter or the Constitution or general laws of the state, or hereafter created by the Board of Supervisors, shall have and exercise all the powers and shall perform all the duties vested in and delegated to them by the Constitution, this Charter, or ordinance, and to the extent not in conflict with this Charter or ordinance by the general laws of the state.

Section 501

The Assessor, District Attorney, and Sheriff are elected. The election shall be held at the times and in the manner and for the term that supervisors are elected for the First and Fourth Districts in accordance with

Section 202 of this Charter.

Whenever a vacancy occurs in such offices, the vacancy shall be filled by appointment of a voter of the county by the Board of Supervisors. The appointee shall hold office until the election and qualification of the successor, at the times and in the manner specified in the second paragraph of Section 203 of this Charter.

Section 502

County officers and department heads shall have the power to appoint, supervise, suspend, or remove all persons employed under their respective administrations subject to the provisions of Article VII of this Charter.

Section 503

The members of the County Board of Education are elected for the terms and in the manner provided by general law. The County Superintendent of Schools is appointed by the County Board of Education for a term of four years, which shall coincide with the term of office of the Governor. The County Board of Education may suspend or remove the County Superintendent of Schools as provided by general law.

Section 504

The Chief Adult and Juvenile Probation Officers and the Juvenile Justice Commission are appointed and removed as provided by general law. All other officers and employees of these departments are appointed, suspended, or removed subject to the provisions of Article VII of this Charter. Nothing in this section shall preclude the Board of Supervisors from exercising the power granted in Section 302(a) of this Charter.

If Measure E is adopted by the people at the 1976 primary election, Section 504 is amended to read:

“The Chief Adult and Juvenile Probation Officers and the Juvenile Justice Commission are appointed and removed as provided by general law. All other officers and employees of these departments are appointed, suspended, or removed subject to the provisions of Article VII of this Charter. Nothing in this section shall preclude the Board of Supervisors from exercising the power granted in Section 302 (a) of this Charter or after public hearing to adopt an ordinance providing another method of appointment or removal of the Chief Adult or Juvenile Probation Officers.”

If Measure E is not adopted by the people, this paragraph is repealed.

Section 505

The number and compensation of judges of justice courts and the number, qualifications, and compensation of officers and employees of justice courts shall be fixed by the Board of Supervisors. A Clerk of the justice court shall be appointed and removed by the judges of the justice court subject to provisions of Article VII of this Charter. The clerk shall appoint, suspend, and remove all other officers and employees of the court subject to the provisions of Article VII of this Charter. The Sheriff is ex-officio constable of justice courts. This section is repealed when all justice courts in the county are abolished pursuant to law.

Section 506

The Board of Supervisors may create by ordinance such advisory boards or commissions as in its judgment are required and may grant to them such powers and duties as are consistent with this Charter.

The ordinance shall provide for the number of members, the manner of appointment, the term of office, the number of terms a member may serve, meeting times, attendance requirements to retain office, and the extent of subpoena authority. The ordinance may provide for the qualifications of members, the remuneration of members, and any other necessary provisions. When required by federal or state law, the ordinance may provide for the manner of appointment of officers and employees authorized to provide services to a board or commission.

Notice shall be given of vacancies on boards and commissions which shall also indicate the nominating and appointing authority. Any person interested in an appointment shall file an application with the Board of Supervisors. Appointments shall be filled from such applications with appropriate regard for representation by all segments and elements of the county.

Members of boards and commissions shall be residents of the county. If any member ceases to be a resident of the county, or fails to maintain qualifications for the office, the office shall become vacant and the Board of Supervisors shall so declare. Members of boards and commissions appointed by the Board of Supervisors shall be subject to removal by the board for willful or corrupt misconduct in office.

The members first appointed to boards and commissions shall so classify themselves by lot that on each succeeding July 1 the term of one of their number shall expire. If the total number exceeds four, the classification by lot shall provide for the grouping of terms so that the term of at least one member shall expire on each succeeding July 1.

As soon as practicable, following the first day of July of every year, each board and commission shall organize by electing a chairperson and vice-chairperson to serve at the pleasure of such board or commission. Each board or commission shall hold regular meetings as are required by ordinance and such special meetings as it may require. Each board and commission shall adopt rules of procedure subject to approval by the Board of Supervisors. A majority of the members of a board or commission shall constitute a quorum for the transaction of business and no act of a board or commission shall be valid unless at least a majority of the entire membership concurs therein. All meetings shall be open to the public.

The Board of Supervisors shall periodically evaluate the need for the boards and commissions established pursuant to this section and shall abolish those which no longer serve their intended function.

Section 507

By January 1, 1977, following public hearings, the Board of Supervisors, by ordinance, shall establish an Intergovernmental Council, broadly representative of the public agencies within the county. The ordinance shall provide for the number of members, the manner of appointment, the term of office, the qualifications of members, the remuneration, if any, of

members, and any other necessary provisions. The ordinance may provide for weighted voting.

The Intergovernmental Council shall develop improved cooperative relationships among local public agencies. It shall assist in identifying and recommending solutions to problems requiring joint jurisdictional action. It shall study and recommend needed functional consolidation of services. It may make recommendations to regional agencies whose jurisdiction includes Santa Clara County. The Board of Supervisors, by ordinance, may assign other duties to the council consistent with this Charter.

The council may appoint subcommittees on projects related to its functions which may be composed of representatives of public agencies, private volunteer groups, and public members to study and make recommendations to the council.

The Board of Supervisors shall budget funds for the work of the council. It may, by ordinance, establish a staff for the council and fix its compensation. The ordinance may provide for the manner of appointment of the staff and it may provide that the staff is a part of the unclassified service. The council may receive grants or assistance from other public agencies provided such grants or assistance are approved by the Board of Supervisors.

Section 508

The Board of Supervisors shall establish pursuant to Section 506 a county planning commission. The ordinance shall prescribe the powers and duties of the commission. Nothing in this section shall preclude the Board of Supervisors from exercising the power granted in Section 302(a) of this Charter.

Article VI

Financial Provisions

Section 600

The assessment, levy and collection of taxes, the adoption of the county budget, and the appropriation, accounting, and transfer of funds shall be governed by general law except as otherwise provided by this Charter.

Section 601

The Auditor-Controller is the chief accounting officer of the county. He shall have the power and duty to:

(a) Keep accounts showing the financial transactions of all offices and departments of the county and those districts whose funds are kept in the county treasury.

(b) Prescribe and exercise general supervision over accounting systems to be installed and maintained and financial reports to be rendered by such offices, departments and districts.

(c) Prepare such reports as the Board of Supervisors or the County Executive may deem necessary for information and use in the management and control of the operations of the county.

Section 602

The Administrative Code shall provide for an audit of the accounts and

records of all offices and departments:

(a) When requested by the Board of Supervisors, the County Executive or the Auditor-Controller.

(b) Upon a vacancy in any office charged with the responsibility for receipt, disbursement, or custody of cash.

A report on such audits shall be filed with the Board of Supervisors. The employees assigned to conduct these audits shall have full access to all accounts and records of all offices and departments.

Section 603

The Board of Supervisors shall cause a post-audit of the financial transactions and records of all offices and departments of the county to be made at least annually by a certified public accountant. As soon as possible at the end of each fiscal year a final audit and report shall be completed and submitted to the Board of Supervisors. Copies shall be placed on file in the office of the Board of Supervisors and be available for public inspection.

Section 604

(a) The Board of Supervisors shall establish a county park acquisition and development fund in the county treasury. Each fiscal year the Board of Supervisors shall transfer from the general fund to the county park acquisition and development fund an amount of money which shall not be less than an amount estimated by the Auditor-Controller to equal the amount that would be raised for that year by a tax of ten cents (\$.10) per one hundred dollars (\$100.00) of assessed valuation of the County of Santa Clara. In addition, the Board of Supervisors shall transfer into such fund all other monies received from the United States Government, State of California, any other public agency or any person for county park acquisition or development purposes. Any interest earned on the investment of monies in the county park acquisition and development fund shall be credited to the fund.

(b) The Board of Supervisors shall appropriate the money in the county park acquisition and development fund for the acquisition, development, or acquisition and development of real property for county park purposes. At least fifty percent (50%) of the funds transferred from the general fund during the operative period of this section shall be used for the acquisition of real property for county park purposes.

(c) The county shall not acquire real property for any park purpose until the Board of Supervisors has determined that the acquisition is in conformity with the adopted county parks and recreation element of the general plan.

(d) This section shall be operative commencing with the 1972-73 fiscal year and shall be repealed at the end of the 1981-82 fiscal year; provided, however, any unobligated monies remaining in the fund on June 30, 1982 shall be used only for the purposes set forth in subparagraph (b) of this section.

Article VII
Personnel System
Section 700

The personnel system of the county shall be based on merit and equal opportunity.

Appointments and promotions in the administrative service of the county shall be made in conformance with merit system rules and all applicable law, including that pertaining to the effectuation of equal employment opportunities and affirmative action programs.

No person employed or seeking employment with the county shall be unlawfully discriminated against because of age, color, creed, national origin, political opinions, race, religion, sex, or union activity.

Section 701

Employment by the county shall be divided into the unclassified and classified service.

(a) The unclassified service shall comprise the following officers and positions:

1. All elective county officers
2. County Executive
3. County Counsel
4. One confidential secretary and one administrative position to each elected county officer and the County Executive and the County Counsel
5. All members of boards and commissions
6. Positions which are required to be filled by physicians, surgeons, or dentists
7. Persons employed to render professional, scientific, technical, or expert service of an occasional or exceptional character
8. Persons serving the county without compensation
9. Persons employed to conduct a special inquiry, investigation, examination or installation, if the Board of Supervisors or the County Executive certifies that such employment is temporary and that the work should not be performed by employees in the classified service
10. Temporary or seasonal employees as may be provided for by the Board of Supervisors under personnel rules
11. Superintendent of Schools
12. Chief Adult and Juvenile Probation Officers
13. Employees designated as unclassified pursuant to Section 506 or 507
14. Employees designated as unclassified pursuant to Section 704 (h)

(b) The classified service shall comprise all positions not specifically included by this article in the unclassified service.

Section 702

There shall be a personnel board consisting of five members to be appointed by the Board of Supervisors from the voters of the county, none of whom shall hold any salaried county office or employment. No member of the board, during membership, or for one year thereafter, shall be eligible for appointment to any salaried county office or employment. The members of the Personnel Board shall be nominated and appointed in the following manner:

Two members shall be appointed by the Board of Supervisors directly;

two members shall be appointed by the Board of Supervisors from lists of persons nominated by the employees in the classified service of the county, such lists to contain three nominations for each position to be filled; and the fifth member shall be appointed by the Board of Supervisors from a list of three persons nominated by the four thus appointed. The successor of any member of the board shall be nominated and appointed in the same manner as such member was nominated and appointed.

Section 703

The Personnel Board shall:

- (a) Recommend to the Board of Supervisors merit system rules.
- (b) Advise the Board of Supervisors or the County Executive on matters concerning the administration of the personnel system which are outside the scope of representation with recognized employee organizations.
- (c) Hear appeals of any person in the classified service relative to any suspension, demotion or dismissal unless an alternative hearing procedure is available to the person pursuant to an agreement between the Board of Supervisors and a recognized employee organization.
- (d) Exercise such functions consistent with this Charter as may be prescribed by ordinance.

Section 704

The Personnel Board shall hold a public hearing when it considers the adoption or amendment of a merit system rule. When a rule or amendment is initiated by the Board of Supervisors, the Personnel Board, the County Executive, or a recognized employee organization, the board shall conduct a public hearing. When a proposed rule or amendment is initiated by any other person the board may decide whether or not to hold a hearing on the request.

After the hearing the board shall approve or reject the rule wholly or in part, or may modify it and approve it as so modified. Rules approved by the board shall then be submitted to the Board of Supervisors, which shall approve or reject them wholly or in part, or may modify them and approve them as modified. Rules shall be adopted by ordinance.

The rules shall include provisions for:

(a) Examinations of applicants for appointments in the classified service which shall relate to matters which fairly measure the relative fitness of applicants to discharge the duties of the positions which they seek, and must take account of their character, training and experience.

(b) Standardization and classification of all positions in the classified service of the county, which classification into groups and subdivisions shall be made on the basis of duties and responsibilities and so arranged as to fill the higher grades so far as practicable through promotion.

The preparation and maintenance of an up-to-date record of the authority, duties and responsibilities of each position in the classified service.

(c) Certification to the appointing authority of the appropriate eligible list.

(d) Temporary appointments to meet emergencies in the absence of an eligible list.

(e) Original and promotional appointments which shall be for a probationary period of not less than six months during which the appointee may

be rejected at any time without the right of a hearing as to original appointments and with the right of such hearing as to promotional appointments.

(f) The filling of vacancies in higher positions in the classified service.

(g) The transfer of employees who have been performing a function assumed by the county to county employment without examination.

(h) The hiring, either in the classified or unclassified service, of employees under a specially designed program to assist persons who are unemployed, disabled, untrained or handicapped. Such rules may provide for employment of such persons without examination.

Section 705

In the certification of eligibles for positions under the merit system and the appointive positions outside of the classified service, preference shall be given to persons who are residents of this county, all other things being equal, and excluding special appointments prescribed in this Charter.

Section 706

The spouse, and the parent, child, brother or sister whether by blood or marriage, of any officer or department head shall not be eligible for appointment by such officer or department head to any office or employment.

Section 707

The political activity of county officers and employees shall not be restricted by the Board of Supervisors, except that the board may regulate by ordinance the solicitation of funds from, or the political activity of, officers and employees who are appointed by an elective county officer or board in any campaign for or against any candidate for such office. Such a regulation must be based on a finding after a public hearing that the restriction is necessary to promote a compelling governmental interest.

Section 708

(a) Any officer or employee holding a position under the classified service shall be subject to suspension without pay for a period not to exceed 30 days in any one calendar year, or to demotion or to removal from the position, but subject to the rights of the employee, other than one serving a probationary period on an original appointment, to a hearing before the Personnel Board in the manner set forth herein. The Board of Supervisors and a recognized employee organization may agree on an alternate hearing procedure. When such an agreement is in effect, it shall supersede the hearing before the Personnel Board.

(b) Notice of a suspension, demotion, or removal shall be provided the officer or employee in writing and shall specify the date and hour when it is to become effective. The notice shall also contain a written statement separately stating each of the charges against the employee upon which such suspension, demotion, or removal is based, and an outline of the subsequent administrative procedural rights of the employee. A copy of such notice shall be filed with the Personnel Board.

(c) The employee shall have ten working days from receipt of such

written notice within which to file an answer to the statement of charges should the employee desire to do so, and the filing of such an answer shall be deemed to be an automatic request for a hearing unless such employee otherwise indicates. The answer to such charges shall be filed with the Personnel Board.

(d) If a hearing is required, the Personnel Board shall conduct said hearing on the suspension, demotion, or removal which shall be called and held as provided for in the rules. The hearing shall be public, may be conducted informally, and the rules of evidence need not apply.

The Personnel Board shall make written findings as to each charge. The board shall also set forth in writing its conclusions based upon such findings, and within ten days after concluding the hearing, shall certify its findings, conclusions and decisions to the board or officer involved, to the County Executive, and to the employee.

The findings, conclusions, and decisions of the Personnel Board shall be final and conclusive and no appeal shall be taken therefrom, except that for management employees such findings, conclusions, and decisions shall be advisory to the County Executive who shall review them and make the final decision.

(e) A suspended, demoted, or removed employee shall be reinstated in the position immediately without loss of continuity of service or compensation if the charges brought against the employee are not sustained.

When a hearing is to be held on an order of dismissal, demotion, or suspension, the vacancy in the position shall be considered a temporary vacancy pending final action. Such position shall be filled only by a temporary appointment by the board or officer having the appointive power.

(f) Nothing in this section shall preclude the enforcement by the county of a union security provision in an agreement between the Board of Supervisors and a recognized employee organization.

Section 709

Rates of pay shall be fixed by the Board of Supervisors which are commensurate with those prevailing throughout the county for comparable work. Rates of pay fixed pursuant to an agreement between the Board of Supervisors and a recognized employee organization shall be conclusively presumed to be commensurate with those prevailing throughout the county for comparable work and no action may be brought against the county or any county officer alleging that such rates of pay are not comparable.

No officer or employee of the county or a justice court shall be compensated by fees. All fees collected by such officers or employees shall be deposited in the county treasury.

Section 710

Whenever any officer or employee is authorized by the Board of Supervisors or County Executive to travel, the officer or employee shall be reimbursed for actual and necessary expenditures for mileage, transportation, lodging and meals. The maximum price to be paid for mileage, transportation, lodging and meals may be fixed by agreement with a recognized employee organization but such matters shall be fixed by

ordinance for management employees and shall be uniform for all such employees including elected county officers.

Section 711

The Board of Supervisors shall provide for the retirement and pension of county officers and employees or contract for such service.

Section 712

Except as otherwise provided in this Charter, elective and appointive officers and employees serving with compensation are prohibited from engaging in any private practice or business during the regular business hours specified for the performance of their duties and during such hours they shall devote all their time to the duties of their respective positions. This section shall not apply to members of the Board of Supervisors, judges of justice courts, or to officers or employees exempted by the administrative code.

Section 713

All persons charged with the administration of the personnel system shall exercise their functions fairly, honestly, impartially, and free from all corrupt practices.

An officer or employee convicted of the violation of any provision of this article shall be dismissed by the appointing authority subject to a hearing pursuant to Section 708.

Article VIII

General Provisions

Section 800

The violation of any provision of this Charter shall be a misdemeanor and be punishable upon conviction by a fine of not to exceed five hundred dollars or by imprisonment for a term of not exceeding six months or by both such fine and imprisonment.

Section 801

If any provision of this Charter, or the application thereof to any person or circumstance is held invalid, the remainder of this Charter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Section 802

All ordinances, resolutions, and rules of the Board of Supervisors, not inconsistent with this Charter, shall continue in full force and effect until amended or repealed. All ordinances, resolutions, or rules of the Board of Supervisors, which are inconsistent with this Charter, are repealed insofar as they are inconsistent herewith.

Section 803

Any person holding an office or employment, either elective or appointive, on the effective date of this Charter shall continue in office or employment pursuant to the provisions of this Charter.

Section 804

The Board of Supervisors shall periodically establish by ordinance a charter review committee which shall, after public hearing, recommend to the Board of Supervisors needed amendments to this Charter.

Certified to be a true copy by Dan McCorquodale, Chairman of the Board of Supervisors, and Donald M. Rains, Clerk of the Board of Supervisors.

Date of municipal election: June 8, 1976.

Charter Chapter 19—County of Fresno

Amendments to the Charter of the County of Fresno

[Filed with Secretary of State July 26, 1976]

Section 4 of said Charter was amended to read:

Section 4. The County of Fresno shall have a Board of Supervisors consisting of five members. Each member must be an elector of the district which he represents, must reside therein during his incumbency, must have been such elector therein for at least thirty (30) days immediately preceding the first day for which nomination papers may be taken out for the primary election at which he is a candidate, and shall be elected by the voters of such district. Supervisors shall be nominated and elected at the time and in the manner and for the terms now or hereafter provided by general law.

Section 8 of said Charter was amended to read:

Section 8. Whenever a vacancy occurs in the Board of Supervisors, it shall be filled as follows:

(a) In the event such vacancy occurs in the final year of a term, it may be filled by the unanimous vote of the remaining members, provided there are at least three remaining members, and if they fail for a period of thirty days following the occurrence of such vacancy to make such appointment, the Governor shall fill the vacancy.

(b) In the event such vacancy occurs other than in the final year of a term, the Board of Supervisors shall, without delay, call a special election to fill such vacancy to be held not less than seventy-five nor more than ninety days after the call, provided, however, if an election date as provided in Section 2504 of the Elections Code or similar State law falls not less than seventy-five nor more than one hundred twenty days after the call, such special election shall be consolidated with such election.

The person appointed or elected to fill such vacancy shall serve for the remaining unexpired term and until the election and qualification of his successor. A person appointed or elected must be a qualified elector of the district in which the vacancy occurs, must have been a resident of the territory presently therein for at least thirty (30) days immediately preceding the occurrence of the vacancy, and must reside therein during his incumbency.

Section 8½ was added to said Charter to read:

Section 8½. In the event an election is held pursuant to Section 8 of this Charter to fill a vacancy in the Board of Supervisors and at such election no candidate receives a majority of all the votes cast and not less than eighteen months remains of said term of office from the date of the creation of such vacancy, a runoff election between the two candidates who have received the most votes shall be had as soon as may be legal and practical.

Section 21 of said Charter was amended to read:

Section 21. The Probation Officer shall be appointed by the Judges of the Superior Court of the County of Fresno. The salary of the Probation Officer and of deputy probation officers shall be fixed by the Board of Supervisors. In all other probation matters the General Law shall apply and the Probation Officer shall be governed thereby.

Section 24 was added to said Charter to read:

Section 24. In the event of a vacancy occurring in the Office of Assessor, District Attorney, Sheriff, Superintendent of Schools or any consolidated office including any such office, and such vacancy occurs other than in the final year of a term, the Board of Supervisors shall without delay call a special election to fill such vacancy to be held not less than seventy-five nor more than ninety days after the call. Provided, however, if an election date as provided in Section 2504 of the Elections Code or similar State law falls not less than seventy-five nor more than one hundred sixty-five days after the call, such special election shall be consolidated with such election.

Certified to be a true copy by John Ventura, Chairman of the Board of Supervisors, and M. G. Wingett, Clerk of the Board of Supervisors.

Date of municipal election: June 8, 1976.

Charter Chapter 20—City of Alameda

Amendments to the Charter of the City of Alameda

[Filed with Secretary of State July 26, 1976]

Sections 2-1, 3-7 (A) and (B), and 6-2 are amended to read as follows:

Sec. 2-1. The following elective officers are hereby established: The Mayor and four Councilmen, who shall constitute the Council; Auditor, who shall be ex-officio Assessor; Treasurer, who shall be ex-officio Tax Collector.

Sec. 3-7. The Council shall:

(A) Meet at 8:00 o'clock p.m. on the third Tuesday of the month next succeeding the month in which the General Municipal Election is held, and organize by selecting from its membership, a Vice Mayor of the Council, whose term shall commence upon selection and continue until the selection and qualification of the successor following the next General Municipal Election.

(B) Hold regular meetings at least twice in each month as fixed by ordinance. Its meetings shall be public and held in the Council Chamber of the City Hall. Special meetings may be called by the Mayor or by three Councilmen by serving the Councilmen personally with written notices of time and purpose of the meeting or as required by general law.

Sec. 6-2. During the absence or disability of the Mayor, the Vice Mayor of the Council shall perform the official duties of Mayor, and during the absence or disability of both such officers, the remaining members of the Council shall select a Mayor Pro-tempore.

Section 22-6 is repealed.

Section 17-4 is amended to read as follows:

Sec. 17-4. Not later than the third Tuesday in September of each year, the Council shall adopt a budget and fix the rate of City taxes to be levied and collected upon the property assessed for taxation within the limits of the City, on the basis of the valuation thereof as shown by the assessment roll in the office of the City Assessor. Such rate, after allowing an appropriate percentage of the assessed valuation for delinquencies, must yield sufficient revenue for the financial needs of the City for the current fiscal year.

Sections 19-4, 19-5, 19-6, 19-7, 19-8, 19-9, 19-10, 19-11, 19-14, 19-15, and 19-16 are repealed.

Sections 2-6, 2-8, and 19-2 are amended to read as follows:

Sec. 2-6. The term of said elective officer shall commence at 8:00 o'clock p.m. on the third Tuesday of the month following the General Municipal Election at which such officer was elected and continue for four years thereafter and until his successor is elected and qualified.

Sec. 2-8. The term of any person appointed to fill a vacancy in an elective office shall commence upon appointment and qualification and continue until 8:00 o'clock p.m. on the third Tuesday of the month following the next General Municipal Election, at which election a successor shall be elected to serve for the remainder of the unexpired term.

Sec. 19-2. A General Municipal Election shall be held bi-annually on a day specified therefor by general law, or, if no date is so specified, on a date set by resolution of the City Council, in each odd numbered year. All other municipal elections shall be Special Municipal Elections. A Special Municipal Election may be called by ordinance or by resolution of the Council.

Sections 20-3, 20-4, 20-5, 20-6, 20-7, 20-8, 20-9, 20-10, 20-11, 20-12, 20-13, 20-14, 20-15, 20-16, 20-17, 20-18, 20-19, 20-20, 20-21, 20-22, 20-23, 20-24, 20-25, 20-26, and 20-27 are repealed.

Section 20-2 is amended to read as follows:

Sec. 20-2. The provisions of the Elections Code and the Constitution of the State of California relating to the recall of elected officials shall govern the recall of all officials elected pursuant to this Charter. Except as otherwise provided in this Charter or in any ordinance enacted by the affirmative vote of four members of the Council, the provisions and procedures provided in the Elections Code and the general law of the State of California, now in effect and as hereafter amended or codified, for recall elections in chartered cities and municipalities generally, and in all respects

not so provided, then the present and future provisions of said codes or laws governing County recall elections generally, insofar as they may be applicable, shall govern all recall elections in this City. The Council and the City Clerk, respectively, shall exercise the powers and perform the duties conferred or imposed by law on Boards of Supervisors and County Clerks, respectively, concerning recall elections.

Section 13-3 is amended to read as follows:

Sec. 13-3. Any member of the Police or Fire Department who has been granted permanent status under the Civil Service rules of the City, shall if dismissed, have the right to appeal to the Civil Service Board, which shall have the power to hear the charges and determine the penalty. The procedure for such appeal shall be determined by the Civil Service Ordinance, or in default thereof, by the Civil Service Board.

Article XXIV, consisting of Sections 24-1 through 24-13, is repealed.

Section 3-14 is amended to read as follows:

Sec. 3-14. Before final adoption of an ordinance, its title, a digest thereof, a notice showing the date, time, and place of hearing on its final adoption, and notice that three full copies thereof are available for use and examination by the public in the office of the City Clerk, shall be published once in the official newspaper of the City at least three days before said hearing date. Notice of the adoption of an emergency ordinance, its title, and a digest thereof shall be similarly published once within three days after its adoption.

Certified to be a true copy by C. J. Corica, Mayor, and Ethel M. Pitt, City Clerk.

Date of municipal election: June 8, 1976.

Charter Chapter 21—City of Bakersfield

Amendment to the Charter of the City of Bakersfield

[Filed with Secretary of State July 26, 1976]

Section 67 is amended to read as follows:

Section 67. A General Municipal Election for the election of members of the Council shall be held on the first Tuesday after the first Monday in March in each odd-numbered year commencing in the year 1977. The persons having the highest number of votes given for each office shall be elected. The members of the Council elected shall hold office until their successors are elected and qualified.

Certified to be a true copy by Donald M. Hart, Mayor, and H. E. Bergen, Ex Officio Clerk of the Council.

Date of municipal election: June 8, 1976.

Charter Chapter 22—City of Pasadena

Amendments to the Charter of the City of Pasadena

[Filed with Secretary of State July 26, 1976]

Section 402 is amended to read as follows:

Section 402. Eligibility. Each Board member shall be a qualified elector and resident of the district from which he is elected or appointed.

First paragraph of Section 410 is amended to read as follows:

Section 410. Organization of City Operations and Activities. The Board shall, by ordinance, provide for the organization of all city operations and activities into functional units and may modify and change the organization from time to time. This organization shall be accomplished through the creation and establishment, by ordinance, of city departments, offices and agencies, advisory boards, commissions and committees. In establishing departments, offices, agencies, boards, commissions and committees, the Board shall provide the functions, powers and duties of each such department, office, agency, board, commission or committee created.

Section 512 is amended to read as follows:

Section 512. Violation of Ordinances; Penalties. The violation of any penal ordinance of the City shall be a misdemeanor. The maximum fine or penalty, or both, for any such violation shall be established by ordinance. Such fine or penalty, or both, shall not exceed the fine or penalty prescribed in the California Penal Code for violation of a comparable state law.

Section 604, subsection (c), is amended to read as follows:

(c) To appoint, promote, discipline and terminate the employment of all officers and employees of the City in accordance with the personnel system created pursuant to this Charter except those officers appointed by the Board which officers shall have the power to appoint their respective staffs;

Section 701 paragraph second is repealed.

Section 802 is amended to read as follows:

Section 802. Merit Principle. All appointments and promotions of city officers and employees shall be made on the basis of merit, with due regard for equal opportunity in employment, and fitness shall be demonstrated by appropriate examination or other evidence of competence.

Section 803 second paragraph is amended to read as follows:

The Board shall establish by resolution, the maximum number of officers and employees, the classes of employment and the compensation therefor, and other employee benefits.

Section 804 is amended to read as follows:

Section 804. Public Employees' Retirement System. The Board may establish a retirement system pursuant to the Public Employees' Retirement Law or the County Employees Retirement Law of 1937, as they are now enacted or hereafter amended, for such persons in the employ of the city as it shall determine, other than those who are members of the Fire

and Police Retirement System established by this Charter. Obligations of the city under such systems shall be paid from the General Fund, the Light and Power Fund, and the Water Fund, in accordance with the respective obligations of said funds.

Section 901 is amended to read as follows:

Section 901. Fiscal Year. The fiscal year of the City shall begin on the first day of July of each year and end on the thirtieth day of June following. The Board may, by ordinance, provide for a system of thirteen equal accounting periods.

Section 902 is amended to read as follows:

Section 902. Preparation of Budget. On or before the third Monday in May in each year the City Manager shall submit to the Board a preliminary budget of probable expenditures and revenues of the City for the succeeding fiscal year, giving the amounts required to meet the interest and sinking funds for outstanding funded debts, the amounts required for salaries and the needs of all departments and programs of the municipal government in detail, showing specifically the amount necessary to be apportioned to each fund in the treasury, and giving the estimated income and revenue to be obtained from all sources, indicating the revenue separately for each source.

The Board shall establish procedures whereby public suggestions and comments may be received and considered prior to preparation and submission of estimates by the departments to the City Manager.

Section 904 is amended to read as follows:

Section 904. Adoption of the Budget After Hearing. After the conclusion of the public hearing, the Board shall consider the proposed budget and make any revisions that it may deem advisable. The Board shall annually, on or before the thirtieth day of June, adopt a budget of the amounts estimated to be required to pay the expenses of conducting the public business of the City for the fiscal year. The budget shall be prepared in such detail as to the aggregate sum and the items or programs thereof allowed to each department, office, board or commission as the Board may determine. The budget may include an "unappropriated balance" which shall be appropriated during the fiscal year to meet contingencies and needs as they arise. A copy of the budget, certified by the City Clerk as having been adopted by the Board, shall be placed on file in the office of the City Clerk and shall be available for public inspection. Another copy, likewise certified, shall be filed with the Director of Finance. Copies of the budget shall be made available for the use of each department, board, and commission of the City.

Section 907 is amended to read as follows:

Section 907. Budget Appropriations. The adoption of the budget shall constitute an appropriation to the several offices, programs, departments, boards and commissions for the respective objects and purposes named therein.

Section 907.5 is added to read as follows:

Section 907.5. Annual Financial Report. Within four months after the close of each fiscal year, the Director of Finance shall compile and deliver a financial report to the Board which shall be available to the public.

The intent of this section is to provide the Board, citizens and other interested parties with information on the financial position of the City and its various agencies and funds, in sufficient detail to allow reasonable analysis by diligent study.

The report shall contain, but shall not be limited to, the following information for each fund of the City and of each agency it has created:

(A) A description of developments occurring during the fiscal year which have affected the financial position;

(B) A statement of financial position as of the beginning and end of the fiscal year;

(C) A summary of revenues and expenditures for the fiscal year, compared to the adopted and the final amended budget and to corresponding information for the preceding year;

(D) The amount paid during the year to each retirement system, compared to similar information for the preceding year;

(E) A tabulation of unfunded obligations, including retirement obligations, as of the beginning and the end of the fiscal year, which will require commitment of resources in future years; and

(F) Available reports by the independent auditors, with a notice of the place and the expected time at which auditors' reports not yet available can be examined.

Section 908 is amended to read as follows:

Section 908. Tax System. The City may use, for the purpose of ad valorem municipal taxation of property, the County assessment and tax collection services.

Section 1009 is renumbered as Section 911.

Section 1013 is renumbered as Section 912 and by deleting the words "City Treasurer" and substituting therefor, the words "Director of Finance".

Section 1002, Subsection (D) is amended by deleting the figure "\$5,000" and substituting therefor, the figure "\$10,000".

Section 1004, is amended by deleting the figure "\$200.00" and by substituting therefor, the figure "\$500.00".

Section 1010 is amended to read as follows:

Section 1010. Demands. All demands against the City must be in writing, must specify the date, nature, and amount of each item included therein and may be in the form of a bill, invoice, payroll, or formal demand. Each such demand shall be presented to the Director of Finance, who shall examine and audit the same. If the amount is legally due and there remains on his books an unexpended balance of an appropriation against which it may properly be charged, he shall approve such demand and cause the same to be paid from the city treasury, charging the proper fund. Otherwise, he shall reject it. The Board may overrule such rejection and order the demand paid. If funds are insufficient, the demand shall be registered, and all registered demands shall be paid in the order of their registration when funds therefor become available.

Section 1201 is amended to read as follows:

Section 1201. Districts. The Board shall, by ordinance, establish seven districts which shall be used for all elections of Board members. Said

districts shall be as nearly equal in population as practicable and such redistricting shall be in compliance with applicable laws.

Section 1407 second paragraph is amended by deleting the word "ordinance" and substituting therefor the word "resolution."

Section 1509.13 is amended to read as follows:

Section 1509.13. Service Retirement; Compulsory at Age 60. Members must retire at the age of 60 years, provided that the Chief of the Fire Department, or the Chief of the Police Department, who attains the age of 60 years as a member of the System, may be retained in service as such chief at the option of the City Manager, but such retention shall not extend beyond the age of 65 years. Such retained chief shall continue to be a member of the System.

Certified to be a true copy by Robert G. White, Chairman of the Board of Directors, and Harriett C. Jenkins, City Clerk.

Date of municipal election: June 8, 1976.

Charter amendment operative August 1, 1976.

Charter Chapter 23—City of San Rafael

Amendment to the Charter of the City of San Rafael

[Filed with Secretary of State August 5, 1976]

Article XVII is added to read as follows:

Section 1 Disciplinary Action—Strikes

Any employee of the Fire Department or Police Department who is found by the City Council to have been a participant in a strike against the City of San Rafael shall be dismissed from employment upon such finding and shall not be rehired by the City in any position or capacity.

Section 2 Disciplinary Action—Job Actions

Section 2.1—Definitions

"Job action", for the purpose of this provision of the Charter, shall include, but shall not be limited to, a work slowdown or any concerted refusal of employees to perform all their usual duties during the existence of a labor dispute.

Section 2.2—Slowdowns

Upon a finding by the City Council that an employee of the Police Department or Fire Department has participated in a job action against the City of San Rafael, that employee's compensation shall be reduced to the minimum rate then in effect for the classification in which he is employed. This reduction in compensation shall be effective with the commencement of the shift on which the job action first occurred and shall continue until the City Council finds that the job action has ceased and that a normal schedule of activity has resumed; in no event shall any compensation lost by such reduction be restored.

Section 3 Action Final

No disciplinary action taken pursuant to the provisions of this Article

shall be subject to the provisions of any ordinance or resolution of the City providing for appeals to, or hearings by, the Board of Review.

Section 4 Severability

If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article. The Council hereby declares that it would have adopted the Article and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Certified to be a true copy by C. Paul Bettini, Mayor, and Marion A. Grady, City Clerk.

Date of municipal election: June 8, 1976.

Charter Chapter 24—City of Long Beach

Amendments to the Charter of the City of Long Beach

[Filed with Secretary of State August 5, 1976]

Section 14 is amended to read as follows:

Term of City Council

Sec. 14. Except when filling a vacancy the City Council shall be elected at a general municipal election as provided in this Charter. Beginning with the general municipal election of 1978 City Council members shall serve a term of four years, except as hereafter provided. In order to establish staggered terms for councilmembers, the term of office for councilmembers in odd-numbered districts elected at the first general municipal election of 1978 shall be four years, while the term of office of councilmembers in even-numbered districts shall be two years. Thereafter, the term of office for all councilmembers shall be four years.

Section 14(1) is added to read as follows:

Beginning of Term of City Council After General Municipal Election of 1978

Sec. 14(1). After the general municipal election of 1978, and each general municipal election thereafter, members of the City Council shall take office on the first Tuesday in June after their election and hold such office until their successors are elected and qualified.

Section 15 is amended to read as follows:

Vacancies

Sec. 15. Absence from five (5) consecutive regular meetings, unless excused by resolution of the City Council, shall operate to vacate the seat of any member so absent. Whenever a vacancy in the City Council shall occur, such vacancy shall be filled at a special election to be called for that purpose. Said election shall be held in the district for which the councilmember is to be elected, and shall be called within sixty (60) days after

the occurrence of such vacancy. Said election shall be held within one hundred twenty (120) days after the occurrence of such vacancy, unless the same shall occur within one hundred twenty (120) days of a primary nominating election provided for in Section 45 of this Charter, in which event such vacancy may be filled by the City Council. Such special election shall be held within such district in the manner to be provided by the City Council by resolution.

