

CHARTER APPROVAL

Assembly Concurrent Resolution No. 3, Relative to Approving Charter of the City of Bakersfield, County of Kern, State of California, Voted for and Ratified by the Qualified Voters of Said City at a Special Municipal Election Held Therein for That Purpose on the Seventh Day of November, 1914.

Whereas, The City of Bakersfield, a municipal corporation of the County of Kern, State of California, now is and was at all times herein referred to, a city containing a population of more than three thousand five hundred inhabitants, as ascertained and established by the census of 1910 taken under the direction of Congress of the United States; and

Whereas, At a special election duly held in said City of the fifth day of May, 1914, under and in accordance with the law and the provisions of section 8, article XI, of the Constitution of the State of California, a board of fifteen freeholders, duly qualified, was elected in and by said City by the qualified electors then propose a charter for the government of said City; and

Whereas, Said board of freeholders did, within one hundred and twenty days after the result of said election was declared, prepare and propose a charter for the government of the City of Bakersfield; and

Whereas, Said charter was on the 31st day of August 1914, signed in duplicate by a majority of said board of freeholders, and was thereupon duly returned and filed, one copy with the City clerk of the said City of Bakersfield, and the other copy with the County Recorder of the County of Kern; and

Whereas, Said proposed charter was thereafter published ten times in The Bakersfield Californian daily newspaper of general circulation, printed, published and circulated in the City of Bakersfield on the following days or publication, to wit: September 17, 18, 19, 21, 22, 23, 24, 25, 26, and 28; the first publication thereof having been made within fifteen days after the filing of the copy thereof on the third day of September, 1914, in the office of said City Clerk; and;

Whereas, Said proposed charter was, not less than twenty days nor more than forty days after the completion of said publication, to wit: on the seventh day of November 1914, submitted by the board of trustees of the City of Bakersfield to the qualified electors of said City at a special election duly called and held therein; and

Whereas, At said last mentioned special election a majority of the qualified electors of said City, voting at said special election, voted in favor of and duly ratified said charter as proposed as a whole; and

Whereas, Said board of trustees. after canvassing the return of said last mentioned special election, duly found and declared that a majority of said qualified electors voting at said special election had voted for, and ratified said charter as above specified; and

Whereas, Said charter was ratified in the words and figures following, to-wit:

ARTICLE I.

Name of Boundaries

Name of City Section 1.

The inhabitants of the City of Bakersfield, as its limits now are, or may hereafter be established, shall be a body politic and corporate, by name the City of Bakersfield, and as such shall have perpetual succession.

Boundaries of City of Bakersfield Section 2.

The boundaries of the City of Bakersfield shall be established from time to time by ordinance. (Amended March 3, 1981)

ARTICLE II.

Political Subdivisions

Ward Divisions Section 3.

The City of Bakersfield shall be divided into seven political subdivisions which shall be known as wards and shall be established by ordinance and altered from time to time to reflect as nearly as possible equal population. (Amended March 3, 1981)

(Sections 4 thru 10 were repealed on March 3, 1981).

Voting Precincts Section 11.

The Council shall establish voting precincts under the provision of state law, but each shall be wholly in one ward, nor shall the boundaries of a precinct be changed within twenty days before election. (Amended April 19, 1935)

Altering Ward Boundaries Section 11.1.

In addition to the methods provided by State law for alteration of City wards upon annexation of territory to the City or otherwise, the Council shall, by ordinance, from time to time alter the boundaries of the respective wards in order that each ward shall contain, as nearly as possible, equal population therein, based upon the latest Federal decennial census. The Council may, by ordinance, from time to time alter the boundaries of the respective wards in order that each ward shall contain, as nearly as possible, equal population therein, based upon the Federal mid-decade census. (Amended March 3, 1981)

ARTICLE III.

Legislative Department

Rights and Liabilities Section 12.

The City may use a corporate seal; may sue and be sued; may acquire property in fee simple or lessor interest, by estate, purchase, gift, appropriation, devise, lease, lease with privilege to purchase, for any municipal purpose; may sell, lease, hold, manage and control such property; may make any and all rules and regulations, to carry out all covenants or conditions of any conveyance, deed, gift, bequest or lease; may acquire, construct, own, lease, operate and regulate public utilities, may engage in the manufacture, sale or distribution of any commodity generally used by the inhabitants of the City of Bakersfield; may assess, levy and collect taxes and provide penalties for non-payment thereof, for general and special purposes, on all subjects or objects which the City may lawfully tax; may enforce the lien of taxes and penalties against property, for taxes assessed and levied thereon, by sale thereof; may borrow money on the faith and credit of the City, by sale of bonds or notes of the City; may appropriate the money of the City for all lawful purposes; may create, provide for, construct, regulate and maintain all things of the nature of public works and improvements, hospitals, parks, playgrounds or other places of amusement or entertainment, may for purposes of regulation and revenue, license all persons, corporations and associations engaged in any business, occupations and associations engaged in any business, occupation, profession or trade; may establish and maintain a free municipal employment office; may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City, and may abate all nuisances and causes thereof; may regulate the construction, height and material used in all buildings, and the maintenance and occupancy thereof; may regulate and control the use of the streets and other public places; may create, establish, abolish and organize offices other than those herein provided, and except as herein provided, fix the salaries and compensations and hours of labor of all officers and employees; may make and enforce local police, sanitary and other regulations; and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City; the City shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this charter; provided, however, that nothing herein shall be construed to prevent or restrict the City from exercising or consenting to, and the City is hereby authorized to exercise, any and all rights, powers and privileges heretofore or hereafter granted or prescribed by general laws of the state,

and the City shall have all powers that now are, or hereafter may be granted to municipalities by the constitution or laws of the State of California; and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this charter, or when not prescribed herein, in such manner as shall be provided by ordinance or resolution of the Council. The enumeration of particular powers by this charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, the city shall have, and may excise all other powers, which, under the constitution and laws of California, it would be competent for this charter specifically to enumerate. (Amended November 6, 1962)

Public Entertainment Section 13.

The City may appropriate money for any or all of the following purposes: reception and entertainment of public guests, assistance of public celebrations held by the City, largely to aid or carry on the work of inducing immigration to the City; and generally, for the purpose of advertising the City. (Amended November 8, 1988)

Legislative Powers of Council Section 14.

The legislative powers of the City except as reserved to the people by this charter shall be vested in a Council of seven members, one to be elected from each of the seven wards of the City by the electors thereof, and a Mayor elected from the City at large. The Mayor shall have the right to vote on all matters when the vote of the Council results in a tie with the exception of votes on any actions taken under Sections 34, 37.5 or the last paragraph of Section 136 of this Charter. (Amended November 8, 1988: amended January 11, 1957)

Term of Office Section 15.

Councilmembers shall be elected for a term of four (4) years and shall serve until their successors are elected or appointed and have qualified. (Amended November 8, 1988: amended June 8, 1982: amended March 3, 1981)

Vacancies in Council Section 16.

Vacancies in the Council shall be filled in the following manner, except when caused by recall election. If a vacancy occurs in the Council at a time less than six months prior to the date of the next general election for the vacant council seat, the Council shall fill the vacancy by appointment for the remainder of the unexpired term. If a vacancy occurs in the Council at a time more than six months prior to the date of the next general election for the vacant Council seat, a petition requesting a special election may be filed with the Council. Such petition must contain the signatures of qualified electors of the ward equal in number to not less than twenty-five percent of the vote cast for Councilmanic candidates of that ward at the last general election, and the signatures thereto shall be verified and certified in the same manner as provided for petitions for recall elections. If the petition is valid the Council shall call a special election to fill the vacancy, to be held not less than ninety days nor more than one

hundred eighty days following the certification of the petition to the Council. In the event that a valid petition requesting a special election is filed, the Council may within two weeks after the petition is filed, make an interim appointment to fill the vacancy, until the results of the election are certified. If no petition requesting a special election is filed within four weeks after the vacancy occurs, the Council shall fill the vacancy by appointment or by special election for the remainder of the unexpired term. (Amended November 8, 1988: amended November 3, 1964)

Qualifications of Councilmen Section 17.

Members of the Council and candidates thereof shall be residents of the City and of the ward which they represent or seek to represent at the time nomination papers are issued and throughout their entire term of office. Should any Council member remove his or her residence from the City or from the ward from which he or she is elected, he or she must immediately resign from office. Council members and candidates shall also be qualified electors at the time nomination papers are issued. Council members shall not hold any other public office incompatible with their duties and shall not be interested in any contract, job, work or service of the municipality as such interest is or may be defined by California state law. No member of the Council shall, except insofar as necessary in the performance of the duties of his or her office, directly or indirectly take any part in the appointment, promotion or dismissal of any officer or employee in the service of the City, other than officers or employees of the employees of the Council. (Amended March 26, 1996: amended March 3, 1981)

Salary of Councilmen Section 18.

The salaries of the councilmen first elected under this charter shall be Fifty Dollars per month. Thereafter the Council may, by ordinance submitted to a referendum at any municipal election, change the salary of members of the Council.*

* Increased to \$100. per month, see Section [2.68.010](#).

Meetings of the Council Section 19.

On the second regular meeting following the General Municipal Election, the newly elected and qualified Council members shall assume the duties of their office. Any four Council members or the Mayor may call special meetings of the Council upon notice to each member. Such notice shall state the subjects to be considered at the meeting, and no other subjects shall be there considered. All meetings of the Council shall be public except those meetings exempted by law from being open to the public, and any citizen shall have access to the minutes and records thereof at all reasonable times.

The Council shall determine its own rules and order of business, appoint its own committees and shall keep a minute book of its proceedings. (Amended March 3, 1981)

Mayor and Vice-Mayor of Council Section 20.

(a) Notwithstanding any other provision of this Charter to the contrary, the provisions of this section shall govern as to the office of Mayor. The Mayor shall be elected by the qualified electors of the City and shall hold his office four years from and after the first Monday of January subsequent to his election, and until his successor is elected and qualified, unless sooner removed from office by recall or otherwise. Except as otherwise provided by this Charter or by ordinance hereafter enacted, the mode of nomination and election of the Mayor shall be the same as set forth in the Elections Code and Government Code of the State of California for nomination and election of Councilmembers.

(b) The Mayor shall be the official head of the City for all legislative policy and ceremonial purposes, and shall execute all legal instruments and documents, and shall preside at all meetings of the Council. The Mayor shall not be vested with administrative authority and shall not in any way interfere with the activities and authority of the City Manager, nor shall the Mayor use the authority of that office to direct the activities of any department head or any employee of any department of the City. As one of the duties, the Mayor shall promote and increase the economic and industrial base of the City, in cooperation with any existing economic development agencies or organizations. The Mayor shall not receive additional compensation, from the City or from others, for the performance of the duties outlined above, except for the regular salary paid to the Mayor by the City.

On any and all legislative matters, the Mayor shall vote only in case of a tie vote of the Council.

(c) The Mayor shall perform the duties of the office of Mayor as set forth in this Charter and, as of the first day of the month following the effective date of this amendment, shall receive an annual salary of Twenty-four Thousand Dollars, payable in equal monthly installments, except as hereinafter provided. At the beginning of each fiscal year, the Council shall approve appropriate funds for the reception and entertainment of public guests by the Mayor.

(d) An office in the City Hall shall be provided for the Mayor for the conduct of his official duties. (Amended November 3, 1964)

(e) The Mayor shall be provided with a fulltime position providing secretarial and administrative services, the salary for which shall be set by the Council, commensurate with the salaries for other similar positions.

(f) The Mayor shall be a resident of the City and a qualified elector at the time nomination papers are issued. In all other respects, his qualifications shall be as set forth in Section 17 of this Charter. (Amended March 3, 1981)

(g) The office of Mayor shall be first in order of precedence on the municipal ballot and shall be separately designated.

(h) All nominating petitions for the office of Mayor shall be filed with the City Clerk within the time prescribed by the California Elections Code governing nomination for any elective office of cities.

(i) The form of declaration of candidacy, the nomination petition and the requirements of certificate, shall be substantially the same required by the California Elections Code for other elected officers of the City.

- (j) Following a general municipal election at the first meeting and upon assuming the duties of the office of Councilman, each new Council shall elect one of its members Vice-Mayor of the Council. (Amended November 3, 1964)
- (k) During the temporary absence or disability of the Mayor, the Vice-Mayor of Council shall act as Mayor pro tempore, without pay, for a period not to exceed thirty consecutive days. Thereafter, said Mayor pro tempore shall receive per diem pay to be deducted and based upon the monthly installments of compensation provided for the Mayor until duly qualified Mayor shall again resume his official duties, at which time he shall again receive his monthly installments, or his pro rata share thereof, as the case may be. (Amended November 3, 1964)
- (l) If a vacancy shall occur in the office of Mayor, the Council shall appoint a person, who may or may not be a member of the Council to fill such vacancy for the unexpired term, within fifteen days of the time that the Council shall be notified of such vacancy. In the event a member of the Council is appointed to fill such vacancy, the resulting vacancy on said Council shall be filled in accordance with Section 16 of this Charter. (Amended November 8, 1988)

Legislative Procedure Section 21.

The Council shall be the judge of the election of its members. A majority of all members shall be a quorum to do business; a number less than a majority may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members of the Council shall be necessary to adopt an ordinance or resolution. Whenever the vote of the Council on an ordinance or resolution results in a three-to-three vote, the Mayor may vote to break such tie. The vote upon the passage of all ordinances and upon the adoption of such resolutions as the Council by its rules prescribe, shall be taken by “yeas” and “nays” and entered upon the journal. (Amended November 8, 1988; amended November 3, 1964)

Ordinance Enactment Section 22.

Each proposed ordinance or resolution shall be in written form and shall contain but one subject which shall be stated in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. The enacting clause of all ordinances passed by the Council shall be, “Be it ordained by the Council of the City of Bakersfield as follows:”. The enacting clause of all ordinances submitted by the initiative shall be, “Be it ordained by the People of Bakersfield as follows:”.

Emergency Ordinances Section 23.

All ordinances shall be in effect from and after thirty days from the date of their passage except as otherwise provided in this Charter. The Council may, by a two-thirds vote of the members present, pass emergency ordinances to take effect at the time indicated therein. (Amended April 21, 1941)

Definition of Emergency Ordinance Section 24.

An emergency ordinance is an ordinance for the immediate preservation of the public health, peace, property or safety, or providing for the daily operation of a municipal department, in which the emergency is set forth in the preamble thereto. Ordinances appropriating money may be passed as emergency measures, but no ordinance making a grant for a franchise or other special privilege, or regulating the rate to be charged for its services by any public utility shall ever be so passed. (Amended April 21, 1941)

(Sections 25—32 repealed November 3, 1964).

(Sections 33—33.2 were repealed on November 8, 1988).

Revenue Bonds Section 33.3.

Revenue bonds may be authorized and issued by the City Council to finance the acquisition, construction and improvement of, including the reconstruction, replacement, extension, repair, betterment and equipment for, any revenue producing improvement, building, system, plant, works, facility or undertaking (the “enterprise”) used for any public purpose, in such form and upon such conditions determined by resolution of the City Council; provided such revenue bonds shall be payable exclusively from the revenues derived from said enterprise or specific portions thereof as may be allocated and pledged to the payment of such revenue bonds. The City Council may also issue refunding revenue bonds in such form and upon such terms and conditions determined by resolution of the City Council. The provisions of this section constitute full and complete authority for the issuance of revenue bonds and refunding revenue bonds and no other procedure, consent, approval, order or election shall be required.

Revenue bonds issued pursuant to this section shall not be taken into consideration in determining the bonded indebtedness which the City is authorized to incur pursuant to vote of the electors, as limited by the Charter or the laws of the State of California. (Amended November 8, 1988)

ARTICLE IV.

Officers and Employees

Officers Appointed by the Council Section 34.

The Council shall appoint the following officers:

- (1) The City Manager, who may or may not be a resident of the City at the time of his appointment, and whose term of office shall be at the pleasure of the Council.
- (2) The City Attorney, who may or may not be a resident of the City at the time of his appointment, and whose term of office shall be at the pleasure of the Council.
- (3) The Council may appoint such other officers as may be created by ordinance.

(Amended November 8, 1988: amended November 3, 1964)

City Manager Section 35.

The City Manager shall have general supervision and direction of the administrative operation of the city government.

Duties of Manager Section 36.

The duties of the Manager are:

- (1) To see that all the laws and ordinances are faithfully enforced by the heads of the departments;
- (2) To attend all meetings of the Council at which his attendance may be required by that body;
- (3) To recommend for adoption to the Council such measures as he may deem necessary or expedient;
- (4) To keep the Council fully advised of the financial condition of the municipality and its future needs;
- (5) To prepare and submit to the auditor a tentative budget for the next fiscal year,
- (6) To appoint and remove, except as herein otherwise provided, all officers and subordinate officers and employees of the Department, in both the classified and unclassified service; all appointments to be upon merit and fitness alone;

- (7) To exercise control over all other departments and divisions that may be hereafter created by the Council, and assigned to his management, not in conflict with the provisions of this charter;
- (8) To investigate all complaints, in regard to the service maintained by any and all public utilities in the City, and to take such proceedings as may be necessary to correct the abuse, if any.