No person appointed as a successor to serve during the remainder of a term in the City Council in which a vacancy occurs shall be designated as an incumbent, a member of the City Council, a City Council member, or other designation indicating incumbency, for purposes of the next primary and general elections for members of the City Council.

Section 29 is amended to read as follows:

Residence

Sec. 29. Unless expressly provided in this Charter to the contrary, no person shall be eligible to nomination or election to any office who at the time of his or her nomination and election is not a qualified elector of the City, and shall not have been a bona fide resident of the City or territory legally annexed thereto, for at least thirty days next preceding the first day upon which candidates are permitted to file nominating petitions for such office with the City Clerk.

No person shall be eligible for appointment to any membership on any board or commission of the City who, at the time of his or her appointment, is not a qualified elector of this City, and shall not have been a bona fide resident of the City or territory legally annexed thereto, for at least thirty days next preceding the date of his or her appointment.

No person shall be eligible for either election or appointment to any office or to any membership on any commission or board of the City, or for appointment as an assistant, deputy, clerk, attache, or other employee of any officer, commission or board of the City, or to appointment to any position of employment whatsoever in the service of the City, who, on the date of his or her election or appointment, shall be in litigation against the City.

All elective officers and all members of commissions and all members of boards of the City, must be bona fide residents of the City and maintain their respective places of abode within the corporate limits of the City at all times during which they hold such office, or are members of any such commission or board; and the term "places of abode," as used herein, shall mean not only the legal or technical residence or domicile, but also actual abode in fact.

Any elective officer, member of a commission or member of a board of the City, upon his or her failure to comply with and abide by the requirements as to residence and place of abode as hereinbefore set forth, shall be thereby immediately disqualified from holding such office or membership, and the tenure of such officer in such office or the membership of such member on such commission or board, as the case may be, shall be thereby immediately terminated.

Section 30 is amended to read as follows:

Special Residential Qualifications for City Councilmembers

Sec. 30. To be eligible to nomination or election to the office of member of the City Council, the person nominated or elected must have been a resident of the district from which he or she is nominated or elected for at least thirty days next preceding the first day upon which candidates are permitted to file nominating petitions for such office with the City Clerk.

In the event any member of the City Council shall remove his residence from the district from which he was nominated, elected or appointed, during his term of office, such removal shall not operate to cause a vacancy in his office as a member of the City Council.

Section 40 is amended to read as follows:

Term of Office

Sec. 40. All officers provided to be elected under this Charter shall take office on the first Monday after the first day of July after their election, EXCEPT that after the general municipal election of 1978, and thereafter, such officers shall take office on the first Tuesday of June, after their election; and shall hold office until their successors are elected and qualified. The provisions of this Section relating to the date of taking office shall not apply to the Board of Education.

Section 42 is amended to read as follows:

Vacancies

Sec. 42. In the event of a vacancy in any elective office caused by death, resignation, recall, removal from the City or for any other reason, the vacancy shall be filled for the unexpired term by the City Council unless otherwise expressly provided in this Charter.

No person shall be eligible for appointment to a vacancy in any elective office who at the time of such appointment is not a qualified elector of this City and shall not have been a resident of the City for at least thirty days next preceding such appointment; and to be eligible for appointment to a vacancy in the office of member of the City Council, the person appointed must have been a resident of such district for at least thirty days next preceding such appointment.

To be eligible to be elected to fill a vacancy in the City Council, a person must have been a resident in the district where the vacancy occurs for at least thirty days next preceding the first day upon which candidates are permitted to file nominating petitions for such office with the City Clerk.

Section 45 is amended to read as follows:

Primary and General Municipal Election—When Held

Sec. 45. The primary nominating election for elective officers of the City shall be held in the City of Long Beach on the third Tuesday in March, 1978. The general municipal election for elective officers of the City shall be held in the City of Long Beach on the second Tuesday in May, 1978, and candidates so elected shall assume office on the first Tuesday of June, 1978, and shall serve until the election and qualification of their successors. Such primary and general municipal elections shall thereafter be held in the City of Long Beach every two years, on the third Tuesday in March

and the second Tuesday in May, respectively. Only those elected offices shall be filled which become vacant on the first Tuesday of June of that year.

Section 114 is amended to read as follows.

The Educational Department

The School District

Sec. 114. The School Department of the City of Long Beach shall comprise all the public schools within the City of Long Beach or within the territory that is now, or may hereafter be annexed thereto for school purposes, and shall be known as the "Long Beach Unified School District," and shall succeed to all the property, rights and privileges of the former Long Beach City School District, and shall consist of elementary and secondary schools, as now established, and may, at the discretion of the Board of Education, include intermediate, technical, summer, industrial, night and continuation schools.

Section 115 is amended to read as follows:

The Board of Education

Sec. 115. The government of the schools shall be vested in the Board of Education, consisting of five members, who shall have been residents of the territory included in the district for thirty days prior to the first day declaration of candidacy may be filed. They shall be elected by the voters of the district at large on the third Tuesday in March, 1977. The regular school election shall be held on the third Tuesday in March of each odd-numbered year, and there shall be elected respectively two and three members of said Board of Education, whose term of office shall be four years.

Section 115a is deleted.

Section 116 is amended to read as follows:

Electors in Outside Territory May

Vote at School Election

Sec. 116. All territory included in the limits of the Long Beach Unified School District or that may hereafter be included within such limits, but not within the city limits, shall be deemed a part of the City of Long Beach for the purpose of holding elections for members of the Board of Education or upon other matters relating to the schools, and only for such purposes.

Section 117 is amended to read as follows:

Elections

Sec. 117. All elections for members of the Board of Education, or issuing bonds of the school districts, or on propositions to be submitted to the people of the school districts, shall be called, held, conducted and the vote canvassed and declared in accordance with the laws of the State of California governing the election of city boards of education, except as to the time of holding said election and the terms of office of the members of said Board of Education, in which particulars the provisions of this charter shall govern. The costs and expenses incurred in connection with or incident

to any election held under this article shall not be a charge upon the funds of the city.

Section 117a is deleted.

Section 118 is amended to read as follows:

Organization and Meetings of
the Board of Education

Sec. 118. The Board of Education shall enter upon the discharge of their duties on the third Monday in April after their election, and shall meet upon said day and annually thereafter and organize by electing one of their number president, and one as vice president, whose term of office shall be one year.

Section 119 is deleted.

Section 120 is deleted.

Section 121 is deleted.

Section 122 is renumbered Section 119.

Section 124 is deleted.

Section 125 is deleted.

Section 126 is deleted.

Section 127 is deleted.

Section 123 is amended to read as follows:

Sec. 123. Vacancies in the Board of Education shall be filled for the remaining portion of the term of the vacant office at a special election to be called for that purpose. Said election shall be called within thirty (30) days after the occurrence of such vacancy. Said election shall be held within one hundred twenty (120) days after the occurrence of such vacancy, unless the same shall occur within one hundred twenty (120) days of a regular school election set forth in this Charter, in which event such vacancy shall be filled by the remaining members of the Board of Education. Should three or more vacancies exist at any one time, a special election shall be called as soon as possible by the County Superintendent of Schools.

No person appointed as a successor to serve during the remainder of a term in the Board of Education in which a vacancy occurs shall be designated as an incumbent, a member of the Board of Education, a school board member, or other designation indicating incumbency, for purposes of the next regular school election for members of the Board of Education.

Section 123 is renumbered Section 120.

Section 132.100 is amended to read as follows:

Qualification and Term of Office
of the City Auditor

Sec. 132.100. The City Auditor shall be elected by the qualified electors of the City of Long Beach, and shall hold office for four (4) years, and until his successor has been elected and qualified.

1. The City Auditor shall be a Certified Public Accountant or a Public Accountant with a current license to practice in the State of California; or
2. The City Auditor shall hold the professional designation as "Certified Internal Auditor" awarded by the Institute of Internal Auditors, Inc.; and
3. The City Auditor shall have held at least one of the professional

designations indicated above for a period of five (5) years or more on the date of election as City Auditor.

Section 204 is amended to read as follows:

Qualification and Term of Office
of the City Attorney

Sec. 204. The City Attorney shall be elected by the qualified electors of the City of Long Beach, and shall hold office for four (4) years, and until his successor shall have been elected and qualified. He must be qualified to practice in all the courts of the State of California, and must have been so qualified for at least five (5) years next preceding the day of his election. All assistants of the City Attorney must, at the time of their appointment, have been for one year next preceding the date of their appointment, qualified to practice in all of the courts of the State of California.

Section 207 is amended to read as follows:

City Attorney to Attend Meetings
of City Council

Sec. 207. The City Attorney shall be in attendance at every regular meeting of the City Council; and shall give his advice or opinion in writing, whenever so required to do by the City Council, the City Auditor, the City Manager, and all other officers, boards and departments of the city in all matters relating to their official duties.

Subsection 210a (3) is amended to read as follows:

Qualification and Term of Office
of the City Prosecutor

Sec. 210a (3) The City Prosecutor shall be elected by the qualified electors of the City of Long Beach, and shall hold office for four (4) years, and until his successor shall have been elected and qualified. He must be qualified to practice in all the courts of the State of California and must have been so qualified at least three (3) years next preceding the date of his election. All deputies of the City Prosecutor must, at the time of their appointment, have been, for one (1) year next preceding the date of their appointment, qualified to practice in all of the courts of the State of California.

Certified to be a true copy by Thomas J. Clark, Mayor, and Elaine Hamilton, City Clerk.

Date of municipal election: June 8, 1976.

Charter Chapter 25—County of Sacramento

Amendment to the Charter of the County of Sacramento

[Filed with Secretary of State August 31, 1976.]

Section 59 is amended to read as follows:

Section 59. Health Services. The County of Sacramento may provide

such health services as the board of supervisors deems necessary or appropriate. Such services may be, but are not required to be, provided by operating a general county hospital, outpatient clinics or other appropriate programs or facilities. The board of supervisors may contract with any private or public entity for the purpose of providing health services pursuant to this section.

Certified to be a true copy by Joseph E. Sheedy, Vice Chairman of the Board of Supervisors, and Betty D. Poohar, Clerk of the Board of Supervisors.

Date of municipal election: June 8, 1976.

Charter Chapter 26—County of San Diego

Amendment to the Charter of the County of San Diego

[Filed with Secretary of State October 22, 1976.]

Section 40 is amended to read:

Section 40. The Board of Supervisors shall by ordinance or resolution, at least annually, establish the compensation for officers and employees in the service of the County, which shall provide uniform compensation for like services. The Board of Supervisors in establishing such compensation, shall give due consideration to factors including, but not limited to: (a) the prevailing or general current rate of compensation or wages paid and fringe benefits provided by private employers in the County of San Diego and by other public employers in the State of California for similar quality or quantity of service; (b) the fringe benefits provided officers and employees of the County of San Diego; and (c) the revenues available to the County for the payment of such compensation. The Civil Service Commission in preparing its standardization and classification of salaries for employees in the classified service as provided in Section 79 of this Charter shall likewise give due consideration to such factors.

Certified to be a true copy by Lee Taylor, Chairman of the Board of Supervisors, and Porter D. Cremans, Clerk of the Board of Supervisors.

Date of municipal election: June 8, 1976.

Charter Chapter 27—City of Sacramento

Amendments to the Charter of the City of Sacramento

[Filed with Secretary of State November 17, 1976.]

Section 167 is amended to read as follows:

Sec. 167. Injury in performance of duty.

Except as hereinafter provided, any city employee who is disabled,

whether temporarily or permanently, by injury or illness arising out of and in the course of his duties, shall be entitled to such medical, surgical, and hospital treatment, including nursing, medicines and medical and surgical supplies and apparatus as may be required on account of such injury or illness, the same to be provided by the city. Such employee shall become entitled during the period of such temporary disability, regardless of his period of service with the city, to leave of absence while so disabled without loss of salary, in lieu of temporary disability payments, if any, which would be payable under Division 4 of the Labor Code of the State of California, for the period of such disability, but not exceeding one year, or until such earlier date as he is retired upon a retirement allowance. Compensation and benefits payable to or on behalf of the employee under this section, shall be reduced, in the manner fixed by the city council, by the amount of any compensation and benefits payable to or on behalf of said employee under Division 4 of the Labor Code of the State of California. Compensation and benefits paid under this section shall be considered as in lieu of compensation and benefits payable to or on account of said employee under said state law and shall be in satisfaction and discharge of the obligation of the city to pay such compensation and benefits under such state law. The benefits provided in this section shall be limited to full-time officers and employees of the city and, except as provided herein, shall not be extended to persons employed by the city on a seasonal, limited-term, part-time or substitute basis, or elective officers or appointive members of city boards and commissions. The city council, by ordinance enacted by two-thirds of all members thereof, may permit employees of the city, other than full-time officers and employees of the city, to receive all or a portion of the compensation and benefits provided to full-time officers and employees by the provisions of this section.

Article XXVIII is repealed.

Sections 290 through 351 are repealed.

Article XXIX is added to read as follows:

Article XXIX, Sacramento City Employees' Retirement System

Sec. 371. Effective date.

At the time this article and amendments to this Charter are submitted to the electors of the city, they are intended to take effect on January 1, 1977. In the event that this article and such amendments are adopted by the electors of the city, but for any reason are not filed with the Secretary of State on or prior to January 1, 1977, then, in such event, they shall be effective on the first day of the month next following the date they are filed with the Secretary of State.

Sec. 372. Duty to provide retirement system.

Subject to and consistent with the provisions of this article, the council shall provide, by ordinance or ordinances, for the implementation and maintenance of the retirement plan created by section 399 for officers and employees of the city. Said plan and plans continued pursuant to section 374, excluding any plan provided for by contract with the Public Employees' Retirement System, shall be administered as the Sacramento City

Employees' Retirement System.

The city council may enter into a contract with the Board of Administration, Public Employees' Retirement System (PERS) for participation in that system of the city and any or all employees eligible for membership in PERS who enter city employment on or after the effective date of the contract and who were not employed by the city prior to such effective date. Such contract may be amended from time to time by the council.

The council, if it enters into such contract, is authorized to take any action on behalf of the city required or permitted under the Public Employees' Retirement Law. Any person who becomes a member of PERS pursuant to the provisions of this section or any contract made pursuant to the authority of this section shall not be a member of the Sacramento City Employees' Retirement System for any purpose.

Sec. 373. Modifications of system.

The city council shall secure an actuarial report of the probable cost and effect to the system, its members and the city, of any proposed change in the contribution rates or benefits under the retirement system, or under any contract with PERS before enacting an ordinance or resolution relating to changes in the contribution rates or benefits under the retirement system or changes in any contract with PERS or before voting to submit to the electorate any proposed Charter amendment or ordinance providing for such changes. Prior to enacting any ordinance pursuant to section 400, defining or redefining the term "compensation", the city council shall secure an actuarial report of the probable cost and effect to the system, its members and the city resulting from the enactment of any such ordinance.

Sec. 374. Duty to continue existing system.

The council shall provide, by ordinance or ordinances, for the continuance, as part of the retirement system, of all employee retirement plans in operation upon the effective date of this article. Except as otherwise specifically provided in this article, no such plan, or any provision thereof, shall be modified or amended except through the adoption of an ordinance approved by a majority of the voters voting upon such proposition at a general municipal election or a special municipal election called for such purpose. Allowances existing in favor of or on account of retired employees of the city at the time of the adoption of this article shall be continued in force in accordance with the provisions under which said allowances were made. Except as provided in section 379, nothing in this article shall be construed as changing the status of members of such existing plans or the benefits thereunder. Notwithstanding any other provision in this article, the council shall provide by ordinance for continuation of the benefits of transferred members (as defined in former Charter sections 359 and 360) pursuant to former Charter sections 359 through 366; provided, however, that any such transferred member shall have the right to elect in the manner provided by section 401 to have his rate of contribution, as required by former Charter section 365, based upon the rate of contribution for members of the plan established by Charter section 399.

Sec. 375. Actuarial assumption for "equal shares retirement plan".

The ordinance or ordinances enacted by the council under section 374,

providing for the continuance of the "equal shares retirement plan" created by former Charter section 302, shall provide that the board shall direct the actuary in making the actuarial investigations and evaluations required by former Charter section 300 for purposes of determining members' contribution rates to assume in addition to all other actuarial assumptions:

(1) That all persons who enter the employ of the city on or after the effective date of this article and who would have been eligible for membership in the "equal shares retirement plan" under former Charter section 302 and ordinances enacted thereunder before the effective date of this article, are members of the "equal shares retirement plan" if they would have remained in the employ of the city, and,

(2) That no person who was a member of the "equal shares retirement plan" on the effective date of this article made the election provided by section 401.

Sec. 376. City contributions for liability under prior plans.

The adoption of this article shall not alter or modify the liability of the city, the retirement system, or its members, for retirement plans which were in existence upon the effective date of this article, nor shall it alter or modify the method of funding such plans as prescribed in former Charter sections 167 to 175.29 and sections 290 to 367, except as provided in sections 374, 375 and 379.

Sec. 377. Validation of former Charter sections granting increased pensions to retired persons.

All provisions of former Charter sections 173.2, 173.3, 173.4, and 173.5 of this Charter granting increased retirement allowances to or on account of retired members of the Sacramento City Employees' Retirement System shall be continued as an ordinance of the city and shall continue in effect until otherwise repealed by subsequent amendment of this Charter. The provisions of former Charter section 175.29 shall be continued in effect as an ordinance of the city, but only insofar as necessary to continue in effect cost of living adjustments and the funding of such adjustments which have been made under said section and were in effect prior to July 1, 1970.

Sec. 378. City employees transferred to Sacramento County.

The city council shall enact an ordinance or ordinances prescribing the conditions according to which any and all employees of the city, who are members of the Sacramento City Employees' Retirement System and who, on or after January 1, 1963, are transferred to and become employees of Sacramento County and members of the Sacramento County Employees' Retirement System, as part of any consolidation of city functions with, or transfer of city functions to, Sacramento County, may retain their membership in the Sacramento City Employees' Retirement System. The provisions of said ordinance shall substantially conform to the provisions of former Charter section 175.27 with such modifications as are necessary to make the provisions of said section applicable to the transferred employees. This section shall not apply to any employee of the city who becomes a member of this system after the effective date of any reciprocity agreement entered into pursuant to former Charter section 367.

Sec. 379. Cost-of-living adjustment.

The city council shall enact an ordinance or ordinances prescribing the conditions according to which, as of July 1 of each year, every monthly allowance payable to or on account of a member of this system whose retirement or death as a member of this system occurred prior to July 1 of the preceding year shall be increased or decreased by a percentage of the allowance then being received. Such percentage shall approximate, to the nearest one-tenth of one percent, the percentage of annual increase or decrease, if any, in the cost of living during the whole of the preceding calendar year by reference to the current U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index for the San Francisco-Oakland area (or the Sacramento area, in the event the Index is established for the Sacramento area), for the whole of the preceding calendar year; provided that such increase or decrease shall not exceed three percent of any allowance in any year, regardless of the percentage of change in cost of living; and provided further that no allowance shall be reduced below the amount payable at death or retirement. The amount of any monthly allowance payable to a survivor or beneficiary upon death of a retired person shall be the amount which would be payable as of the date of death had payment of such allowance begun on the date of retirement, and shall thereafter be adjusted in accordance with this section. Increases in allowances payable pursuant to this section shall be funded by contributions of the members subject to this section and contributions of the city. The individual member's contribution shall be at the rate of 6.7% of his contributions (excluding additional contributions under section 404). The city's contribution shall be determined by the board in accordance with its funding policy in section 385 at a rate required to fund the cost of increases under this section and former Charter section 354 not provided by member contributions. The board shall provide for transfer to members' accounts under this section of the portion of accumulated contributions under former Charter section 354 which were made by members thereunder becoming subject to this section.

The council shall afford any member of this system who is in the employ of the city on the effective date of the ordinance or ordinances enacted pursuant to this section who is not a member of the Section 399 Plan the right to elect to receive the benefits provided by former Charter section 354 in the manner provided therein. The council shall prescribe procedures for the exercise of such election by any such member by making an individual affirmative irrevocable election to continue to receive the benefits provided by former Charter section 354 rather than to receive the benefits provided by this section. The council shall provide a thirty (30) day period for the making of said election.

The council shall provide by ordinance for the continuation of benefits provided by former Charter section 354 for members of this system who make said election. The provisions of said ordinance shall substantially conform to the provisions of former Charter section 175.29; provided, however, that in fixing the rates for member contributions the board shall assume that all persons who are members of this system or are members of PERS and are in the employ of the city would continue to make contributions and receive benefits under former Charter section 354.

Sec. 380. General definitions.

The following words and phrases as used in this article and ordinances enacted thereunder, unless a different meaning is plainly required by the context, shall mean:

“Board” shall mean the Administration, Investment and Fiscal Management Board created by section 381 of this Charter.

“Charter” shall mean the Charter of the City of Sacramento.

“Commission” shall mean the Retirement Hearing Commission created by section 388 of this Charter.

“Council” or “city council” shall mean the council of the City of Sacramento.

“Former Charter section” shall mean a section of this Charter as said section read on the date immediately preceding the date on which said section was repealed.

“Member” shall mean any person who is a member of the retirement system.

“Miscellaneous member,” or “miscellaneous officer or employee” shall mean any officer or employee who is a member of the retirement system and is not a safety member as defined in this section.

“Retirement system” or “system” shall mean Sacramento City Employees’ Retirement System referred to in sections 372 and 374.

“Safety member” shall mean a member whose employment is, or was, as an officer or employee of the police or the fire departments of the city, whose principal duties consist of either active law enforcement or full-time firefighting and fire prevention, respectively. “Safety member” does not include those persons employed in duties of a clerical, communication, identification, repair, or other nature even though such persons may be subject to occasional call, or are occasionally called upon, to perform duties within the scope of active law enforcement or full-time firefighting and fire prevention.

“Surviving spouse” shall mean the widow of a male member or the widower of a female member.

Words used in the masculine gender shall include the feminine and neuter genders and the singular shall include the plural and the plural the singular.

Sec. 381. Administration, Investment and Fiscal Management Board.

The retirement system shall be managed by the Administration, Investment and Fiscal Management Board which shall consist of the following persons:

- (a) The city manager or his designated representative;
- (b) The city controller, or his designated representative;
- (c) The city treasurer, or his designated representative;
- (d) A resident of the city not connected with the government thereof, appointed by the city council, who is qualified by training and experience in the management and investment of funds; and
- (e) A resident of the city not connected with the government thereof, appointed by the city council.

A majority of members of the board shall constitute a quorum. Action by the board shall require the affirmative vote of three members, except

that a lesser number may adjourn from time to time.

The terms of office of the two city resident board members described in subparagraphs (d) and (e) shall be as follows: the person described in subparagraph (d) shall be appointed for an initial term of four years and thereafter for a term of three years, or until that member's successor is appointed; the person described in subparagraph (e) shall be appointed for an initial term of two years and thereafter for a term of three years, or until that member's successor is appointed.

Sec. 382. General powers.

Subject to the provisions of sections 388 and 391, the board shall have full authority under the Charter and such general ordinances as may be lawfully adopted by the city council to maintain and manage retirement plans of this system, including but not limited to the adoption of investment standards, the fixing of contribution rates, the administration and investment of funds, the selection of investment advisors, the crediting of interest, any action required of it by the Charter and any action relating to the fiscal management of the system except those matters directly pertaining to claims for benefits, and claims for refunds under Charter section 436, filed with the retirement system manager.

All references to the "retirement board" or "board" in former Charter section 167 to 175.29, inclusive (and ordinances enacted to maintain and implement the retirement plans created by said sections) and former Charter sections 290 to 367, inclusive (and ordinances enacted to maintain and implement the retirement plans created by said sections) shall mean the administration, investment and fiscal management board; provided, however, nothing herein shall divest the retirement hearing commission of the appellate powers granted to it by section 388 of this Charter; and when said commission has jurisdiction by virtue of an appeal having been lawfully taken to the commission, all references to the "retirement board" or "board" in such former Charter sections and ordinances shall mean the retirement hearing commission. It is further provided that nothing herein shall divest the retirement system manager of the powers granted to him by section 391 of this Charter; and when said manager has jurisdiction by reason of a claim for benefits having been lawfully filed with him, all references to the "retirement board" or "board" in such former Charter sections and ordinances shall mean the retirement system manager.

The board may adopt rules and regulations consistent with this article to implement and carry out its provisions.

Sec. 383. Administration and investment of funds.

The board shall have exclusive control of the administration of such fund or funds as may come into the possession of the system, provided that all investments shall be investments permissible by law for investment of trust funds (as provided in section 2261 of the Civil Code) and shall conform to general investment standards approved by the city council. The board shall adopt general investment standards which the city council shall either approve or disapprove. The board shall employ and obtain advice and services from professional financial advisors, expert in their respective fields, such as investment counsel, trust companies or trust departments of banks, in regard to the management and investment of the

funds in the system. Nothing contained in this article shall be construed to prevent the board from administering, managing and investing the funds of the system as a single fund.

Sec. 384. Actuarial investigation.

The board shall use the services of a consulting actuary to advise it on matters relating to funding and administration of the system and to make actuarial evaluations.

On or before the effective date of this article and on or before January 1, 1980, and on or before January 1 of every third year thereafter, the board shall establish contribution rates for the next succeeding three-year period (with the exception of the period between the effective date of this article and January 1, 1980, which may be less than three years). Said contribution rates shall be those recommended by the actuary for the system in the actuarial report accepted by the board (except where the board rejects a report) as hereinafter set forth.

The actuary for the system either shall be an enrolled actuary under the Employee Retirement Income Security Act of 1974 ("ERISA") or any succeeding law and a member of the American Academy of Actuaries, or shall meet such experience and other requirements as are approximately equivalent to those applicable to an enrolled actuary under ERISA and to a member of the American Academy of Actuaries.

The actuary for the system shall carry out such evaluations of the costs of the system as are required to estimate the contribution rates required to fund the system. Such evaluation shall be made not less frequently than every three years. The actuary shall present to the board an evaluation report covering the findings of each such evaluation, which report shall be accepted by the board or rejected as hereinafter provided.

The board may reject an evaluation report of the actuary of the system in its sole discretion. In the event that the board should reject an evaluation report of the actuary for the system, the board shall forthwith appoint a new actuary for the system. If the new actuary for the system shall be unable to complete his report by the date when revised contribution rates are required to become effective or if the board should reject the new actuary's report, then the rejected evaluation report by the former actuary for the system shall determine the contribution rates until the board subsequently accepts an evaluation report from a new actuary for the system. The board may determine that the contribution rates adopted pursuant to the new actuary's report shall be retroactive to the date when revised contribution rates were required to become effective.

No actuarial method or assumption to be used in any actuarial study of the system shall be adopted by the board unless the actuary retained by the board recommends such method or assumption. No method shall be used in any actuarial evaluation of the system unless such method is a widely used, sound, and well-recognized actuarial method which is used to establish the cost of pension plan benefits and expenses.

The actuary for the system shall develop the actuarial assumptions to be used in evaluating the costs of the system. To the extent deemed appropriate by the actuary, actuarial assumptions shall be based on the experience of the system. The actuary shall use his best judgment in interpreting prior

experience of the system, similar experience elsewhere, trends, and opinions in his development of such actuarial assumptions. Each actuarial assumption shall represent as realistic an appraisal of relevant future experience (including expected inflation) at the time the assumption is made, and all assumptions considered together shall be such that their use shall permit the actuary to make an estimate of costs which he believes to be a reasonable one. The actuary shall submit in his report a full discussion of all assumptions used in the actuarial evaluation.

The board shall direct the actuary to determine the amount and character of all unfunded liability of the system using widely used, sound and well-recognized actuarial methods and shall direct the actuary to determine the contribution rates according to section 385. Neither terminal funding cost method nor the current funding (pay-as-you-go) cost method is an acceptable method, and neither of such methods shall be recommended by the actuary or adopted by the board; provided, however, this section shall not apply to the funding of benefits for service rendered prior to April 1, 1935, or to the funding of benefits provided pursuant to the retirement plans created by former Charter sections 173, 175, 175.1, 175.13 and to benefits payable to transferred employees as provided in section 374 of this Charter.

Sec. 385. Funding.

It shall be the policy of the board to set rates which shall:

(a) Cause the city to pay the unfunded city costs of the system as of January 1, 1977, based upon an actuarial evaluation as of June 30, 1976, over a period ending on June 30, 2007;

(b) Cause the city to amortize any increases or decreases in the estimated city costs of the system which occur after June 30, 1976, over periods of time ending on the latter of June 30, 2007, or ten (10) years after the dates such increases or decreases were incurred;

(c) Cause the city to make such city contributions as may be required to amortize liabilities described in (a) or (b) preceding as a level percentage of total payroll;

(d) Cause the city to begin to make the city contributions described in subparagraph (a) beginning on January 1, 1983, and to make contributions beginning on January 1, 1977, such that the city contributions for the six (6) succeeding calendar years will be expected to increase each year uniformly as a percentage of total payroll from the amount actually contributed by the city in fiscal year 1976-77 to that estimated as required under subparagraph (c) for the calendar year following January 1, 1983, and later; and,

(e) Cause the city to comply with any applicable federal law relating to minimum funding of this system, notwithstanding any provision in this section to the contrary.

Sec. 386. Accounting.

As nearly as practicable, the accounting system for the retirement system shall conform to generally accepted accounting principles. The board shall cause the funds of the retirement system to be accounted for according to membership in, and funds contributed to, each plan in the system. Accumulated contributions of members shall be accounted for according

to individual members' accounts. In accounting for contributions under this plan and the "equal shares retirement plan" created by former Charter section 302, the city's contributions for safety members and for miscellaneous members shall be accounted separately by group. The accounting system shall account separately for accumulated contributions of all retired and deceased members held for payment of annuities to or on account of such members and city contributions held for payment of pensions to or on account of such members.

Sec. 387. Interest.

At least annually, the board shall review the net investment earnings of the system on invested funds and shall determine the annual interest rate which shall be used in determining the amount of interest to be credited to contributions of the city, contributions of members and contributions of retired members. Said interest rate shall bear a reasonable relationship to the net rate of return from investments by the system as determined by the board.

Upon determining the rate of interest to be credited, the board shall periodically cause such interest to be credited to such contributions. Any difference between net investment earnings of the system and the interest credited to contributions shall be credited to such fund or funds of the retirement system as may be determined by the board.

Sec. 388. Retirement hearing commission.

There is hereby created a retirement hearing commission which shall have jurisdiction only to hear appeals as hereinafter described. Any person who has a direct financial interest who is adversely affected by a decision of the retirement system manager with respect to such person's claim for benefits, or claim for a refund pursuant to Charter section 436, shall have the right to appeal to the retirement hearing commission.

Prior to the retirement hearing commission acting upon any appeal filed with it, the commission shall refer said appeal to an independent hearing officer. Such hearing officer shall hear the matter and make a recommendation to the commission, which recommendation shall include proposed findings of fact and a proposed decision. The commission, after reviewing the record, the proposed findings of fact and proposed decision, and taking such additional evidence as may be necessary, may adopt, modify or reject the proposed findings of fact and proposed decision.

All hearing officers shall be provided by the Office of Administrative Hearings of the State of California, or its successor in interest; provided, however, that if the Office of Administrative Hearings and its successors cease to exist, the commission, with the consent of the city council, shall prescribe rules for selecting hearing officers.

The costs of securing hearing officers shall be borne by the city.

The city council shall by ordinance prescribe procedures to be followed by the retirement hearing commission in matters relating to its duties. The commission, with the approval of the city council, may contract to obtain such services and advice as are necessary to carry out its duties pursuant to the Charter.

Sec. 389. Membership.

The commission shall consist of the following persons:

- (a) The city manager, or his designated representative;
- (b) The city controller, or his designated representative;
- (c) A resident of the city, not a member of the board, not connected with the government of the city;
- (d) A safety member employed by the police department;
- (e) A safety member employed by the fire department;
- (f) A member of the system who is not a safety member employed by the police or fire department; and
- (g) A member of the civil service board.

A majority of members of the commission shall constitute a quorum. Action by the commission shall require the affirmative vote of four members, except that a lesser number may adjourn from time to time.

Sec. 390. Selection of members.

Members of the commission other than the city manager or his designated representative and the city controller or his designated representative, shall be selected as follows:

- (a) The city resident member of the commission shall be appointed by the city council;
- (b) The civil service board member shall be selected by and shall serve at the pleasure of that board; and
- (c) Each employee member shall be selected under procedures established by the city council by and from persons in the active, non-retired members of the group which he shall represent.

The terms of office of the members, other than the city manager or his designated representative, the city controller or his designated representative, and the civil service board representative, shall be for fixed terms of four (4) years and until their successors are selected. Those members serving a fixed term upon the retirement board in existence on the day preceding the effective date of this section shall serve as members of the commission until the expiration of their respective current four-year terms of membership on the retirement board and until their respective successors are selected.

Sec. 391. Retirement system manager.

The city manager shall appoint a retirement system manager who shall serve as secretary of the board and secretary of the commission. Subject to the provisions of section 388, the retirement system manager shall have full authority under the Charter and such general ordinances as may be lawfully adopted by the city council to determine when and to what extent members may receive or may continue to receive benefits of any type or kind under the retirement system. All claims for benefits payable by the Sacramento City Employees' Retirement System, and claims for refunds under Charter section 436, shall be filed with the retirement system manager. The city council shall by ordinance prescribe procedures to be followed by the retirement system manager in matters relating to his duties.

The retirement system manager, with the approval of the city council, may contract to obtain such services and advice as are necessary to carry out his duties pursuant to the Charter.

Sec. 392. Legal counsel.

The city attorney shall serve as the legal counsel for the board, the

commission and the retirement system.

Sec. 393. Costs.

All usual, normal and reasonable costs of administering the retirement system, including actuarial fees and costs, shall be borne by the city. When an agreement is entered into by the board with professional financial advisors, such as investment counsel, trust companies, or trust departments of banks in regard to the management and investment of the funds in the system, any fee stipulated in such agreement to be paid to such financial advisors shall not be considered a cost of administration but shall be considered as a charge against the assets of the retirement system to be apportioned among the fund or funds of the retirement system as determined by the board. In addition, any other ordinary costs incurred in regard to the management and investment of the funds in the system, including, but not limited to, brokers' fees, attorneys' fees, insurance, taxes, and property management fees, shall not be considered a cost of administration but shall be considered as a charge against the assets of the retirement system to be apportioned among the fund or funds of the retirement system as determined by the board.

Sec. 394. Social Security coverage.

The city council shall enact an ordinance or ordinances prescribing the conditions according to which any and all employees of the city, other than safety members of the system and employees of the police and fire departments who would be safety members of the system if they were not members of PERS, may be covered under the Old Age, Survivors, Disability and Health Insurance provisions of the Social Security Act. The provisions of any ordinance or ordinances applicable to miscellaneous members of the system shall substantially conform to the provisions of former Charter Section 175.12.5 with such modifications as are necessary to make the provisions of said section applicable to miscellaneous members of the "equal shares retirement plan" and the Section 399 Plan.

Sec. 395. Reciprocity with other governmental retirement systems.

The city council may, subject to the provisions of section 373 of this article, enact ordinances and enter into agreements concerning reciprocity with the retirement systems of other governmental entities.

The ordinance may provide for a modification of rights and benefits of a member of the system because of membership in a reciprocal system similar to and under the same conditions as those provided under the County Employees' Retirement Law of 1937 and the Public Employees' Retirement Law because of membership in two or more retirement systems established by or pursuant to such laws. The ordinance shall be filed with each board administering a reciprocal system and shall become effective upon the adoption of a resolution of such administering board accepting the city system as a reciprocal system. Such modification shall apply only to a member whose termination and entry into employment resulting in a change in membership from the city system to a reciprocal system or from a reciprocal system to the city system occurs after such effective date; provided, however, that provisions relating to computation of final compensation shall apply to any other member if such provision would have applied had the termination and entry into employment occurred

after such effective date.

As a condition precedent to his eligibility to receive reciprocal benefits under this section, the ordinance may require a member of the system to relinquish any benefits to which he would be entitled under ordinances enacted pursuant to section 378 of this article. The ordinance shall provide that the provisions of section 378 of this article shall not be applicable to any employee of the city who becomes a member of this system after the effective date of any reciprocity agreement entered into pursuant to former Charter section 367.

A reciprocal system, for purposes of this section, means a retirement system established under the County Employees' Retirement Law of 1937, the Public Employees' Retirement System, a retirement system of a city whose retirement ordinance contains the provisions authorized by this section, or a retirement system of a city or city and county established by its charter and providing for modification of rights and benefits similar to and under the same conditions as those provided for under this section.

Sec. 396. Dissolution of marriage.

Notwithstanding any provision in this system to the contrary, whenever a benefit payable to the surviving spouse under this system terminates or is reallocated because of the remarriage of the spouse, the termination or reallocation of the benefit shall be only for the period of remarriage, and in the event that the surviving spouse resumes the status of an unmarried person, the benefit shall be fully reinstated or reallocated, as the case may be, to the surviving spouse for said unmarried periods.

Sec. 397. Discharge of adverse claims.

Notwithstanding the provisions of sections 5105 and 5125 of the Civil Code of the State of California, whenever any payment of benefits or refund is made by the system to or on account of a member, such payment shall fully discharge this system from all adverse claims thereto unless, before such payment or refund is made, the retirement system manager has received written notice by or on behalf of some other person that such person claims to be entitled to such payment or refund.

Sec. 398. Execution, etc.

No right of a person to any benefit or refund under this article and no funds of the retirement system shall be subject to execution, garnishment, attachment, or any other process whatsoever, and no such right or funds shall be assignable.

Sec. 399. Section 399 retirement plan.

There is hereby created a new retirement plan to be known as the "Section 399 Plan".

Sec. 400. Section 399 Plan; Specific definitions.

The following words and phrases as used in this plan, unless a different meaning is plainly required by the context, shall mean:

"Accumulated contributions" shall mean contributions made by a member plus interest credited thereon as determined by the board. "Accumulated contributions" shall not include "additional contributions," as that term is used in section 404.

"Allowance" shall mean any benefit payable in periodic payments, consisting of an annuity and a pension.

“Annuity” shall mean payments for life or years derived from a member’s accumulated contributions.

“Benefit” shall include “allowance”, “retirement allowance”, “disability retirement allowance” and “death benefit”. “Benefit” specifically does not include a refund specified in section 436.

“Child” shall mean and include a natural or adopted child of the member.

“Compensation” as distinguished from benefits under Division 4 of the Labor Code of the State of California, shall mean all remuneration whether in cash or by other allowances made by the city for service qualifying for credit under this article, as may be determined by the city council by ordinance; provided, however, that “compensation” does not include remuneration paid for overtime, remuneration paid as a credit for accumulated sick leave, or payments paid by the system in lieu of disability retirement allowance under section 421; and provided, further, that no remuneration paid to the member shall be considered to be compensation for purposes of determining benefits under this plan unless the member and the city have made contributions with respect to each payment of remuneration in the manner provided in sections 403 and 405.

“Compensation earnable” shall mean the compensation as determined by the retirement system manager, which would have been earned by the member had he worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him during such period and at the rate of pay attached to such positions. The computation for any absence of a member shall be based on the compensation earnable by him at the beginning of the absence and that for the time prior to entering the service of the city shall be based on the compensation earnable by him in the position first held by him in such service.

“Continuation allowance” shall mean any allowance payable after the death of the member.

“Final compensation” means the highest average annual compensation earnable by a member during any period of three consecutive years during his membership in the system, or if his membership is of a lesser period, it shall mean the average annual compensation earnable by the member during such period. For the purposes of this article, periods of service separated by breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for such breaks. If a break in service did not exceed six months in duration, time included in the break and compensation earnable during such time shall be included in computation of final compensation. If a break in service exceeded six months in duration, the first six months thereof and the compensation earnable during those six months shall be included in computation of final compensation, but time included in the break which is in excess of six months and the compensation earnable during such excess time shall be excluded in computation of final compensation.

“Member of the plan” shall mean any member of this system who is a member of the “Section 399 Plan” created by section 399.

“Military service” shall be defined by the city council, in accordance with the Military and Veterans Code to include only such service which the Military and Veterans Code requires the city to provide credit for service for the purpose of computing retirement benefits.

“Parent” shall mean the adoptive, but if there is no adoptive parent who exists or existed, then the natural father or mother of the member.

“Pension” shall mean payments for life or years derived from contributions made by the city.

“This plan” shall mean the “Section 399 Plan” created by section 399.

Sec. 401. Section 399 Plan—optional membership.

Except as provided in any contract entered into by the council pursuant to section 372, any person commencing employment with the city on or after the effective date of this article shall be a member of the Section 399 Plan. Membership in this retirement plan shall be limited to full-time officers and employees of the city and, except as provided herein, shall not include persons employed by the city on a seasonal, limited-term, part-time or substitute basis, or elective officers or appointive members of city boards and commissions. The city council, by ordinance enacted by two-thirds of all members of the council, may authorize persons employed by the city on a seasonal, limited-term, part-time or substitute basis to become members of this plan on such terms and conditions as it deems reasonable.

Any member of the “equal shares retirement plan” created by former section 302 of this Charter, while still in the employ of the city, may elect to become a member of the Section 399 Plan under the conditions herein-after set forth. Such election shall be exercised by making an individual affirmative irrevocable election to become a member of this plan rather than to retain membership in the “equal shares retirement plan”.

The election shall be made not sooner than the effective date of this article nor later than three hundred sixty (360) days after said effective date. The retirement system manager shall prescribe rules, regulations and procedures relating to the exercise of said election not inconsistent with the provisions of this section.

Sec. 402. Funds in prior plans.

Any contributions deducted from compensation of persons who were members of the retirement system under any prior retirement plan, excepting any cost-of-living plans, who become members of this retirement plan, plus any interest which has been credited on account of such members' contributions, shall be transferred to the members' accounts under this plan and shall be used to fund the annuity portion of benefits under this plan.

Contributions made by the city to prior retirement plans, excepting any cost-of-living plans, as determined by the board, for persons who become members of this plan pursuant to section 401 shall be accounted for separately and shall be used, with other city contributions under this plan, to fund the pension portion of benefits under this plan.

Sec. 403. Member contributions.

(a) The contribution rate for each member of this plan, excluding the contribution rate for cost-of-living benefits pursuant to section 379, shall be:

SAFETY MEMBERS

<u>Age at entry into system</u>	<u>Rate of Contribution (%)</u>
20 and under	7.86
21	8.09
22	8.32
23	8.55
24	8.78
25	9.01
26	9.24
27	9.47
28	9.70
29	9.93
30	10.16
31	10.39
32	10.62
33	10.85
34	11.08
35	11.31
36	11.54
37	11.77
38	12.00
39	12.23
40	12.46
41	12.69
42	12.92
43	13.15
44	13.38
45	13.61
46	13.84
47	14.07
48	14.30
49 and over	14.53

MISCELLANEOUS MEMBERS

<u>Age at entry into system</u>	<u>Rate of Contribution (%)</u>
20 and under	6.45
21	6.54
22	6.65
23	6.75
24	6.84
25	6.94
26	7.04
27	7.14
28	7.24

29	7.34
30	7.44
31	7.54
32	7.63
33	7.73
34	7.83
35	7.93
36	8.03
37	8.12
38	8.22
39	8.32
40	8.42
41	8.52
42	8.62
43	8.72
44	8.82
45	8.91
46	9.01
47	9.11
48	9.21
49	9.31
50	9.41
51	9.50
52	9.60
53	9.70
54 and over	9.80

(b) There shall be deducted from each payment of compensation made to a member of this plan a sum equal to the applicable rate based upon his age at entry into the system as specified above multiplied by the amount of such compensation. The sum so deducted shall forthwith be paid to the retirement system and shall be credited to the individual account of the member. Except as otherwise provided in this article, the above amounts together with interest credited thereon, and any amounts transferred pursuant to section 402, shall be applied to provide the annuity portion of the benefits under this plan.

Sec. 404. Additional contributions.

The ordinance implementing this plan shall provide a right to any member of the plan to elect, in accordance with rules adopted by the board, to make contributions in excess of contributions required to be made to the system to provide a benefit in addition to those otherwise provided in this article. The making of such contributions shall not increase the city's contributions to the retirement system. Such additional contributions shall be credited to the member's account and shall be treated as other contributions of the member. No member shall be required or permitted to make additional contributions to the cost-of-living plan, if any, which may be applicable to such member, and no cost-of-living increases shall be made in respect to any annuity which may be paid as a result of a member's additional contributions.

Upon application, the board shall furnish to any member information concerning the nature and amount of annuities or other benefits which may be obtained under the ordinance from additional contributions. The board may by rule provide for refund of additional contributions made by a member, with interest credited thereon. A member may, at any time, in writing, authorize the board to apply any additional contributions standing to his credit as payment of any contributions required to be made by such member.

Sec. 405. City contributions.

Subject to and consistent with the other provisions of this article, the city shall contribute such sums of money as may be required to fund this plan. The total contributions, with interest thereon, made by the city, and any amounts transferred pursuant to section 402, shall be applied to provide the pension portion of the benefits under this plan. Pursuant to sections 384 and 385, the board shall direct the actuary to determine the appropriate contribution rates for the city.

Sec. 406. Computation of service.

The following time served shall be included by the retirement system manager in the computation of the service to be credited to a member of this plan for the purpose of determining whether such member qualifies for retirement and for the purpose of calculating benefits, but only if withdrawn accumulated contributions based on such time served have been deposited or are redeposited in the retirement system:

(1) Time during which a member is a member of the retirement system and during and for which such member is entitled to receive compensation because of service as an employee of the city.

(2) Time during which a member is absent in military service from employment by virtue of which he is a member of this plan.

(3) Time served as a safety member shall be credited upon a change in service category of such a member which causes him to become a miscellaneous member; provided, that the accumulated contributions standing to the credit of such member, including amounts redeposited by him, shall be adjusted by refund to the member or by payment by the member in the manner provided by the retirement system manager to bring the amount of said accumulated contributions to the amount which would have been credited to him had the member been a miscellaneous member throughout the period of his service as a safety member at the compensation he received as such a safety member. For all purposes thereafter, the member shall be a miscellaneous member.

(4) Time served as a miscellaneous member shall be credited upon a change in service category of such a member which causes him to become a safety member; provided, that the accumulated contributions standing to the credit of such member, including amounts redeposited by him, shall be adjusted by refund to the member or by payment by the member in the manner required by the retirement system manager to bring the amount of said accumulated contributions to the amount which would have been credited to him had the member been a safety member throughout the period of his service as a miscellaneous member at the compensation he received as a miscellaneous member. For all purposes

thereafter, the member shall be a safety member.

(5) Time served prior to April 1, 1935, determined and credited as prescribed by the council for other members of the system.

Sec. 407. Age of voluntary and mandatory retirement for service by safety members.

Any safety member of this plan who has completed at least five (5) years of service in the aggregate and attains the age of fifty (50) years may voluntarily retire for service under such uniform procedures as may be prescribed by ordinance enacted by the council. Safety members of this plan shall be mandatorily retired on the first day of the month next following the date on which they attain the age of sixty (60) years.

Sec. 408. Service retirement benefits for safety members.

A safety member of this plan shall receive a service retirement allowance equal to the percentage of his final compensation set forth in the following table opposite his age at retirement taken to the preceding completed quarter year and multiplied by the number of years of service with which he is credited at retirement:

SAFETY MEMBERS				
PERCENTAGE OF FINAL COMPENSATION				
Age of Retirement	Exact	$\frac{1}{4}$	$\frac{1}{2}$	$\frac{3}{4}$
50	1.7500	1.7825	1.8150	1.8475
51	1.8800	1.9125	1.9450	1.9775
52	2.0100	2.0425	2.0750	2.1075
53	2.1400	2.1725	2.2050	2.2375
54	2.2700	2.3025	2.3350	2.3675
55 and over	2.4000			

Sec. 409. Age of voluntary and mandatory retirement for service by miscellaneous members.

Any miscellaneous member of this plan who has completed at least five (5) years of service in the aggregate and attains the age of fifty (50) years may voluntarily retire for service under such uniform procedures as may be prescribed by ordinance enacted by the council. Miscellaneous members of this plan shall be mandatorily retired on the first day of the month next following the date on which they attain the age of sixty-five (65) years.

Sec. 410. Service retirement benefits for miscellaneous members.

A miscellaneous member of this plan shall receive a service retirement allowance equal to the percentage of his final compensation set forth in the following table opposite his age at retirement taken to the preceding completed quarter year and multiplied by the number of years of service with which he is credited at retirement:

MISCELLANEOUS MEMBERS
PERCENTAGE OF FINAL COMPENSATION

Age of Retirement	Exact	$\frac{1}{4}$	$\frac{1}{2}$	$\frac{3}{4}$
50	1.1000	1.1325	1.1650	1.1975
51	1.2300	1.2625	1.2950	1.3275
52	1.3600	1.3925	1.4250	1.4575
53	1.4900	1.5225	1.5550	1.5875
54	1.6200	1.6525	1.6850	1.7175
55	1.7500	1.7825	1.8150	1.8475
56	1.8800	1.9125	1.9450	1.9775
57	2.0100	2.0425	2.0750	2.1075
58	2.1400	2.1725	2.2050	2.2375
59	2.2700	2.3025	2.3350	2.3675
60 and over	2.4000			

Sec. 411. Maximum service retirement allowance.

In no event shall the service retirement allowance of any member of this plan exceed seventy-five percent (75%) of his final compensation.

Sec. 412. Exemptions from mandatory retirement age.

Upon the recommendation of the city manager, the city council may extend for periods of one (1) year each and not to exceed a total of five (5) years, the mandatory retirement age of any member of this plan who is exempt from the rules and regulations of the civil service board under section 43 of this Charter and resolutions adopted thereunder.

Sec. 413. Retirement for industrial disability.

Any member of this plan who becomes incapacitated for the performance of his duty by reason of any bodily injury or physical illness caused by or incurred in performance of his duty shall be retired on an industrial disability retirement if the incapacity of the member is of an extended and uncertain duration.

Sec. 414. Industrial disability retirement benefits.

If a member of this plan who is entitled to industrial disability retirement benefits is not qualified for voluntary service retirement, he shall receive an industrial disability retirement allowance equal to fifty percent (50%) of his final compensation. If such member is qualified for voluntary service retirement, he shall receive a disability retirement allowance of an amount equal to the service retirement allowance he would have received if he had elected to retire from service on the date when he is ordered retired for industrial disability, or a disability retirement allowance equal to fifty percent (50%) of his final compensation, whichever amount is greater.

Sec. 415. Retirement for ordinary disability.

Any member of this plan who becomes incapacitated for performance of his duty by reason of a bodily injury or physical or mental illness and who has completed ten (10) years of service in the aggregate shall be retired on an ordinary disability retirement allowance if the incapacity of the member is of an extended and uncertain duration and the member is not entitled to an industrial disability retirement.

Sec. 416. Ordinary disability retirement benefits for safety members.

If a safety member of this plan who is entitled to an ordinary disability retirement allowance is not qualified for voluntary service retirement, he shall receive an ordinary disability retirement allowance equal to one and one-half percent (1½%) of his final compensation for each year of service, but in no event shall said allowance be less than twenty-five percent (25%) of his final compensation. If any such safety member is qualified for voluntary service retirement, he shall receive an ordinary disability retirement allowance of an amount equal to the service retirement allowance he would have received if he had elected to retire for service on the date when he is ordered retired for disability, or an ordinary disability retirement allowance equal to twenty-five percent (25%) of his final compensation, whichever amount is greater.

Sec. 417. Ordinary disability retirement benefits for miscellaneous members.

If a miscellaneous member of this plan who is entitled to ordinary disability retirement allowance is not qualified for voluntary service retirement, he shall receive an ordinary disability retirement allowance equal to one and one-half percent (1½%) of his final compensation for each year of service. In no event shall said allowance be less than twenty-five percent (25%) of his final compensation nor shall said allowance, if it exceeds twenty-five percent (25%) of his final compensation, be greater than the service retirement allowance to which he would have been entitled if he had remained in the continuous employ of the city until attaining the age of fifty (50) and immediately retired upon attaining said age with the same final compensation as is used to compute his disability allowance under this section. If any such miscellaneous member is qualified for voluntary service retirement, he shall receive an ordinary disability retirement allowance of an amount equal to the service retirement allowance he would have received if he had elected to retire from service on the date when he is ordered retired for disability, or an ordinary disability retirement allowance equal to twenty-five percent (25%) of this final compensation, whichever amount is greater.

Sec. 418. Procedures to initiate disability retirement.

The retirement of any member of this plan for industrial or ordinary disability may be initiated by the retirement system manager, by recommendation of the city manager, at the request of the member, or at the request of the guardian or conservator of the estate of the member.

Sec. 419. Time for filing application for disability retirement.

Any retirement for disability shall be initiated within such time periods as may be prescribed by ordinance or ordinances enacted by the city council.

Sec. 420. Consideration of disability retirements.

The city council may by ordinance prescribe procedures to be followed by the retirement system manager, hearing officers and commission in the consideration of matters relating to the granting or denying of disability retirements.

Sec. 421. Transfer, reassignment, etc., to other employment in lieu of disability retirement.

When the retirement system manager finds, on medical advice, that a member of this plan is entitled to a disability retirement allowance, if the retirement system manager further finds that such member is capable of

performing other duties in the service of the city, the member shall not be entitled to a disability retirement allowance if the city manager, in accordance with any applicable civil service procedures, offers and such member accepts a transfer, reassignment, or other change to a position with duties within such member's capacity to perform with his disability.

If the rate of compensation of such member in the new position is less than the rate of compensation of such member in the position from which he was disabled, the retirement system, in lieu of paying a full disability retirement allowance, shall pay such member, as a partial disability retirement allowance, the difference between the rate of compensation of such member in the new position and the rate of compensation of the position from which he was disabled. In the event that the rate of compensation of such member in the new position is increased from time to time, said partial disability retirement allowance shall be decreased by the amount of such increase until such partial disability retirement allowance equals zero and is discontinued. In no event shall the retirement system pay a partial disability retirement allowance which exceeds the full disability retirement allowance to which the member is entitled.

If a new position cannot be arranged at the time of eligibility for full disability retirement allowance, the full disability retirement allowance to which the member is entitled under this plan shall be paid until such time as a new position is available and accepted.

If a full disability retirement allowance is paid and the member later accepts such a new position, the period while on such disability retirement shall not be considered as breaking the continuity of service and his rate of contribution shall be based on the same age as his age was on the date of disability. If the member was a safety member of this plan, at the time disabled, and is transferred to a position which would otherwise require him to become a miscellaneous member of this plan, he may elect, in accordance with procedures established by the city council, to retain his membership as a safety member of this plan while performing the duties of his new position. The contribution rate of a member who so elects shall be based upon the contribution rate applicable to a safety member of this plan.

Nothing in this section shall be construed to require a member to accept reassignment or transfer in lieu of the full disability retirement allowance.

A member who receives a partial disability retirement allowance, as provided in this section, shall remain an active member of this system while receiving such partial disability retirement allowance. No cost of living adjustment shall be made to any partial disability retirement allowance.

Notwithstanding any other provision of this Charter to the contrary, the civil service board shall adopt reasonable rules and regulations to implement the provisions of this section insofar as it requires procedures to allow the city manager to effectuate a transfer, reassignment or other change of position as herein provided.

Sec. 422. Employment by city after retirement.

No member of this plan retired for service or retired for disability shall thereafter be employed by the city unless he re-enters city service in

accordance with procedures prescribed by the civil service board.

Sec. 423. Employment after disability retirement.

Should any member of this plan retired for disability engage in a gainful occupation prior to attaining the age on which he would have been entitled to voluntarily retire for service, the retirement system manager shall reduce the pension portion of such member's monthly retirement allowance so that the resultant retirement allowance when added to the average gross amount earned monthly by him in such occupation, will not exceed the greater of the following:

(a) The amount of his final compensation, or

(b) The amount of the compensation earnable by a person holding the position in the same salary step which such member held at the time of his retirement, or if the position has been abolished, the maximum compensation earnable by the person holding such position immediately prior to its abolition.

The reduction provided for in this section shall not exceed the amount of the pension portion of the retirement allowance and shall terminate when such member attains the age of eligibility for voluntary services retirement.

Sec. 424. Determination of continuance of disability.

The retirement system manager may require any member of this plan retired on a disability retirement allowance and under the applicable age of voluntary service retirement to undergo medical examinations from time to time without cost to the member. The examination shall be made by a physician or surgeon appointed by the retirement system manager, provided that said examination shall be performed within a reasonable distance of the member's home. Upon the basis of such examination, the retirement system manager shall determine whether the member is still physically or mentally incapacitated for service with the city in the position held by him when retired for disability.

Sec. 425. Refusal to submit to medical examination.

If the retirement system manager requests any member of this plan who is receiving a disability retirement allowance and who is under the minimum age of qualification for voluntary service retirement to undergo a medical examination, and such member refuses to do so, then his retirement allowance shall be suspended until he submits to such medical examination. In the event such member does not submit to medical examination within three (3) months from the time his allowance is suspended, then his disability retirement allowance shall be cancelled. In the event the member does submit to such medical examination within said three (3) month period, then, in the event the retirement system manager determines that such member is still disabled, then the disability retirement allowance shall be reinstated as of the date of the medical examination.

Sec. 426. Determination that member not incapacitated.

If the retirement system manager determines, after considering medical advice, that a member of this plan retired on a disability retirement allowance is not physically or mentally incapacitated for service in the office or department of the city where he was employed and in the posi-

tion held by him when retired for disability, he shall be eligible to re-enter the city service and his disability retirement allowance shall be cancelled forthwith upon such re-entry. If such a member eligible to re-enter city service does not re-enter city employment within thirty (30) days of the date when employment is made available to him, his disability retirement allowance shall be permanently cancelled, and an amount which is the actuarial equivalent of his annuity at cancellation, based on an ordinary life, but not to exceed the amount of his accumulated contributions at the time of his retirement for disability, shall be credited to his individual account and shall be refunded to him. Notwithstanding any other provision of the Charter to the contrary, the civil service board shall adopt rules and regulations establishing reasonable procedures for the re-entry of such members.

Sec. 427. Re-entry into city service.

If, under the provisions of section 426, a member of this plan who is retired for disability is determined by the retirement system manager to be no longer incapacitated and re-enters the service of the city, his disability retirement allowance shall cease immediately upon such re-entry. Upon re-entry into city service such member shall be a member of this plan, and his age at the time of his original entry into the system shall be the age upon which his rate of contribution upon re-entry is computed, and shall receive credit for his aggregate service as it existed at the time of his disability retirement. The city council may provide by ordinance that any person who re-enters city service pursuant to former Charter section 326 may elect to become a member of this plan. Such ordinance shall generally provide for a procedure similar to section 401.

Sec. 428. Cancellation of retirement allowance for other than re-entry into city service.

If the retirement allowance of any member of this plan who is retired for disability is cancelled for any cause other than re-entrance into city service, and if such member does not re-enter city service, an amount which is the actuarial equivalent of his annuity at cancellation, based on a disabled life, but not to exceed the amount of his accumulated contributions at the time of his retirement for disability, shall be credited to his individual account and shall be refunded to him.

Sec. 429. Industrial death allowances.

If a member of this plan shall die before retirement by reason of an injury received in, or illness caused by the performance of his duty, then, commencing the next day following the date of death, an industrial death allowance shall be paid to the surviving spouse throughout the life of the surviving spouse or until the surviving spouse remarries. If the member, at the time of death, was qualified for voluntary service retirement, but had not retired, the industrial death allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such industrial death allowance shall not be less than an amount equal to fifty percent (50%) of his final compensation. If death occurs prior to qualification for voluntary service retirement, the industrial death allowance payable shall be an amount equal to fifty percent (50%) of his final compensation.

Sec. 430. Continuation of benefits after death of retired member.

In the event no allowance is payable under section 429, and in the event that a member of this plan dies either after qualification for voluntary service retirement or after retirement for service or for disability, then either one-half of the retirement allowance to which such member would have been entitled if the member had retired at the time of death or one-half of his retirement allowance, as the case may be, shall be continued throughout life, or until remarriage, to his surviving spouse.

Sec. 431. Death benefit upon death in service, etc., when death not compensable under sections 429, 430, and 433.

If any member of this plan shall die before retirement, and, if no allowance is payable under sections 429, 430 or 433, and, if such member dies either no later than the last day for which he receives compensation, or within four (4) months after the last day for which the member receives compensation, or while such member is physically or mentally incapacitated for the performance of the duties of such member and, in case of such incapacity, if such incapacity has been continuous from such last day for which the member received compensation to the date of death, then, a death benefit shall be paid to the member's surviving spouse, or if there be no surviving spouse, to the designated beneficiary of such member, or if none, or if the designated beneficiary has died, or is otherwise ineligible, then to the estate of such member. Such death benefit shall be a sum equal to one-twelfth ($1/12$ th) of the compensation earnable by such member during the twelve (12) months immediately preceding death multiplied by his completed years as a member of the system not to exceed six (6), plus his accumulated contributions.

Sec. 432. Death benefit after retirement.

Upon the death of a member after retirement and regardless of the cause of death, the sum of five hundred dollars (\$500) shall be paid to his designated beneficiary, or if none, or if the designated beneficiary has died, or is otherwise ineligible, then to the estate of such member.

Sec. 433. Alternative beneficiary.

If there be no surviving spouse entitled to an allowance under sections 429 or 430, or, if a surviving spouse ceases to be eligible for an allowance under sections 429 or 430 by reason of the death or remarriage of such surviving spouse, and in the event that, at the time such surviving spouse becomes ineligible for such allowance, every child of the deceased member of this plan has not reached the age of eighteen (18) years, then, the allowance which would have been paid to such surviving spouse under section 429 or 430 shall be paid to such child of the deceased member under eighteen (18) years of age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen (18) years. If, at the time the member of this plan dies, there is no surviving spouse or child of such member eligible for the allowance under section 429 or 430, then, if there is a parent of such member dependent upon such member for support, such dependent parent shall receive an allowance equal to the allowance payable under section 429 or 430, if such allowance would otherwise be payable to a surviving spouse or child of such member. In the

event any allowance is payable under this section, such allowance shall be deemed to be the allowance under this section and under sections 429 and 430 for purposes of determining what other benefits, if any, are payable.

Sec. 434. Optional death benefit.

In the event of the death of a member of this plan after qualification for, but before service retirement, an eligible surviving spouse may elect to receive a benefit equal to that provided in section 431 in lieu of any continuation allowance which might be payable to such surviving spouse; provided, however, that such election must be made prior to the first payment of any continuation allowance which may be payable to such surviving spouse. If, at the time the member of this plan dies, there be no eligible surviving spouse of such member, then the guardian of the estate of any child of such member who may be eligible for a continuation allowance under this plan may elect to receive a lump sum benefit equal to that provided in section 431 in lieu of any other continuation allowance which might be payable to such child; provided, however, that such election must be made prior to the first payment of any continuation allowance which may be payable to such child; provided, further than if there be more than one guardian who may make the election, then all guardians must so elect, and, in the event all guardians do not so elect, then the continuation allowance shall be paid to each child as his respective interest appears. If, at the time the member of this plan dies, there be no surviving spouse or child eligible for any continuation allowance under this plan, then, if there be a dependent parent entitled to a continuation allowance under this plan, such dependent parent may elect to receive a lump sum benefit equal to that provided in section 431 in lieu of any continuation allowance which might be payable to such dependent parent; provided, however, that such election must be made prior to the first payment of any continuation allowance which may be payable to such parent; provided, further, that if there are two dependent parents who may make the election, in the event both dependent parents do not so elect, then the continuation allowance shall be paid to each parent as his respective interest appears.

Sec. 435. Date of marriage.

No continuation allowance shall be paid under this plan to a surviving spouse unless such surviving spouse was married to the member prior to the date of the injury, or onset of the illness, which illness or injury results in death before retirement, or if death occurs after retirement, unless such surviving spouse was married to the member at least one year prior to the date the member retired. This section shall not apply to any optional allowance under section 443.

Sec. 436. Refund of contributions upon termination of employment.

Except as otherwise provided in section 428, should any member of this plan cease to be employed by the city, through any cause other than death or retirement, all of his accumulated contributions shall be refunded to him. Upon mailing or other delivery of a warrant for the refund of contributions, his membership in the system, and any right to any other benefit, shall cease.

Sec. 437. Election to take deferred retirement.

Any member described in section 436 who has completed at least five (5) years of service in the aggregate shall have the right to elect, within ninety (90) days after said termination of service, or if the termination was by lay-off, and if such a member is continuously laid off for a period of one hundred eighty days (180), then within ninety (90) days after the one hundred eightieth (180) day, to allow his accumulated contributions to remain in the retirement system for purposes of obtaining a deferred retirement. Failure to make such election shall be deemed an irrevocable election to withdraw his accumulated contributions. If said member elects to allow his accumulated contributions to remain in the retirement system he may revoke said election at any time prior to deferred retirement and receive a refund of his accumulated contributions in the manner provided by section 436.

Sec. 438. Deferred service retirement.

A member of this plan whose membership continues under section 437 is subject to the same age requirements for service retirement that apply to other members. After the qualification of such member for deferred service retirement by attaining the applicable age for voluntary service retirement, he shall be entitled to receive a retirement allowance based upon his age at the time of retirement and service standing to his credit at the time of cessation of employment with the city in the same manner as other members.

Sec. 439. Deferred disability retirement.

A member of this plan whose membership continues under section 437 and who becomes disabled by reason of a bodily injury or physical or mental illness may retire for disability. If said member is qualified for voluntary service retirement, he shall receive a disability retirement allowance of an amount equal to the deferred service retirement he would have received if he had elected to retire from service on the date when he is ordered retired for disability. If said member is not qualified for voluntary service retirement, then such member shall receive a disability retirement allowance equal to one and one-half percent (1½%) of final compensation multiplied by the number of years of service of such member; provided, however, that in no event shall said disability retirement allowance exceed the service retirement allowance to which said member would be entitled if said member had retired at age 50. In the event the retirement system manager finds prior to the member's qualification for voluntary service retirement that such member is no longer so incapacitated, the allowance provided in this section shall be cancelled. The rights of the member thereafter shall be those provided under section 428.

Sec. 440. Continuation of benefits after death of member retired under section 437.

Upon the death of a member who has retained membership in this plan under section 437, after qualification for voluntary service retirement or after retirement for service or after retirement for disability, either one-half of the retirement allowance to which he would have been entitled had he retired at the time of his death or one-half of his retirement allowance, as the case may be, shall be continued throughout life or until remarriage, to his surviving spouse. The provisions of sections 396, 433, 434

and 435 shall be applicable to the allocation or reallocation of said benefits.

Sec. 441. Death benefit upon death when death not compensable under section 440.

If any member who has retained membership in this plan under section 437 shall die before retirement and if no allowance is payable pursuant to section 440, a death benefit shall be paid to his surviving spouse, or, if there be no surviving spouse, to the member's designated beneficiary, or if none, or if the designated beneficiary has died, or is otherwise ineligible, then to the member's estate, in an amount equal to one-twelfth ($\frac{1}{12}$) of the compensation earnable by him during the twelve (12) months immediately preceding the date of his cessation of employment with the city multiplied by his completed years as a member of the system not to exceed six (6), plus his accumulated contributions.

Sec. 442. Service retirement benefits for members attaining mandatory retirement age and not otherwise entitled to benefits.

Any member of this plan who has attained the mandatory retirement age applicable to such member and who has not completed at least five (5) years of service in the aggregate shall be entitled to retire for service. The retirement allowance of such a member shall be computed in the same manner as any other member.

Sec. 443. Optional allowances.

The date of retirement for service or retirement for disability:

(a) If a member of this plan has no spouse, child or dependent parent who would qualify for the continuance of an allowance after the death of said member, such member may elect before the first payment of the retirement allowance to receive the actuarial equivalent of his allowance, partly in a lesser allowance to be received by the member throughout life and partly in other benefits payable after such member's death to another person or persons, or

(b) If a member of this plan has a spouse or child or dependent parent who would qualify for the continuance of an allowance after the death of said member, such member may elect before the first payment of the retirement allowance to receive the actuarial equivalent of that portion of his allowance which would not be continued to his spouse, child or dependent parent, as the case may be, upon his death, partly in a lesser allowance to be received by the member throughout life and partly in other benefits payable after such member's death to another person or persons including his spouse, child or dependent parent, as the case may be.

An election under this section shall be subject to all the conditions prescribed by ordinance to govern similar elections by other members of the retirement system.

Sec. 444. Worker's compensation offset.

Any allowance payable to, or on account of, a member of this plan by reason of any bodily injury or physical illness caused by or incurred in performance of his duty, or payable on account of a member's death by reason of any injury received in, or illness caused by, the performance of his duty, shall not be cumulative with benefits under Division 4 of the Labor Code of the State of California awarded to, or on account of, a

member as a result of the same injury, illness or death. Any such allowance shall be reduced, in the manner fixed by the council, by the amount of benefits, other than medical benefits, payable to or on account of the member under Division 4 of the Labor Code of the State of California; provided, however, that in no event shall the annuity portion of any such allowance be reduced by the amount of benefits payable to, or on account of, the member under Division 4 of the Labor Code of the State of California.

Sec. 445. Conflicting Charter provisions.

Any section or part of any section in this Charter, insofar as it should conflict with the sections of this article or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of these sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect.

Certified to be a true copy by Phillip L. Isenberg, Mayor, and Jaci Pappas, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 28—City of Chico

Amendments to the Charter of the City of Chico

[Filed with Secretary of State November 23, 1976.]

Section 401 is amended to read as follows:

Section 401. Terms Generally.

a. Councilmen shall hold office for a term of four years from and after 7:30 p.m. of the first Tuesday in May following the date of their election and until successors are elected and qualified, provided, however, that if the election of any councilman is not finally determined on said date, for any reason, then such councilman shall take office at the commencement of the first meeting held by the council after such councilman's election has become finally determined. Any uncertainty as to which outgoing councilman has not been succeeded shall be determined by the remainder of the council at its meeting held on the first Tuesday in May following the date of election.

b. The provisions of subsection a, hereinabove, shall apply to general municipal elections held in both March and April, provided, however, that effective upon the general municipal election of 1981, and not before, and respecting only a general municipal election held in March, the word "May", wherever it appears in subsection a, shall read "April".

Section 500 is amended to read as follows:

Section 500. General Municipal Elections.

General Municipal elections for the election of councilmen of the City, and or such other purposes as the Council may prescribe, shall be held in the City on the first Tuesday after the first Monday in April of each

odd-numbered year. Provided, however, that the Council, in the exercise of its discretion, may order the general municipal election in any such odd-numbered year to be held in the City on the first Tuesday after the first Monday in March. If in any odd-numbered year the Council order a March election pursuant to this section, it shall so order at such time as to allow an adequate period for compliance with legal election requirements, including election consolidation requirements if consolidation is to be sought.

Certified to be a true copy by Betty Smith, Vice Mayor, and Barbara A. Evans, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 29—City of Palo Alto

Amendments to the Charter of the City of Palo Alto

[Filed with Secretary of State November 26, 1976.]

Article VI, Section 1, is amended to read as follows:

Article VI. The Recall, Initiative and Referendum

Sec. 1. Recall. Proceedings may be commenced for recall of any council member by the service, filing and publication of a notice of intention to circulate a recall petition. Proceedings may not be commenced unless, at the time of commencement, such council member has held office for at least six months and no recall petition has been filed against such council member within the preceding six months.

The petition demanding the recall of the council member sought to be recalled, signed by registered voters equal in number to at least twelve percentum of the number of registered voters at the last general municipal election, shall be filed with the clerk. One election is sufficient for the recall of one or more council members, but a separate petition is necessary to propose the recall of each council member.

No signature may be affixed to the petition until the proponents have served, filed and published a notice of intention to circulate a recall petition, containing the name of the council member sought to be recalled, a statement in not more than five hundred words of the grounds on which the recall is sought, and the name and address of at least one proponent. The notice of intention shall be served, personally or by certified mail, on the council member sought to be recalled, and a copy thereof with a certificate of the time and manner of service shall be filed with the clerk.

Within seven days after the filing of the notice of intention, the council member sought to be recalled may file with the clerk an answer in not more than five hundred words to the statement of the proponents and, if an answer is filed, shall serve a copy thereof, personally or by certified mail, on one of the proponents named in the notice of intention. The statement and answer are intended solely for the information of the voters

and no insufficiency in the form or substance thereof shall affect the validity of the election or proceedings. The notice, statement and answer, if any, shall be published in a newspaper of general circulation.

Seven days after the publication of the notice, statement and answer, if any, the recall petition may be circulated and signed. The petition shall bear a copy of the notice of intention, statement and answer, if any. If the council member has not answered, the petition shall so state. Signatures shall be secured and the petition filed within ninety days from the filing of the notice of intention. If such petition is not filed within the time permitted by this section, the same shall be void for all purposes.

The signatures to the petition need not all be appended to one paper, but said petition may be presented in sections. The number of signatures to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified voter of the municipality shall be competent to solicit said signatures. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating that all the signatures to the attached section were made in his presence, and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name purports to be thereunto subscribed, and no other affidavit thereto shall be required. Each signature, the genuineness of which is not called in question by the sworn affidavit of the alleged owner thereof, shall be presumed to be genuine. Unless and until it be proven otherwise by official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified voters. Each signer of said petition shall add to his signature the date of signing and his place of residence, giving the street and number. When filed with the clerk, the petition shall have designated thereon the name or number of the respective precinct in which each of the signers resides.

Within ten days from the date of filing such petition, the clerk shall examine and ascertain from the records of registration whether or not said petition is signed by the requisite number of electors entitled to vote, and if necessary the council shall allow the clerk extra help for that purpose, and the clerk shall attach to said petition his certificate showing the result of said examination. If, by the said certificate, the petition is shown to be insufficient, it may be amended by additional signatures within ten days from the date of said certificate. The clerk shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect.

If the petition shall be found to be sufficient, the clerk shall submit the same to the council without delay, and the council shall thereupon order and fix a date for holding the said election within the time set by the general laws of the State of California. Candidates for this election shall file with the city clerk within the period set by the general laws of the State of California.

The clerk shall mail to each voter a sample ballot and a separate printed copy of the statement of the proponents and of the answer, if any, of the

council member sought to be recalled. If the recall of more than one council member is sought, the statement and answer for each shall be printed together and shall be clearly distinguished from those of any other council member.

There shall be printed on the recall ballot, as to each council member whose recall is to be voted on, the question: "Shall (name of person) be recalled from the office of council member?" followed by the words "yes" and "no." If a majority of those voting on any question voted in favor of the removal of an incumbent, such incumbent shall be deemed removed from office upon the qualification of the successor.