Salary of the Manager and Attorney Section 37.

The City Manager and City Attorney shall receive such salaries as may be fixed by the Council and before entering upon the duties of office shall take the official oath required by this article. (Amended November 8, 1988)

Removal of City Manager and City Attorney Section 37.5.

The City Manager and City Attorney may be removed from office by the affirmative votes of four members of the Council. After such removal and not later than thirty days thereafter, they may request and secure within such time, a public hearing before the Council to speak in their own behalf. (Amended November 8, 1988: adopted November 3, 1964)

Appointment of Officers Section 38.

Except as otherwise provided in this Charter, the City Manager shall appoint all officers of the City. (Amended November 8, 1988: amended November 3, 1964)

Duties of Appointive Officers Section 39.

The Council shall define the duties of appointive officers, where not otherwise provided for in this Charter, and where practicable, the duties of two or more officers may be performed by the same person.

Finance Director Section 40.

The duties of the Finance Director shall be: To certify to the Treasurer the amount due to the City, from any source, and the Treasurer shall not receive such money unless such certificate shall have been presented and filed, showing the amount, from what source the indebtedness has arisen, and to what fund it should be apportioned; to keep a complete set of books, showing the balance of money in the treasury, and the amount charged against each officer or employee; to prepare, countersign and deliver, from time to time, as may be required, to the proper officer, agent or employee, all licenses and receipts, charging such officer, agent or employee therewith, and taking his receipt therefor; to draw and sign all warrants upon the treasurer for the

payment of any demand against the City, when allowed by the Council, or proper board or officer. No warrant shall be drawn, except upon a written demand, as aforesaid which shall be filed and kept in the office of the Finance Director, with the date of filing, when allowed, and the name of the person holding the original demand against the City. He shall, upon the death or removal or expiration of the term of any officer handling any funds of the City, or being charged with any such funds, examine the accounts of such officer or employee, and report the result of his examination to the Manager. (Amended November 8, 1988: amended April 21, 1941)

Authority and Power of City Clerk and Deputy City Clerks Section 40 1/2.

The City Clerk and Deputy City Clerks are authorized and empowered to administer official oaths to the various city officers, and to administer oaths to witnesses in hearings before the Council or any municipal Trial Board or Commission, and they are further authorized and empowered to issue subpoenas for witnesses to be used at any of said hearings. (Amended April 21, 1941)

Examination of Records Section 41.

The City Council shall employ, at the beginning of each fiscal year, a certified public accountant who shall, without notice, examine the books, records, and reports of the Finance Director and of all other officers and employees who receive or disburse city money, and of such other officers and departments as the Council may direct. Reports of such examination, in triplicate, shall be made and one each thereof shall be filed with the Clerk, Finance Director and Attorney. Any officer, clerk or employee who shall refuse to give all required assistance and information to such accountant or submit to him for examination such books, papers and records of his office as may be required, shall forfeit his office. (Amended November 8, 1988: amended November 3, 1964)

Uniform Accounts and Reports Section 42.

The Council shall prescribe the uniform forms and accounts, which shall be observed by all officers and departments of the City which receive or disburse moneys. Whenever an act shall be passed by the state legislature calling for uniform municipal reports, the City authorities shall be governed thereby.

Qualifications of Officers and Employees Section 43.

Except as otherwise specified in this Charter, the qualifications of officers and employees of the City shall be as follows: Each elective officer must be a citizen of the United States, of the State of California and of the City of Bakersfield. Residence within the limits of any territory which has been or may hereafter become annexed to the City of Bakersfield shall, after any such annexation has been accomplished, be deemed and construed to have been within the City. Appointive officers, police officers and all members of any board or commission authorized by this Charter and the City Council must be citizens of the United States, provided that each member of any

board or commission must also be a resident of the City at the time of appointment. Residence requirements for all other officers and employees of the City shall be established by the City Council. (Amended March 3, 1981)

(Section 44 was repealed on March 3, 1981).

Bonds of Officers Section 45.

All officers, commissioners, heads of departments, the City manager, and any subordinates, deputies or employees, as may be required by the Council, shall execute a good and sufficient undertaking, in such sum as may be fixed by the Council, for the faithful performance of their official duties, signed and executed by two or more persons, or by any surety company authorized to do business in the State of California.

(Sections 46 and 47 were repealed on March 3, 1981).

Temporary Employment Section 47.1.

Nothing contained in this charter is intended to prevent the employment of persons for temporary services in the several departments of the City; provided, however, that such persons shall not be continued in service for a period of time exceeding one hundred twenty working days in any one department in any period of one year. (Added January 15, 1959)

ARTICLE V.

Finance and Taxation

The Fiscal Year Section 48.

The fiscal year of the City shall commence upon the first day of July each year.

(Section 49 was repealed on November 8, 1988).

Compliance with State Law Section 50.

The Council shall have power to avail itself by ordinance of any law of the State of California now or hereafter in force, whereby assessments may be made by the assessor of the county in which the City of Bakersfield is situated, and taxes collected by the tax collector of said county for and on behalf of the City of Bakersfield. Other provisions of this charter concerning the assessment, levy and collection of taxes shall be subject to the provisions of any such ordinance while the same shall be in force.

(Sections 51—53 were repealed on November 8, 1988).

(Section 54 was repealed on March 3, 1981).

(Section 55 was repealed on November 8, 1988).

(Section 56 was repealed on March 3, 1981).

(Sections 57 and 58 were repealed on November 8, 1988).

Tax Liens Section 59.

All taxes assessed, together with any percentage and penalties imposed for delinquency and the cost of collection, shall constitute liens on the property assessed; every tax upon the personal property shall be a lien upon the real property of the owner thereof. The liens, provided for in this article, shall attach as of the first Monday in March of each year, and may be enforced by action in any court of competent jurisdiction to foreclose such liens, or by a sale of the property affected and the execution and delivery of all necessary certifications and deeds therefor, under such regulations as may be prescribed by ordinance. (Amended April 21, 1941)

(Section 60 was repealed on November 8, 1988).

ARTICLE VI.

Department of Public Welfare

(Repealed January 15, 1959)

ARTICLE VII.

Elections

(Section 66 was repealed on November 8, 1988).

Date of General Municipal Election Section 67.

A general municipal election for the election of members of the Council, and for such other purposes as the Council may prescribe, shall be held in the City of Bakersfield on the first Tuesday after the first Monday in November of each even-numbered year, except as otherwise provided by ordinance of the Council. The person having the highest number of votes given for each office shall be elected. The elected members of the Council shall hold office until their successors are elected or appointed and qualified. (Amended November 3, 1992: amended November 8, 1988: amended June 8, 1982: amended June 8, 1976)

Election of Mayor Section 67.1.

- (a) The nominating and general municipal elections for the office of Mayor shall be held concurrently with the State primary and general elections, respectively.
- (b) Should any candidate for the office of Mayor receive more than one-half of the total votes cast for that office at the nominating election, such candidate shall be deemed elected; otherwise, the names of the two candidates receiving the most votes shall be placed on the ballot for such office at the following general municipal election. (Added November 8, 1988)

Condition of Candidacy Section 68.

All nominating petitions for the office of Councilmember shall be filed with the City Clerk in accordance with the requirements of the California Elections Code provisions governing nomination for elective offices of cities. (Amended November 8, 1988: amended March 3, 1981)

(Sections 69—73 were repealed on November 8, 1988).

Procedure for Holding Municipal Elections Section 74.

Unless otherwise provided for by this Charter or ordinance hereafter enacted, all elections shall be held in accordance with the provisions of the Elections Code and the Government Code of the State of California, as the same now exists or may hereafter be amended. (Amended November 8, 1988: adopted November 3, 1964)

(Section 75 was repealed on November 8, 1988).

(Prior Sections 72—97 repealed November 3, 1964).

ARTICLE VIII. Judicial Department

(Sections 98—107 Repealed January 15, 1959).

ARTICLE IX. Public Utilities

Ownership Section 108.

It is hereby declared to be the purpose and intention of the people of the City of Bakersfield that such public utilities as shall be deemed best for the interest of the people shall be acquired by purchase, condemnation or construction, and owned and operated by the City.

(Section 109 was repealed on March 3, 1981).

Plan Submitted to Elector Section 110.

The Council shall, upon petition of qualified registered electors equal in number to not less than thirty-five per centum of the votes cast at the last municipal election at which all qualified registered electors were entitled to vote, submit as separate questions, by ordinance, to the qualified registered electors of the city, at any special

election at which all qualified registered electors are entitled to vote, a plan for the acquisition of one or more public utilities and its adoption and the issuance of bonds of the city for the payment therefor. (Amended April 21, 1941)

Estimate of Cost Section 111.