On the recall ballot, under each question, there shall be printed the names of those persons who have been nominated in the manner provided herein as candidates to succeed the incumbent if such incumbent is recalled. No vote cast shall be counted for any candidate for the office unless the voter also voted on the question of the recall of the person sought to be recalled from that office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If the vote recalls the council member, the candidate who has received the highest number of votes for the office shall be declared elected for the unexpired term of the former incumbent. If the person who received the highest number of votes fails to qualify within ten days after receiving the certificate of election, the office shall become vacant. Said election shall be conducted, returned, and the results thereof declared, in all respects as are all other municipal elections; provided, that if there be any conflict of provisions this charter shall control.

Article VI, Section 2, is amended to read as follows:

Sec. 2. Initiative. Any proposed ordinance may be submitted to the council by a petition signed by qualified and registered electors of the city equal in number to the percentage hereinafter required. The petition shall set forth a copy of the proposed ordinance.

An initiative petition, in order to be valid, must meet the following requirements:

(a) A notice of intention to circulate an initiative petition must be published in a newspaper of general circulation in the city once prior to the affixing of any signature to any petition.

(b) The notice of intention shall be filed with the clerk prior to the affixing of any signature to any petition.

(c) Immediately after the publication and filing of the notice of intention to circulate, the initiative petition may be circulated and filed. The petition shall bear a copy of the notice of intention to circulate.

The signatures to the petition need not all be appended to one paper, but said petition may be presented in sections. Each section shall contain a copy of the proposed ordinance. The number of signatures to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified voter of the municipality shall be competent to solicit said signatures. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating that all the signatures to the attached section were made in his presence, and that to the best of his knowledge and belief each signature to the section is the genuine

signature of the person whose name purports to be thereunto subscribed, and no other affidavit thereto shall be required. Each signature, the genuineness of which is not called in question by the sworn affidavit of the alleged owner thereof, shall be presumed to be genuine. Unless and until it be proven otherwise by official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified voters. Each signer of said petition shall add to his signature the date of signing and his place of residence, giving the street and number. When filed with the clerk, the petition shall have designated therein the name or number of the respective precinct in which each of the signers resides.

Within ten (10) days from the date of filing such petition, the clerk shall examine and ascertain from the records of registration whether or not said petition is signed by the requisite number of electors entitled to vote, and if necessary the council shall allow the clerk extra help for that purpose, and the clerk shall attach to said petition his certificate showing the result of said examination.

If the petition accompanying the proposed ordinance be signed by qualified and registered electors equal in number to six per centum of the number of registered voters at the last general municipal election, the council must either pass such ordinance without alteration or submit the same to the electorate at the next general municipal election that shall occur at any time after forty-five days from the date of the clerk's certificate of sufficiency. But if such petition is signed by qualified and registered electors equal in number to twelve per centum of said number of registered voters at the last general municipal election and contains a request that such ordinance be submitted to a vote of the people at a special election, then the council must either pass the ordinance without alteration or submit the same to the electorate at a special election to be called within the period provided by the general laws of the State of California.

If the clerk's certification shows that the petition is insufficient by reason of the failure to obtain sufficient valid signatures thereon, a supplemental petition, in form a duplicate of the original petition, bearing new additional signatures may be filed within ten (10) days of the mailing of the certificate of insufficiency to the proponents of the initiative. Supplemental petitions shall be processed by the clerk in the same manner as set forth herein with respect to original petitions.

The ballots used when voting upon such proposed ordinance shall contain the words "For the Ordinance," and "Against the Ordinance" (stating the nature of the proposed ordinance). If a majority of the qualified electors voting on said proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the City. The council may at such election submit any amendment thereto that it may deem proper, and the ballots used at such election shall contain the words "For the Amendment," or "Against the Amendment," or ordinance (naming the ordinance), and also stating the nature of the proposed amendment. If a majority of the qualified electors voting on said proposed amendment shall vote in favor thereof, such ordinance shall thereupon be deemed amended in accordance therewith. The council may also propose

and submit any ordinance to the electors, and such ordinance, upon receiving a majority of the votes of the electors voting thereon, shall be deemed to have been adopted and shall be a valid and binding ordinance of the City. Any ordinance adopted by the electors under the provisions of this section cannot be repealed or amended, except by a vote of the people obtained in the manner hereinbefore stated, unless such ordinance shall otherwise provide.

Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this section; provided, that there shall not be held under this section of the charter more than one special election in any period of twelve months.

Certified to be a true copy by Stanley R. Norton, Mayor, and Ann J. Tanner, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 30—City of Modesto

Amendments to the Charter of the City of Modesto

[Filed with Secretary of State November 26, 1976.]

Article XV, Section 1500, is amended to read as follows:

Section 1500. Board of Education. The control, management and administration of the public schools of the City of Modesto, and the territory that is now or may hereafter be annexed thereto for school purposes, in accordance with the Constitution and general laws of the State of California, are hereby vested in a Board of Education. In all matters not specifically provided for in this Article, the Board shall be governed by the provisions of the general law relating to such matters and shall be vested with all the powers and charged with all the duties provided by the laws of the State for city boards of education. The Board of Education shall be the governing body of the Modesto City School District of Stanislaus County and the Modesto High School District of Stanislaus County. The Board of Education shall consist of seven (7) members who may receive compensation pursuant to the applicable provisions of the Education Code of the State of California. The members of the Board of Education shall be elected at large from the territory within the boundaries of the school district or districts which are under the jurisdiction of the Board. The members of the Board of Education shall hold office for a period of four (4) years from and after the first Tuesday following their election and continuing until their successors are elected and have qualified. No person shall be eligible to be nominated for or to hold office as a member of the Board of Education unless he is and shall have been for at least three (3) years preceding his election or appointment a resident and registered elector of the school district or districts which are under the jurisdiction of the Board of Education.

If a vacancy shall occur on the Board of Education, the City Council shall

forthwith cause an election to be held to elect a successor to fill such vacancy, unless such vacancy occurs within one hundred thirty (130) days of a general municipal election in which event the successor shall be chosen at such general municipal election. The successor elected to fill a vacancy shall serve for the remainder of the unexpired term of the office to which elected and continuing until a successor is elected and has qualified. The members of the Board of Education shall be subject to recall as provided in this Charter.

All territory included within the limits of any school district or districts which are under the jurisdiction of the Board of Education, but not within the City limits, shall be deemed a part of the City for the purpose of holding municipal elections and shall constitute one or more separate election precincts, and the qualified electors therein shall vote only for members of the Board of Education and on questions submitted to a vote of the people at special or general elections pertaining to school matters.

The members of the Board of Education in office at the time this amendment to the Charter takes effect shall continue in office until the expiration of their terms. Their successors shall be elected for a term of four (4) years at the general municipal election to be held during the year each of said respective terms expires, it being the intention of this section that the terms of the seven (7) members shall be staggered, four (4) members being elected at the General Municipal Election to be held in 1977 and three (3) members being elected at the General Municipal Election to be held in 1979, and staggered accordingly successively thereafter at each General Municipal Election.

Article XVI, Section 1602, is amended to read as follows:

Section 1602. Violation of Charter and Ordinances. The violation of any provisions of this Charter or of any ordinance of the City shall be deemed a misdemeanor, unless the Council prescribes by ordinance that a violation of any specified ordinance shall be deemed an infraction. Any such violations may be prosecuted by the authorities of the City in the name of the people of the State of California, or may be redressed by civil action, at the option of said authorities. The maximum penalty for a misdemeanor upon conviction for the violation of any provision of this Charter, or of any ordinance of the City, shall be by a fine of not exceeding \$1,000 or by imprisonment for a term of not exceeding one year or by both such fine and imprisonment. The maximum penalty for any infraction upon conviction shall be by a fine set by ordinance of the City and there shall be no imprisonment. Any person sentenced to imprisonment for the violation of a provision of this Charter or of any ordinance may be imprisoned in the City jail, or, if the Council by ordinance shall so prescribe in the county jail of the county in which the City of Modesto is situated, or any road camp established in Stanislaus County, in which case the expense of such imprisonment shall be a charge in favor of such county against the City of Modesto.

Certified to be a true copy by Lee H. Davies, Mayor, and Norrine Coyle, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 31—City of Riverside

Amendments to the Charter of the City of Riverside

[Filed with Secretary of State November 29, 1976]

Section 1000 is amended to read as follows:

Section 1000. General Municipal Elections.

General municipal elections for the election of officers and for such other purposes as the city council may prescribe shall be held in the city on the first Tuesday following the first Monday of November of each odd numbered year commencing in 1977.

Section 1306, subsection (b), is amended to read as follows:

Section 1306.

(b) The city shall have the power to borrow money from time to time for the purpose of acquiring, constructing, reconstructing, replacing, extending or improving works or rights for supplying the city and its inhabitants with water or electric utility service, including but not limited to the acquisition of electrical capacity, electrical energy, fuel supply or other property or rights relating to the generation, transmission or distribution of electrical capacity or energy, or any combination thereof, and to issue and sell revenue bonds to evidence the indebtedness created by such borrowing. The city shall also have the power to refund from time to time, whether at or prior to maturity, any outstanding indebtedness evidenced by such revenue bonds and to issue, and to sell or exchange bonds to refund such indebtedness. Refunding bonds which are to be sold may be issued and sold at such time in advance of the time at which the bonds to be redeemed or paid out of the proceeds of such refunding bonds which are to be so redeemed or paid as the city may determine.

Section 1602 is amended to read as follows:

Section 1602. Election of Members of the City Council by Wards.

There are seven members of the City Council of the City of Riverside. The members of the City Council shall be elected by wards by the qualified electors and voters of the respective wards only. One member of the City Council shall be elected by each ward, and only the qualified electors and voters of each ward shall vote for the member of the City Council to be elected by that ward. In those wards where there are more than two candidates, only a candidate receiving a majority of the total votes cast for the office shall be declared elected. If in any ward, or the office of mayor, no candidate receives a majority of the total votes cast for the office, the City Council shall immediately call a special election to be held not less than forty-five days nor more than seventy days from the date of the general election. Elected officials shall take office on the first Tuesday following their election. The two candidates receiving the highest number of votes for the office in the general election shall be declared the candidates for the special election. The qualifications of candidates and electors

and the procedure governing general elections shall apply to any special election called pursuant to this section and the notice of election shall be published at least thirty days prior to the date of such special election.

Certified to be a true copy by Ben H. Lewis, Mayor, and Alice A. Hare, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 32—County of San Diego

Amendments to the Charter of the County of San Diego

[Filed with Secretary of State December 1, 1976.]

Section 13.2 is added to read as follows:

Section 13.2. (a) The duties of the county offices of Treasurer and Tax Collector respectively are consolidated into one office to be known as Treasurer-Tax Collector; the duties of which, including those of license collector and any other duties performed in an ex-officio capacity, shall be performed by one person elected to such office in the manner prescribed by law.

(b) The following rules will govern the operative date of this section:

(1) The provisions of subdivision (a) shall become operative if one of the persons who is the elected incumbent serving in one of the offices to be consolidated at the date this section becomes effective vacates such office. At that time, the duties of the offices shall be consolidated and the other elective county officer shall hold the consolidated office for the remainder of the term for which such officer was previously elected.

(2) Notwithstanding the provisions of subsection (1), the provisions of subdivision (a) shall become operative at 12 o 1'clock on January 8, 1979 and persons shall be elected for the office of Treasurer—Tax Collector at the general election in 1978 for the four-year term commencing January 8, 1979.

Section 14.1 is added to read as follows:

Section 14.1. No person shall be eligible to serve as an elective County officer in the same elective office for more than three (3) successive four-year elective terms or, if elected for six-year terms, for more than two (2) successive six-year elective terms. Any person appointed or elected as an elective county officer to fill an unexpired term shall, however, be eligible to serve three (3) successive four-year elective terms or, if elected for six-year terms, for more than two (2) successive six-year elective terms, upon the expiration of the unexpired term for which he was appointed or elected. This section shall become operative on the 15th day of January, 1977 and shall apply to any person serving as an elective county officer on that date; provided, however, that the provisions of this section shall not apply to any person, other than a member of the board of supervisors, holding a county elective office on November 2, 1976.

Section 78.1 is amended to read as follows:

Section 78.1. Nothing in this article shall prevent the County from employing an independent contractor to provide services to the County when the Civil Service Commission has determined, upon the recommendation of the Board of Supervisors, that the services can be provided more economically and efficiently than such services can be provided by a person or persons employed in the classified service.

Section 82 is amended to read as follows:

Section 82. In every open examination the Civil Service Commission shall, in addition to all other credits, give a credit of five percent (5%) of the maximum rating prescribed for such examination to any applicant, who has been engaged in the military or naval service of the United States, including service in any uniformed auxiliary of, or to, any branch of such military or naval service created or authorized as such auxiliary by the Congress of the United States during a war as now defined in Section 205 of the Revenue and Taxation Code of the State of California, or as said section may hereafter be amended, and who has been separated, placed on inactive duty or retired under honorable conditions from such service, provided that such credit shall be given to such applicant once only and only upon the first employment or reemployment of such applicant after disengagement from such service, shall be available for use by such applicant only for a period of eight (8) years from the date of his disengagement from such service and shall not be given to applicants retired from service on full pension.

Notwithstanding the provisions in the preceding paragraph, a 5% credit shall be given on every open examination to the spouse of any person who has been engaged in such service and has service-connected disability to such an extent as to prevent such person from engaging in any remunerative occupation; and to the surviving spouse of any person who died while in such service.

A five percent (5%) credit shall be given in any open examination to any applicant who has been engaged in such service and has been separated, placed on inactive duty or retired under honorable conditions therefrom if such applicant has a service-connected disability which has been duly established pursuant to Federal law. The preferential credit authorized by this paragraph shall be separate and distinct from the preferential credit authorized by the first paragraph of this section.

Provided, further, that any applicant seeking the benefits of this section shall first attain a passing grade in such examination in order to receive any such credits.

Section 83 is amended to read as follows:

Section 83. The Commission shall provide for a merit system in all County departments and offices and covering all persons in the classified service. Promotions shall be based upon merit and competition and upon the superior qualifications of the person promoted as shown by his record of efficiency; provided, however, that no person shall be transferred, promoted or reinstated to a position in another class where higher essential qualifications or tests are required unless such qualifications and tests shall first have been met by the person so promoted, transferred or reinstated.

Certified to be a true copy by Lee Taylor, Chairman of the Board of Supervisors, and Porter D. Cremans, Clerk of the Board of Supervisors.
Date of municipal election: November 2, 1976.

Charter Chapter 33—City and County of San Francisco

Amendments to the Charter of the City and County of San Francisco

[Filed with Secretary of State December 6, 1976.]

Section 2.100 is amended to read as follows:

2.100. Composition and Salary: Districts

The board of supervisors shall consist of eleven members elected by districts. Each member of the board shall be paid a salary of ninety-six hundred dollars (\$9,600) per year and each shall execute an official bond to the city and county in the sum of five thousand dollars (\$5,000).

The city and county is hereby divided into eleven supervisorial districts as hereinafter set forth, and, commencing with the general municipal election in 1977, and continuing thereafter until new districts are established as hereinafter set forth, such districts shall be used for the election or recall of the members of the board of supervisors, and for filling any vacancy in the office of member of the board of supervisors by appointment. Upon the establishment of new districts as hereinafter provided such new districts shall be used for the aforesaid purposes; provided, however, that no change in the boundary or location of any district by redistricting as herein provided shall operate to abolish or terminate the term of office of any member of the board of supervisors prior to the expiration of the term of office for which such member was elected or appointed. The eleven supervisorial districts, as established herein, shall be bounded and described as follows:

FIRST SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the point of intersection of the shoreline of the Pacific Ocean and a straight-line extension of Fulton Street; thence easterly along Fulton Street to Stanyan Street; thence northerly along Stanyan Street to Geary Boulevard; thence westerly along Geary Boulevard to Arguello Boulevard; thence northerly along Arguello Boulevard to its point of intersection with the southern boundary of the Presidio United States Military Reservation; thence westerly and north-westerly along said boundary to the point of intersection with the shoreline of the Pacific Ocean; thence westerly and southerly along said shoreline to the point of commencement. Unless specifically designated to the contrary, all references to streets, and boulevards contained in the foregoing description shall refer to the center lines of said streets and boulevards, respectively.

SECOND SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the point of intersection of the

shoreline of San Francisco Bay and the southern and southwestern boundary of the Presidio United States Military Reservation; thence southeasterly and easterly along said boundary to the point of intersection with Arguello Boulevard; thence southerly along Arguello Boulevard to Geary Boulevard; thence easterly along Geary Boulevard to Stanyan Street; thence southerly along Stanyan Street to Fulton Street; thence easterly along Fulton Street to Masonic Avenue; thence northerly along Masonic Avenue to Turk Street; thence easterly along Turk Street to St. Joseph's Avenue; thence northerly and northwesterly along St. Joseph's Avenue to Geary Boulevard; thence westerly along Geary Boulevard to Presidio Avenue; thence northerly along Presidio Avenue to California Street; thence easterly along California Street to Van Ness Avenue; thence northerly along Van Ness Avenue to Filbert Street; thence easterly along Filbert Street to Leavenworth Street; thence northerly along Leavenworth Street and a northerly straight-line extension thereof to the point of intersection with the shoreline of San Francisco Bay; thence generally westerly and southerly along said shoreline to the point of commencement. Unless specifically designated to the contrary, all references to streets, boulevards and avenues contained in the foregoing description shall refer to the center line of said streets, boulevards and avenues, respectively.

THIRD SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the point of intersection of a northerly straight-line extension of Leavenworth Street and the shoreline of San Francisco Bay; thence easterly and southerly along said shoreline to the point of intersection with Broadway and an easterly straight-line extension thereof and including all piers north of said intersection; thence westerly along Broadway to Front Street; thence southerly along Front Street to Jackson Street; thence westerly along Jackson Street to Battery Street; thence southerly along Battery Street to Market Street; thence southwestwardly along Market Street to Sutter Street; thence westerly along Sutter Street to Powell Street; thence southerly along Powell Street to Post Street; thence westerly along Post Street to Leavenworth Street; thence northerly along Leavenworth Street to California Street; thence westerly along California Street to Van Ness Avenue; thence northerly along Van Ness Avenue to Filbert Street; thence easterly along Filbert Street to Leavenworth Street; thence northerly along Leavenworth Street to the point of commencement. Unless specifically designated to the contrary, all references to streets, avenues, and ways contained in the foregoing description shall refer to the center lines of said streets, avenues and ways, respectively.

FOURTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the center point of the intersection of Fulton Street and Masonic Avenue; thence northerly along Masonic Avenue to Turk Street; thence easterly along Turk Street to St. Joseph's Avenue; thence northerly and northwesterly along St. Joseph's Avenue to Geary Boulevard; thence westerly along Geary Boulevard to Presidio Avenue; thence northerly along Presidio Avenue to California Street; thence easterly along California Street to Leavenworth Street; thence southerly along Leavenworth Street to Ellis Street; thence easterly

along Ellis Street to Jones Street; thence southerly along Jones Street to Market Street; thence southwesterly along Market Street to Waller Street; thence westerly along Waller Street to Divisadero Street; thence northerly along Divisadero Street to Oak Street; thence westerly along Oak Street to Baker Street; thence northerly along Baker Street to Fulton Street; thence westerly along Fulton Street to the point of commencement. Unless specifically designated to the contrary, all references to streets, avenues and boulevards contained in the foregoing description shall refer to the center lines of said streets, avenues and boulevards, respectively.

FIFTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the center point of the intersection of Stanyan Street and Fulton Street; thence southerly along Stanyan Street to Seventeenth Street; thence easterly along Seventeenth Street to Clayton Street; thence southerly and southeasterly along Clayton Street to Market Street; thence generally southerly along Market Street to Portola Drive; thence westerly along Portola Drive to O'Shaughnessy Boulevard; thence southeasterly along O'Shaughnessy Boulevard to the center point of the southernmost intersection of O'Shaughnessy Boulevard and Del Vale Avenue; thence following a northeasterly straight-line extension of Del Vale Avenue across Glen Canyon Park to the center point of the intersection of Gold Mine Drive and Diamond Heights Boulevard; thence southeasterly along Diamond Heights Boulevard to Diamond Street; thence northerly along Diamond Street to Twenty-ninth Street; thence easterly along Twenty-ninth Street to Castro Street; thence southerly along Castro Street to Thirtieth Street; thence easterly along Thirtieth Street to Church Street; thence northerly along Church Street to Market Street; thence northeasterly along Market Street to Waller Street; thence westerly along Waller Street to Divisadero Street; thence northerly along Divisadero Street to Oak Street; thence westerly along Oak Street to Baker Street; thence northerly along Baker Street to Fulton Street; thence westerly along Fulton Street to the point of commencement. Unless specifically designated to the contrary, all references to streets, drives, boulevards and avenues contained in the foregoing description shall refer to the center line of said streets, drives, boulevards and avenues, respectively.

SIXTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the center point of the intersection of Church Street and Market Street; thence northeasterly along Market Street to Seventh Street; thence southeasterly along Seventh Street to Townsend Street; thence southwesterly along Townsend Street to Division Street; thence westerly along Division Street to the center line of the James Lick Freeway (State Route 101); thence generally southerly along the center line of the James Lick Freeway (State Route 101) to the point of intersection with a northeasterly straight-line extension of Peralta Avenue; thence southwesterly along said extension and Peralta Avenue to Mullen Avenue; thence westerly along Mullen Avenue to Alabama Street; thence northerly along Alabama Street to Precita Avenue; thence westerly along Precita Avenue to Bessie Street; thence westerly along Bessie Street to Mirabel Avenue; thence westerly along Mirabel Avenue to Coso Street; thence northerly along Coso Street to Precita Avenue; thence

westerly along Precita Avenue to Mission Street; thence southwesterly along Mission Street to Randall Street; thence westerly along Randall Street to San Jose Avenue; thence northerly along San Jose Avenue to Thirtieth Street; thence westerly along Thirtieth Street to Church Street; thence northerly along Church Street to the point of commencement. Unless specifically designated to the contrary, all references to streets and avenues in the foregoing description, shall refer to the center line of said streets and avenues, respectively.

SEVENTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the center point of intersection of Seventh Street and Market Street; thence northeasterly along Market Street to Jones Street; thence northerly along Jones Street to Ellis Street; thence westerly along Ellis Street to Leavenworth Street; thence northerly along Leavenworth Street to Post Street; thence easterly along Post Street to Powell Street; thence northerly along Powell Street to Sutter Street; thence easterly along Sutter Street to Market Street; thence northeasterly along Market Street to Battery Street; thence northerly along Battery Street to Jackson Street; thence easterly along Jackson Street to Front Street; thence northerly along Front Street to Broadway; thence easterly along Broadway and an easterly straight-line extension thereof to the point of intersection with the shoreline of San Francisco Bay; thence generally southerly along said shoreline to the southern boundary of the city and county, and including all piers and crews of vessels; thence westerly along the southern boundary of the city and county to the point of intersection with the center line of the James Lick Freeway (State Route 101); thence generally northerly along the center line of the James Lick Freeway (State Route 101) to the intersection of Division Street; thence easterly along Division Street to Townsend Street; thence northeasterly along Townsend Street to Seventh Street; thence northwesterly along Seventh Street to the point of commencement. Unless specifically designated to the contrary, all references to streets and ways contained in the foregoing description shall refer to the center line of said streets and ways, respectively.

EIGHTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the intersection of the southern boundary of the city and county and the center line of the James Lick Freeway (State Route 101); thence generally northerly along the center line of the James Lick Freeway (State Route 101) to the interchange with the Southern Freeway (Interstate Route 280) and along the center line thereof to the center line of the Southern Freeway (Interstate Route 280); thence generally westerly and southerly along the center line of the Southern Freeway (Interstate Route 280) to the intersection with the southern boundary of the city and county; thence easterly along said boundary to the point of commencement.

NINTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the intersection of the southern boundary of the city and county and the center line of Junipero Serra Boulevard; thence northerly along Junipero Serra Boulevard to Holloway Avenue; thence easterly along Holloway Avenue to Ashton Avenue;

thence northerly along Ashton Avenue to Ocean Avenue; thence northwesterly along Ocean Avenue to Keystone Way; thence northerly along Keystone Way to Kenwood Way; thence northeasterly along Kenwood Way to Upland Drive; thence westerly along Upland Drive to North Gate Drive; thence northerly along North Gate Drive to Monterey Boulevard; thence northerly across Monterey Boulevard to El Verano Way and northerly along El Verano Way to Fernwood Drive; thence northerly along Fernwood Drive to Brentwood Avenue; thence northeasterly along Brentwood Avenue to Yerba Buena Avenue; thence northwesterly along Yerba Buena Avenue to Casitas Avenue; thence northerly along Casitas Avenue to Ludlow Avenue; thence northerly along Ludlow Avenue to Juanita Way; thence northeasterly along Juanita Way to Evelyn Way; thence easterly along Evelyn Way to O'Shaughnessy Boulevard; thence southeasterly along O'Shaughnessy Boulevard to the center point of the southernmost intersection with Del Vale Avenue; thence following a straight-line extension of Del Vale Avenue northeasterly across Glen Canyon Park to the center point of the intersection of Gold Mine Drive and Diamond Heights Boulevard; thence southeasterly along Diamond Heights Boulevard to Diamond Street; thence northerly along Diamond Street to Twenty-ninth Street; thence easterly along Twenty-ninth Street to Castro Street; thence southerly along Castro Street to Thirtieth Street; thence easterly along Thirtieth Street to San Jose Avenue; thence southwesterly along San Jose Avenue to Randall Street; thence easterly along Randall Street to Mission Street; thence northeasterly along Mission Street to Precita Avenue; thence easterly along Precita Avenue to Coso Street; thence southeasterly along Coso Street to Mirabel Avenue; thence easterly along Mirabel Avenue to Bessie Street; thence easterly along Bessie Street to Precita Avenue; thence easterly along Precita Avenue to Alabama Street; thence southerly along Alabama Street to Mullen Avenue; thence easterly along Mullen Avenue to Peralta Avenue; thence northeasterly along Peralta Avenue and a straight-line extension thereof to the intersection of the center line of the James Lick Freeway (State Route 101); thence generally southerly along the center line of the James Lick Freeway (State Route 101) to the interchange with the Southern Freeway (Interstate Route 280) along the center line thereof to the center line of the Southern Freeway (Interstate Route 280) to the intersection with the southern boundary of the city and county; thence westerly along said boundary to the point of commencement. Unless specifically designated to the contrary, all references to streets, boulevards, avenues, ways and drives contained in the foregoing description shall refer to the center line of said street, boulevard, avenue, way and drive, respectively.

TENTH SUPERVISORIAL DISTRICT, shall comprise all of that portion of the city and county commencing at the intersection of the southern boundary of the city and county and the center line of Junipero Serra Boulevard; thence northerly along Junipero Serra Boulevard to Holloway Avenue; thence easterly along Holloway Avenue to Ashton Avenue; thence northerly along Ashton Avenue to Ocean Avenue; thence northwesterly along Ocean Avenue to Keystone Way; thence northerly along Keystone Way to Kenwood Way; thence northeasterly along Kenwood

Way to Upland Drive; thence westerly along Upland Drive to North Gate Drive; thence northerly along North Gate Drive to Monterey Boulevard; thence northerly across Monterey Boulevard to El Verano Way and northerly along El Verano Way to Fernwood Drive; thence northerly along Fernwood Drive to Erentwood Avenue; thence northeasterly along Brentwood Avenue to Yerba Buena Avenue; thence northwesterly along Yerba Buena Avenue to Casitas Avenue; thence northerly along Casitas Avenue to Ludlow Avenue; thence northerly along Ludlow Avenue to Juanita Way; thence northerly along Juanita Way to Evelyn Way; thence easterly along Evelyn Way to O'Shaughnessy Boulevard; thence northwesterly along O'Shaughnessy Boulevard to the center point of the intersection of Portola Drive, O'Shaughnessy Boulevard and Woodside Avenue; thence westerly along Woodside Avenue to Laguna Honda Boulevard; thence northwesterly along Laguna Honda Boulevard to the intersection of an easterly straight-line extension of Ortega Street; thence westerly along said extension of Ortega Street to Eighth Avenue; thence southerly along Eighth Avenue to Pacheco Street; thence northwesterly along Pacheco Street to Aerial Way; thence southwestwardly along Aerial Way to Fourteenth Avenue; thence northerly along Fourteenth Avenue to Ortega Way; thence westerly along Ortega Way to Ortega Street; thence westerly along Ortega Street to Forty-first Avenue; thence southerly along Forty-first Avenue to Pacheco Street; thence westerly along Pacheco Street and a straight-line extension thereof to the point of intersection with the Pacific Ocean shoreline; thence southerly along said shoreline to the southern boundary of the city and county; thence easterly along said boundary to the point of commencement. Unless specifically designated to the contrary, all references to streets, boulevards, avenues, ways and drives contained in the foregoing description shall refer to the center line of said streets, boulevards, avenues, ways and drives, respectively.

ELEVENTH SUPERVISORIAL DISTRICT, shall comprise that portion of the city and county not otherwise described as constituting the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth or tenth supervisorial districts.

The board of supervisors shall, by ordinance, adjust the boundaries of the supervisorial districts herein set forth in the year following the year in which each decennial federal census is taken, commencing with the 1980 census, as provided in the Constitution and statutes of the State of California, and subject to all the requirements therein, provided, however, that the redistricting provided for herein shall conform to the rule of one person-one vote and shall reflect communities of interest within the city and county.

Each member of the board of supervisors, commencing with the general municipal election in November, 1977, shall be elected by the electors within a supervisorial district, and must have resided in the district in which he or she is elected for a period of not less than thirty days immediately preceding the date he or she files a declaration of candidacy for the office of supervisor, and must continue to reside therein during his or her incumbency, and upon ceasing to be such resident shall be removed from office.

Should any provision of the amendment to this section be held invalid, the remainder of the amendment shall not be affected thereby. Should the amendments to this section not be approved by the legislature of the State of California or fail for any other reason, so that the offices of the eleven supervisors are not elected by districts at the general municipal election to be held in November, 1977, as in this section provided, then in that event the election of eleven supervisors by districts shall commence with and at the general municipal election to be held in November, 1979.

Section 2.304 is amended to read as follows:

2.304 Effective Date; Final Enactment or Adoption

No ordinance which is subject to the referendum provisions of this charter shall become effective until thirty days after its passage. Ordinances granting any public utility franchise or privilege shall not become effective until sixty days after their passage. Ordinances enacted by a three-fourths vote of all members of the board as emergency measures as defined in section 2.301; ordinances enacted approving the issuance of revenue bonds or of lease financing agreements as defined in section 7.309 following a favorable vote on the proposition by a majority of the voters voting on the proposition; and all other ordinances not subject to the referendum provisions of this charter, shall become effective upon passage.

Section 3.600 is amended to read as follows:

3.600 Commission: Composition

An art commission for the city and county is hereby created, consisting of twelve members appointed by the mayor and five ex officio members. The ex officio members shall be the mayor and the chairmen of the following boards and commissions: public library, recreation and park, city planning, and the fine arts museums. The mayor shall appoint three lay members, and an artist-painter, an artist-sculptor, a dance professional, a theatre professional, a musician, a litterateur, two architects and one landscape architect. In appointing the nine professional members, the mayor shall solicit nominations from architectural, art, musical, literary, dance, theatre, and other cultural organizations of the city.

The first appointments by the mayor shall be made not later than the 15th day of January, 1932, and shall be for the following terms, which shall expire at twelve o'clock noon on the 15th day of January in the respective years: one landscape architect and one lay member, one-year terms; one artist-sculptor and one architect, two-year terms; one musician and one lay member, three-year terms; one litterateur and one architect, four-year terms; and one artist-painter and one lay member, five-year terms. The appointment of a dance professional and a theatre professional as members of the commission by the mayor shall be made not later than the 15th day of January, 1977, and shall be for the following terms which shall expire at twelve o'clock noon on the 15th day of January in the respective years: the dance professional for a five-year term and the theatre professional for a five-year term. Upon the expiration of the terms, all successive appointments shall be for a period of five years.

The members of the commission shall serve without compensation. No

member of this commission shall receive from the city and county, or from any trust, donation, or legacy, any compensation for any service as an artist for the benefit of the city and county.

A quorum for the transaction of official business of the art commission shall consist of seven members thereof.

Section 7.300 is amended to read as follows:

7.300 General Laws Applicable

The general laws of the State of California authorizing the incurring and establishing the procedure for the creation of bonded indebtedness and authorizing and establishing the procedure for the issuance of bonds to refund indebtedness of municipalities in force at the time any bonded indebtedness is created or refunded by the city and county shall, except as otherwise provided in this charter, be applicable to the creation of bonded indebtedness and the issuance of refunding bonds by the city and county. Revenue bonds shall not be issued for any purpose unless the proposition to issue the revenue bonds has first been approved by a majority of the voters voting on the proposition at a general or special election; provided, however, this requirement shall not apply:

(1) to bonds approved by the board of supervisors prior to January 1, 1977; or

(2) to bonds issued pursuant to the authority contained in the Marks-Foran Residential Rehabilitation Act of 1973; or

(3) to bonds approved by a resolution of the board of supervisors adopted by an affirmative vote of three-quarters of the members of the board if the bonds are to finance a building or buildings, fixtures or equipment which are deemed by the board to be necessary to comply with an order of a duly constituted state or federal authority having jurisdiction over the subject matter.

Section 7.306 is amended to read as follows:

7.306 Airport Revenue Bonds

(a) Upon the recommendation of the airports commission the board of supervisors shall by resolution submit to the qualified voters of the City and County of San Francisco, at an election held for that purpose, the proposition of issuing bonds pursuant to the Revenue Bond Law of 1941, as it now reads or may hereafter be amended, for the purpose of acquiring, constructing, improving or developing airports or airport facilities under the jurisdiction of the airports commission in accordance with the terms and conditions recommended by the airports commission. If the proposition is approved by a majority of the voters voting on the proposition, the airports commission may from time to time authorize by appropriate resolution the sale of bonds; provided, however, notwithstanding any other provisions in this charter, no election shall be required

(1) for bonds approved in fact by the board of supervisors prior to January 1, 1977; or

(2) for bonds necessary to fund airport capital improvements approved in principle by a resolution adopted by three-fourths of the members of the board of supervisors prior to April 1, 1977.

(b) Revenue bonds issued pursuant to this section shall bear a rate of interest not to exceed that which may be fixed and prescribed by the

airports commission without regard to the limitations contained in the Revenue Bond Law of 1941. The bonds issued by the commission pursuant to the provisions of this section shall not constitute or evidence indebtedness of the city and county but shall constitute and evidence only indebtedness of the said commission payable solely out of revenues received by the commission from airports or airport facilities operated or controlled by it.

(c) Airport revenue bonds issued for such purposes pursuant to this section shall not be included in the bonded debt limit provided for in section 6.401 of this Charter. Nothing in this section shall prevent the city and county from issuing general obligation bonds for the purpose of acquiring, constructing, improving or developing airports or airport facilities under the commission's jurisdiction, subject to the bond issue procedure provided for in this Charter.

Section 7.308 is amended to read as follows:

7.308 Bonds for Residential Rehabilitation Assistance

Notwithstanding the voter approval requirements in section 7.300, the board of supervisors may by ordinance from time to time authorize the issuance of bonds to establish a fund for the purpose of making loans to assist property owners with the rehabilitation of property in areas which shall be designated in advance by the board of supervisors as rehabilitation assistance areas or for the purpose of refunding such bonds. The issuance of such bonds shall be pursuant to procedures adopted by ordinance of the board of supervisors. The repayment of principal, interest and other charges on such loans to property owners, together with such other monies as the board of supervisors may, in its discretion, make available therefor, shall be the sole source of funds pledged by the city and county for repayment of such bonds. Bonds issued under the provisions of this section shall not be deemed to constitute a debt or liability of the City and County of San Francisco or a pledge of the faith and credit of the City and County of San Francisco, but shall be payable solely from the funds specified in this section. The issuance of such bonds shall not directly, indirectly, or contingently obligate the board of supervisors to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

Section 7.309 is added to read as follows:

7.309 Voter Approval of Lease Financing

(a) The board of supervisors shall not approve the lease financing of public improvements or equipment unless a proposition generally describing the public improvements or equipment and the lease financing arrangement is approved by a majority of the voters voting on the proposition. The board of supervisors may by resolution submit such a proposition to the qualified voters of the City and County of San Francisco at a general or special election.

(b) For the purposes of this section, "lease financing" occurs when the city and county leases land, buildings, fixtures, or equipment from a Joint Powers Authority, the San Francisco Redevelopment Agency, the San Francisco Housing Authority, the San Francisco Parking Authority, or a nonprofit corporation, and does so for the purpose of financing the con-

struction or acquisition of public improvements or equipment.

(c) The requirements of this section do not apply:

(1) to any lease financing which was approved in fact or in principle by a resolution or ordinance adopted by the board of supervisors prior to April 1, 1977; provided that if the resolution or ordinance approved the lease financing only in principle, the resolution or ordinance must describe in general terms the public improvements or equipment to be financed; or

(2) To the approval of an amendment to a lease financing arrangement or to the refunding of lease financing bonds which results in lower total rental payments under the terms of the lease.