Before submitting for adoption any plan for the construction and establishment of a public utility, the Council shall cause to be ascertained and made an estimate of the cost at which such public utility can be constructed or acquired.

Contents of Ordinance Calling Election Section 112.

The ordinance calling such election shall contain a statement of the plan proposed for the acquisition of such public utility or utilities, naming the same, the estimated cost or price thereof, and shall otherwise conform to the provisions of this charter governing the calling and holding of elections for the incurring of bonded indebtedness, and the law for holding of elections therefor.

Operation Section 113.

In the event the city should acquire one or more public utilities, the operation of the same shall be under the supervision of the City Manager.

(Sections 113.1 thru 113.8 repealed September 28, 1965).

(Sections 113.9 and 113.10 were repealed on March 3, 1981).

Property Rights of City Inalienable Section 114.

The rights of the City in and to its public buildings, streets, highways, public parks and all other public places owned or controlled, except as otherwise provided in this charter, are hereby declared inalienable and no franchise, permit or privilege granted shall be construed as carrying the right to cut, trim, break or destroy any shade, ornamental or other tree on or in the parking space of any street or public park.

Franchise Section 115.

No person, firm or corporation shall exercise any franchise right or privilege mentioned in this article within the city except insofar as he or it may be entitled to do so by authority of the Constitution of the State of California and statutes or other laws, unless he or it shall have obtained a grant therefor in accordance with the provisions of this Charter.

Any franchise in existence at the time of the adoption of this section shall remain in effect until the expiration of its term. (Amended November 3, 1964)

Exclusive Franchise for Collection and Disposal of Rubbish and Garbage Section 115 1/2.

The City Council may, after advertising for bids in the official newspaper of the City of Bakersfield for five consecutive days, award to the highest responsible bidder an exclusive franchise, permit or privilege, for a term not to exceed ten years, to collect and dispose of all rubbish and garbage that may accumulate within said City. (Amended April 6, 1931)

Authority to Grant Franchises Section 116.

The City Council is empowered to grant by ordinance a franchise to any person, firm or corporation, whether operating under an existing franchise or not, to furnish the city and its inhabitants with transportation, communication, Cable Antenna Television Service, terminal facilities, light, heat, gas, water, storage of any other public utility or service, or to use the public streets, ways, alleys or places for the operation of plants, works or equipment for the furnishing thereof or traversing any portion of the city, for the transmittal or conveyance of any such service elsewhere. The City Council may provide, by ordinance, additional terms and conditions of such franchise not inconsistent with this Charter.

Nothing in this Charter shall apply to the city or any department thereof, when furnishing any such utility or service. (Amended November 3, 1964)

Franchises for Distribution Facilities for Gas, Electricity and Water Section 117.

In addition to the authority to grant franchises contained elsewhere in this Charter, the City Council may grant a franchise to any person, firm or corporation, whether operating under an existing franchise or not, to use, or to

construct and use, poles, wires, conduits, and appurtenances for transmitting and distributing electricity for all purposes, or to use, or to lay and use, pipes and appurtenances for transmitting and distributing gas for any and all purposes, or to lay and use pipes, ditches, flumes, conduits and appurtenances for transmitting and distributing water for any and all purposes, under, along, across, or upon the public streets, ways, alleys, and places within the municipality, upon such terms and conditions as are provided in an act of the Legislature of the State of California, designated therein and commonly known as the "Franchise Act of 1937" and as the said act may hereafter be amended.

The enumeration of a particular act of the State of California shall not be held to be a limitation on the authority of the City Council to grant franchises pursuant to any other law of the State of California as they now exist or may hereafter exist. (Amended November 3, 1964)

Resolution of Intention—Notice and Public Hearing Section 118.

Before granting any franchise, the City Council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise, and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any persons having any interest therein or any objection to the granting thereof may appear before the City Council and be heard thereon. It shall direct the City Clerk to publish said resolution at least once within fifteen days of the passage thereof, in the official newspaper. The time fixed for such hearing shall not be less than twenty nor more than sixty days after the passage of said resolution.

At the time set for the hearing the City Council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter, it may grant, or deny, the franchise, subject to the right of referendum of the people.

If the City Council shall determine that changes should be made in the terms and conditions upon which the franchise is proposed to be granted, a new resolution of intention shall be adopted and like proceedings had thereon. (Amended November 3, 1964)

Term of Franchise Section 119.

Every franchise shall state the term for which it is granted, which unless it be indeterminate as provided for herein shall not exceed fifty years.

A franchise grant may be indeterminate, which may provide that it shall endure in full force and effect until the same, with the consent of the Public Utilities Commission of the State of California, shall be voluntarily surrendered, or abandoned by its possessor or until the State of California, or some municipal or public corporation, thereunto duly authorized by law, shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain, all property actually used and useful in the exercise of such franchise, or

until the franchise shall be forfeited for noncompliance with its terms by the possessor thereof. (Amended November 3, 1964)

Grant to be in Lieu of All Other Franchises Section 120.

Any franchise granted by the City with respect to any given utility or service shall be in lieu of all other franchises, rights or privileges owned by the grantee, or by any successor of the grantee to any right under such franchise, for the rendering of such utility or service within the limits of the City as they now or may hereafter exist, except any franchise derived under Section 19 of Article XI of the Constitution of California as said section existed prior to the amendment thereof adopted October 10, 1911. The acceptance of any franchise, hereunder, shall operate as an abandonment with the exception of said constitutional franchise, of all such franchises, rights and privileges within the limits of the City as such limits shall at any time exist, in lieu of which such franchise shall be granted.

Any franchise granted hereunder shall not become effective until written acceptance thereof shall have been filed by the grantee thereof with the City Clerk. Such acceptance shall be filed within thirty days after the adoption of the ordinance granting the franchise or any extension thereof granted by the City Council and when so filed, such acceptance shall constitute a continuing agreement of such grantee that if and when the City shall thereafter annex, or consolidate with, additional territory, and all franchises, rights and privileges owned by the grantee therein, except a franchise derived under said constitutional provisions, shall likewise be deemed to be abandoned within the limits of such territory.

No grant of any franchise may be transferred or assigned by the grantee without the prior consent of the City Council evidenced by a duly adopted resolution approving the assignment or transfer and unless the transferee or assignees thereof shall covenant and agree to perform and to be bound by each and all of the terms and conditions imposed in the grant by this charter. (Amended November 3, 1964)

Duties of Grantees Section 121.

By its acceptance of any franchise hereunder, or upon the renewal of any franchise, the grantee shall covenant and agree to perform and be bound by each and all of the terms and conditions imposed in the grant, or by the ordinance granting the franchise and shall further agree to:

- (a) Comply with all lawful ordinances, rules and regulations theretofore or thereafter adopted by the City Council in the exercise of its police power governing the construction, maintenance and operation of its plants, works or equipment;
- (b) Pay to the City on demand the cost of all repairs to public property made necessary by any of the operations of the grantee under such franchise;
- (c) Covenant and agree that the City, its agents, servants and employees are to be free from liability and claims for damages as the result of injury to any person or persons (including grantee) or of injury to any property of any

kind whatsoever or to whomsoever belonging (including grantee) resulting from any operations under such franchise so granted or renewed. Grantee further covenants and agrees to indemnify and save harmless the City from any and all liability arising out of any such injury. Grantee shall, on the City's request, defend any suit asserting a claim covered by this indemnity;

(d) Remove and relocate without expense to the City any facilities installed, used and maintained under the franchise if any when made necessary by any lawful change of grade, change in the alignment or width of any public street, way, alley or place, alley or easement, or construction of any subway or viaduct; and

(e) Pay to the City during the life of the franchise a percentage, to be specified in the grant of the gross annual receipts of the grantee arising from its operation under the franchise within the limits of the City, and such other compensation as the City Council may prescribe in the ordinance granting the franchise. (Amended November 3, 1964)

Method of Granting Franchise Section 122.

The Council may grant a franchise without calling for bids or may, in its discretion, advertise for bids for sale of a franchise upon a basis, not in conflict, with the provisions of this article, to be set out in the advertisement for bids. (Amended November 3, 1964)

Examination of Company's Books Section 123.

All ordinances granting franchises under this article, shall provide that the city shall have the right, at all reasonable times, to examine all the books, vouchers, records and other papers, of all holders exercising or enjoying any franchise under this article. Refusal to produce the same at any reasonable time for examination, by the Clerk, accountant, or other agents appointed by the Council, shall work a forfeiture of the said franchise. (Amended November 3, 1964)

Annual Report of Company Section 124.

Except as otherwise specifically provided for in this article, or in the ordinance granting a franchise, every holder, or operator, of any business under a franchise granted under this article, shall file annually with the City Clerk, on such date as shall be fixed by the Council, a report for the preceding year. Such report shall be in writing, verified by the affidavit of such person, or persons or officer of the corporation, as the Council shall direct, and shall contain a statement, in such form and details as shall from time to time be prescribed by the Council, of all the gross receipts arising from all the business under said franchise, within the city, for the year immediately preceding such report. Such report shall contain such further information as may be required by the Council concerning the character and amount of business done under said franchise, and the amount of receipts and expenses connected therewith, and also an itemized account of the money expended under said franchise, for

new construction, repairs and betterments during the year. The Council shall have the power to call for special report, at any time covering any specific period. (Amended November 3, 1964)

Franchise Record Book Section 125.

The Council shall provide and cause to be kept in the office of the City Clerk a franchise record, indexed, and of proper form, in which shall be transcribed accurate and correct copies of all franchises granted by the City, the names of the grantees, and thereafter the name of any assignee or lessee thereof. (Amended November 3, 1964)

Payment of Gross Receipts Section 126.

The stipulated percentage of gross receipts provided in this Charter or said ordinance to be paid for the use and enjoyment of any franchise as set forth in the ordinance granting such franchise shall be paid annually by holders thereof, at the time of filing the annual report provided for in this charter or ordinance. Failure to pay such percentage shall work a forfeiture of the franchise. (Amended November 3, 1964)

Purchase or Condemnation by City Section 127.

No franchise grant shall in any way or to any extent impair or affect the right of the City now or hereafter conferred upon it by law to require the property of the grantee thereof either by purchase or through the exercise of the right of eminent domain, and nothing herein contained shall be construed to contract away or to modify or to abridge either for a term or in perpetuity the City's right of eminent domain with respect to any public utility. (Amended November 3, 1964)

Forfeiture Section 128.

In the event that a grantee or assignee of any franchise granted pursuant to this charter shall cease to carry on its operations under said franchise for a period of sixty days the City Council may, by resolution, declare said franchise to be forfeited. Such resolutions may further provide, at the option of the City Council, that all works, installations and equipment which have been placed or installed in, on or over public streets, ways, alleys or places shall become the property of the City and all right, title, and interest to said works, installations and equipment shall vest in the City of Bakersfield. (Amended November 3, 1964)

Exercising Right Without Franchise Section 129.

The exercise by any person, firm or corporation of any privilege for which a franchise is required without first procuring a franchise, shall be a misdemeanor, punishable by a fine of not more than Five Hundred Dollars or by

imprisonment for not more than six months in the County Jail or by both such fine and imprisonment and each day that such violation continues shall constitute a separate offense.

In addition to the penalty prescribed above any person, firm or corporation exercising a franchise or privilege in violation of this article shall be liable to the City of Bakersfield in the amount of One Hundred Dollars for each and every day of such violation. (Amended November 3, 1964)

Referendum on Franchise Ordinances Section 130.

Notwithstanding any provision in this Charter to the contrary, if before any ordinance granting a franchise under this article becomes effective, a petition signed by qualified registered electors of the City, equal in number to twenty-five per centum or more of the entire vote cast at the last municipal election at which all qualified registered electors were entitled to vote, protesting against the passage of such ordinance, be presented to the Council, said ordinance shall thereupon be suspended. The Council shall submit the ordinance to the qualified registered electors of the City either at the next municipal election at which all qualified registered electors are entitled to vote, or at a special election called for that purpose, and such ordinance shall not go into effect unless a majority of the qualified registered electors voting on the same shall vote in favor thereof. The provisions respecting the forms and conditions of the petition and the mode of verification and certification and filing, shall be the same, as is provided for initiative petitions in Article III of this charter. The ballot to be used shall be substantially as is provided in Article VII of this Charter, with such modifications as may be required, said form of ballot to be approved by the City Council. (Amended November 3, 1964)

Franchise for Railroads Other Than Street Railroads Section 131.

Franchises may be granted by the Council for the construction, maintenance and operation of railroads other than street railroads along, upon, over, in, under or across any street or streets, or other public places in the City, upon petition therefor stating the character and purpose of the franchise and the route to be traversed, but no action shall be taken upon any such application or petition until thirty days after the same has been filed. If within that time a petition is filed and signed by the electors of the City, equal in number to ten per centum, or more, of the entire vote cast at the last municipal election at which all qualified registered electors were entitled to vote, praying that the granting of said franchise be referred to a vote of the electors of the city, said application shall be so referred. Franchise for railroad spurs or sidetracks may be granted by the Council in the same manner, except that the same may be revoked when the purpose for which granted shall cease. (Amended March 21, 1941)

(Section 132 superseded by amended Section 117).

(Section 132 1/2 superseded by amended Section 130).

(Section 133 repealed January 15, 1959).

ARTICLE X.

Public Works and Supplies

Form of Contracts Section 134.

All contracts shall be drawn under the supervision of the City Attorney. All contracts must be in writing, executed in the name of the City of Bakersfield, by an officer or officers authorized to sign the same, and must be countersigned by the Finance Director, who shall number and register the same in a book kept for that purpose. (Amended November 8, 1988)

Progressive Payment of Contracts Section 135.

The Council shall by ordinance establish minimum retention percentages which shall limit the amounts of progress payments under all public works contracts; provided, however, that, to the extent required by law, securities provided by the contractor may be substituted in lieu of any such retention. (Amended November 8, 1988: amended January 8, 1953)

Public Work to be Done by Contract Section 136.

In the erection, improvement and repair of all public buildings and works, and in furnishing any supplies and materials for the same, or for any other use by the City, the City Council shall establish, by ordinance, criteria including dollar amounts, requiring bidding and award of a contract, if awarded, to the lowest responsible bidder submitting a responsive bid. Whenever the Council determines that work, supplies, equipment or materials can only be reasonably obtained from one vendor because of restricted availability of such work, supplies, equipment or materials, or because of the necessity to successfully integrate such work, supplies, equipment or materials into an existing City project or system, the Council may authorize award of a contract for such work, supplies, equipment or materials without first seeking bids therefor. Projects for the resurfacing, maintenance or repair of streets, drains or sewers are exempted from the requirements of this paragraph, if the City Council determines that such work can be performed more economically by a City department than by contracting for the doing of such work.

The City Council may in its discretion reject any and all bids and readvertise for bids.

The City Council, after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates supplied by the City Manager, that work in question may be performed better or more

economically by City employees or the materials or equipment may be purchased more economically on the open market, and after the adoption of a resolution to this effect by at least four 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 bid if such work or supplies or equipment 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 five affirmative votes of the City Council and containing a declaration of the facts constituting such urgency. (Amended November 8, 1988: amended November 3, 1964)

(Sections 137 and 138 were repealed on November 8, 1988).

Contract for Lighting Section 139.

No contract for lighting streets, public buildings, places or offices shall be made for a longer period than one year, nor shall any contract to pay for electric light or any illumination material at a higher rate than the minimum price charged to any other consumer be valid.

Collusion with Bidder Section 140.

Any officer of the city, or of any department thereof, who shall aid or assist a bidder in securing a contract to furnish labor, material or supplies at a higher price than that proposed by any other bidder or who shall favor one bidder over another by giving or withholding information or who shall willfully mislead any bidder in regard to the character of the material or supplies called for, or who shall knowingly accept materials or supplies of a quality inferior to those called for by the contract, or who shall knowingly certify to a greater amount of labor performed than has actually been performed, or to the receipt of a greater amount or a different kind of material or supplies than has been actually received, shall be deemed guilty of malfeasance and shall be removed from office.

Collusion by Bidder Section 141.

If the person to whom a contract has been awarded has colluded with any other party or parties for the purpose of preventing any other bid being made, the contract so awarded shall be void.

(Section 142 was repealed on March 3, 1981).

(Section 143 was repealed on November 8, 1988).

(Section 144 was repealed March 3, 1981).

(Article XI, consisting of Sections 145 thru 155, were repealed on March 3, 1981).

(Section 156 was repealed November 5, 1968).

Ex-Officio Library Board Section 157.

Repealed by electors of the City of Bakersfield, April 8, 1941.

ARTICLE XII. Miscellaneous

(Sections 158—160 were repealed on November 8, 1988).

State Law Section 161.

Whenever any municipal function or affair arises, for which no provision is made by this charter or ordinances, the law of the state applicable thereto shall govern. Any law of the state applicable may be made the law of the City by ordinance.

Rules of Construction Section 162.