Section 8.300-1 is added to read as follows:

8.300-1 Civil Service Positions—Additional Exceptions

Notwithstanding the provisions of Section 8.300 of the charter, the following positions shall not be included in the classified civil service of the city and county and shall not be filled from lists of eligibles prepared by the civil service commission:

Positions determined by the controller and approved by resolution of the board of supervisors to be positions where the work or services can be practically performed under private contract at a lower cost to the city and county than similar work or services performed by employees of the city and county; provided that no work or services shall be contracted where such work or services are required to be performed by officers or employees of the city and county under the provisions of this charter or other applicable law.

Section 8.321 is amended to read as follows:

8.321 Examination of Applicants

All applicants for places in the classified service shall submit to tests which shall be competitive provided, however, that no test in either entrance or promotional examinations shall be deemed to be competitive unless two or more persons shall participate, except that any such examinations may be held for one qualified applicant on recommendation of the civil service commission and approval by resolution of the board of supervisors, after a finding by the board that reasonable publicity of the proposed examination has been given by the civil service commission. Such tests shall be without charge to the applicants. The commission shall control all examinations and may employ suitable persons in or out of the public service to act as examiners. The tests may be written, oral, mechanical or physical, or any combination of them, practical in character and related to matters fairly to test the relative capacity of the applicants for the positions to be filled. The commission shall be the sole judge of the adequacy of the tests to rate the capacity of the applicants to perform service for the city and county. The commission may, for each examination, establish a passing mark or may determine the total number of persons who shall constitute the list of eligibles. The commission shall prepare from the returns of the examiners the list of eligibles, arranged in order of relative excellence. No question submitted to applicants shall refer to political or religious opinions or fraternal affiliations.

Applicants for positions in the mechanical trades and occupations may,

in the discretion of the commission, be rated solely on experience and physical qualifications which may be demonstrated by such evidence and in such manner as the commission may direct, and such applicants may be submitted to such further tests as the commission may require.

Section 8.329 is amended to read as follows:

8.329 Certification of Eligibles: Rule of Three

Whenever a position controlled by the civil service provisions of this charter is to be filled, the appointing officer shall make a requisition to the civil service commission for a person to fill it. Thereupon, the commission shall certify to the appointing officer the names and addresses of the three persons standing highest on the list of eligibles for such position. In case the position is promotive, the commission shall certify the names of the three persons standing highest on such list. If there are fewer than three names on the list from which certification is to be made; there shall be certified the number thereon. The appointing officer shall fill the position by the appointment of one of the persons certified. The provisions of this section as herein amended at the election of November 2, 1976, shall be applicable only to lists of eligibles finally adopted by the civil service commission pursuant to the provisions of section 8.323 of this charter on or after the effective date of this amendment. In making such certification, sex shall be disregarded except when a statute, a rule of the commission or the appointing officer specifies sex.

From the requisition of the appointing officer or otherwise, the commission shall determine whether the position is, in character, temporary, seasonal or permanent, and shall notify the candidate in accordance therewith to the end that the candidate may have knowledge of the probable duration of employment. The commission shall provide for such waiver of temporary or seasonal employment as it may deem just to candidates.

Section 8.341 is amended to read as follows:

8.341. Dismissal for cause.

No person employed under the civil service provisions of this charter, exclusive of members of the police and fire departments as provided under section 8.343 hereof, in a position defined by the commission as "permanent" shall be removed or discharged except for cause, upon written charges, and after an opportunity to be heard in his own defense. Pending such hearing, the appointing officer may suspend the person so accused if the accusation against the accused person involves misappropriation of public funds or property, misuse or destruction of public property, drug addiction or habitual intemperance, mistreatment of persons, immorality, acts which would constitute a felony or misdemeanor involving moral turpitude, or acts which present an immediate danger to the public health and safety; but such suspension shall not be valid for more than thirty days, unless hearing upon the charges shall be delayed beyond such time by the act of the accused person. When charges are made, the appointing officer shall, in writing, notify the person accused of the time and place when the charges will be heard, by mailing such statement to his last known address. The hearing shall be conducted forthwith by a qualified and unbiased hearing officer employed under contract by the city and county and selected by procedures set forth in the rules of the

civil service commission. The hearing officer shall publicly hear and determine the charges, and may exonerate, suspend or dismiss the accused. If the employee is exonerated the hearing officer may, at his discretion, remit the suspension and may order payment of salary to the employee for the time under suspension, and the report of such suspension shall thereupon be expunged from the record of service of such employee. The civil service commission shall immediately be notified of the charges when made, of the hearing, and of the finding thereon. The finding of the hearing officer shall be final, unless within thirty days therefrom the dismissed employee appeals to the civil service commission. The appeal shall be in writing and shall briefly state the grounds therefor. The civil service commission shall examine into the case and may require the hearing officer to furnish a record of the hearing and may require any additional evidence it deems material under conditions established by rule of the civil service commission, and may, thereupon, make such decision as it deems just. The order or decision of the commission upon such appeal shall be final and shall forthwith be enforced by the appointing officer. If the civil service commission shall reverse or alter the finding of the hearing officer it may, in its discretion, order that the employee affected be paid salary from the time of his discharge or suspension.

The civil service commission may hear and determine any charge filed by a citizen or by the authorized agents of the commission when the appointing officer neglects or refuses to act. Removal or discharge may be made for any of the following causes: incompetence, habitual intemperance, immoral conduct, insubordination, discourteous treatment of the public, dishonesty, inattention to duties, or engaging in prohibited political activities.

Nothing in this section shall limit or restrict rules adopted by the commission governing lay-offs or reduction in force.

The provisions of this section, as herein amended at the election of November 2, 1976, shall become effective on July 1, 1977.

Section 8.346 is added to read as follows:

8.346 Disciplinary Action Against Striking Employees Other Than Members of Police and Fire Departments

The people of the city and county of San Francisco hereby find that the instigation of or participation in, strikes against said city and county by any officer or employee of said city and county constitutes a serious threat to the lives, property, and welfare of the citizens of said city and county and hereby declare as follows:

(1) As used in this section the word "strike" shall mean the willful failure to report for duty, the willful absence from one's position, any concerted stoppage or slowdown of work, any concerted interruption of operations or services by employees, or the willful abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the conditions of employment; provided, however, that nothing contained in this section shall be construed to limit, impair, or affect the right of any municipal employee to express or communicate a view, grievance, complaint, or opinion on any matter related to the conditions or

compensation of municipal employment or their betterment, so long as the same is not designed to and does not interfere with the full, faithful, and proper performance of the duties of employment.

(2) No person holding a position by appointment or employment under the civil service provisions of this charter, exclusive of uniformed members of the police and fire departments as provided under section 8.345 of this charter, which persons are hereinafter referred to as municipal employees, shall strike, nor shall any municipal employee cause, instigate, or afford leadership to a strike against the city and county of San Francisco. For the purposes of this section, any municipal employee who willfully fails to report for duty, is willfully absent from his or her position, willfully engages in a work stoppage or slowdown, willfully interrupts city operations or services, or in any way willfully abstains in whole or in part from the full, faithful, and proper performance of the duties of his or her employment because such municipal employee is "honoring" a strike by other municipal employees, shall be deemed to be on strike.

(3) No person exercising any authority, supervision, or direction over any municipal employee shall have the power to authorize, approve, or consent to a strike by any one or more municipal employees, and such person shall not authorize, approve, or consent to such strike. No officer, board, commission or committee of the city and county of San Francisco shall have the power to grant amnesty to any person who has violated any of the provisions of this section, and such officer or bodies shall not grant amnesty to any person who has violated any of the provisions of this section.

(4) Notwithstanding any other provisions of law, a person violating any of the provisions of this section may subsequent to such violation be appointed or reappointed, employed or re-employed as a municipal employee of the city and county of San Francisco, but only on the following conditions:

(a) such person shall be appointed or reappointed, employed or re-employed as a new appointee or employee, who is appointed or employed in accordance with all charter provisions, ordinances, rules or regulations of said city and county in effect for new employees at the time of appointment, reappointment, employment or re-employment:

(b) the compensation of such person shall not be increased by virtue of any previous employment with said city and county.

(5) In the event of a strike, or if the mayor with the concurrence of a majority of the board of supervisors determines that a strike is imminent, a special committee shall convene forthwith, which special committee shall consist of the presidents of the airports commission, civil service commission, fire commission, police commission, and public utilities commission. The president of the civil service commission shall serve as chairman of the special committee. Notwithstanding any other provision of law, it shall be the duty of the special committee to dismiss in accordance with the provisions of this section any municipal employee found to be in violation of any provisions of this section. Any person may file with the special committee written charges against a municipal employee or employees in violation of any of the provisions of this section and the special

committee shall receive and investigate, without undue delay, and where necessary take appropriate actions regarding any such written charge(s), and forthwith inform that person of its findings and action, or proposed action thereon.

In the event of a strike or determination of imminent strike as specified above, each appointing officer shall deliver each day no later than 12:00 noon to the chairman of the special committee a record of the absence of each employee under his or her authority for the prior day and a written report describing incidents of and the participant(s) in violations of this section wherever the identity of the participant(s) is known to him or her and the participant(s) is (are) under his or her authority.

In addition, each appointing officer shall provide to the special committee, whenever it has been convened under authority of law, any other information determined by the special committee to be necessary for the discharge of its duties. The failure of an appointing officer to discharge any of the duties imposed upon him or her by this section shall be official misconduct.

(6) An employee charged by the special committee with a violation of this section shall be notified of the time and place of the hearing on the charges and of the nature of the charges against him or her. Said employees shall be given such other information as is required by due process. Said employee shall respond to said charges by a sworn affidavit, signed by him or her, and by such other information and documentation and in such a manner as is prescribed by the special committee. An employee failing to provide the responses required by this section or in any way failing to comply with the procedural time limitations and information requirements imposed by the special committee shall be immediately suspended and shall not be entitled to a hearing until he or she has fully complied with the aforementioned requirements.

If the special committee, after a hearing, determines that the charges against the employee are supported by the preponderance of the evidence submitted, said special committee shall dismiss the employee involved and said employee shall not be reinstated or returned to city and county service except as specified in subsection (4). A dismissal or suspension invoked pursuant to the provisions of this section shall not be appealable to the civil service commission.

(7) The special committee shall discharge its duties in a timely manner while preserving the due process rights of employees with the objective of obtaining immediate sanctions against striking employees. The willful failure of any member of this special committee faithfully and fully to discharge his or her duties in a timely manner and to accord absolute priority to the performance of those duties shall be deemed official misconduct.

In the event the special committee determines that it shall be unable to comply with constitutional due process requirements that a timely hearing be provided or that it shall be unable to comply with its obligations fully and in a timely manner to investigate and hear all violations of this section, then the special committee may, subject to the budget and fiscal

provisions of the charter, engage the administrative and clerical personnel, investigators, and one or more hearing officers to conduct hearings hereunder. In conducting hearings, the hearing officers shall have the same powers of inquiry and disposition as the special committee.

(8) In order to provide for the effective operation of this section in the event of a strike or determination of imminent strike, the president of the civil service commission, not later than thirty days after this section becomes effective, shall convene the special committee which shall adopt rules, regulations, and procedures for the investigation, hearing and disposition of all violations of this section.

(9) In order to bring the provisions of this section to the attention of any person who may be affected thereby, each municipal employee on the effective date of this section, exclusive of members of the uniformed forces of the police and fire departments as provided in section 8.345 hereof, and each person appointed or employed as a municipal employee pursuant to the civil service provisions of this charter, exclusive of persons appointed to the entrance positions in the uniformed forces of the police and fire departments as provided in section 8.345 hereof, on or after the effective date of this section shall be furnished a copy of this section and shall acknowledge such receipt in writing. The signed, written receipt shall be filed in the office of the civil service commission and maintained therein for the term of his or her employment with the City and County of San Francisco.

(10) The provisions of sections 3.100 and 3.100-1, relating to the emergency powers of the mayor, shall not be applicable to the provisions of this section.

(11) If any clause, sentence, paragraph, subsection, or part of this section shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subsection, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 8.407 is added to read as follows:

8.407 Definition of Generally Prevailing Rates of Wages.

Notwithstanding any provision of section 8.401 or any provision of any other section of this charter to the contrary, generally prevailing rates of salaries and wages for those employees covered by section 8.401 of the charter shall be determined by the civil service commission as set forth below.

The civil service commission shall conduct a comprehensive investigation and survey of basic pay rates and wages and salaries in other governmental jurisdictions and private employment for like work and like service, based upon job classifications as provided in section 3.661 of this charter and shall make its findings, based on facts and data collected, as to what are the generally prevailing basic pay rates for each benchmark class of employment solely in the manner hereinafter provided. A benchmark class is defined as a "key class" within an occupational grouping selected as the class for which a representative sample of data will be collected.

Basic pay rate data for public and private employment shall be collected solely from the Bay Area counties of Alameda, Contra Costa, Marin, San Mateo, San Francisco and Santa Clara; provided, however, that for any benchmark class of employment for which the civil service commission determines there is insufficient data from Bay Area public jurisdictions the commission shall survey major public agencies in the state employing such class, major public agencies to be defined as those employing more than 3,000 persons.

The commission shall collect basic pay rate data for like work and like service from Bay Area public jurisdictions as follows:

(a) The counties of Alameda, Contra Costa, Marin, San Mateo and Santa Clara.

(b) The ten most populous cities in these five Bay Area counties based on the latest federal decennial census.

(c) Agencies of the state and federal governments and from school districts and other special districts in the six Bay Area counties as determined by the civil service commission. The commission shall collect private basic pay rate data from recognized governmental Bay Area salary and wage surveys of private employers in the city and county of San Francisco, Alameda, Contra Costa, Marin, San Mateo and Santa Clara counties. The data collected shall be limited to rates of pay and salaries actually being paid by private employers for like work and like service.

The term "prevailing rates of wages" for employees governed by charter section 8.401 and this section shall be defined as the rate ranges developed from the weighted average of the midpoint of the basic pay rates, excluding fringe benefits, for surveyed public employments and the median of the pay rates for private employment to be determined as follows:

(1) multiply the medians from the private and the midpoints from public employments data base by the number of employees in the given classification from each data base;

(2) add the products of (1);

(3) divide the sums in (2) by the total number of employees surveyed for that classification; and

(4) extend this figure by 10 percent to establish the maximum of the range and reduce this figure by 10 percent to establish the minimum.

When fixing rates of compensation the board of supervisors shall fix basic pay rates as close as reasonably possible to prevailing rates, provided, however, that the board of supervisors shall not set the maximum rate of pay for any class in excess of the maximum prevailing rate for that class; provided further, however, that no employee shall have his basic pay rate reduced to conform to prevailing rates except as provided for in section 8.406. For those classifications of employment in which the practice is customary, the schedules of compensation shall provide for minima, not less than three intermediate, and maxima salary steps and for a method of advancing the salaries of employees from minimum to intermediate to maximum with due regard for seniority of service.

The term "basic pay rate" as used in this section is hereby defined as applying only to the basic rate of wages, with included range scales, and

does not include any other benefits of employment or working condition benefits.

It is the declared intent of the qualified electors of the city and county that the board of supervisors has no power to provide any benefits of employment except those already provided for in the charter and any addition, deletion or modification of benefits of employment shall be submitted, as a charter amendment, to the qualified electors of the city and county. The qualified electors expressly state that they understand that benefits of employment are sometimes referred to as "fringe benefits" of employment and the qualified electors expressly reserve the right to either grant or deny such benefits except those conditions of employment commonly referred to as "working conditions". Any reference to "working conditions" shall mean those compensations which must necessarily be provided in order for the employee to perform his job description duties efficiently and safely, and shall include but not be limited to such working conditions and benefits as are typically included in the administrative provisions of the salary standardization ordinance and the salary ordinance.

The board of supervisors, in its discretion, may provide working condition benefits for employees covered under this section and section 8.401 of this charter only in accordance with the following provisions:

(a) The civil service commission must determine, certify and recommend to the board of supervisors that the working condition benefit is equitable or necessary for the efficient and safe performance of the employee's duties as enumerated in his job description.

(b) The working condition benefit, as recommended by the civil service commission, is substantially comparable for like work and like service to that provided for the job classification and is provided to not less than 50 percent of the employees of the class in the jurisdictions covered by the salary survey.

Section 8.516 is added to read as follows:

8.516. Disability Benefits.

Whenever any member of the police or fire department, as defined in sections 8.586-1 and 8.588-1, respectively, is incapacitated for the performance of his duties by reason of any bodily injury received in or illness caused by the performance of his duty, as determined by the retirement board, he shall become entitled with respect to any one injury or illness, regardless of his period of service with the city and county, to disability benefits equal to and in lieu of his salary, while so disabled, for a period or periods not exceeding twelve months in the aggregate or until such earlier date as he is retired, whether for service or disability.

Said disability benefit shall be reduced in the manner fixed by the board of supervisors by the amount of any benefits other than medical benefits payable to such person under the Labor Code concurrently with said disability benefit, and because of the injury or illness resulting in said disability. Such disability benefits as are paid in the absence of payments of any benefits other than medical benefits under the workers' compensation laws included in said Labor Code, shall be considered as in lieu of such benefits payable to such person under the said code concurrently with said

disability benefits, and shall be in satisfaction and discharge of the obligations of the city and county to pay such benefits under the Labor Code.

The provisions of this section shall be administered exclusively by the retirement board, and the city and county shall pay to the retirement system during each fiscal year an amount equal to the total disability benefits paid by said system during that year.

A member of the police or fire department shall receive credit as service, under the retirement system, for time during which he is incapacitated for performance of duty and receives said disability benefit; provided, however, that contributions for the retirement system shall be deducted from payments of such disability benefits paid to him. The city and county shall contribute, in addition to its other contributions provided herein, to the retirement system on the basis of said benefits in the same manner as it would contribute on salary paid to said member.

Section 8.526 is amended to read as follows:

8.526. Cost of Living Adjustment in Allowance.

(A) Each retirement or death allowance which is not subject to change when the salary rate of any member is changed and which is payable to or on account of any member who has retired or died prior to July 1, 1967, except such allowances payable to or on account of persons who retired or died prior to July 1, 1947, as members under section 8.507, but including death allowances payable under section 8.561 which are not subject to change when the salary rate of any member is changed, shall be increased for the time on and after July 1, 1968, by the percentage set forth in the following table opposite the fiscal year in which said allowance became effective, said percentage to be applied to the allowance payable to the individual who was receiving the allowance on July 1, 1968, (a) exclusive of the annuity provided by additional contributions and (b) prior to reduction pursuant to subsection (A) of section 8.514:

Fiscal year in which allowance became effective	Percentage
All years prior to July 1, 1959	16%
July 1, 1959 to June 30, 1960.....	14%
July 1, 1960 to June 30, 1961.....	12%
July 1, 1961 to June 30, 1962.....	10%
July 1, 1962 to June 30, 1963.....	8%
July 1, 1963 to June 30, 1964.....	6%
July 1, 1964 to June 30, 1965.....	4%
July 1, 1965 to June 20, 1966.....	2%
July 1, 1966 to June 30, 1967.....	1%

(1) Funds necessary for the payment of such increases in allowances payable to or on account of members who retired or died as members under Charter Sections 8.507 or 8.509 shall be provided from the City's accumulated contributions held by the system on account of miscellaneous members under section 8.509.

(2) Funds necessary for the payment of such increases in allowances to or on account of members who retired or died as members under Charter

Sections 8.543 or 8.544 shall be provided from the City's accumulated contributions held by the system on account of police members under section 8.544.

(3) Funds necessary for the payment of such increases in allowances to or on account of members who retired or died as members under Charter Section 8.567 or 8.568 shall be provided from the City's accumulated contributions held by the system on account of fire members under section 8.568.

The necessary funds shall be transferred on the effective date of this section from said accumulated contributions to the accumulated contributions held by the system to meet the obligations of the city and county on account of benefits that have been granted and which are based on services rendered as members. The contribution being required of the city and county currently as percentages of salaries of persons who are members under sections 8.509, 8.544 and 8.568 shall be increased to percentages determined by the actuary as necessary to replace the accumulated contributions so transferred.

(B) (1) The retirement board shall determine, prior to April 1 of each year, the percentage of increase or decrease in the cost of living during the preceding calendar year or years, as shown by the then current Consumer Price Index. All Items, San Francisco (1957-59 = 100), issued by the U. S. Bureau of Labor Statistics and published in the Monthly Labor Review or a successor publication. The cost of living adjustments as hereinafter provided shall be based on the percentage of such increase or decrease.

(2) Notwithstanding any other charter or ordinance provision governing the retirement system, every retirement or death allowance payable to or on account of any member who retires or dies as a member of the system or who has retired or died as such a member, except allowances subject to change when the salary rate of any member is changed, shall be increased or decreased as of July 1, 1969, and on July 1, of each succeeding year, subject to the provisions of this subsection (B), by a percentage of the allowance established on July 1, 1968, after any increase under subsection (A) of this section or on the effective date of such allowance, whichever is later, as payable to the individual who is receiving the allowance on the date of any such adjustment (a) exclusive of the annuity provided by additional contributions, and prior to modification pursuant to subsection (F) of section 8.514. On July 1, 1969, the percentage of increase in each such allowance shall be the percentage which is determined by the retirement board to approximate to the nearest one percent, the percentage of increase in the cost of living during the preceding calendar year. On July 1, 1970, and on July 1 of each succeeding year, the percentage of increase or decrease in each such allowance shall be the percentage which is determined by the retirement board to approximate to the nearest one percent of increase or decrease in the cost of living in the calendar year or years since January 1, 1969, or since January 1 of the year in which the last such cost of living adjustment in allowances was made, whichever is later. Such adjustment in any year shall not exceed two percent of such allowance; provided, however, that no allowance shall be

reduced below the amount being received by the member or his beneficiary on July 1, 1968, or on the effective date he began to receive the allowance, whichever is later.

(3) Any such increases in allowances shall be paid from funds which shall be allocated for that purpose by the retirement board from such earnings on investments not otherwise allocated and after crediting of regular interest to accumulated contributions as are in excess of two percent of the assets of the retirement system at the close of each fiscal year.

(4) Any such increase in allowances which are not funded by such allocations of such earnings, shall be funded by contributions of members under sections 8.507, 8.509, 8.544, 8.568, 8.584, 8.586 and 8.588, and by contributions of the city, which shall be at rates which are in addition to the rates of contribution otherwise provided by charter or ordinance, provided that a member's rate of contribution shall not exceed one-half of one percent of his monthly compensation. The contributions made under this section by any member shall be credited together with regular interest thereon to his individual account and shall be subject to the same charter and ordinance provisions relating to accumulated contributions of the member, including withdrawal and death benefits other than death allowances, provided, however, that upon his retirement or death, such accumulated contributions and interest shall not be applied to provide a part of the retirement benefits payable to him or the death allowance benefits payable on account of his death otherwise provided by charter or ordinance, but instead shall be held, together with the accumulated contributions made by the city pursuant to this subsection (B), with interest thereon, to provide the benefits under this subsection (B). Whenever such accumulated contributions of a member with interest have been paid to him on account of his termination of service or to his beneficiary or estate as a part of his termination of service or to his beneficiary or estate as a part of death benefits, as provided by charter or ordinance, an amount equal to the amount of contributions and interest so paid shall be applied to reduce the contributions by the city then currently payable under this section. If a member, upon his re-entry into membership after the withdrawal of his accumulated contributions, shall redeposit the accumulated contributions withdrawn with interest, as otherwise provided by the charter or ordinance, he shall redeposit the accumulated contributions made under this section with interest in the same manner and under the same conditions as the redeposit of his other accumulated contributions, and an amount equal to the amount of such redeposit of accumulated contributions made under this section with interest, shall become payable forthwith by the city to be included in the city's contributions under this section.

(5) The rates of contribution of members and the city, as provided herein, shall be fixed by the retirement board from time to time as it determines necessary.

Sections 8.584, 8.584-1, 8.584-2, 8.584-3, 8.584-4, 8.584-5, 8.584-6, 8.584-7, 8.584-8, 8.584-9, 8.584-10, 8.584-11, 8.584-12, 8.586, 8.586-1, 8.586-2, 8.586-3, 8.586-4, 8.586-5, 8.586-6, 8.586-7, 8.586-8, 8.586-9, 8.586-10, 8.586-11, 8.586-12, 8.586-13, 8.586-14, 8.588, 8.588-1, 8.588-2, 8.588-3, 8.588-4, 8.588-5, 8.588-6,

8.588-7, 8.588-8, 8.588-9, 8.588-10, 8.588-11, 8.588-12, 8.588-13, and 8.588-14 are added to read as follows:

8.584. Retirement—Miscellaneous Officers and Employees After November 1, 1976.

Those persons who become miscellaneous officers and employees after November 1, 1976, shall be members of the retirement system subject to the provisions of section 8.584 and 8.584-1 through 8.584-12, in addition to the provisions contained in section 3.670, 3.672, 8.500, 8.510, 8.520 and 8.526 of this charter notwithstanding the provisions of any other section of the charter; provided that persons who become members under the Public Employees' Retirement System of the State of California pursuant to section 8.506 of this charter or members of State Teachers' Retirement System of the State of California pursuant to section 8.506-1 of this charter shall not be members of the San Francisco City and County Employees' Retirement System and provided, further, that the retirement system shall be applied to persons employed on a part-time, temporary or substitute bases only as the board of supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. Miscellaneous officers and employees who are members of the retirement system under sections 8.507 or 8.509 of the charter prior to November 2, 1976 shall continue to be members of the system under sections 8.507 or 8.509, as the case may be, and shall not be subject to any of the provisions of this section or sections 8.584-1 through 8.584-12.

8.584-1. Definitions.

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the workers' compensation laws of the State of California shall mean all remuneration, whether in cash or by other allowances made by the city and county, for service qualifying for credit under this section, but excluding remuneration for overtime.

"Compensation earnable" shall mean the compensation as determined by the retirement board, which would have been earned by the member had he worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he was in the position held by him at the beginning of the absence, and that prior to entering city service, he was in the position first held by him in city service.

"Benefit" shall include "allowance," "retirement allowance," and "death benefit."

"Average final compensation" shall mean the average monthly compensation earned by a member during any three consecutive years of

credited service in the retirement system in which his average final compensation is the highest.

For the purposes of the retirement system and of this section, section 8.584 and sections 8.584-2 through 8.584-12, the terms "miscellaneous officer or employee," or "member" shall mean any officer or employee employed after November 1, 1976 who is not a member of the police or fire departments as defined in the charter for the purposes of the retirement system, provided that said terms shall not include those persons who become members under the Public Employees' Retirement System of the State of California pursuant to section 8.506 of this charter or members of State Teachers' Retirement System of the State of California pursuant to section 8.506-1 of this charter.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

8.584-2. Service Retirement.

Any member who completes at least twenty years of service in the aggregate credited in the retirement system and attains the age of fifty years, or at least ten years of service in the aggregate credited in the retirement system, and attains the age of sixty years, said service to be computed under section 8.584-7 may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-five years. A member retired after reaching the age of sixty years shall receive a service retirement allowance at the rate of $1\frac{1}{3}$ per cent of said average final compensation for each year of service' provided, however, that upon the compulsory retirement of a member upon his attainment of the age of sixty-five years, if the allowance available to such member pursuant to the provisions of section 8.584-6 shall be greater in amount than the service retirement allowance otherwise payable to such member under this section, then such member shall receive as his service retirement allowance, in lieu of the allowance otherwise payable under this section, an allowance computed in accordance with the formula provided in said section 8.584-6. The service retirement allowance of any member retiring prior to attaining the age of sixty years, and after rendering twenty years or more of such service, computed under section 8.584-7, and having attained the age of fifty years, shall be an allowance equal to the percentage of said average final compensation set forth opposite his age at retirement, taken to the preceding completed quarter year, for each year of service, computed under section 8.584-7:

<u>Age at Retirement</u>	<u>Percent for Each Year of Credited Service</u>
50	1.0000
50 $\frac{1}{4}$	1.0167
50 $\frac{1}{2}$	1.0333
50 $\frac{3}{4}$	1.0500
51	1.0667
51 $\frac{1}{4}$	1.0833
51 $\frac{1}{2}$	1.1000
51 $\frac{3}{4}$	1.1167
52	1.1333
52 $\frac{1}{4}$	1.1500
52 $\frac{1}{2}$	1.1667
52 $\frac{3}{4}$	1.1833
53	1.2000
53 $\frac{1}{4}$	1.2167
53 $\frac{1}{2}$	1.2333
53 $\frac{3}{4}$	1.2500
54	1.2667
54 $\frac{1}{4}$	1.2833
54 $\frac{1}{2}$	1.3000
54 $\frac{3}{4}$	1.3167
55	1.3333
55 $\frac{1}{4}$	1.3500
55 $\frac{1}{2}$	1.3667
55 $\frac{3}{4}$	1.3833
56	1.4000
56 $\frac{1}{4}$	1.4167
56 $\frac{1}{2}$	1.4333
56 $\frac{3}{4}$	1.4500
57	1.4667
57 $\frac{1}{4}$	1.4833
57 $\frac{1}{2}$	1.5000
57 $\frac{3}{4}$	1.5167
58	1.5333
58 $\frac{1}{4}$	1.5500
58 $\frac{1}{2}$	1.5667
58 $\frac{3}{4}$	1.5833
59	1.6000
59 $\frac{1}{4}$	1.6167
59 $\frac{1}{2}$	1.6333
59 $\frac{3}{4}$	1.6500
60	1.6667

In no event shall a member's retirement allowance exceed seventy percent of his average final compensation.

Before the first payment of a retirement allowance is made, a member, retired under this section or section 8.584-3, may elect to receive the

actuarial equivalent of his allowance, partly in an allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount, of such other benefits; provided, however, that at any time within 30 days after the date on which his compulsory retirement would otherwise have become effective, a member who has attained the age of 64 years may elect, without right of revocation, to withdraw his accumulated contributions, said election to be exercised in writing on a form furnished by the retirement system and filed at the office of said system and a member so electing shall be considered as having terminated his membership in said system on the date immediately preceding the date on which his compulsory retirement would otherwise have become effective and he shall be paid forthwith his accumulated contributions, with interest credited thereon. Notwithstanding the provisions of sect on 8.514 of this charter, the portion of service retirement allowance provided by the city and county's contributions shall be not less than \$100 per month upon retirement after thirty years of service and after attaining the age of sixty years, and provided further that as to any member within fifteen years or more of service at the compulsory retirement age of sixty-five, the portion of the service retirement allowance provided by the city and county's contribution shall be such that the total retirement allowance shall not be less than \$100 per month. In the calculations under this section of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed for each class of service, the average final compensation in each case being that for the respective class of service, provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this section providing for a minimum retirement allowance. Part-time service and compensation shall be reduced to full-time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied on full-time service and compensation in the calculation of retirement allowances.

8.584-3 Retirement for Incapacity

Any member who becomes incapacitated for performance of duty because of disability determined by the retirement board to be of extended and uncertain duration, and who shall have completed at least ten years of service credited in the aggregate, computed as provided in section 8.584-7, shall be retired upon an allowance of one and one-half percent of the average final compensation of said member, as defined in section 8.584-1 for each year of credited service, if such retirement allowance exceeds one-third ($\frac{1}{3}$) of his average final compensation; otherwise one and one-half ($1\frac{1}{2}$) percent of his average final compensation multiplied by the number of years of city service which would be credited to him were such city service to continue until attainment by him of age sixty, but such retirement allowance shall not exceed one-third ($\frac{1}{3}$) of such average

final compensation. In the calculation under this section of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such case shall be based on the compensation earnable by the member in the classes of service rendered by him during the three (3) years immediately preceding his retirement. Part-time service and compensation shall be reduced to full-time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied as full-time service and compensation in the calculation of retirement allowances. The question of retiring a member under this subsection may be brought before the retirement board on said board's own motion, by recommendation of any commission or board, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to service in the position or classification he occupied at the time of his retirement.

8.584-4 No Adjustment for Compensation Payments

No modification of benefits provided in this section shall be made because of any amounts payable to or on account of any member under workers' compensation laws of the State of California.

8.584-5 Death Benefit

If a member shall die, before his retirement, regardless of cause:

(1) If no benefit is payable under subdivision (2) of this section, a death benefit shall be paid to his estate or designated beneficiary consisting of the compensation earnable by him during the six months immediately preceding death, plus his contributions and interest credited thereon.

(2) If, at the date of his death, he was qualified for service retirement by reason of service and age under the provisions of section 8.584-2, and he has designated as beneficiary his surviving spouse, who was married to him for at least one full year immediately prior to the date of his death, one-half of the retirement allowance to which the member would have been entitled if he had retired for service on the date of his death shall be paid to such surviving spouse who was his designated beneficiary at the date of his death, until such spouse's death or remarriage, or if there be no surviving spouse, to the unmarried child or children of such member under the age of eighteen years, collectively, until every such child dies, marries or attains the age of eighteen years, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. If, at the death of such surviving spouse, who was receiving an allowance under this subdivision (2), there be one or more unmarried children of such member under the age of eighteen years, such allowance shall continue to such child or children, collectively, until every such child dies, marries or attains the age of eighteen years, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. If the total of the payments of allowance made pursuant to this subdivision (2) is less than the benefit which was otherwise payable under

subdivision (1) of this section, the amount of said benefit payable under subdivision (1) less an amount equal to the total of the payments of allowance made pursuant to this subdivision (2) shall be paid in a lump sum as follows:

(a) If the person last entitled to said allowance is the remarried surviving spouse of such member, to such spouse.

(b) Otherwise, to the surviving children of the member, share and share alike, or if there are no such children, to the estate of the person last entitled to said allowance.

The surviving spouse may elect, on a form provided by the retirement system and filed in the office of the retirement system before the first payment of the allowance provided herein, to receive the benefit provided in subdivision (1) of this section in lieu of the allowance which otherwise would be payable under the provisions of this subdivision. If a surviving spouse, who was entitled to make the election herein provided, shall die before or after making such election but before receiving any payment pursuant to such election, then the legally appointed guardian of the unmarried children of the member under the age of eighteen years may make the election herein provided before any benefit has been paid under this section, for and on behalf of such children if in his judgment it appears to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

If any person other than such surviving spouse shall have and be paid a community property interest in any portion of any benefit provided under this section, any allowance payable under this subdivision (2) shall be reduced by the actuarial equivalent, at the date of the member's death, of the amount of benefits paid to such other person.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

Upon the death of a member after retirement, an allowance, in addition to the death benefit provided in the immediately preceding paragraph, shall be paid to his surviving spouse, until such surviving spouse's death or remarriage, equal to one-half of his retirement allowance as it was prior to optional modification and prior to reduction as provided in subsection (A) of section 8.514 of this charter, but exclusive of the part of such allowance which was provided by additional contributions. No allowance, however, shall be paid under this paragraph to a surviving spouse unless such surviving spouse was married to said member at least one year prior to his retirement. If such retired person leaves no such surviving spouse, or if such surviving spouse should die or remarry before every child of such deceased retired person attains the age of eighteen years, the allowance which such surviving spouse would have received had he or she lived and not remarried shall be paid to retired person's child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years.

8.584-6. Benefits upon Termination of Membership

Should any miscellaneous member cease to be employed as such a member, through any cause other than death or retirement, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to cover similar terminations of employment and re-employment with and without redeposit of withdrawn accumulated contributions of other members of the retirement system, provided that, if such member is entitled to be credited with at least five years of service, he shall have the right to elect, without right of revocation and within 90 days after said termination of service, or if the termination was by lay-off, 90 days after the retirement board determines the termination to be permanent, whether to allow his accumulated contributions to remain in the retirement fund and to receive benefits only as provided in this paragraph. Failure to make such election shall be deemed an irrevocable election to withdraw his accumulated contributions. A person who elects to allow his accumulated contributions to remain in the retirement fund shall be subject to the same age requirements as apply to other members under section 8.584 for service retirement but he shall not be subject to a minimum service requirement. Upon the qualification of such member for retirement by reason of age, he shall be entitled to receive a retirement allowance which shall be the actuarial equivalent of his accumulated contributions and an equal amount of the contributions of the city and county, plus 1⅓ percent of his average final compensation for each year of service credited to him as rendered prior to his first membership in the retirement system. Upon the death of such member prior to retirement, his contributions with interest credited thereon shall be paid to his estate or designated beneficiary.

8.584-7 Computation of Service

The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement and calculating benefits:

(1) Time during which said member is a member of the retirement system under section 8.584 and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.

(2) Service in the fire and police departments which is not credited as service as a member under section 8.584 shall count under this section upon transfer of a member of either of such departments to employment entitling him to membership in the retirement system under section 8.584, provided that the accumulated contributions standing to the credit of such member shall be adjusted by refund to the member or by payment by the member to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous member throughout the period of his service in either of such departments at the compensation he received in such departments.

(3) Time prior to November 2, 1976, during which said member was entitled to receive compensation while a miscellaneous member under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with inter-

est from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board.

(4) Prior service determined and credited as prescribed by the board of supervisors for persons who are members under section 8.507.

(5) The board of supervisors, by ordinance enacted by a three-fourths vote of its members, may provide for the crediting as service, rendered as an employee of the federal government and service rendered as an employee of the State of California or any public entity or public agency in the State of California. Said ordinance shall provide that all contributions required as the result of the crediting of such service shall be made by the member and that no contributions therefor shall be required of the city and county.

(6) Time during which said member is absent from a status included in paragraphs (1) or (2) next preceding which is not deemed absence from service under the provisions of section 8.520 of the charter and for which such member is entitled to receive credit as service for the city and county by virtue of contributions made in accordance with the provisions of such section.