(a) The rules of construction and interpretation and the definition of words and phrases provided by the Government Code of the State of California, the Civil Code of the State of California, the code of Civil Procedure of California, shall be and are hereby made the rules of construction and interpretation and the definitions for this Charter, except where otherwise provided herein. (Amended November 3, 1964)

(b) Any section added or amended shall supersede any conflicting provision of a previously existing section.

(c) If any section, subsection, clause or phrase of this Charter is for any reason held to be unconstitutional, such decision shall not affect the validity of any other section, subsection, clause or phrase of this Charter. (Amended November 8, 1988)

Meaning of Words Section 163.

Whenever in this Charter either the masculine or feminine gender is used, it shall be deemed to include the other. Upon republication of this Charter, words which are gender neutral shall be substituted for words denoting specific gender. The following words have, in this Charter the signification attached to them in this connection, unless otherwise apparent from context:

The word “elector” shall mean qualified registered electors under the election law of California, and whose names are in the current great register of the County of Kern, and who are entitled to vote in the precinct or ward where they reside.

“Council” shall mean the Council of the City of Bakersfield, as the governing body thereof.

“City” shall mean the City of Bakersfield. (Amended November 8, 1988: amended November 3, 1964)

Presentation of Papers and Petitions Section 164.

Papers and petitions addressed to the Council shall be deemed presented when filed with the Clerk.

Relief and Pension Fund for Members of the Fire Department of the City of Bakersfield

(Repealed November 5, 1968)

Civil Service for the Fire Department

(Amendment to the Charter of January 20, 1931)

(183) 1

The Civil Service Board shall consist of three (3) members, appointed by the City Council, who shall be residents of the City throughout their terms, but who otherwise shall have no connection with City government. Members shall be appointed for terms of three (3) years. Vacancies shall be filled by appointment for the unexpired term. Within sixty (60) days after ratification of this amendment, the City Council shall reappoint the incumbent members for terms of three (3), two (2), and one (1) years, the three (3) year term to be that of the incumbent with the longest remaining term, the one (1) year term to be that of the incumbent with the shortest remaining term. Members may be removed from office in the same manner as are elective officers of the City or by unanimous vote of the Council members allowed by law to vote. (Amended November 8, 1988)

(Section 184 was repealed on November 8, 1988).

(185) 3

The Civil Service Board shall formulate rules and regulations governing the selection, promotion and discipline of members of the Fire Department which rules shall, to the extent deemed feasible by said Board, be consistent with such rules of the other two Civil Service Boards and shall be enforced consistently as to all members, officers and personnel of the Fire Department. The Council may recommend amendment or repeal of existing rules and adoption of new rules to said Board. All officers shall belong to the classified service and shall be appointed and promoted for no other grounds and for no other reason than their fitness for the position to be filled: provided, however, that no member of the Fire Department shall be eligible for promotion until he shall have served at least three years in such Department and that in subsequent promotions the member must have held the rank from which he is promoted at least one (1) year. Promotions shall be made only to the next higher grade in the service and no grade shall be skipped; provided, however, that any member of the Fire Department, who has served not less than three years in such Department, may be appointed Assistant Fire Chief, Deputy Fire Chief and Fire Chief of the Fire Department. All officers or members shall be chosen or promoted by the City Manager, or designee, whenever a list of eligibles shall be furnished to the Civil Service Board, from the three (3) highest standing candidates on the list. (Amended March 26, 1996: amended June 2, 1992: amended November 8, 1988)

(186) 4

It shall be the duty of the Civil Service Board, or their designee, to hold examinations and to administer other suitable tests to those desiring positions or who are applicants for or who may have been recommended for promotion in the classified service of the Fire Department for the purpose of determining their fitness for such positions or their qualifications for such promotions and, from the result of such examinations and tests, the Board shall prepare a list of eligibles for all positions in the classified service of the Fire Department. No member of such Board shall sit as a member of the ratings panel for any oral examination. (Amended June 2, 1992: amended November 8, 1988)

(Sections 187 and 188 were repealed on November 8, 1988).

(189) 7

Appointment or promotion to employment or rank shall not be deemed complete until a period of probation not to exceed six (6) months has elapsed. Should appointees fail to complete the promotional probationary period, they shall return to their former permanent position.(Amended November 8, 1988)

(190) 8

If discharged or reduced after expiration of the period of probation, the employee so discharged or reduced may demand a trial, whereupon he shall be tried as provided in the section referring to Suspensions and Removals.

(191) 9

The City Manager, Chief of the Fire Department or Civil Service Board in whom shall be vested removal or disciplinary power shall be allowed full freedom in his or its action in such matters, it being the intent and spirit of this amendment to provide a fair and honest approach to employment and subsequent promotion in such Department but, in no sense, to handicap or curtail the responsible administrative officer or officers in securing efficient service.

(Sections 192 and 193 were repealed on November 8, 1988).

Chief of the Fire Department Section (194) 12.

The Chief of the Fire Department shall be appointed, without examination, by the City Manager and after appointment shall be removed or reduced in rank only as provided for other members of the classified service. The dismissal of the Chief of the Fire Department from the office, by the City Manager, shall not accomplish his dismissal from the Department, and upon such dismissal, he shall be restored to the rank and grade held by him prior to the appointment as Chief of the Fire Department. (Amended November 8, 2022)

Deputy Chief of the Fire Department Section (195) 13.

In case of absence, disability or death of the Chief of the Fire Department, a Deputy Chief of the Fire Department shall assume charge of the Fire Department and shall be vested with all of the powers of the Chief of the Fire Department during the time he or she shall be in charge of such Department.

(Section 196 was repealed on November 8, 1988).

Powers and Duties of the Chief of the Fire Department Section (197) 15.

The Chief of the Fire Department shall, subject to the approval of the City Manager, have control, management and direction of all members of the Fire Department and all buildings, apparatus and equipment of such

Department in the lawful exercise of the functions of his office. He shall have full power to detail any officer or member of the Fire Department to such public service as may be necessary. He shall recommend to the City Manager members of the Fire Department for demotion or dismissal and may suspend from duty and prefer charges against any officer or member.

(198) 16

When a vacancy arises in the Fire Department above the grade of fireman, the Chief of the Fire Department may, with the approval of the City Manager, assign a member of the Department from the next lower rank to fill the vacancy until such time as the absent member shall return to duty or the vacancy be filled by appointment from the eligible list furnished by the Civil Service Board. The member so assigned shall, during his incumbency, receive the salary attached to the grade or position thus temporarily filled.

Suspensions and Removals Section (199) 17.

The City Manager, or designee, may, upon recommendation of the Chief of the Fire Department, suspend from duty, for cause, for a period not to exceed thirty days any member of the Fire Department. In the event that any member of the Fire Department be charged with any offense which, under the rules of the Department, or in the judgment of the City Manager, or designee, justifies expulsion of such member from the service of the City, the City Manager or designee, shall prepare or cause to be prepared written charges against the accused. Copies of such charges shall be furnished to the accused, who shall not less than ten (10) days after such service, prepare his defense thereto. The accused may, at the hearings of such charges, be represented by counsel and shall have the right to compel the attendance of such witnesses as he may desire to testify in his behalf. (Amended June 2, 1992: amended November 8, 1988)

Trial Board Section (200) 18.

There is hereby created, for the purpose of hearing and determining charges made against an officer or member of the Fire Department, a Board to be known as the Trial Board, which shall be composed of the members of the Civil Service Board. The verdict and judgment of a majority of the Trial Board shall be final. If the accused be found guilty, the Trial Board may dismiss him from the service of the City or inflict such other punishment upon him as in the judgment of the Board shall be adequate; provided, however, that should an officer or member of the Fire Department be found guilty of a charge of drunkenness on duty, the Trial Board must dismiss him from the service of the City. If an officer or member of the Fire Department be convicted of a felony or malfeasance in office, or be adjudged insane, or absent himself from the City for more than ten (10) working days without leave, the Trial Board shall, upon the recommendation of the City Manager, declare his position or office vacant and the vacancy shall be filled as heretofore provided. (Amended November 8, 1988)

(Section 201 was repealed on November 8, 1988).

Limitation of Employment Section (202) 20.

An officer and/or employee of the Fire Department may engage in outside employment, business, profession, occupation, trade or calling, only if it is determined by the Fire Chief, or designee, pursuant to guidelines established in department rules and regulations, that such outside employment, business, profession, occupation, trade or calling will not interfere with the performance of his duty as an officer and/or employee of the Fire Department, will not be detrimental to the interests of the City and/or the Bakersfield Fire Department, and will create neither a conflict of interest, a potential conflict of interest, nor the appearance of a conflict of interest. All officers and/or employees of the Fire Department shall be available for duty at any time. (Amended June 2, 1992: amended November 8, 1988: amended November 8, 1983)

(Sections 203 and 204 repealed November 5, 1968).

(Sections 205—207 were repealed on November 8, 1988).

Civil Service for Officers and Employees in the Miscellaneous Departments of the City of Bakersfield

(Amendment to the Charter of April 6, 1931)

Creation and Establishment of Civil Service Section (208) 1.

There is hereby created and established Civil Service for all officers and employees of the City of Bakersfield, excepting elective officers, the City Manager, the City Attorney, members of the Police and Fire Departments, and members of all boards and commissions, which shall be known and designated as "Civil Service for Officers and Employees in the Miscellaneous Departments."

(Amended November 8, 1988: amended April 21, 1941)

Appointment of Civil Service Board Section (209) 2.

The Civil Service Board shall consist of five (5) members, appointed by the City Council, who shall be residents of the City throughout their terms, but who otherwise shall have no connection with City Government. Members

shall be appointed for terms of three (3) years. Vacancies shall be filled by appointment for the unexpired term. Within sixty (60) days after ratification of this amendment, the City Council shall reappoint two incumbent members for terms of three (3) years, two incumbent members for terms of two (2) years, and one (1) incumbent member for a term of one (1) year, the three (3) year term to be that of the incumbent with the longest remaining term, the one (1) year term to be that of the incumbent with the shortest remaining term. Members may be removed from office in the same manner as are elective officers of the City or by unanimous vote of the Council members allowed by law to vote.

(Amended November 8, 1988: amended November 6, 1984)

(Section 210 was repealed on November 8, 1988).

Duties of Civil Service Board Section (211) 4.

The Civil Service Board shall, subject to the approval of the City Council, formulate rules and regulations governing selection, promotion, and discipline of officers and employees of the City of Bakersfield, excepting elective officers, the City Manager, the City Attorney, members of the Police and Fire Departments, and members of all boards and commissions, which rules shall, to the extent deemed feasible by said Board, be consistent with such rules of the other two Civil Service Boards. The Council may recommend amendment or repeal of existing rules and adoption of new rules to said Board. It shall be the duty of the Civil Service Board, or their designee, to hold examinations and to administer other suitable tests to applicants for positions in the several departments affected by this amendment for the purpose of determining their fitness for such positions. No member of such Board shall sit as a member of the ratings panel for any oral examination.

All officers and employees in the several departments affected by this amendment, having gained valuable experience in the course of their service for the City, shall receive a certain added grade over applicants not in the employ of the City at the time of the examination, such added grades to be fixed by the Civil Service Board for each year or portion thereof such employee has had experience in a similar or comparable position with the City of Bakersfield. Such added grade shall not be allowed to applicants not attaining a passing grade in the examination.

Examinations of all candidates shall be practical in their character and shall relate to those matters only which will fairly test the relative capacity and ability of the persons examined to discharge the duties of the positions to which they seek to be appointed or promoted. No questions in any examination shall relate to political or religious opinions or affiliations.

All subordinate officers and employees in the departments shall be appointed by the head of the department in which the vacancy occurs, with the approval of the City Manager.

All officers, subordinate officers and employees in the several departments affected by this amendment shall be chosen from a list of eligibles furnished by the Civil Service Board to the Department Head or his/her designee and shall contain the names of all candidates who attained a passing grade in the examination, in the order of their

relative standing. If, in the opinion of the Civil Service Board, any of said candidates become ineligible, the Civil Service Board shall strike his name from the list and advise the Department Head or his/her designee of such action. The appointment must be made from the three highest standing candidates on the eligible list at the time of appointment. Any person carried on the eligible list for a period of one (1) year, unless extended by the Commission, without being appointed or promoted shall be dropped from said eligible list and shall not be eligible for appointment or promotion without re-examination. (Amended June 2, 1992: amended November 8, 1988: amended April 21, 1941)

(Sections 212 and 213 were repealed on November 8, 1988).

Probation Period Section (214) 7.

Appointment or promotion to employment or rank shall not be deemed complete until a period of probation not to exceed six (6) months has elapsed, not necessarily continuous. Periods of any unpaid leave and periods of any paid disability leave shall not count towards completion of the term of probation. Should appointees fail to complete the promotional probationary period, they shall return to their former permanent position. (Amended November 8, 1988: amended April 21, 1941)

(Section 215 repealed January 15, 1959).

Suspension and Removals Section (216) 9.

The Department Head or his/her designee, may suspend from duty for cause for a period not to exceed thirty (30) days in any one instance, any officer or employee affected by this amendment. Any officer or employee suspended shall receive no salary or wages for such suspension period.

When, in the opinion of the Department Head or his/her designee, any officer or employee affected by this amendment acts, or fails to act in such a way as to justify his/her demotion, suspension or dismissal on any of the grounds mentioned in this article, the Department Head or his/her designee shall suspend such officer or employee and declare his intention in writing to file charges against such officer or employee seeking demotion, suspension or dismissal. Such charges must be in writing and shall be prepared or caused to be prepared by the Department Head or his/her designee. A copy of such charges shall be served on the accused, who shall within ten (10) days after such service, file his answer to said charges in writing with the Department Head or his/her designee. Failure to answer said charges within ten (10) days time shall be held to be an admission of the charges by the accused and a waiving of hearing; whereupon the Civil Service Board shall find the accused guilty as charged and he shall be demoted, suspended or dismissed from the City of Bakersfield as of the date of his suspension by the Department Head or his/her designee.

No officer or employee who has successfully completed the applicable period of probation shall be removed or discharged from the service of the City of Bakersfield except for cause, upon written charges, and after an opportunity to be heard in his own defense.

Demotion, suspension or dismissal may be upon any of the following grounds: incompetency, habitual intemperance, immoral conduct, dishonesty, inattention to duties, drunkenness on duty, insubordination, or anything sufficiently irregular to justify suspension, demotion or dismissal in the opinion of the Department Head or his/her designee. (Amended June 2, 1992: amended November 8, 1988: amended April 21, 1941)

Creation and Establishment of Trial Board Section (217) 10.

(a) There is hereby created for the purpose of hearing and determining charges made against any officer or employee of the several departments affected by this amendment, a Board to be known as the Trial Board, which shall be composed of the members of the Civil Service Board. The verdict and judgment of a majority of the Trial Board shall be final and conclusive.

(b) If the accused shall answer said charge within the allotted time, he shall be given five (5) days notice of the time and place of hearing of said charges, and the accused may, at the hearing of such charges, be represented by counsel and shall have the right to compel the attendance of such witnesses as he may desire to testify in his behalf. If the accused be found guilty by the Trial Board, and in its opinion the charges are of such a character as to warrant the discipline, it shall so advise the Department Head or his/her designee, who shall then demote, suspend or dismiss the officer or employee whose guilt has been so established and determined. If the Trial Board shall find that the accused be guilty as charged but that the charges do not warrant dismissal, it shall have the power to inflict such other punishment upon the accused as in its judgment shall be adequate; provided, however, that should an officer or employee affected by this amendment be convicted of a felony, or malfeasance in office, or be adjudged insane, the position shall be declared vacant by the Department Head or his/her designee and the vacancy shall be filled as herein provided.

(Amended June 2, 1992: amended April 9, 1957)

Classification of Employees in Subordinate Positions

(217a)

10a. It shall be the duty of the Civil Service Board when requested to do so by the City Council or City Manager, to classify, and when necessary re-classify, in accordance with the duties of the department, all subordinate positions in all departments affected by this amendment. Such classification or re-classification must be prepared in writing and a copy thereof submitted to the City Council for approval or rejection. The City Council shall fix the date that such classification or reclassification shall take effect. A copy of such recommended classification or re-classification shall also be furnished by the Civil Service Board to the City Manager and the head of the department affected. (Amended November 8, 1988: amended April 21, 1941)

(Section 217b) 10b. was repealed March 26, 1996).

(Sections 218—220 were repealed on November 8, 1988).

Civil Service for the Police Department of the City of Bakersfield

(Amendment to the Charter of April 6, 1931)

Appointment and Removal of Commissioners Section (221) 1.

The Civil Service Board shall consist of three (3) members, appointed by the City Council, who shall be residents of the City throughout their terms, but who otherwise shall have no connection with City government. Members shall be appointed for terms of three (3) years. Vacancies shall be filled by appointment for the unexpired term. Within sixty (60) days after ratification of this amendment, the City Council shall reappoint the incumbent members for terms of three (3), two (2), and one (1) years, the three (3) year term to be that of the incumbent with the longest remaining term, the one (1) year term to be that of the incumbent with the shortest remaining term. Members may be removed from office in the same manner as are elective officers of the City or by unanimous vote of the Council members allowed by law to vote. (Amended November 8, 1988; amended November 6, 1984)

Classified Civil Service Section (222) 2.