8.584-8 Sources of Funds

All payments provided for members under section 8.584 shall be made from funds derived from the following sources plus interest earned on said funds:

(1) There shall be deducted from each payment of compensation made to a member under section 8.584 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member under section 8.584, or shall be paid to said member or his estate or beneficiary as provided in sections 8.584-5 and 8.584-6.

(2) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in paragraph (1) of this section 8.584-8, to provide the benefits payable to members under section 8.584. Such contributions of the city and county to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under section 8.584, said percentage to be the ratio of the value on November 2, 1976, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid to or on account of members under section 8.584 from contributions of the city and county, less the amount of such contributions, plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after said date, to the value at

said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.

(3) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide benefits for members under section 8.584, shall be a part of the fund in which all other assets of said system are included.

8.584-9 Right to Retire

Upon the completion of the years of service set forth in section 8.584-2 as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said section 8.584-2, and, except as provided in the following paragraph, nothing shall deprive said member of said right.

Any member convicted of a crime involving moral turpitude committed in connection with his duties as an officer or employee of the city and county shall, upon his removal from office or employment, pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of section 8.584-2, he shall have the right to elect, without right of revocation and within 90 days after his removal from office or employment to receive as his sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of such removal from office or employment.

8.584-10 Limitation on Employment During Retirement

(A) Except as provided in subsection (B) of this section, no person retired as a member under section 8.584 for service or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the city and county, nor shall such person receive any payment for services rendered to the city and county after retirement.

(B) (1) Service as an election officer or juror, (1) in the preparation for or giving testimony as an expert witness for or on behalf of the city and county before any court or legislative body shall not be affected by the provisions of subsection (A) of this section.

(2) The provisions of subsection (A) shall not prevent such retired person from serving on any board or commission of the city and county and receiving the compensation for such office, provided said compensation does not exceed one hundred dollars (\$100) per month.

(3) If such retired person is elected or appointed to a position or office which subjects him to membership in the retirement system under section 8.584, he shall re-enter membership under section 8.584 and his retirement allowance shall be cancelled immediately upon such re-entry. The provisions of subsection (A) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contribution of such member shall be the same as that for other members under section 8.584. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his annuity at the time of his re-entry, but the amount thereof shall not exceed the amount of his accumulated contributions at the time of his retirement. Such member shall also receive credit for his service as it was at the time of his retirement.

(c) Notwithstanding any provision of this charter to the contrary, should any person retired for service or disability engage in a gainful occupation prior to attaining the age of sixty (60) years, the retirement board shall reduce that part of his monthly retirement allowance which is provided by contributions of the city and county to an amount which, when added to the amount of the compensation earnable, at the time he engages in the gainful occupation, by such person if he held the position which he held at the time of his retirement, or, if that position has been abolished, the compensation earnable by the member if he held the position from which he was retired immediately prior to its abolishment.

8.584-11 Adjustment of Allowances

Every retirement or death allowance payable to or on account of any member under section 8.584 shall be adjusted in accordance with the provisions of subsection (B) of section 8.526 of this charter.

8.584-12 Conflicting Charter Provisions

Any section or part of any section in this charter, insofar as it should conflict with the provisions of section 8.584 through 8.584-11 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect.

8.586 Members of the Police Department after November 1, 1976

Those persons who become members of the police department, as defined in section 8.586-1, on or after November 2, 1976, shall be members of the system subject to the provisions of sections 8.586, 8.586-1, 8.586-2, 8.586-3, 8.586-4, 8.586-5, 8.586-6, 8.586-7, 8.586-8, 8.586-9, 8.586-10, 8.586-11, 8.586-12, 8.586-13 and 8.586-14 (which shall apply only to members under section 8.586) in addition to the provisions contained in sections 3.670 to 3.672, both inclusive, and sections 8.500, 8.510, 8.520 and 8.526 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of sections 8.544 or 8.559 of this charter.

8.586-1 Definitions

The following words and phrases as used in this section, section 8.586 and sections 8.586-2 through 8.586-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance," or "allowance," shall mean

equal monthly payments, beginning to accrue upon the date of retirement or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

“Compensation,” as distinguished from benefits under the Workers’ Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

“Compensation earnable” shall mean the compensation which would have been earned had the members received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence, he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the police department, he was in the rank or position first held by him in such department.

“Benefit” shall include “allowance,” “retirement allowance,” “death allowance” and “death benefit.”

“Final compensation” shall mean the average monthly compensation earnable by a member during any three consecutive years of credited service in which his average compensation is the highest.

For the purpose of sections 8.586 through 8.586-14, the terms “member of the police department,” “member of the department,” or “member” shall mean any officer or employee of the police department employed after November 1, 1976 who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department and said terms shall further mean persons employed after November 1, 1976 at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform duties now performed under the titles of criminologist, photographer, police woman or jail matron; provided, however, that said terms shall not include any person who has not satisfactorily completed such course of training as may be required by the Police Department prior to assignment to active duty with said Department.

“Retirement system” or “system” shall mean San Francisco City and County Employees’ Retirement System as created in section 8.500 of the charter.

“Retirement board” shall mean “retirement board” as created in section 3.670 of the charter.

“Charter” shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, and singular numbers shall include the plural and the plural the singular.

“Interest” shall mean interest at the rate adopted by the retirement board.

8.586-2 Service Retirement

Any member of the police department who completes at least twenty-five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under section 8.586-10, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-five years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to fifty per cent of the final compensation of said member, as defined in section 8.586-1 plus an allowance at the rate of three per cent of said final compensation for each year of service rendered in excess of twenty-five years; provided, however that such retirement allowance shall not exceed seventy per cent of said member's final compensation. If, at the date of retirement for service, or retirement for disability resulting from an injury received in the performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section or section 8.586-3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him through his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system including the character and amount of such other benefits.

8.586-3 Retirement for Incapacity

Any member of the police department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by the performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance equal to fifty per cent of the final compensation of said member, as defined in section 8.586-1. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in section 8.586-1, he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than fifty per cent of such final compensation.

If, at the time of retirement, because of disability, he is qualified as to age and service for retirement under section 8.586-2, he shall receive an allowance equal to the retirement allowance which he would receive if retired under section 8.586-2, but not less than fifty per cent of said final compensation. Any member of the police department who becomes incapacitated for performance of his duty by reason of a cause not included

under the provisions of the immediately preceding sentences, and who shall have completed at least ten years of service in the aggregate, computed as provided in section 8.586-10, shall be retired upon an allowance of one and one-half per cent of the final compensation of said member as defined in section 8.586-1 for each year of service, provided that said allowance shall not be less than thirty-three and one-third per cent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the Police Commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

8.586-4 Death Allowance

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to three-fourths of the retirement allowance which the member would have received if he had been retired for service on the date of death, but such allowance shall not be less than fifty percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to three-fourths of the retirement allowance said member would have received if retired for service on said date, based on the final compensation he would have received prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than fifty percent of such final compensation. If he had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to three-fourths of the retirement allowance of the member, except that if he was a member under section 8.586 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died.

If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively until every such child dies

or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

8.586-5 Payment to Surviving Dependents

Upon the death of a member of the police department resulting from any cause other than an injury received in or illness caused by performance of duty, (a) if the death occurred after qualification for service retirement under section 8.586-2, or after retirement for service or because of disability which result from any cause other than an injury received in, or illness caused by performance of duty, one-half of the retirement allowance to which the member would have been entitled if he had retired for service at the date of death or one-half of the retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until remarriage to his surviving wife, or (b) if his death occurred after the completion of at least twenty-five years of service in the aggregate but prior to the attainment of the age of fifty years, one-half of the retirement allowance to which he would have been entitled under section 8.586-2 if he had attained the age of fifty years on the date of his death shall be continued throughout life or until remarriage to his surviving wife, or (c) if his death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, three-fourths of his retirement allowance as it was at his death shall be continued throughout life or until remarriage to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date on which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died, or (d) if his death occurred after completion of at least ten years of service in the aggregate, computed as provided in section 8.586-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to section 8.586-3 if he had retired on the date of death because of incapacity for performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under age of eighteen years, but leave a child or children, regardless of age, dependent upon him for

support because partially or totally disabled and unable to earn a livelihood or parent or parents dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he had not retired, or unless she was married to the member at least one year prior to his retirement if he had retired.

As used in this section and section 8.586-4, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for, but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in section 8.586-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "Qualification for service retirement" or "Qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under section 8.586 are subject, shall mean completion of twenty-five years of service and attainment of age fifty, said service to be computed under section 8.586-10.

8.586-6 Adjustment of Allowances

Every retirement or death allowance payable to or on account of any member under section 8.586 shall be adjusted in accordance with the provisions of subsection (B) of section 8.526 of this charter.

8.586-7 Adjustment for Compensation Payments

That portion of any allowance payable because of the death or retirement of any member of the police department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits, payable by the city and county to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

8.586-8 Death Benefit

If a member of the police department shall die, before retirement from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under section 8.586-4 or 8.586-5, preceding, a death benefit shall be paid to his

estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

8.586-9 Refunds and Redeposits

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he shall again become a member of the department, he shall redeposit in the retirement fund, the amount refunded to him. Contributions, with interest, which are credited because of service rendered in any other office or department and which will not be counted under section 8.586-10 to any person who becomes a member of the retirement system under this section shall be refunded to him forthwith. Should a member of the police department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payments to or from him as the case may be to make the accumulated contributions credited to him at the time of change, equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the police department and he shall receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues.

8.586-10 Computation of service

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon re-entry into service:

(1) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department under section 8.586 or 8.588, respectively.

(2) Time prior to November 2, 1976, during which said member was entitled to receive compensation while a member of the police or fire department under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under

section 8.586-3 for disability not resulting from injury received in or illness caused by performance of duty, time during which said member serves and receives compensation because of services rendered in other offices and departments.

(3) Time during which said member is absent from a status included in paragraph (1) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account.

8.586-11 Sources of Funds

All payments provided for members under section 8.586 shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) There shall be deducted from each payment of compensation made to a member under section 8.586 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his estate or beneficiary as provided in sections 8.586-8, 8.586-9 and 8.586-10.

(2) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in paragraph (1) of this section 8.586-11, to provide the benefits payable to members under section 8.586. Such contributions of the city and county to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under section 8.586, said percentage to the ratio of the value on November 2, 1976, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid to or on account of members under section 8.586 from contributions of the city and county, less the amount of such contributions plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after said date, to the value on said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the sys-

tem. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.

(3) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide benefits for members under section 8.586 shall be a part of the fund in which all other assets of said system are included.

8.586-12 Right to Retire

Upon the completion of the years of service set forth in section 8.586-2 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said section 8.586-2, and, except as provided in the following paragraph, nothing shall deprive said member of said right.

Any member of the police department convicted of a crime involving moral turpitude committed in connection with his duties as a member of the police department shall, upon termination of his employment pursuant to the provisions of this charter, forfeit all right to any benefits under the retirement system except refund of his accumulated contributions; provided, however, that, if such member is qualified for service retirement by reason of service and age under the provisions of section 8.586-2, he shall have the right to elect, without right of revocation and within 90 days of the termination of his employment, whether to withdraw all of his accumulated contributions or to receive as his sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of such termination of employment.

8.586-13 Limitation on Employment During Retirement

(A) Except as provided in subsection (B) of this section, no person retired as a member under section 8.586 for service or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the city and county, nor shall such person receive any payment for services rendered to the city and county after retirement.

(B) (1) Service as an election officer or juror, or in the preparation for, or giving testimony as an expert witness for or on behalf of the city and county before any court or legislative body shall be affected by the provisions of subsection (A) of this section.

(2) The provisions of subsection (A) shall not prevent such retired person from serving on any board or commission of the city and county and receiving the compensation for such office, provided said compensation does not exceed one hundred dollars (\$100) per month.

(3) If such retired person is elected or appointed to a position or office which subjects him to membership in the retirement system under section 8.586, he shall re-enter membership under section 8.586 and his retirement allowance shall be cancelled immediately upon such re-entry. The provisions of subsection (A) shall not prevent such person from receiving the compensation for such position or office. The rate of contribution of such

member shall be the same as that for other members under section 8.586. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his annuity at the time of his re-entry, but the amount thereof shall not exceed the amount of his accumulated contributions at the time of his retirement. Such member shall also receive credit for his service as it was at the time of his retirement.

(C) Notwithstanding any provision of this charter to the contrary, should any person retired for disability engage in a gainful occupation prior to attaining the age of fifty-five (55) years, the retirement board shall reduce that part of his monthly retirement allowance which is provided by contributions of the city and county to an amount which, when added to the amount of the compensation earnable, at the time he engages in the gainful occupation, by such person if he held the position which he held at the time of his retirement, or, if that position has been abolished, the compensation earnable by the member if he held the position from which he was retired immediately prior to its abolishment.

8.586-14 Conflicting Charter Provisions

Any section or part of any section in this charter, insofar as it should conflict with the provisions of sections 8.586 through 8.586-13 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of said sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect.

8.588 Members of the Fire Department After November 1, 1976

Those persons who become members of the fire department, as defined in section 8.588-1, on or after November 2, 1976, shall be members of the system subject to the provisions of sections 8.588, 8.588-1, 8.588-2, 8.588-3, 8.588-4, 8.588-5, 8.588-6, 8.588-7, 8.588-8, 8.588-9, 8.588-10, 8.588-11, 8.588-12, 8.588-13 and 8.588-14 (which shall apply only to members under section 8.588) in addition to the provisions contained in sections 3.670 to 3.672, both inclusive, and sections 8.500, 8.510, 8.520 and 8.526 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of sections 8.568 or 8.585 of this charter.

8.588-1 Definitions

The following words and phrases as used in this section, section 8.588 and sections 8.588-2 through 8.588-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation" as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime.

“Compensation earnable” shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence, he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the fire department, he was in the rank or position first held by him in such department.

“Benefit” shall include “allowance,” “retirement allowance,” “death allowance” and “death benefit.”

“Final compensation” shall mean the average monthly compensation earnable by a member during any three consecutive years of credited service in which his average compensation is the highest.

For the purpose of sections 8.588 through 8.588-14, the terms “member of the fire department,” “member of the department,” or “member” shall mean any officer or employee of the fire department employed after November 1, 1976 who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department and said terms shall further mean persons employed after November 1, 1976 at an age not greater than the maximum age than prescribed for entrance into employment in said uniformed force, to perform duties now performed under the titles of pilot of fireboats or marine engineer of fireboats; provided, however, that said terms shall not include any person who has not satisfactorily completed such course of training as may be required by the fire department prior to assignment to active duty with said department.

“Retirement system” or “system” shall mean San Francisco City and County Employees’ Retirement System as created in section 8.500 of the charter.

“Retirement board” shall mean “retirement board” as created in section 3.670 of the charter.

“Charter” shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, and singular numbers shall include the plural and the plural the singular.

“Interest” shall mean interest at the rate adopted by the retirement board.

8.588-2 Service Retirement

Any member of the fire department who completes at least twenty-five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under section 8.588-10, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-five years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to fifty percent of the final compensation of said member, as defined in section 8.588-1, plus an allowance at the rate of three percent of said final compensation for each year of service rendered in excess of twenty-five years;

provided, however, that such retirement allowance shall not exceed seventy percent of said member's final compensation. If, at the date of retirement for service, or retirement for disability, resulting from an injury received in the performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section or section 8.588-3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits.

8.588-3 Retirement for Incapacity

Any member of the fire department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by the performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance equal to fifty percent of the final compensation of said member, as defined in section 8.588-1. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in section 8.588-1, he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than fifty percent of such final compensation.

If, at the time of retirement because of disability, he is qualified as to age and service for retirement under section 8.588-2, he shall receive an allowance equal to the retirement allowance which he would receive if retired under section 8.588-2, but not less than fifty percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his duty by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least ten years of service in the aggregate, computed as provided in section 8.588-10, shall be retired upon an allowance of one and one-half percent of the final compensation of said member as defined in section 8.588-1 for each year of service, provided that said allowance shall not be less than thirty-three and one-third percent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the Fire Commission or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease

and he shall be restored to the service in the rank he occupied at the time of his retirement.

8.588-4 Death Allowance

If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance, payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to three-fourths of the retirement allowance which the member would have received if he had been retired for service on the date of death, but such allowance shall not be less than fifty percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to three-fourths of the retirement allowance said member would have received if retired for service on said date, based on the final compensation he would have received prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than fifty percent of such final compensation. If he had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to three-fourths of the retirement allowance of the member, except that if he was a member under section 8.588 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died.

If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

8.588-5 Payment to Surviving Dependents

Upon the death of a member of the fire department resulting from any cause other than an injury received in or illness caused by performance of duty, (a) if the death occurred after qualification for service retirement under section 8.588-2, or after retirement service or because of disability which result from any cause other than an injury received in, or illness caused by performance of duty one-half of the retirement allowance to which the member would have been entitled if he had retired for service at the date of death or one-half of the retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until remarriage to his surviving wife, or (b) if his death occurred after the completion of at least twenty-five years of service in the aggregate but prior to the attainment of the age of fifty years, one-half of the retirement allowance to which he would have been entitled under section 8.588-2 if he had attained the age of fifty years on the date of his death shall be continued throughout life or until remarriage to his surviving wife, or (c) his death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, three-fourths of his retirement allowance as it was at his death shall be continued throughout life or until remarriage to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date on which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died, or (d) if his death occurred after completion of at least ten years of service in the aggregate, computed as provided in section 8.558-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to section 8.588-3 if he had retired on the date of death because of incapacity for performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children, under age of eighteen years, but leave a child or children, regardless of age, dependent upon him for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he had not retired, or unless she was married to the member at least one year prior to his retirement if he had retired.

As used in this section and section 8.588-4 "surviving wife" shall mean

and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in section 8.588-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "Qualification for service retirement" or "Qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under section 8.588 are subject, shall mean completion of twenty-five years of service and attainment of age fifty, said service to be computed under section 8.588-10.

8.588-6 Adjustment of Allowances

Every retirement or death allowance payable to or on account of any member under section 8.588 shall be adjusted in accordance with the provisions of subsection (B) of section 8.526 of this charter.

8.588-7 Adjustment for Compensation Payments

That portion of any allowance payable because of the death or retirement of any member of the fire department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable by the city and county to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

8.588-8 Death Benefit

If a member of the fire department shall die, before retirement from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under section 8.588-4 or 8.588-5 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

8.588-9 Refunds and Redeposits

Should any member of the fire department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he shall again become a member of the department, he shall redeposit in the retirement fund the amount refunded to him. Contributions, with interest, which are credited because of service rendered in any other office or department and which will not be counted under section 8.588-10, to any person who becomes a member of the retirement system under this section shall be refunded to him forthwith. Should a member of the fire department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payments to or from him as the case may be to make the accumulated contributions credited to him at the time of change equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the fire department and he shall receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues.

8.588-10 Computation of Service

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon reentry into service:

(1) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department under section 8.586 or 8.588 respectively.

(2) Time prior to November 2, 1976 during which said member was entitled to receive compensation while a member of the police or fire department under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under section 8.588-3 for disability not resulting from injury received in or illness caused by performance of duty, time during which said member serves and receives compensation because of services rendered in other offices and departments.

(3) Time during which said member is absent from a status included in paragraph (1) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system

or for which the city and county contributed or contributes on his account.

8.588-11 Sources of Funds

All payments provided for members under section 8.588 shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) There shall be deducted from each payment of compensation made to a member under section 8.588 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his estate or beneficiary as provided in sections 8.588-8, 8.588-9 and 8.588-10.

(2) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in paragraph (1) of this section 8.588-11, to provide the benefits payable to members under section 8.588. Such contributions of the city and county to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under section 8.588, said percentage to the ratio of the value on November 2, 1976, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid to or on account of members under section 8.588 from contributions of the city and county, less the amount of such contributions plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after said date, to the value on said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.

(3) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, to contributions of both members and the city and county held by the system to provide benefits for members under section 8.588, shall be a part of the fund in which all other assets of said system are included.

8.588-12 Right to Retire

Upon the completion of the years of service set forth in section 8.588-2 as requisite to retirement, a member of the fire department shall be entitled to retire at any time thereafter in accordance with the provisions of said section 8.588-2, and except as provided in the following paragraph, nothing shall deprive said member of said right.

Any member of the fire department convicted of a crime involving moral turpitude committed in connection with his duties as a member of the fire department shall, upon termination of his employment pursuant to the provisions of this charter, forfeit all right to any benefits under the retirement system except refund of his accumulated contributions; provided, however, that, if such member is qualified for service retirement by reason of service and age under the provisions of section 8.588-2, he shall have the right to elect, without right of revocation and within 90 days of the termination of his employment, whether to withdraw all of his accumulated contributions or to receive as his sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of such termination of employment.

8.588-13 Limitation on Employment During Retirement

(A) Except as provided in subsection (B) of this section, no person retired as a member under section 8.588 for service or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the city and county, nor shall such person receive any payment for services rendered to the city and county after retirement.

(B) (1) Service as an election officer or juror, or in the preparation for or giving testimony as an expert witness for or on behalf of the city and county before any court or legislative body shall be affected by the provisions of subsection (A) of this section.

(2) The provisions of subsection (A) shall not prevent such retired person from serving on any board or commission of the city and county and receiving the compensation for such office, provided said compensation does not exceed one hundred dollars (\$100) per month;

(3) If such retired person is elected or appointed to a position or office which subjects him to membership in the retirement system under section 8.588, he shall re-enter membership under section 8.588 and his retirement allowance shall be cancelled immediately upon his re-entry. The provisions of subsection (A) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contributions of such member shall be the same as that for other members under section 8.588. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his annuity at the time of his re-entry, but the amount thereof shall not exceed the amount of his accumulated contributions at the time of his retirement. Such member shall also receive credit for his service as it was at the time of his retirement.

(C) Notwithstanding any provision of this charter to the contrary, should any person retired for disability engage in a gainful occupation prior to attaining the age of fifty-five (55) years, the retirement board shall reduce that part of his monthly retirement allowance which is provided

by contributions of the city and county to an amount which, when added to the amount of the compensation earnable, at the time he engages in the gainful occupation, by such person if he held the position which he held at the time of his retirement, or, if that position has been abolished, the compensation earnable by the member if he held the position from which he was retired immediately prior to its abolishment.

8.588-14 Conflicting Charter Provisions

Any section or part of any section in this charter, insofar as it should conflict with the provisions of sections 8.588 through 8.588-13 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of said sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect.

Section 9.100 is amended to read as follows:

9.100 Elective Officers and Terms

The Mayor, an assessor, a district attorney, a city attorney, a sheriff, a treasurer, a public defender, and commencing with a special municipal election to be consolidated with the direct primary in 1972, the members of the board of education shall be elected at large by the voters of the city and county. The members of the board of supervisors shall be elected by districts, as provided for in Section 2.100 of this charter.

At the general municipal election in 1943, and at the general municipal election in every fourth year thereafter, there shall be elected a mayor, six supervisors, a district attorney and a sheriff, and at the general municipal election in 1945, and at the general municipal election in every fourth year thereafter, there shall be elected five supervisors, a city attorney and a treasurer, and at the general election in 1942, and at the general election in every fourth year thereafter, there shall be elected an assessor and a public defender. At a special municipal election to be consolidated with the direct primary in 1972 seven members of the board of education shall be elected at large. All of the aforesaid officials except as set forth herein, shall be elected for a term of four years, from the commencement of their respective terms as herein specified.

The respective terms of the members of the board of education who shall hold office on the 8th day of August, 1972, shall expire at twelve o'clock noon on said date, and the persons elected as members of the board of education at a special municipal election to be consolidated with the direct primary in 1972 shall succeed to said offices at twelve o'clock noon on said 8th day of August, 1972. The respective terms of office of the members of the board of education elected at a special municipal election to be consolidated with the direct primary in 1972, shall be as follows: The four members receiving the highest number of votes respectively at said election shall hold office for a term consisting of the period of time until the 8th day of January, 1975. Thereafter, the term of each member elected to the board of education shall be four years from the commencement of his term as herein specified.

At the general election in 1974 there shall be elected three members of the board of education to succeed those members thereof whose respective terms of office expire on the 8th day of January, 1975, and at the

general election in each fourth year after 1974, the successors to said three members of the board of education shall be elected, and at the general election in 1976 there shall be elected four members of the board of education to succeed those members thereof whose respective terms of office expire on the 8th day of January, 1977, and at the general election in each fourth year after 1976, the successors to said four members of the board of education shall be elected. Except as set forth herein, all terms of office of elective officials shall commence at twelve o'clock noon on the 8th day of January following the date of their election.

Notwithstanding any other provisions of this section, the respective terms of office of the members of the board of supervisors who shall hold office on the 8th day of January, 1978, shall expire at twelve o'clock noon on said date, and shall be for a term of two years rather than four years, and the eleven persons elected as members of the board of supervisors at the general municipal election in November, 1977, shall succeed to said offices on the 8th day of January, 1978. At the next regular meeting of the board of supervisors, the board shall determine, by lot, whether the supervisors elected from the even- or odd-numbered supervisorial districts at the general municipal election in 1977 shall have terms of office expiring at noon on the 8th day of January, 1980, and which shall have terms of office expiring at noon on the 8th day of January, 1982; commencing, however, with the general municipal election in November, 1979, the terms of office of the supervisors elected from the even- or odd-numbered supervisorial districts, as the case may be, shall be for a term of four years and shall continue as such thereafter.

The provisions of Section 9.104 of this charter, relating to the manner of placing name of candidates for office on the ballots; the provisions of Section 9.105 of this charter, relating to the mailing of a copy of the qualification statement of each candidate for elective office to each registered voter; and the provisions of Sections 9.108 and 9.111 of this charter, relating to recall of elective officials, shall not apply to the election or recall of members of the board of supervisors, but provision for the foregoing shall be set forth in an ordinance which shall be adopted by the board of supervisors pursuant hereto; provided, however, that adoption of such ordinance by the board of supervisors shall be solely for the purpose of applying the provisions of Sections 9.104, 9.105, 9.108 and 9.111 of this charter to the election or recall of supervisors by districts, and shall not otherwise alter or diminish the provisions of said sections as to election or recall of supervisors.

No person elected mayor or supervisor shall be eligible, for a period of one year after his last day of said service as mayor or supervisor, for appointment to any full-time position carrying compensation in the city and county service.

Should any provision of the amendment to this section be held invalid, the remainder of the amendment shall not be affected thereby. Should the amendments to this section not be approved by the legislature of the State of California or fail for any other reason, so that the offices of the eleven supervisors are not elected by districts at the general municipal election to be held in November, 1977, as in this section provided, then in that

event the election of eleven supervisors by districts shall commence with and at the general municipal election to be held in November, 1979, and all of the provisions of these amendments regarding terms of office of supervisors shall be applicable thereto modified only with regard to calendar dates.

Section 9.100-1 is amended to read as follows:

9.100-1 Election of Mayor

Notwithstanding any other provisions or limitations of this charter, the mayor shall be elected at large by the voters of the city and county in the manner prescribed in this section.

At the general municipal election in 1975, and at the general municipal election in every fourth year thereafter, there shall be elected a mayor; provided, however, that should no candidate for the office of mayor receive at the general municipal election a majority of the votes cast for all candidates for said office, the two candidates receiving the highest numbers of votes cast for any of such candidates shall thereby qualify as candidates for the office of mayor at a runoff election to be held on the second Tuesday of the next ensuing December. The mayor shall be elected for a term of four years, from the commencement of his respective term as herein specified. Each term of office of a duly elected mayor shall commence at twelve o'clock noon on the 8th day of January following the date of his election.

No person elected as mayor shall be eligible, for a period of one year after his last day of said service as mayor, for appointment to any full time position carrying compensation in the city and county service.

Section 9.108 is amended to read as follows:

9.108 Initiative, Referendum, and Recall

(a) The registered voters shall have power to propose by petition, and to adopt or to reject at the polls, any ordinance, act or other measure which is within the power conferred upon the board of supervisors to enact, or any legislative act which is within the power conferred upon any other board, commission or officer to adopt, or any amendment to the charter. Such ordinance, act, charter amendment or other measure may be so proposed by filing with the registrar a petition setting forth said measure in full, signed by registered voters of the city and county as many in number as the percentages hereinafter required of the entire vote for all candidates for the office of mayor cast at the last preceding regular municipal election.

Any declaration of policy may be submitted to the electors in the manner provided for the submission of ordinances; and when approved by a majority of the qualified electors voting on said declaration, it shall thereupon be the duty of the board of supervisors to enact an ordinance or ordinances to carry such policies or principles into effect, subject to the referendum provisions of this charter.

Any ordinance which the supervisors are empowered to pass may be submitted to the electors by a majority of the board at a general election or at a special election called for the purpose, said election to be held not less than thirty days from the date of the call. Any such ordinance may be proposed by one-third of the supervisors or by the mayor, and when so

proposed shall be submitted to the electors at the next succeeding general election. No ordinance passed by the supervisors granting any public utility franchise or privilege, shall go into effect until the expiration of sixty days from the date it becomes final. At the end of such sixty days such ordinance shall be in force and effect, unless within such period there shall be filed with the registrar a petition signed by registered voters equal in number to five percent of the entire vote cast for mayor at the last preceding regular municipal election, requesting that such ordinance be submitted to the electors. In case such petition is filed, such ordinance shall not go into effect until approved by a majority of the voters voting thereon at a general or special election.

If, before the time any other ordinance involving legislative matters becomes effective, there shall be filed with the board of supervisors a petition signed by qualified electors of the city and county equal in number to at least ten per centum of the entire vote cast for all candidates for mayor at the last preceding general municipal election at which a mayor was elected, protesting against the passage of such ordinance the same shall be suspended from going into operation, and it shall be the duty of the board of supervisors to reconsider such ordinance, and if the same be not entirely repealed, said board shall submit the ordinance to the vote of said electors either at the next general municipal election or at a special election to be called for that purpose, and such ordinance shall not go into effect or become operative unless and until a majority of the qualified electors voting thereon shall vote in favor thereof. The provisions of sections 9.109 and 9.110 of the charter shall apply to and govern the verification and certification of such petition.

Annual budget and appropriation ordinances, supplemental appropriation ordinances, the annual salary ordinance, or ordinances amending the same, the ordinances levying taxes, any ordinance appropriating money from the emergency reserve fund, ordinances authorizing the city attorney to compromise litigation, and ordinances necessary to enable the mayor to carry out any of the powers vested in him in the case of a public emergency as defined in section 3.100 of the charter, ordinances enacted pursuant to section 8.410 of the charter, as well as ordinances relative to purely administrative matters, shall not be subject to referendum.

Any elective official, the chief administrative officer, the controller or any member of the board of education or public utilities commission may be recalled by the electors. The procedure to effect such recall shall be as follows: A petition demanding the recall from office of the person sought to be recalled shall be filed with the registrar. Said petition shall contain a statement of the grounds on which the recall is sought. Any insufficiency of form or substance in such statement shall in no wise affect the validity of the election and proceedings held thereunder. No recall petition shall be filed against any officer until he has held his office for at least six months.

(b) In the event the representative of the board of supervisors and the representatives of recognized employee organizations do not reach an agreement through the meet-and-confer process on matters contained in the annual salary standardization ordinance by March 15 of any year, the

board shall adopt a schedule of compensation which reflects current prevailing rates for the classifications covered by section 8.401 of this charter.

In any year when an agreement on matters contained in the salary standardization ordinance has not been achieved, the civil service commission shall prepare, prior to April 1, a schedule of compensation and administrative provisions which reflect additional rates that would be payable, and working conditions, based upon the last demands made by the recognized employee organization (s) which participated in the meet-and-confer process.

Said schedule shall be transmitted to the registrar of voters for submission to the electors of the city and county at a general election or a special election called for the purpose, and said special election shall be held no less than sixty (60) days from the date of the call. No such schedule shall be withdrawn after it has been received by the registrar of voters. At said election, the ballot shall contain the following two alternatives:

(1) Approval of the schedule of compensation based upon the employee organizations' last demands.

(2) Disapproval of the schedule of compensation based upon the employee organizations' last demands.

If a majority of the valid votes cast in the election favor paying the additional rates set forth in the schedule of compensation based upon the last demands of the recognized employee organizations which engaged in the meet-and-confer process, it shall be the duty of the board of supervisors to amend the salary standardization ordinance to reflect said increased rates and the same shall be in lieu of said annual compensation and, notwithstanding any other provisions of this charter to the contrary, said rates shall become effective and be payable as if adopted prior to April 1, of any year.

The provisions of sections 3.100 and 3.100-1, relating to the emergency powers of the mayor, shall not be applicable to the provisions of subsection (b) of this section.

Certified to be a true copy by Quentin L. Kopp, President Board of Supervisors, and Gilbert H. Boreman, Clerk Board of Supervisors.

Date of municipal election: November 2, 1976.

Charter Chapter 34—City of Los Angeles

*Amendment to the Charter of the City of
Los Angeles*

[Filed with Secretary of State December 6, 1976.]

Section 140, subsection (f), is amended to read as follows:

(f) No such franchise, permit or lease shall ever be made to any one person, firm or corporation to use any such water frontage whatever in excess of three thousand feet, linear measurement, measured along

United States harbor lines; provided, however, that more than three thousand feet of such water frontage may be so granted whenever authorized by an order of the board adopted by a four-fifths vote of the members of said board, and approved by an ordinance adopted by a two-thirds vote of the Council.

Certified to be a true copy by John S. Gibson, Jr., President of the Council of the City of Los Angeles, and Charles J. Port, Minute Clerk of the Council of the City of Los Angeles.

Date of municipal election: November 2, 1976.

Charter Chapter 35—City of Marysville

Amendments to the Charter of the City of Marysville

[Filed with Secretary of State December 9, 1976.]

Article VI, Section 2, is amended to read as follows:

Section 2. Fiscal and Accounting Procedures. Generally.

The council shall by ordinance provide for the fiscal and accounting procedures of the city, especially making provisions for (1) budgetary procedures, (2) the accounting system, (3) account procedures, (4) financial reports to be rendered, (5) a yearly post audit by a certified public accountant. All ordinances adopted by the council shall be in accordance with the principles and practices of municipal accounting as recommended by state and national authorities on municipal accounting.

Article VI, Section 4, is amended to read as follows:

Section 4. General Reserve.

The council shall set aside a reserve of One Hundred Thousand Dollars (\$100,000.00) to be known as a "General Reserve". Any cash in this fund may be invested in readily convertible securities. This General Reserve may be expended only by a four-fifths vote of the council. Any money so expended must be replaced out of the next succeeding cash levy or levies in an amount of Twenty Five Thousand Dollars (\$25,000.00) during each fiscal year until the fund is fully restored.

Article VI, Section 3, is repealed.

Article VI, Section 5, is repealed.

Article II, Section 3, is amended to read as follows:

Section 3. Eligibility to Hold Office as Member of Council.

A person is not eligible to hold office as a member of the council unless such person is at the time of filing nomination papers for such office an elector of the city and has resided in the city for thirty (30) days preceding the filing of nomination papers.

Article V is repealed.

Article VI, Section 7, is repealed.

Article VIII, Section 3, is amended to read as follows:

Section 3. Effective Date of Charter Amendments.

Charter amendments shall be effective when said amendment has been filed with the Secretary of the State of California.

Certified to be a true copy by Francis W. Comarsh, Mayor, and Kathryn J. Russell, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 36—City of Huntington Beach

*Amendments to the Charter of the City of
Huntington Beach*

[Filed with Secretary of State December 10, 1976.]

Article V, Section 511, is amended by adding a new paragraph, to read as follows:

Any ordinance, resolution or other action of the City Council providing for the imposition, establishment, levy, collection or increase in rate of any property tax, income tax, excise tax, or any other tax or fee, or the change in base or any other provision of such tax or fee, which change has the effect of increasing the amount of tax payable, may be enacted only by the affirmative vote of at least three-fourths ($\frac{3}{4}$ ths) of the total voting members of the City Council; provided, however, that any tax levied or collected pursuant to Section 1207 (b) of this Charter shall be exempted from the three-fourths ($\frac{3}{4}$ ths) voting requirement of this paragraph.

Any ordinance, resolution or other action of the City Council described in the next preceding paragraph, adopted on or after January 19, 1976 and prior to the date upon which this amendment shall become effective, is hereby repealed.

Article XII, Section 1222, is added to read as follows:

Section 1222: Vote Required For Tax Measures

No tax or other measure whose principal purpose is the raising of revenue, or any increase in the amount thereof, shall be levied, enacted or established except by ordinance adopted by the affirmative votes of at least five (5) members of the City Council; provided, however, that any tax levied or collected pursuant to Section 1207 (b) of this Charter shall be exempt from the minimum voting requirement of this section.

This section shall not apply to any license, permit, or any other fee or charge whose principal purpose is to pay or reimburse the City for the cost of performing any regulatory function of the City under its police power in connection with the City's duty to preserve or maintain the public peace, health, safety, welfare or morals.

This section shall not apply to any user or service fee or charge provided such fee or charge is directly related to such use or service, is charged to the user or person receiving such service, and is to pay or reimburse the City for the costs of providing such use or service.

This section shall not apply to any fee or charge relating to any franchise or proprietary function of the City.

Certified to be a true copy by Harriett M. Wieder, Mayor, and Alicia M.

Wentworth, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 37—County of Fresno

Amendments to the Charter of the County of Fresno

[Filed with Secretary of State December 13, 1976.]

Section 13 is added to read as follows:

Section 13. Notwithstanding Section 44 of this Charter or other provisions of law, the County may employ independent contractors to perform any County service. However, if the service is then being performed by County employees, contract approval shall require four affirmative votes of the Board of Supervisors.

Section 44.2(f) is amended to read as follows:

Section 44.2(f). For exemption, where the Board of Supervisors deems it proper, of the County Administrative Officer, Assistant County Administrative Officers, Deputy County Administrative Officers, the Director of Planning, the Director of Personnel, the Hospital Administrator, any other department head, and positions where previous professional examination and certification is required under the State law, such as doctors, lawyers and nurses.

Certified to be a true copy by John Ventura, Chairman of the Board of Supervisors, and Nancy L. Pierce, Deputy Clerk of the Board of Supervisors.

Date of municipal election: November 2, 1976.

Charter Chapter 38—City of Irwindale

Charter of the City of Irwindale

[Filed with Secretary of State December 17, 1976]

Preamble

We, the people of the City of Irwindale, County of Los Angeles, State of California, do ordain and establish this Charter as the organic law of said City under and by virtue of the Constitution of the said State.

Article I

Status of City

Section 100. Name of City.

The general law city, in existence prior to the effective date of this Charter, known as the "City of Irwindale," shall be deemed, for all purposes, to continue in existence, as a chartered city, from and after the

effective date of this Charter. Said City, as a chartered city, shall continue to be known as the "City of Irwindale."

Section 101. Boundaries.

The boundaries of the City of Irwindale, as a chartered city, shall be identical to the boundaries of said City of Irwindale, a general law city, as were lawfully in existence as of the effective date of this Charter. After the effective date of this Charter, the boundaries may be altered only as provided by applicable or general law.

Section 102. Effective Date of Charter.

This Charter shall be effective from and after the date of its approval by the electorate of the City of Irwindale and filed with the Secretary of State.

Article II

Definitions and Interpretation of Charter

Section 200. Definitions.

For the purpose of this Charter, the following words and phrases shall be deemed to have the meanings hereinafter ascribed to them, unless from the context thereof a contrary meaning is clearly intended:

(a) "Adjudicated Newspaper" shall mean a newspaper which is adjudicated as such pursuant to the provisions of Section 6000 et seq. of the Government Code of the State of California.

(b) "Applicable Law" shall mean an enactment of the California Legislature which lawfully governs, allows or regulates activities of cities having a charter adopted pursuant to the provisions of the Constitution of the State of California.

(c) "Appointive Officer" shall mean those officers designated as such by this Charter.

(d) "Brown Act" shall mean that Act of the State Legislature entitled as such, as the same now exists or as the same may hereinafter be lawfully amended, designated as Section 64950 et seq. of the Government Code.

(e) "Charter" shall mean this Charter as it now exists, or as it may hereafter be amended.

(f) "City" shall mean the City of Irwindale established as a charter city by this Charter.

(g) "City Attorney" shall mean the duly appointed, qualified and acting City Attorney of City.

(h) "City Clerk" shall mean the duly appointed, qualified and acting City Clerk of City.

(i) "City Council" shall mean the legislative body of City.

(j) "City Manager" shall mean the duly appointed, qualified and acting City Manager of City.

(k) "City Treasurer" shall mean the duly appointed, qualified and acting City Treasurer of City.

(l) "Constitution" shall mean the Constitution of the State of California.

(m) "Councilman" shall mean a member of the City Council of City.

(n) "County" shall mean the County of Los Angeles.

(o) "Elections Code" shall mean the Elections Code of the State of California as the same exists as of the effective date of this Charter, and

as the same may hereinafter be amended by lawful authority.

(p) "Elective Officers" shall mean those officers designated as such by this Charter.

(q) "Elector" shall mean any person who qualified for the right of suffrage pursuant to Article II, Section 1 of the Constitution of the State.

(r) "Former City" shall mean the City of Irwindale, a general law city, organized and existing as such, prior to the effective date of this Charter, and, as to which the City is its successor in interest, by reason of the adoption of this Charter.

(s) "General Law" shall mean an enactment of the Legislature of the State which lawfully governs, allows or regulates activities of a general law city, as defined in Section 34100 of the Government Code of the State of California, and which applies to the City of Irwindale, solely by reason of the provisions of this Charter, or an ordinance adopted by the City Council of the City.

(t) "Government Code" shall mean the Government Code of the State of California as the same exists as of the effective date of this Charter, and as the same may hereinafter be amended by lawful authority.

(u) "May" is permissive.

(v) "Mayor" shall mean the duly appointed, qualified and acting Mayor of City.

(w) "Mayor Pro Tempore" shall mean the duly appointed qualified and acting Mayor Pro Tempore of City.

(x) "Municipal Affair" shall mean those matters which have been, and continue to be, held to be such by courts of record in the State of California.

(y) "Person" shall mean any person, firm, association, organization, partnership, business, trust company or corporation, and any municipal political or governmental corporation, district, body or agency, other than the City of Irwindale.

(z) "Registered Qualified Voter" shall mean an elector who is lawfully registered, pursuant to applicable provisions of the Elections Code, and is thus entitled to cast a ballot in any national, state or local election held within the City.

(aa) "Shall" is mandatory.

(bb) "State" shall mean the State of California.

Section 201. Reference to Laws.

Wherever reference is made in this Charter to any law or Code provision enacted by the Legislature of the State, or to any constitutional provision, said reference shall mean and include any amendment thereto, enacted after the effective date of this Charter; provided, however, if any such law is repealed in whole or in part, the City Council, by ordinance, may enact provisions, consistent with this Charter, covering the substance of such repealed legislation.

Article III

Succession

Section 300. Rights and Liabilities.

The City shall be deemed, for all purposes, to be the successor in interest

to the former City. The said City shall succeed to, own, possess, hold and control all rights, including, but not limited to, rights in and to personal and real property, owned, possessed, controlled or held by said former City, as of the effective date of this Charter. Said City shall be deemed, for all purposes, to be subject to all debts, obligations, liabilities and duties of the said former City, as such existed as of the effective date of this Charter.

Section 301. Validation of Prior Acts.

All lawful acts heretofore taken by, or on behalf of, the said former City, by its City Council, or any officer, employee, commission, committee, or board thereof, shall be deemed for all purposes, to continue in full force and effect from and after the effective date of this Charter. The validation of such acts as provided for herein shall include, but not be limited to, all lawful ordinances, resolutions, rules, regulations, permits, or any portion thereof, in force as of the effective date of this Charter, except to the extent that any such act is inconsistent, in whole or in part, with any provisions of this Charter; to that extent the same shall be deemed void for all purposes. Any such act, so validated, shall be subject to amendment, modification or repeal by lawful authority pursuant to this Charter.

Section 302. Continuation of Status of Officers and Employees.

All officers and employees, including but not limited to, elective officers of the said former City shall, as of the effective date of this Charter, continue to perform the duties of their respective offices and positions. Except as otherwise expressly provided in this Charter, the adoption hereof, as to such officers and employees, shall not affect or impair any right, privilege or retirement benefit of such officers and employees lawfully held by them as of the effective date of this Charter. The tenure of, and the performance of duties by, all such officers and employees shall be subject to the provisions hereof.

Section 303. Public Contracts.

All contracts lawfully entered into by the said former City, prior to the effective date of this Charter, shall continue in full force and effect, notwithstanding the adoption of this said Charter.

Section 304. Pending Proceedings.

Any action or proceeding, civil, criminal or administrative, pending as of the effective date of this Charter, as to which the said former City, or any officer or employee thereof, is a party or participant, shall not be affected, altered or abated by reason of the adoption of this Charter or by any provision hereof. Any such action or proceeding shall be processed to its conclusion, in accordance with all laws applicable thereto, notwithstanding the adoption of this said Charter.

Article IV

Powers of City

Section 400. Powers.

The City, from and after the effective date hereof, shall have the power to make and enforce all ordinances and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter, and in the Constitution of the State of California. In

addition, the said City shall also have the rights, powers and privileges heretofore or hereafter established, granted or prescribed by any lawful authority, including, but not limited to, those rights, powers and privileges now or hereafter accorded to general law cities, and such other authority as a chartered City may lawfully exercise under and by virtue of the Constitution of the State.

Section 401. Limitation of Powers.

The enumeration in this Charter of any specific power shall not be deemed, for any purpose, to be a limitation upon the general grants of power, as set forth in this Charter.

Section 402. Exercise of Powers.

The City shall exercise its powers in the manner established by applicable laws of the State, unless a different procedure is established by this Charter or by an ordinance lawfully adopted by the City Council of said City. Zoning authority and limitations shall be as may be applicable to chartered cities.

Section 403. Joint Powers.

The City may exercise all or any of the powers herein set forth singly or jointly with other public agencies in the manner provided by general law.

Article V

Municipal Elections

Section 500. Conduct of Elections.

Except as otherwise provided by ordinance, all municipal elections hereafter conducted by or on behalf of the City shall be held and processed in accordance with the provisions of the Constitution and the Elections and Government Codes.

Section 501. Elective Officers.

The elective officers of this City shall be five (5) members of the City Council, each of whom shall hold the office of Councilman.

Elective officers of the City shall be elected for four (4) year terms by the registered qualified voters of the City, on an at large basis, at general or special municipal elections, held for that purpose.

Section 502. Qualification for Elective Office.

The qualifications for any person to hold an elective office of the City shall be as follows:

(a) any such person shall be an elector, with the meaning of the Constitution of the State; and

(b) any such person shall have been a bona fide resident of the City for at least 30 days next preceding the date of the election at which he desires to be a candidate for such elective office.

Section 503. Incumbent Elective Officers.

All of the incumbent elective officers of the former City, shall continue in such offices until the expiration of their respective terms for which they were elected, and until their successors are appointed or elected, and qualified.

Section 504. Rights Reserved to the Electorate.

The electorate of the City, notwithstanding the adoption of this Charter,

reserve unto themselves the following processes:

(a) the right of referendum as to any legislative act taken by the City Council; and

(b) the right of initiative, as to any legislative act the City Council could legally effectuate; and

(c) the right of recall as to any elective officer of the City.

Such reserved rights shall be exercisable only in accordance with, and subject to the limitations of, the provisions of the Constitution of the State of California and laws for General Law cities.

Section 505. Vacancies.

Vacancies in elective offices shall be deemed to occur under any of the following circumstances:

(a) if, during the term of his office, an elective officer of the City dies; or

(b) if, during the term of his office, he ceases, for any reason, to qualify as a registered voter and resident of the City; or

(c) if, during the term of his office, an elective officer of the City files a written letter of resignation with the City Clerk, his office shall be deemed vacant as of the date stated in such letter, or if no date is so stated in such letter, upon the date of its filing; or

(d) if a City Councilman absents himself, without the consent of the City Council, from all regular City Council meetings for a period of sixty (60) consecutive days from the last regular meeting of the Council he attended, his office shall be deemed vacant; provided that the consent of the City Council shall be given only for good cause, but shall not be unreasonably withheld; or

(e) if an elective officer of the City is convicted of any crime which involves moral turpitude, such office shall be deemed vacant as of the date the judgment of conviction becomes final.

(f) For any other reason applicable to General Law cities.

Section 506. Other Offices.

No elective officer of the City, during his tenure as such, or for a period of one year, or to be designated by ordinance, thereafter, shall hold any other City office or employment.

Article VI

City Council

Section 600. Legislative Body.

The City Council shall be the legislative body of the City.

Section 601. Mayor—Mayor Pro Tempore.

By the affirmative votes of not less than three (3) members, the City Council shall choose one of its members as Mayor, and one of its members as Mayor Pro Tempore, upon the following occasions:

(a) in even numbered years, at the regular Council meeting held for the purpose of canvassing the results of the general municipal election; and

(b) in odd numbered years, at the first regular Council meeting held during the month of March; or

(c) at such other times as a majority of the Council shall so order.

The Councilman chosen as Mayor shall, in addition to the performance of his duties as a Councilman, preside at all City Council meetings, represent the City as the ceremonial head of City government, and perform such other acts as may be required of him, as directed by the City Council, consistent with this Charter, ordinance of the City, other applicable law, or for General Law cities. In the Case of the absence or disability of the Mayor, the Mayor Pro Tempore shall act in his place and stead.

Section 602. Vacancies in Elective Offices.

Any vacancy occurring in any elective office of the City, may be filled by the City Council, by resolution, adopted by affirmative votes of not less than three (3) members of the City Council. If the City Council fails, for any reason, to fill such vacancy within a period of thirty days from and after such office becomes vacant, it shall, as may be required by general law, call and hold an election to fill such vacancy. A person appointed or elected to fill a vacancy in an elective office shall hold such office for the unexpired term of the former incumbent.

If at any time, three (3) or more vacancies occur in elective offices of the City, then the following procedure shall take place.

(a) if such situation qualifies under the provisions of a disaster as provided by applicable law, and the City has provided for the preservation of local government as provided thereunder, then such preservation shall be observed; or

(b) if such situation does not so qualify, or if such preservation has not been provided, then the then Chairman of the Board of Supervisors of the County shall temporarily appoint qualified persons to such three or more vacant offices for the limited purpose hereinafter set forth. Upon such persons being so appointed, the City Council as thus constituted, shall meet forthwith at a time and place to be selected by the City Clerk for the purpose of calling a special election to elect qualified persons to the offices temporarily filled by such appointments. Such temporary appointees shall continue to hold such elective offices until their successors have been duly elected and qualified.

Section 603. Council Meetings.

(a) **Time and Place.** Regular meetings of the City Council shall be conducted at such time and place as are established by ordinance.

(b) **Open to Public.** Except as otherwise herein provided, each and every meeting of the City Council, be it a regular or special meeting, or an adjourned regular or special meeting, shall be open to all members of the general public.

(c) **Application of Brown Act.** Except as otherwise herein provided, the provisions of the "Brown Act" shall apply to all meetings and acts of the City Council, and its members.

(d) **Executive Sessions of the City Council** may be conducted during an otherwise duly held meeting only:

(1) to consider the appointment, dismissal or imposition of disciplinary action with respect to any employee, contractor or consultant of the City; or

(2) to meet with the City Attorney or other appointed special counsel of the City, to consider matters relating to pending or potential litigation

involving the City; or

(3) for such other purposes as are permitted by general law or by the "Brown Act".

For the purpose of this Section, an Executive session" shall mean a session of the City Council at which only Councilmen and persons specifically directed by the City Council or authorized by applicable law shall be permitted to attend.

(e) Quorum. Three (3) members of the City Council shall constitute a quorum for the purpose of transacting business of the City Council.

(f) Oaths. The Mayor, each member of the Council and the City Clerk shall have the power to administer oaths or affirmations in proceedings pending before the City Council.

(g) Subpoenas. The City Council shall have the power to compel, by subpoena, the attendance of witnesses, and the production of any relevant evidence, at any meeting of the City Council, or of any duly appointed Board or Commission or at any hearing held before any officer or employee of the City. Subpoenas shall be issued by the City Clerk, upon order of the City Council, in the name of the City, and shall be served in the manner prescribed by applicable law for the service of subpoenas in judicial actions. Disobedience to a subpoena, or the refusal to testify to relevant matters before the City Council, except upon valid constitutional grounds, shall constitute a misdemeanor and shall be punishable as such.

(h) Rules for Proceedings. The City Council may establish rules for the conduct of its proceedings, including, but not limited to, provision for the punishment of any person who engages in disorderly conduct at a City Council meeting.

Section 604. Reimbursement for Expenses.

Councilmen of the City shall be reimbursed for necessary expenses actually incurred in the performance of official duties. Such reimbursement shall not be made, unless approved by the affirmative vote of not less than three (3) members of the City Council. The City Council shall establish a procedure for the reimbursement of other officers and employees of the City for expenditures incurred by them in the performance of official duties.

Section 605. Compensation of Councilmen.

Compensation of Councilmen, other than reimbursement for expenses, may be established in the manner and amount as provided by general law, relating to councilmanic salaries in general law cities in this State.

Section 606. Ordinances.

Except as otherwise provided in this Charter or by applicable law, the enactment of ordinances by the City Council, shall be accomplished in accordance with the provisions of this Section.

(a) Meetings. Ordinances may be adopted at either regular, special or adjourned regular or special meetings of the City Council.

(b) Adoption of Ordinances. Ordinances shall be adopted in the manner and according to the procedure provided by general law.

(c) Effective Date of Ordinances. Ordinances shall be effective in the time and manner provided by general law.

(d) Vote Required. No ordinance of this City shall become effective

unless the same is adopted by the affirmative votes of at least three (3) members of the Council, except for ordinances for the adoption of which, this Charter or applicable or general law, requires a greater number of affirmative votes.

(e) Form. Each ordinance shall bear a title which shall briefly describe the subject matter of the ordinance and shall contain the following enacting clause: "The City Council of the City of Irwindale does ordain." Each ordinance adopted by the City Council shall be signed by the Mayor, whose signature thereon shall be attested to by the City Clerk.

(f) Violation. Penalty. A violation of any duly enacted ordinance of the City shall constitute a misdemeanor which shall be prosecuted in the manner prescribed by applicable law. The maximum fine or penalty for the violation of any ordinance shall be in the sum of \$500.00 or a term of imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. The City Council, by ordinance, shall provide for the place of imprisonment for such violation and may provide that persons convicted of a violation of any such ordinance may be compelled to perform labor on public works of the City. Certain violations may, by ordinance, be classified as infractions.

(g) Codification. Any and all ordinances of the City may be compiled, consolidated, or recompiled and/or reconsolidated, and indexed and arranged in a comprehensive municipal ordinance code. Such code may be adopted by ordinance by reference. Such code, if adopted by reference, need not be published in the manner required for other ordinances provided that:

(1) not less than three copies thereof shall be on file in the office of the City Clerk, available for examination by members of the public, prior to the adoption thereof; and

(2) that the final adoption of such Code, shall not take place until a public hearing is held before the City Council to allow interested persons to express their views on such proposed Code; and

(3) that notice of such public hearing is given as required by General Law.

(4) detailed regulations pertaining to any subject, such as building regulations, when arranged in a comprehensive code, including maps, charts or diagrams, may also be adopted by reference in the manner provided in this Section.

(5) amendments to such Code shall be enacted only by ordinance and, if no adoption by reference is involved, the procedure set forth in this sub-paragraph shall not apply to such adoption.

(h) Publication. Publication of ordinances shall be as provided for general law cities.

Section 607. Contracts.

(a) Council Action. No contract, for any purpose, shall obligate the City, in any manner, unless and until such contract has been approved or ratified, in written form, by the affirmative votes of not less than three (3) members of the City Council; except that:

(1) where a contractual expenditure by the City has been included in a City budget adopted by ordinance, City Council approval thereof shall

be conclusively presumed; and

(2) where the City Manager reasonably determines that an emergency immediately required the obtaining of goods or services, he shall be empowered to contract for the same without prior City Council approval, and such contract shall be a binding obligation of the City. The authority of the City Manager hereunder as to a particular emergency shall terminate at the next meeting of the City Council unless specifically extended.

(b) Leases. No agreement for the lease of City owned real property to any person, for a non-municipal purpose, shall be valid unless the City Council finds that the property proposed for such lease is not required, and will not be so required during the term of the agreement, for municipal purposes.

(c) Supplies and Equipment. Notwithstanding the provisions of this Section relating to contracts, the City Council shall, by ordinance, provide for the acquisition of equipment, materials or supplies, other than for public works contracts, if the same are included within a budget approved by the City Council.

(d) Surplus Property. The City Council may provide for a system for the sale, disposal or exchange of real and/or personal property which is surplus to the needs of the City.

(e) Public Works Contract. Except as otherwise herein provided, the City shall contract for the construction or reconstruction of any public building, works, streets, drain, sewer, utility, park or playground (hereinafter "public project") in the time and manner and in accordance with general law.

Section 608. Franchises.

Franchises shall be granted by the City Council only in the time and manner, and for such purposes, as may be prescribed or authorized by the Constitution or by applicable laws of this State.

Section 609. Interference with Administrative Service.

No member of the City Council shall interfere with the execution by the City Manager of his powers and duties; nor shall any Councilman direct the City Manager to appoint or remove an officer or employee of the City. Except for the purpose of inquiry, no Councilman shall deal with the administrative services of City except by and through the City Manager; nor shall any Councilman give any order or direction on behalf of the City to any subordinate officer or employee of City. This Section shall not apply during periods of disaster proclaimed by the Governor or City Council, nor during such times as there shall be no Council designated City Manager acting in that capacity.

Section 610. Conflict of Interest.

The lawful provisions of applicable and/or general law, with regard to conflict of interests, prohibited interests and disclosure of assets shall apply to, and govern the activities of each elective officer of the City.

Section 611. Indemnification.

The members of the City Council shall be provided with a defense and indemnified against loss for good faith actions taken in the scope of their employment as Councilmen or members of the Community Redevelopment Agency.

Section 612. Continuity.

The City Council may by ordinance set the number of successive terms or years that a Councilman may serve.

Article VII

Appointive Officers

Section 700. Form of Government.

The system of government established by this Charter shall be known as the "Council-Manager" form of government.

Section 701. Appointive Offices.

The municipal offices, established by this Article, shall be known as appointive offices of the City. Persons shall be appointed to and removed from, such offices by the City Council, in accordance with the provisions hereof.

Section 702. City Manager, Appointment, Qualification, Compensation.

The appointive office of City Manager for the City is hereby created. The qualification, appointment, salary, duties, tenure and discharge of the City Manager shall be prescribed by ordinance of the City Council.

Section 703. City Manager Duties.

The City Manager, or person acting in that capacity, shall perform the duties provided by ordinance. The City Council shall provide a defense for, and indemnify him for, any action brought against him in the scope of his employment as Manager of the City or Community Redevelopment Agency.

Section 704. City Attorney, Appointment, Qualification, Compensation.

The appointive office of City Attorney of City is hereby created. The City Attorney shall be directly responsible to the City Council for the performance of his duties.

(a) Appointment. A qualified person shall be appointed to the office of City Attorney, by resolution of the City Council, adopted by the affirmative votes of not less than three (3) members thereof.

(b) Compensation. The City Council by the affirmative votes of not less than three (3) Councilmen shall, from time to time, by resolution, set the compensation for the office of City Attorney.

(c) Qualification. The qualification, tenure, contractual relation and discharge or suspension shall be provided by not less than $\frac{3}{5}$ vote of the City Council.

Section 705. City Attorney, Duties.

The duties of the office of City Attorney shall be as follows:

(a) he shall act as the legal advisor for the City, and to its officers and employees, in all matters relating to City affairs;

(b) he shall be required to appear and defend the City in all matters in civil litigation involving the City and its officers and employees. He shall prosecute all violations of City ordinances, but may, with the approval of the City Council, delegate such authority to the District Attorney.

(c) he shall prepare all ordinances, resolutions, contracts, opinions and other legal documents as required by the City Council relating to the

affairs of the City; and

(d) he shall perform such other duties as may be required of him by the City Council. The City Council shall provide a defense for, and indemnify, the City Attorney for any action brought against him in the scope of his employment as Attorney for the City and for the Community Redevelopment Agency.

Section 706. City Attorney, Deputies, Special Counsel.

The City Attorney shall have the authority to appoint deputy city attorneys, to act as such, under the control and direction of the City Attorney. Compensation for such deputies, if any, shall be set by the City Council. The City Attorney may, with the approval of the City Council, engage the services of special counsel to assist him in the performance of his said duties.

Section 707. City Clerk, Appointment, Qualification, Compensation.

The appointive office of City Clerk of City is hereby created. Such office may be combined with that of any other appointive office. The City Clerk shall be appointed, serve at the pleasure of, and removed by, and be responsible to, the City Council, or the City Manager as may be from time to time provided by ordinance.

Section 708. City Treasurer.

The appointive office of City Treasurer is hereby established. The duties of the City Treasurer shall be those imposed by applicable and/or general law, except as those duties may be modified by ordinance of the City. The salary, tenure, appointment and removal of the City Treasurer shall be as prescribed by the City Council.

Section 709. Bonds.

The appointive officers shall post such fidelity bonds as may be required by the City Council. Such bonds shall be a proper charge upon the City.

Section 710. Continuity.

No appointive officer shall be removed from office, suspended or reduced in authority or compensation for 90 days following a municipal election or change in membership on the City Council.

Article VIII

Officers and Employees

Section 800. Miscellaneous and Safety Employees.

The City Council may designate such other positions for miscellaneous and safety employees as the Council may from time to time determine. Appointment to, authority over and removal from such positions shall be by the City Manager.

Section 801. Merit System. Establishment.

The City Council, by ordinance, may establish a Merit System for City employees. Such system may include provisions for the method of the selection of employees, the classification, advancement, suspension, discharge, termination of such employees, and the consolidation and elimination of positions. The said Merit System shall apply as to each office or position of employment, except.

(a) elective and appointive officers; and

(b) part-time or temporary officers and employees; and

(c) members of boards and commissions.

Such system may be amended, by ordinance of the City Council, from time to time, as may be required in the discretion of the City Council in the public interest.

Section 802. Retirement.

Plenary authority and power is hereby vested in the City, and its City Council to do and perform any act, or exercise any option or authority granted, permitted or required under the provisions of the Public Employees' Retirement Act, as it now exists or hereafter may be amended, so as to enable the City to continue as a contracting City under said Retirement System. The City may terminate any such contract with the Board of Administration of the Public Employees' Retirement System only under authority granted the enabling act relating to said system.

Section 803. Compensation.

The City Council, by resolution, shall from time to time establish the salaries and/or other forms of compensation for each officer or employee of the City.

Article IX

Fiscal Administration

Section 900. Fiscal Year.

The fiscal year of the City shall begin on the first day of July of each calendar year and shall end on the thirtieth day of June of the following year.

Section 901. Budget. Submission to City Council.

At least thirty-five (35) days prior to the beginning of each fiscal year, the City Manager shall prepare and submit to the City Council, a proposed annual budget, covering expected income and all proposed expenditures of City for the forthcoming fiscal year. In preparing the budget the City Manager shall utilize the most accurate available income estimates and the most feasible combination of expenditure classification by funds, organization unit, program, purpose or activity, and object.

Not less than ten (10) copies of the proposed budget, and the City Manager's budget message, shall be on file in the office of the City Clerk, available for examination by members of the general public. Upon submission of the budget, the City Council shall select a convenient date for the conduct of a public hearing upon the adoption of such budget. Notice shall be given of such public hearing in such manner as the City Council deems appropriate to give complete and adequate notice thereof, to residents of the City. At the time of such public hearing, the City Council shall consider evidence presented by any interested person concerning any or all of the items as contained in the proposed budget. Upon conclusion of the said public hearing, the City Council shall make such alterations, deletions or additions to the budget as proposed, is in the public interest, and thereafter, it shall approve the budget as revised. Such approval shall take place prior to the commencement of the fiscal year to which such budget relates. Upon its adoption, by the affirmative votes of at least three (3) members of the City Council, the budget shall be in effect for the ensuing fiscal year. The budget as approved shall be filed with the City Clerk, and

shall be reproduced and copies made available for the use of the public and of departments, officers and agencies of the City.

At any meeting after the adoption of the budget, the City Council may amend or supplement the budget, by motion, adopted by the affirmative votes of at least three (3) members of the City Council.

Section 902. Budget. Appropriations.

From and after the effective date of the budget if adopted by ordinance, the several amounts stated therein as proposed expenditures, shall be deemed appropriated to the several departments, offices and agencies for the respective objects and purposes therein stated. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

Section 903. Tax Levies.

The City Council shall have the authority to levy property taxes in the same time, manner and amount as is now, or hereafter, authorized by general law. In addition, the City Council shall have the authority to levy taxes as permitted for chartered cities.

Section 904. Imposition of Other Taxes.

The City Council may, by ordinance, impose any other tax, in addition to those specifically referred to in this Charter, if such tax can lawfully be imposed by a charter or general law city by virtue of the Constitution of the State, or by virtue of any general law.

Section 905. Tax Procedure.

The procedure for the assessment, levy and collection of all municipal taxes and special assessment, shall be prescribed by ordinance of the City Council.

Section 906. Debt.

The City may incur debts, issue bonds, enter into long term leases or contracts, or otherwise financially obligate itself over one or more years, in the manner as is authorized by general law.

Section 907. Claims Against the City.

Claims for money or damages against the City or any officer or employee thereof, and civil actions to enforce the same, shall be presented, filed and acted upon in the time and manner as is prescribed by the Government Code of the State of California, as the same now exists, or may hereafter be amended.

Section 908. Payment of Claims and Demands.

The City Council, by ordinance, shall provide for the method and manner for the approval and payment of claims and demands against the City.

Article X

Board of Education

Section 1000. Effect of Charter on School Districts.

The adoption of this Charter shall not have the effect of creating any new school district nor shall the adoption of this Charter have any effect upon the existence, the boundaries or manner of operation of any school district located within the boundaries of the City, wholly or partially, as of the effective date of this Charter. Each such present school district shall continue in existence subject, in all respects, to the provisions of the

Constitution and the laws of the State of California, as the same now exist or hereafter may be amended.

Section 1001. Application of State Law.

The manner, the time, tenure and terms of office, with reference to the members of Boards of Education of such school districts, their qualifications, compensation and removal and the number which shall constitute any one of such boards, shall continue to be as prescribed by the Constitution and the laws of the State of California, as the same now exist or may hereafter be amended.

Article XI

City Boards and Commissions

Section 1100. Creation of Commissions.

The City Council, by ordinance, may create such permanent or temporary boards or commissions, as it finds, in its judgment, are required to assist in the performance of any municipal function.

Section 1101. Enabling Ordinances.

An ordinance establishing a board or commission shall specify the following:

- (a) the number of members comprising such commission or board; and
- (b) their term of office; and
- (c) the powers and duties assigned to the board or commission; and
- (d) the conditions under which vacancies in membership shall occur automatically; and
- (e) the qualifications for appointment to such board or commission; and
- (f) such other matters as may be necessary, in the judgment of the Council, to enable the commission to perform its assigned functions.

Section 1102. Appropriation of Funds.

The City Council in its annual budget shall include an appropriation of funds for each board or commission, in such amounts as it deems adequate for the performance of the functions assigned to such bodies.

Section 1103. Appointment and Removal of Members.

Members of all commissions and boards of the City shall be appointed by the City Council and shall serve at the pleasure of said City Council. Such appointments shall be made, by resolution, adopted by the affirmative votes of not less than three (3) members of the City Council. Any member of a board or commission may be removed, with or without cause, at any time by the affirmative vote of three (3) members of the City Council.

Any vacancy on any board or commission, from whatever cause arising, shall be filled by resolution, carried by not less than three (3) affirmative votes of the City Council. Upon a vacancy occurring leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term.

Section 1104. Meetings. Conduct of.

The meetings and acts of all commissions and boards, and members thereof, of the City, shall be conducted and taken in accordance with the provisions of the "Brown Act". Each board or commission may adopt, by

resolution, rules for the conduct of its meetings, a copy of which shall be filed with the City Clerk.

Section 1105. Compensation. Expenses.

The City Council, by resolution, may provide for reimbursement for expenses and insurance coverage of board or commission members.

Section 1106. Secretary, Records.

The City Manager shall provide the secretarial services for each board or commission. The City Manager shall insure the adequate preparation of the minutes of board or commission meetings and shall maintain permanent files containing copies of the minutes as approved by each such board or commission, and other records relating thereto.

Section 1107. Existing Commissions.

Members of existing boards and commissions holding office as such, as of the effective date of this Charter, shall continue to hold such office thereafter until their respective terms shall expire and their successors shall be appointed and qualified or until they have been removed as set forth herein.

Article XII

Violations—Validity

Section 1200. Violations.

The violation of any provision of this Charter shall be deemed a misdemeanor and be punishable upon conviction by a fine of not exceeding \$500.00 or by imprisonment for a term of not exceeding six (6) months, or by both such fine and imprisonment.

Section 1201. Validity.

If any provision of this Charter, or the application thereof to any person or circumstance, is held judicially invalid, the remainder of the Charter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Certified to be a true copy by Pat S. Miranda, Mayor, and Margaret S. Barbosa, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 39—City of Piedmont

Amendments to the Charter of the City of Piedmont

[Filed with Secretary of State December 20, 1976.]

Section 47, Article 4, is amended to read as follows:

Article 4. There shall be paid to the fund of the City of Piedmont such sums as may be determined by the City Council of the City of Piedmont from time to time by tax levy or otherwise and the City Council, if necessary, shall levy a tax to provide extra revenue for maintaining such pension fund.

Each member shall pay to the fund a monthly payment of a sum equal

to nine (9) percent of the salary of said member, which payment shall be deducted from the monthly salary of said member, and each member shall be deemed to consent and agree to such deduction.

The city shall pay to such fund each year an amount of money which, in the aggregate shall equal the total of 15.23% of said member's salaries for each said year until July 1, 1957 and thereafter in accordance with the provisions hereinafter set forth, irrespective of whether any portion of such deductions from said salaries shall have been paid from said fund to any member, his heirs, representatives, or nominees, pursuant to any provisions of this section 47.

Interest earned and received on cash balances and income on investments shall be paid into the fund.

The board shall be empowered and authorized to receive and accept all donations, gifts or bequests for said fund, and any and all fines imposed upon any member or members for the violation of any rules and regulations shall be paid into said fund.

The City Council shall obtain an actuarial study of the actuarial solvency of the fund, which study shall be conducted by accredited actuarial consultants as of March 1, 1957 and as of March 1, of every fourth year thereafter and at such additional time or times the Council shall deem necessary.

The City Council shall adjust the City of Piedmont's percentage of salary contribution on July 1, 1957 and on July 1, of every fourth year thereafter in order to assure adequate funding in accordance with the actuarial study herein referred to.

There shall be levied and collected at the time and place and in the same manner as other property taxes for municipal purposes are levied and collected, if no other provision for payment is made, a tax sufficient to meet all the obligations of the city for the creation, establishment, and maintenance of the pension plan herein provided for, which tax shall not be subject to any limitation or provision of section 37 of this Charter as the same now exists or may hereafter be amended.

Section 47, Article 6, is amended to read as follows:

Article 6. Whenever a member shall lose his life due to an injury, disability or disease caused by and received in the course of his employment and in the performance of his duty, then upon satisfactory proof of such facts made to it, said board shall order and direct a sum equal to 50 percent of the sum provided for in the last paragraph of this article, said sum to be paid monthly from said fund, and not otherwise, to the widow of said deceased member as long as she lives, or until she shall earlier remarry.

Should said deceased member leave no widow but should leave an orphan child or children under the age of 18 years, or should the deceased member leave a widow and child or children under the age of eighteen (18) years and the widow die without remarrying while such child or children are yet under the age of eighteen (18) years, said monthly amount shall be paid to such child or children who are under the age of eighteen (18) years and such payment shall continue until the youngest child shall receive any payment after attaining the age of eighteen (18) years or after marrying before attaining the age of eighteen (18) years.

Whenever a member, as a result of accident, injury, disability or disease, directly caused by and received in the course of employment and in the performance of his duty, is sufficiently disabled that he is no longer able to perform his regular duties, then upon satisfactory proof of such fact made to it, the board shall order and direct that such member be paid from the fund a monthly sum sufficient to make up the difference between the workman's compensation and social security payments to which such member is otherwise entitled, and the monthly salary he was receiving at the time of his disability, such monthly sum to be paid for a period not to exceed one year or for such lesser time as such member's disability shall continue, and if such period of disability extends beyond one year, then the board shall order and direct the monthly payment from the pension fund to such member of an amount equal to 50 percent of the sum provided for in the last paragraph of this article said payments to continue until such member's disability terminates or until such member's death; provided, however, that should the city continue to pay the salary of such disabled member during the period of disability and at a time during which the pension plan should be making payments to such member, the city, rather than the disabled member, shall receive from the pension fund such payments as the disabled member would have otherwise been entitled to receive from the fund during such period that the city continues to pay such disabled member's salary; provided, further, that should such period of disability extend beyond one year, and, at such time such disabled member shall have accrued sick leave due him from the city, then such disabled member shall first be restored to full salary by the city during a period equal to his accrued sick leave, and only thereafter shall he be paid the 50 percent monthly pension from the pension fund as hereinabove provided.

Upon the death of a member who is receiving monthly disability pension payments from the pension fund pursuant to this article, his widow, as defined in article 12, shall receive from the fund so long as she shall live, or until she shall earlier remarry, a monthly pension equal to 25 percent of the sum provided for in the last paragraph of this article.

All payments set forth in this Article 6 shall be subject to the deductions set forth in Article 9 of this Section 47.

In the event the board shall order payments under this Article 6, whether because of death or because of disability which extends beyond one year, if at the time of such death, accident, injury, disability or disease the member has in excess of twenty-five (25) years of active service, the monthly sum to be paid out shall, instead of being 50 percent of the sum provided for in the last paragraph of the article, be computed upon the following percentages of the monthly salary as set forth in the last paragraph of this article:

<u>Years of Active Service</u>	<u>Percentage of Amount of the Monthly Salary</u>
26	53.33
27	56.67
28	60.00
29	63.33
30 or over	66.66

The sum to which reference is hereinabove made is the average monthly salary received by such member during the period of twelve months immediately preceding the date of the death, accident, injury, disability or disease of such member provided, however, that if such member has advanced in rank at any time during the three (3) years preceding such last-mentioned date, the sum to which reference is hereinabove made shall be equal to the following fraction:

The sum of the current monthly salary paid by the city on such date for each rank held by such member during the preceding thirty-six (36) months with each salary multiplied by the number of months during which each such rank was held in said thirty-six (36) month period, divided by thirty-six (36).

Section 47, Article 10, is amended to read as follows:

Article 10. Whenever any member is retired by the board as provided in Article 5 he shall receive from the fund for the remainder of his life a monthly pension in a sum equal to one-half of the average monthly salary received by such member during the period of twelve months immediately preceding the date of his retirement; provided, however, that if said member has advanced in rank at any time during the three (3) years preceding the date of his retirement his monthly pension shall be a sum equal to one-half of the following fraction: The sum of the current monthly salary paid by the city on the date of retirement for each rank held by said member during the preceding thirty-six (36) months with each such salary multiplied by the number of months during which each such rank was held in said thirty-six (36) month period, divided by thirty-six (36).

By way of illustration, the fraction is as follows:

Current salary for A rank multiplied by X months, plus

Current salary for B rank multiplied by Y months, plus

Current salary for C rank multiplied by Z months;

Divided by thirty-six (36),

Where A, B, and C are the ranks held by said member during the said thirty-six (36) month period, and X plus Y plus Z equals thirty-six (36). In the event such member remains in service after reaching normal retirement age (having been in active service for twenty-five (25) years and having attained the age of 55 years) the contributions of both the member and the City of Piedmont shall continue until the employee is actually retired from active service, and his pension shall be based upon his average monthly salary for the last twelve months of active service by such member; unless he was advanced in rank during the thirty-six month period immediately preceding his retirement in which case the amount of such pension shall be computed as provided in the fraction set forth above.

If a member who is retired by the board hereunder has in excess of twenty-five (25) years of active service, such member shall receive a monthly pension computed upon the following percentages of average monthly salary:

<u>Years of Active Service</u>	<u>Percentage of Amount of Average Monthly Salary</u>
26	53.33
27	56.67
28	60.00
29	63.33
30 or over	66.66

Upon the death of a retired member who is receiving a monthly pension from the fund, his widow, as defined in article 12, shall receive from the fund, so long as she shall remain unmarried and until her death, a monthly pension in a sum equal to one-half of the monthly pension to be received by the member as hereinabove set forth in this article.

Subject to such conditions as the pension board may prescribe at the time any member is retired by the board, as provided in article 5, he shall have the option of electing a joint and survivor pension with someone other than his wife in lieu of the individual retirement pension as set forth in the first paragraph above. In the event a member elects to receive a joint and survivor pension such pension shall have the same actuarial value as the individual pension and shall provide for monthly payments to the survivor (joint annuitant) of the member for the remainder of such survivor's life in accordance with such actuarial value. Furthermore, in such event, the wife of the member, if any, must consent to such election.

Section 47, Article 11, is amended to read as follows:

Article 11. In the event a member has completed five (5) or more years of service regardless of age, such member becomes totally and permanently disabled due to non-occupational bodily injury or disease, excluding self-inflicted injury or attempt at suicide, the pension plan shall provide a pension for such member commencing at the time of disability and such pension shall be a sum computed as follows: If the member has completed between five (5) and 18.51 years of service, the pension shall equal 1.8% of monthly salary at the time of disability multiplied by years of service, but in no case shall such pension exceed 33 $\frac{1}{3}$ % of monthly salary at the time of disability; if the member has completed 18.52 or more years of service, the pension shall equal 1.8% of monthly salary at the time of disability multiplied by years of service. In the event a member ceases to be totally and permanently disabled as set forth in this Article 11, the pension provided hereunder shall cease immediately.

The term "total and permanent disability", as used in this section, is defined as incapacity of the member resulting from bodily injury or disease which prevents him from performing substantially all of the work pertaining to his occupation or any other occupation for which he is or may be suited by education, training or experience.

Section 47, Article 16, is added to read as follows:

Article 16. As of April 1 of each year the computation of the monthly pension benefit of each retired member shall be adjusted to reflect the change, if any, whether an increase or a decrease, in the California consumer price index from March of the prior year to March of the year in

which the adjustment is made. The "California Consumer Price Index" as used herein is an index stated as the average of the separate annual consumer price indexes for the Los Angeles-Long Beach area and the San Francisco-Oakland area published by the Bureau of Labor Statistics of the United States Department of Labor. Should the reference base of said consumer price indexes (presently 1957-59=100) be changed, each of said indexes used to determine the consumer price index as defined in this section will be the indexes converted to the new base by standard statistical methods. The adjustment is subject to the following limitations:

A. No adjustment will be made in years for which the adjustment to the member's base pension benefit would be less than one (1) percent. "Base Pension Benefit" is the member's monthly pension benefit minus accumulated cost of living increases already granted.

B. Monthly pension benefits for a member may not be reduced below the base pension benefit of such member.

C. Adjustments will commence in the second calendar year following the year of retirement and may not exceed two (2) percent per year, compounded from the base year. The "Base Year" is the year of retirement.

D. Adjustments shall apply to all members and beneficiaries receiving a monthly pension benefit from the fund, whose retirement or pension benefit commenced after the date this Article 16 becomes effective.

E. The member does not have to apply for these increases; they are calculated and granted automatically, and appear when applicable, in the May 1st pension benefit payment.

Section 47, Article 17, is added to read as follows:

Article 17. All actuarial calculations regarding the pension fund created by Section 47 of the Charter of the City of Piedmont, particularly including those set forth in Article 4 hereof, shall be computed on a 30 year prior service funding basis.

Certified to be a true copy by Peg Rouse, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 40—City of Long Beach

Amendments to the Charter of the City of Long Beach

[Filed with Secretary of State December 20, 1976]

Section 49 is amended to read as follows:

Provision for General Municipal Election

Sec. 49. Candidates for elective offices, except for the offices of members of the City Council, shall be voted for by the electorate at large. Candidates for the offices of members of the City Council shall be voted for by the electorate of the respective District to be represented. In the event that no candidate for nomination to an elective office receives a

majority of the votes cast for all candidates for nomination to such office at any primary nominating election, the two candidates receiving the highest number of votes for any given office at the primary nominating election shall be the candidates and the only candidates for such office whose names shall be printed upon the ballots to be used at the general municipal election.

Section 50 is amended to read as follows:

Majority Vote at Primary Election

Sec. 50. In the event that any candidate for nomination to an elective office shall receive a majority of the votes cast for all the candidates for nomination to such office at any primary nominating election, the candidate so receiving such majority of votes shall be deemed to be and declared by the City Council to be elected to such office.

Section 53 is amended to read as follows:

General Municipal Election Result

Sec. 53. The candidate who shall receive the highest number of votes in the general municipal election for his respective office shall be deemed to be and declared by the City Council to be elected to such office.

Article XVII is amended by deleting the title words "Department of Public Welfare."

Section 189 is repealed.

Certified to be a true copy by Thomas J. Clark, Mayor, and Elaine Hamilton, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 41—County of Sacramento

Amendment to the Charter of the County of Sacramento

[Filed with Secretary of State December 21, 1976.]

Section 7 is amended to read as follows:

Section 7. (a) Whenever a vacancy occurs on the board of supervisors it shall be filled by election as provided in this section.

(b) For the purpose of this section a vacancy occurs whenever an incumbent files a resignation with the clerk of the board, dies, or becomes ineligible to hold the office for any reason. A resignation, once filed, may not be withdrawn. For the purpose of electing a successor pursuant to this section, a resignation shall be deemed to cause a vacancy immediately on the date the resignation is filed, irrespective of whether a deferred effective date is specified in the resignation. Any such deferred effective date shall not be later than the 60th day following the date on which the resignation is filed. If a later date is specified, the resignation shall be deemed to be effective on the 60th day after the resignation is filed.

(c) If a vacancy occurs prior to the 60th day preceding the primary

election for the succeeding four-year term of office in which the vacancy occurs, the vacancy shall be filled by a special election as provided in this subdivision. Within ten days after the vacancy occurs the registrar of voters shall select and announce a date for a special primary election and a date for a special run-off election to be used if a run-off election is necessary. The registrar of voters shall also select and announce a final filing date for filing to be a candidate, which date shall provide for at least ten days advance notice thereof.

The election dates selected shall be the earliest administratively feasible dates available; provided, that the date for the special primary election shall not be more than 60 days after the vacancy occurs and the special run-off election date shall not be more than 28 days after the special primary election date. Except as provided in this subdivision, the special election shall be conducted in accordance with state law applicable to regular supervisorial elections.

If a candidate receives a majority of the votes cast at the special primary election, that candidate shall be elected for the remainder of the term of office. If no candidate receives a majority of the votes, the names of the two candidates receiving the most votes shall be placed on the ballot for the special run-off election at which the candidate receiving the most votes shall be deemed elected for the remainder of the term of office.

(d) If subdivision (c) is not applicable to the vacancy and the vacancy occurs after the current incumbent has been re-elected at either the regular June primary or the November run-off election for the succeeding four-year term of office, a special election shall be held in the same manner as provided in subdivision (c). The person elected at such special election shall be deemed elected for both the remainder of the current unexpired term, if any, and the succeeding four-year term.

(e) If subdivision (c) or (d) does not apply and a candidate for the succeeding four-year term of office receives a majority of the votes cast at the regular June primary election, that candidate shall be deemed elected for both the remainder of the current unexpired term and the succeeding four-year term.

(f) If subdivision (c), (d) or (e) does not apply and no candidate for election to the succeeding four-year term of office receives a majority of votes at the regular June primary election:

(1) If the vacancy occurs on or after the 90th day preceding the regular November run-off election, the person who receives a majority of votes cast at the regular November run-off election shall be deemed elected for both the remainder of the current unexpired term and the succeeding four-year term.

(2) If the vacancy occurs more than 90 days preceding the regular November run-off election, the registrar of voters shall, within ten days after the vacancy occurs, select and announce a date for a special run-off election. The special run-off election date shall be the earliest administratively feasible date which is not less than 30 days nor more than 90 days following the occurrence of the vacancy. The only candidates in the special run-off election shall be the two candidates who received the most votes at the regular June primary election for the succeeding four-year

term. The candidate who receives a majority of the votes cast at the special run-off election shall be deemed elected for both the remainder of the current unexpired term and the succeeding four-year term.

Certified to be a true copy by P. E. Melarkey, Chairman of the Board of Supervisors, and Betty D. Poohar, Clerk of the Board of Supervisors.
Date of municipal election: November 2, 1976.

Charter Chapter 42—City of Sunnyvale

Amendments to the Charter of the City of Sunnyvale

[Filed with Secretary of State December 21 1976]

Article VI is amended to read as follows:

Article VI

The Council

Section 600. Elective Officers of the City. The elective officers of the City shall consist of a City Council composed of seven members.

Section 601. Term and Election. Each member of the City Council shall be elected from the City at large at the General Municipal Election for a term of four years from and after the Tuesday next following the member's election, and until a successor is elected and qualified. The term of each Councilmember in office at the adoption of this amendment, or at the time of any change in the date for the election of governing board members of elementary school districts, shall be increased or decreased to the extent necessary to allow the General Municipal Election at which the seat occupied by such Councilmember is to be filled, to be held concurrently with such school district election.

The office of each member of the Council is a separate elective office to be separately filled at any election.

No person shall be a candidate for more than one elective office.

No incumbent member of the Council shall be a candidate for a Council seat other than the one which that person then holds.

No person shall be eligible to serve as a member of the Council for more than two (2) successive four-year elective terms. Any person who fills an unexpired term of not more than two years in length shall, however, be eligible to serve two (2) successive four-year elective terms after the expiration of the unexpired term which he/she filled.

The person receiving the highest number of all the votes cast for a particular elective office at any election shall be deemed and declared elected to that office.

Each Council seat shall be designated by a number from 1 through 7 and shall be known as "Councilmember Seat Number ____". The designation given to each elective office shall be used in all elections, nomination papers, certificates of election, and all other papers pertaining to such office, and to designate the incumbent of such office.

Seats numbered 1, 2, and 3 shall be filled at the General Municipal Election held in the year 1977 and every fourth year thereafter. Seats numbered 4, 5, 6, and 7 shall be filled at the General Municipal Election held in the year 1979 and every fourth year thereafter.

Section 602. Qualifications. No person shall be eligible to hold office as a member of the City Council unless he/she shall be a qualified elector of the City at the time of his/her nomination or appointment.

Section 603. Compensation. In addition to reimbursement for necessary traveling and other expenses actually incurred when on official duty in or out of the City on order of the City Council, each member of the City Council shall receive as salary, each month, the sum of \$200 per month, and the Mayor shall receive as salary, each month, the sum of \$300 per month, respectively. If a member of the City Council, or the Mayor, does not attend all meetings of the City Council or study sessions called on order of the City Council and held during the month, his/her salary for such month shall be reduced by the sum of \$25 for each meeting or study session not attended unless he/she is absent on official duty with the consent of or on order of the City Council.

Section 604. Vacancies. Except as otherwise provided herein, in the event of a vacancy in the City Council from whatever cause arising, the City Council shall call a Special Municipal Election for the purpose of filling such vacancy. In the event of a vacancy in the City Council created by the death of a member, where the unexpired term of the deceased member does not exceed one hundred and eighty (180) days, the City Council shall, within 60 days after such office shall have been declared vacant, fill such vacancy by appointment. Should the Council fail to fill the vacancy within the 60-day period, it shall treat such vacancy in the same manner as one created by a cause other than death.

Any Special Municipal Election called to fill an unexpired term shall be held within one hundred and twenty (120) days from the date the Council declares the vacancy to exist. The Council shall promptly declare or take the required steps to declare the existence of the vacancy. Such special election shall be consolidated with a general municipal or statewide election if a municipal or statewide election is scheduled within one hundred and eighty (180) days from the date that the vacancy is declared. As used herein, the next general municipal or statewide election means the next such election at which it is legally possible to place the matter on the ballot and elect a successor.

Any person elected or appointed to fill a vacancy shall serve for the remainder of the unexpired term and until his/her successor is elected and qualified.

In addition to any other cause from which vacancies in the City Council may occur, the office of a member of the City Council shall become vacant and it shall be so declared by the Council where such member is absent from all regular meetings of the Council for a period of sixty (60) days consecutively from and after the last regular Council meeting attended by such member, unless by permission of the Council expressed in its official minutes; or such member is convicted of a crime involving moral turpitude; or he/she ceases to be an elector of the City of Sunnyvale.

Section 605. Presiding Officer. Mayor. The City Council shall select one of its members as its presiding officer, who shall have the title of Mayor. The Mayor shall have a voice and vote in all its proceedings. He/she shall be the official head of the City for all ceremonial purposes. He/she shall perform such other duties as may be prescribed by this Charter or as may be imposed by the City Council consistent with his/her office. The Mayor shall serve in such capacity at the pleasure of the City Council.

Section 606. Mayor Pro Tempore. The City Council shall also designate one of its members as Mayor Pro Tempore. The Mayor Pro Tempore shall perform the duties of the Mayor during his/her absence or disability.

Section 607. Powers. All powers of the City shall be vested in the City Council, subject to the provisions of the Charter and to the Constitution of the State of California.

Section 608. Regular Meetings. The City Council shall hold regular meetings at least twice each month, at such times as it shall fix by ordinance or resolution and may adjourn or readjourn any regular meeting to a date certain, which shall be specified in the order of adjournment and when so adjourned, each adjourned meeting shall be a regular meeting for all purposes.

Section 609. Special Meetings. Special meetings may be called at any time by the Mayor, or by four members of the City Council by written notice delivered personally or by mail to each member at least twenty-four hours before the time specified for the proposed meeting, and to each local newspaper of general circulation, radio or television station requesting notice in writing. The call and notice shall specify the time and place of the meeting if held at other than the location specified in Section 610. A special meeting shall also be validly called, without the giving of such written notice to the members, if all members shall give their consent, in writing, to the holding of such meeting and such consent is on file in the office of the City Clerk at the time of holding such meeting. A telegraphic communication from a member consenting to the holding of a meeting shall be considered a consent in writing. At any special meeting only such matters may be considered as are referred to in such written notice or consent.

Section 610. Place of Meetings. All meetings shall be convened in the Council Chambers of the City Hall but may be thereafter adjourned to such other location as may be selected by the City Council. All meetings of the City Council shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the Mayor, or, if he/she should fail to act, by four members of the City Council.

Section 611. Quorum. A majority of the members of the City Council shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time.

Section 612. Election and Qualification of Council Members. The City Council shall judge the qualifications of its members as required by the Charter and shall judge all election returns.

Section 613. Proceedings. The City Council shall establish rules for the conduct of its proceedings and punish any member or other person for disorderly conduct at any meetings. It shall have the power and authority to compel the attendance of witnesses, to examine them under oath, and to compel the production of evidence before it. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor.

The City Council shall direct the City Clerk to cause the publication, in a newspaper of general circulation in the City of Sunnyvale, of items listed on the agenda prepared for regular meetings of the City Council which the City Clerk shall deem of significance or of interest to the residents of Sunnyvale. In addition, the City Clerk shall be directed to furnish the City Library with at least two (2) sets of packets containing materials in support of agenda items at the same time that such materials are made available to the members of the City Council; confidential or otherwise privileged materials shall be excluded therefrom.

The City Council shall cause the City Clerk to keep an accurate record of all its proceedings and, at the demand of any member, or upon the adoption of any ordinance or resolution for the payment of money, the City Clerk shall call the roll and shall cause the "ayes" and "noes" taken on any question, to be entered in the minutes of the meeting. In any event, the City Clerk shall keep such records and shall make such entries into the minutes of the meetings necessary for publication in accordance with the provisions set forth below.

The City Council shall direct the City Clerk to cause the publication, in a newspaper of general circulation in the City of Sunnyvale, of the minutes of the regular and special meetings of the City Council or of the digest of those actions taken at such meetings which the City Clerk shall deem of significance or of interest to the residents of Sunnyvale, excepting therefrom matters which may not be disclosed as a result of recognized legal privileges.

Such publication shall occur within a reasonable time after such meetings. The minutes or the digest of the actions taken, as hereinabove described, shall include but not be limited to a description of the items of the agenda acted upon in sufficient detail to inform the public of the nature of the action taken, the vote on such items and the names of the members of the Council voting for or against each item. Absences, together with abstentions and the reasons therefor shall also be published.

Article VII is amended to read as follows:

Article VII

Ordinances and Legal Notices

Section 700. Adoption of Ordinances and Resolutions. With the sole exception of ordinances which take effect upon adoption, hereinafter referred to, no ordinance shall be adopted by the City Council on the day of its introduction, nor within five days thereafter nor at any time other than at a regular or adjourned regular meeting. At the time of adoption of an ordinance or resolution it shall be read in full, unless after the reading

of the title thereof, the further reading thereof is waived by unanimous consent of the Councilmembers present. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a regular or adjourned regular meeting, held not less than five days after the date upon which such ordinance was so altered. The corrections of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting.

Unless a higher vote is required by the other provisions of this Charter, the affirmative votes of at least four members of the City Council shall be required for the enactment of any ordinance or resolution, or for the making or approving of any order for the payment of money.

Section 701. Emergency Ordinances. Any ordinance declared by the City Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five affirmative votes.

Section 702. Ordinances. Enactment. In addition to such acts of the City Council as are required by this Charter to be by ordinance, every act of the City Council establishing a fine or other penalty, or granting a franchise, shall be by ordinance.

The enacting clause of all ordinances shall be substantially as follows: "The City Council of the City of Sunnyside does ordain as follows:"

Section 703. Ordinances. Publication. The City Clerk shall cause each ordinance to be published at least once within fifteen days after its adoption in the official newspaper, or, as an alternative method of publication, the Council, in its discretion, may order copies of any ordinance to be posted in three prominent places in the City together with a single publication in such official newspaper of a notice setting forth the date of adoption, the title of the ordinance and a list of the places where copies of such ordinance are posted.

Section 704. Codification of Ordinances. Any or all ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the City Clerk prior to the adoption thereof. Ordinances codified shall be repealed as of the effective date of the code. Subsequent amendments to sections of the code shall be enacted in the same manner as herein required for the amendment of ordinances generally.

Detailed regulations pertaining to any subject such as the construction of building, plumbing, wiring or other subjects which require extensive regulations, after having been arranged as a comprehensive code, may likewise be adopted by reference in the manner hereinabove provided.

Section 705. Ordinances. When effective. No ordinance shall

become effective until thirty days from and after the date of its adoption, except the following, which shall take effect upon adoption:

- (a) An ordinance calling or otherwise relating to an election;
 - (b) An improvement proceeding ordinance adopted under some law or procedural ordinance;
 - (c) An ordinance declaring the amount of money necessary, to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property;
 - (d) An emergency ordinance adopted in the manner herein provided;
- or
- (e) An ordinance annexing areas to the City.

Section 706. Ordinances. Violation. Penalty. Violation of an ordinance of the City is a misdemeanor unless by ordinance it is made an infraction, and the penalty therefor shall be the same as established under general law for a misdemeanor or infraction, as the case may be. Violation of an ordinance of the City may be prosecuted in the name of the People of the State of California or may be redressed by civil action or both.

Section 707. Ordinances. Amendment. The amendment of any section or sections of an ordinance may be accomplished solely by the reenactment of such section or sections at length, as amended.

Section 708. Publishing of Legal Notices. The City Council, prior to the beginning of each fiscal year, shall publish a notice inviting bids and contract for the publication of all legal notices or other matter required to be published in a newspaper of general circulation circulated in the City of Sunnyvale during the ensuing fiscal year. The newspaper with which any such contract is made shall be designated as the official newspaper for the publication of such notices or other matter for the period of such contract. In no case shall the contract price charged for such publication exceed the customary rates charged by such newspaper for the publication of legal notices of a private character. The period of such contracts shall not exceed one year. Notwithstanding the foregoing, if it appears to the City Council that the rates offered are unfair, it need not designate such newspaper the official newspaper. Upon making a finding to such effect, or if publication of a newspaper which has been so designated is suspended, then legal notices, ordinances or other matter required to be published in the official newspaper may be published by posting copies thereof in at least three public places in the City. The places for posting of legal notices shall be fixed by ordinance of the City Council.

No defect or irregularity in proceedings taken under this section, or failure to designate an official newspaper, shall invalidate any publication where the same is otherwise in conformity with this Charter, or law, or ordinance.

Article VIII is amended to read as follows:

Article VIII
City Manager

Section 800. Appointment. The City Manager shall be chosen by the City Council on the basis of his/her executive and administrative qualifications, but need not be a resident of the City or State at the time of his/her

appointment, but he/she shall reside within the City during his/her tenure of office. No City Councilmember shall receive such an appointment during the term for which he/she shall have been elected, nor within two years thereafter.

Section 801. Compensation. The City Manager shall be paid a salary commensurate with his/her responsibilities as chief administrative officer of the City, which salary shall be established by ordinance or resolution.

Section 802. Powers and Duties. The City Manager shall be the chief executive officer and the head of the administrative branch of the City government. He/she shall be responsible to the City Council for the proper administration of all affairs of the City and to that end, subject to the personnel provisions of this Charter, he/she shall have power and shall be required to:

(1) Appoint and remove, subject to the Civil Service provisions of this Charter, all officers and employees of the City, except as otherwise provided by this Charter, and except as he/she may authorize the head of a department or office to appoint and remove subordinates in such department or office;

(2) Prepare the budget annually and submit it to the City Council and be responsible for its administration after adoption;

(3) Prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;

(4) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him/her desirable;

(5) Make investigations into the affairs of this City, or any department or division thereof, or any contract, or the proper performance of any obligation running to the City;

(6) Submit to the City Council, at each meeting for its approval, the list of all claims and bills approved for payment by him/her; and

(7) Perform such other duties as may be prescribed by this Charter or required of him/her by the City Council, not inconsistent with this Charter.

Section 803. Rules and Regulations. The City Manager may prescribe such general rules and regulations as he/she may deem necessary or expedient for the general conduct of the administrative offices and departments of the city under his/her jurisdiction.

Section 804. Manager Pro Tempore. The City Manager shall appoint, subject to the approval of the City Council, one of the other officers of the City to serve as Manager Pro Tempore during any temporary absence or disability of the City Manager.

Section 805. Participation in Council Action. The City Manager, and such other officers of the City as may be designated by the City Council, shall be accorded a seat at the City Council table and shall be entitled to participate in the deliberations of the City Council, but shall not have a vote.

Section 806. Removal of the City Manager. The City Council shall appoint the City Manager for an indefinite term and may remove him/her

by a majority vote of its members.

Section 807. Prohibition Against Councilmanic Interference. Neither the City Council nor any of its members shall order or request directly or indirectly the appointment of any person to an office or employment or his/her removal therefrom, by the City Manager, or by any of the department heads in the administrative service of the City. Neither the City Council nor any member shall give orders to any subordinates of the City Manager, either publicly or privately. The City Council and its members shall deal with officers and employees in the administrative service under the jurisdiction of the City Manager solely through the City Manager except:

(1) For a specific question from a member of the Council concerning a matter either pending before the Council or which the member intends to present to the Council, and which can be answered by furnishing routine information immediately available from the records of the officer or employee to whom it is directed, and which does not require the officer or employee either to discuss or express any opinion concerning any existing or proposed policy of the Council or the City Manager; or

(2) In connection with an investigation into the affairs of the City or the conduct of any City department or office which the City Council by the affirmative vote of at least four of its members has undertaken.

In order to conduct such an investigation, the Council may do any of the following:

(a) Instruct or grant permission to any one or more of its members to discuss with an officer or employee any matters which the member or members to whom permission is granted or who are so instructed believe to be pertinent or relevant to the subject of the investigation;

(b) Subpoena witnesses;

(c) Administer oaths;

(d) Take testimony; or

(e) Require the production of evidence.

Any City Councilmember violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, shall be guilty of wilful misconduct in office and shall be removed from office pursuant to procedures set forth under general law.

Section 1107 of Article XI is amended to read as follows:

Section 1107. Prohibitions. No person shall wilfully or corruptly make any false statement, certificate, mark, rating or report in regard to any application, test, certification, or appointment held or made under the personnel provision of this Charter or in any manner commit or attempt any fraud preventing the impartial execution of such personnel provisions or rules and regulations made hereunder.

Any person who by himself/herself or with others wilfully or corruptly violates any of the provisions of this Article shall be guilty of a misdemeanor and the penalty therefor shall be the same as established for misdemeanors under general law. Any person convicted hereunder shall be ineligible for a period of five years for employment in the City Service and shall, if he/she is an officer or employee of the City, immediately forfeit his/her office or position.

Section 1318 of Article XIII is amended to read as follows:

Section 1318. Independent Audit. At the beginning of each fiscal year, the City Council shall contract with a Certified Public Accountant who, at least quarterly, shall examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and of such other officers, employees, departments or agencies as the City Council may direct. At the end of the fiscal year, a final audit and report shall be submitted by such accountant to the City Council, one copy thereof to be distributed to each member, one to the City Manager, the designated representative of the City Manager, and City Attorney, respectively, and three additional copies to be placed on file in the Office of the City Clerk where they shall be available for inspection by the general public.

Article XVII is repealed.

Section 1801 of Article XVIII is amended to read as follows:

Section 1801. Charter Provisions. Violation. Penalty. Unless otherwise provided in this Charter, violation of any of its provisions is a misdemeanor and the penalty therefor shall be the same as established for misdemeanors under general law.

Certified to be a true copy by Donald S. Logan, Mayor, and John E. Dever, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 43—City of Alameda

Amendments to the Charter of the City of Alameda

[Filed with Secretary of State December 24, 1976.]

Section 2-5 is amended to read as follows:

Sec. 2-5. Every elected officer of the City and every officer appointed to a Board or Commission shall be a resident of the City during his tenure of office. Employees of the City, other than such officers, shall reside within the City, or within such distance of the City limits thereof as the Council may by ordinance prescribe.

Section 2-6.1 is added to read as follows:

Sec. 2-6.1. Two Councilmen, exclusive of the Mayor, shall be elected at every general municipal election. If for any reason two vacancies do not occur prior to the election, the term of the person receiving the lowest number of votes for councilman in the last general municipal election shall expire.

Section 2-14 is added to read as follows:

Sec. 2-14. No person shall be eligible for the office held by that person for two complete consecutive terms immediately prior to the term for which the person seeks election. This section shall not apply to the office of Auditor or Treasurer or prevent persons in office from completing their terms.

Certified to be a true copy by C. J. Corica, Mayor, and Ethel M. Pitt, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 44—City of San Bernardino

Amendments to the Charter of the City of San Bernardino

[Filed with Secretary of State December 27, 1976.]

Sections 13, 14, and 15 of Article II are amended to read as follows:

Section 13. There shall be elected at the general election in 1977, and every fourth year thereafter, three members of the Common Council, one each from the First, Second and Fourth Wards, who shall have been qualified electors and residents of their respective wards for a period of at least thirty (30) consecutive days next preceding the date of filing of their nomination papers for the office and who shall be elected by the qualified electors of their respective wards for terms of four years commencing on the first Monday in June next succeeding their elections.

Section 14. There shall be elected at its general election in 1975, and every fourth year thereafter, four members of the Common Council, one each from the Third, Fifth, Sixth and Seventh Wards, who shall have been qualified electors and residents of their respective wards for at least thirty (30) consecutive days next preceding the date of filing of their nomination papers for the office and who shall be elected by the qualified electors of their respective wards; a City Attorney, City Clerk and City Treasurer elected at large who shall hold office for terms of four years from and after the first Monday in June next succeeding their elections.

There shall be elected at the general election in 1977, and every fourth year thereafter, a Mayor who shall be elected at large for a term of four years commencing on the first Monday in June next succeeding such election.

Section 15. An office becomes vacant when the incumbent thereof dies, resigns, is adjudged insane, convicted of a felony or of any major offense involving a violation of his official duties, or is removed from office, or ceases, in the case of a councilman to be a resident of his ward, or, in the case of any other elected official to be a resident of the City, or refuses after notice from the Mayor and Common Council to qualify by taking the oath of office and filing his official bond.

Sections 80, 81, 82, 85, 86, and 87 of Article IV are repealed.

Section 281 of Article XII-A is repealed.

Sections 50 and 55 of Article IV are amended to read as follows:

Article IV

Executive Department

Mayor

Section 50. The Mayor shall be the Chief Executive Officer of the City

of San Bernardino and a citizen of the State of California who shall be at least thirty years of age and a resident and qualified elector of the City for a period of at least thirty (30) consecutive days next preceding the date of filing nomination papers for the office. The Mayor shall cause the strict enforcement of all laws and ordinances within his jurisdiction; shall vigilantly observe the official conduct of all public officers, and take notice of the fidelity and exactitude, or the want thereof, with which they execute their duties and obligations, especially in the collection, administration and disbursement of public funds and property. The books, records and official papers of all departments, boards, officers and persons in the employ or service of the City shall, at all times, be open to all persons for inspection and examination. The Mayor shall cause all the books and records of said departments, boards, officers and persons to be kept in legal and proper form. Any defalcation or willful neglect of duty or official misconduct which may be reported or discovered by the Mayor shall be laid before the Common Council in order that public interests may be protected and the person in default proceeded against according to law. The Mayor shall, from time to time, give the Common Council information in writing relative to the state of the City's municipal affairs and business, and shall recommend such measures as may be deemed beneficial.

The Mayor shall have the books and records of all public departments, pertaining to the finances of the City, experted by a competent person at least once in every year. Any person refusing to submit to, or permit such examination, or purposely delaying, or impeding the same, may be suspended from office by the Mayor and removed for malfeasance by the Mayor and Common Council. The Mayor shall have general supervision over all the departments and public institutions of the City; shall cause them to be honestly, economically and lawfully conducted; and shall take all proper measures for the preservation of public order and suppression of all riots and tumults.

City Attorney

Section 55.

* * * * *

(b) To be eligible to hold the office of City Attorney, the person elected or appointed shall 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 his election or appointment, and shall have been a resident and elector of the City for a period of at least thirty (30) consecutive days next preceding the appointment or the filing of nomination papers for election to the office.

* * * * *

Section 235 of Article XIII is amended to read as follows:

Section 235. The City Clerk and City Treasurer shall have been qualified electors and residents of the City for a period of at least thirty (30) consecutive days prior to their appointment or filing of their nomination papers for election to office.

Certified to be a true copy by W. R. Holcomb, Mayor, and Lucille Goforth, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 45—City of Anaheim

Amendments to the Charter of the City of Anaheim

[Filed with Secretary of State December 27, 1976]

Article V, Section 501, is amended to read as follows:

Section 501. Eligibility

No person shall be eligible to hold office as a member of the City Council unless he is and shall have been a resident and qualified elector of the City for at least one (1) year next preceding the date of his election or appointment.

Article VII, Section 703, is amended to read as follows:

Section 703. City Attorney. Powers and Duties

To become and remain eligible for City Attorney the person appointed shall 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 three years prior to his appointment. The City Attorney shall have the power and may be required to:

(a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.

(b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or of City ordinances and such state misdemeanors as the City has the power to prosecute, unless otherwise provided by the City Council.

(c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all civil actions or proceedings in which such officer or employee is concerned or is a party for any act arising out of his employment or by reason of his official capacity.

(d) Attend all regular meetings of the City Council, unless excused, and give his advise or opinion orally or in writing whenever requested to do so by the City Council or by any of the boards or officers of the City.

(e) Approve the form of all contracts made by and all bonds given to the City, endorsing his approval thereon in writing.

(f) Prepare any and all proposed ordinances and City Council resolutions and amendments thereto.

(g) Devote entire time to the duties of the office.

Article XII is amended by adding Section 1221 to read as follows:

Section 1221. Utility Rates

The City Council shall establish rates, rules and regulations for the water and electrical utilities. The rates shall be based upon cost of service and

shall be sufficient to pay:

- (a) For operations and maintenance of the system.
- (b) For payment of principal and interest on debt.
- (c) For creation and maintenance of financial reserves adequate to assure debt service on bonds outstanding.
- (d) For capital construction of new facilities and improvement of existing facilities, or maintenance of a reserve fund for that purpose.
- (e) For payments to the general fund of the City (exclusive of those amounts paid pursuant to subsection (a) of this Section 1221), in the first, second and third fiscal years following the adoption of this Section 1221 as follows:

first year—an amount equal to, or less than eight percent (8%) of the gross revenue earned by the Utility during the previous fiscal year.

second year—an amount equal to, or less than six percent (6%) of the gross revenue earned by the Utility during the previous fiscal year.

third year and each succeeding year—an amount equal to, or less than four percent (4%) of the gross revenue earned by the Utility during the previous fiscal year.

Rates shall be reviewed by the City Council periodically to insure that financial goals are being accomplished.

Rates shall be uniform for all consumers within the same class and shall be based on cost of service for the class; but different rate schedules may be applied to different classes of consumers. Notwithstanding the foregoing, "lifeline" rates may be established, which in the judgment of the City Council will provide the minimum quantities of water and electricity needed to maintain an acceptable standard of living, at rates not necessarily based on cost of service.

Article XII, Section 1211, is amended to read as follows:

Section 1211. Contracts on Public Works

Except as hereinafter expressly provided, every contract involving an expenditure in excess of an amount as specified in Title 4, Division 3, Chapter 6 of the Government Code of California as amended from time to time, for the construction or improvement (excluding maintenance and repair) of public buildings, works, streets, drains, sewers, utilities, parks and playgrounds, and each separate purchase of materials or supplies for the same, where the expenditure required for such purchase shall exceed the sum as specified in Title 4, Division 3, Chapter 6 of the Government Code of California, as amended from time to time, shall be let to the lowest and best responsible bidder after notice by publication in the official newspaper by two or more insertions, the first of which shall be at least ten days before the time for opening bids.

The City Council may reject any and all bids presented and may readvertise in its discretion. After rejecting bids, or if no bids are received, or without advertising for bids if the total amount of the contract or project is less than Ten Thousand Dollars (\$10,000.00), the City Council may declare and determine that in its opinion, the work in question may be performed better or more economically by the City with its own employees, or that the materials or supplies may be purchased at a lower price in the open market, and after the adoption of a resolution to this

effect by the affirmative votes of a majority of the total members of the City Council, it may proceed to have said work done or such materials or supplies purchased in the manner stated without further observance of the provisions of this Section. Such contracts may be let and such purchases made without advertising for bids if such work or the purchase of such materials or supplies shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by the affirmative votes of at least two-thirds of the total members of the City Council.

Projects for the extension, replacement or expansion of the transmission or distribution system of any existing public utility operated by the City or for the purchase of supplies or equipment for any such project or any such utility may be excepted from the requirements of this Section by the affirmative vote of a majority of the total members of the City Council.

Certified to be a true copy by W. J. BillThom, Mayor, and Linda D. Roberts, City Clerk.

Date of municipal election: November 2, 1976.

Charter Chapter 46—City of Burbank

Amendment to the Charter of the City of Burbank

[Filed with Secretary of State December 29, 1976.]

Section 58 is amended to read as follows:

Section 58. Newspaper Advertising.

The publication of all ordinances and other legal notices shall be made in a newspaper of general circulation published in the County of Los Angeles which has a substantial distribution to paid subscribers in the City, unless otherwise required by law.

Certified to be a true copy by Leland C. Ayers, Mayor, and Evelyn L. Haley, City Clerk.

Date of municipal election: November 2, 1976.