The Commissioners shall classify, in accordance with the duties of the Department, all positions in the Police Department of the City. The Commissioners may grade and from time to time may regrade the positions governed by any class in accordance with salaries and duties, to the end that the like salaries shall be paid for like duties. New positions when created shall be classified, graded and filled in accordance with these provisions. Before any new position is created by the head of the Police Department, he shall secure from the Civil Service Commission the proper designation of such position and the title of such position shall correspond with the classification adopted in accordance with the provisions of this section. The Council may recommend amendment or repeal of existing rules and adoption of new rules to said Board. Any classification or grading may be amended or abolished by the Commission, and classes calling for similar qualifications may be consolidated, but persons who have been appointed from any such class shall retain any position lawfully held thereunder, so long as such position is maintained, unless removed or otherwise provided herein. (Amended November 8, 1988)

Rules of Commissioners Section (223) 3.

The Commissioners shall formulate rules and regulations governing the selection, promotion and discipline of employees in the Department, which rules shall, to the extent deemed feasible by said Board, be consistent with such rules of the other two Civil Service Boards. All officers and personnel shall belong to the classified service and shall be appointed and promoted for no other grounds and for no other reason than their fitness for the position to be filled. (Amended November 8, 1988)

Examination of Applicants Section (224) 4.

All applicants for places on the Police Department or for promotion, shall be subjected to examination, which shall be public, competitive, and free. Such examinations shall be practical in their character, and shall relate to those matters only which will fairly test the relative capacity of the person examined to discharge the duties of the position to which they seek to be appointed. No member of such Board shall sit as a member of the ratings panel for any oral examination. Every appointee to the Police Department, at the time of his appointment, must pass the physical tests prescribed by the Civil Service Commission. (Amended November 8, 1988; amended November 3, 1970; amended January 13, 1955; amended April 18, 1935)

(Sections 225 and 226 were repealed on November 8, 1988).

Appointment Section (227) 7.

Whenever a position upon the Police Department of the City is to be filled, with the exception of the position of Chief of Police, the Chief of Police shall notify the Commission of that fact, and the Commission shall then certify to the Chief of Police the name and address of two or more candidates in the discretion of the Commission, but not exceeding three, standing highest upon the register for the class or grade to which the position belongs. The Commission shall not certify the name of any person who, in the judgment of the Commission is not of good moral character or who has secured a place upon the eligible list by fraud, concealment of facts, or by violation of the rules of the Commission; and having certified such person, they shall cancel said certification and remove the name of any such person from the eligible list.

Appointments on Probation, Conditions of Discharge, Temporary Appointments

The Chief of Police shall notify the Commissioners of each position to be filled, separately, and shall fill such positions by appointment of one of the persons certified to him by the Commissioners therefore. Sworn officers

and nonsworn personnel in classifications unique to the Police Department shall be on probation for a period to be fixed by the rules of the Commissioners; such rules shall not fix such period in excess of one year. All other non-sworn personnel shall serve a six-month probation. The Commissioners may strike off names of candidates from the register of eligible candidates if they have remained thereon more than one year. At or before the expiration of the period of probation, the Chief of Police may discharge a candidate. If a candidate is not discharged at or before the expiration of the period of probation his appointment shall be deemed complete. To prevent the stoppage of public business or to meet emergencies, including the absence of any officer or member of the department, the Chief of Police may, with the approval of the Commissioners, make temporary appointments to remain in force not exceeding sixty days, and only until regular appointments under the provisions of this article can be made. (Amended November 8, 1988: amended November 3, 1970)

Appointment of Chief of Police Section (229) 9.

The Chief of Police shall be appointed by the City Manager from a list of three eligible candidates, which list shall be furnished to the City Manager by the Commissioners not later than forty days after a vacancy in the office of the Chief of Police shall occur; after appointment the Chief of Police shall be removed from office or reduced in rank only as provided in this article. No individual shall be eligible for the position of Chief of Police until he shall have had five years experience as a regularly paid peace officer.

In case of the removal, demotion, resignation, or death of the Chief of Police, the City Manager may, with the approval of the Commissioners, make a temporary appointment of Chief of Police, said appointment to remain in force not exceeding sixty days, and only until a regular appointment may be made under the provisions of this article.

In case of the temporary absence or disability of the Chief of Police, the City Manager shall appoint an Assistant Chief of Police to become acting Chief of Police during the period of such absence or disability. (Amended November 8, 2022: amended March 9, 1948)

Promotions: Qualifications for Promotion Section (230) 10.

The Commissioners shall provide for promotion in the Department on the basis of ascertained merit. All examination for promotion shall be competitive, as established by the Commissioners. The Commissioners shall submit to the appointing power the names of not exceeding three applicants having the highest rating for each promotion.

No member of the Police Department shall be eligible for promotion to any position other than that of Chief of Police until he shall have had three years of experience as a regular paid peace officer, one year of which must have been served in the Bakersfield Police Department immediately preceding the date of his promotion. (Amended November 8, 2022)

Removal, Demotion or Discharge—Members of Department Section (231)

11.

No person employed in the Police Department who has successfully completed the applicable period of probation shall be removed, demoted or discharged, except for cause, upon written charges, and after an opportunity to be heard in his own defense. Pending the hearing of such charges against members of the Department, with the exception of the Chief of Police, the Chief of Police may suspend the person so accused; but suspension in any case shall not be valid for more than thirty days upon any charge unless the hearing thereon shall be delayed beyond such time by the act of the person so accused. A copy of such charges shall be filed with the Chief of Police or designee.

A corrective copy of such charges shall be served upon the accused, who shall within ten (10) days after such service, file a written answer thereto. Failure to answer said charges within ten (10) days time shall be held to be an admission of the charges by the accused and a waiver of hearing; whereupon, the Civil Service Commission shall find the accused guilty as charged and he shall be removed and discharged from the Department as of the date of his suspension by the Chief of Police or designee.

If the accused shall answer said charges within the allotted time, he shall be given five (5) days notice of the time and place of hearing of said charges. The accused, at the hearing of such charges, which may be private or public at the option of the accused, shall have the right to be represented by counsel, to submit evidence in his behalf, and to compel the attendance of such witnesses as he may desire to testify in his behalf. A public hearing is waived unless demanded by the accused in his written answer.

The order or decision of the Civil Service Commission upon such hearing shall be final and shall forthwith be enforced by the Chief of Police or designee. (Amended June 2, 1992: amended November 8, 1988: amended March 9, 1948)

Removal, Demotion or Discharge of Chief of Police Section (232) 12.

The Chief of Police shall not be removed, suspended, demoted or discharged except for cause upon written charges and after an opportunity to be heard in his own defense at a public or private hearing. Pending the hearing of such charges, the City Manager may suspend the Chief of Police so accused, but such suspension shall not be valid for more than thirty days. The order or decision of the Civil Service Commission after a public hearing shall be final. (Amended June 2, 1992)

Suspension; Causes of Suspension or Removal Section (233) 13.

The Chief of Police or other authorized officers of the Department may, subject to the rules of the Department for disciplinary purposes, suspend a subordinate for a period not exceeding thirty days and such suspension may carry with it the loss of salary for the period of suspension. Removal, suspension, demotion or discharge may be

upon any of the following grounds: Incompetency, habitual intemperance, immoral conduct, dishonesty, inattention to duties, drunkenness on duty, insubordination, absence from duty without leave, and violation of any Civil Service or departmental rule or regulation. (Amended June 2, 1992: amended November 8, 1988: amended March 9, 1948)

(Section 234 was repealed on November 8, 1988).

Secretary of the Commission Section (235) 15.

The Commissioners shall from time to time designate one of their members as Secretary. (Amended March 9, 1948)

(Sections 236 and 237 were repealed on November 8, 1988).

(Section 238 repealed November 5, 1968).

Limitation of Employment Section (239) 19.

A peace officer employed by the Police Department may engage in outside employment, business, profession, occupation, trade or calling, only if it is determined by the Chief of Police, pursuant to guidelines established in department rules and regulations, that such outside employment, business, profession, occupation, trade or calling will not interfere with the performance of his duty as a police officer, will not be detrimental to the interests of the City and/or the Bakersfield Police Department and will create neither a conflict of interest or a potential conflict of interest nor the appearance of a conflict of interest. All peace officers shall be available for duty at any time. (Amended November 8, 1988: amended November 8, 1983)

(Sections 240 and 241 were repealed on November 8, 1988).

Constitutionality Section Section (242) 22.

Any provision, section, clause, or phrase of the Charter of the City of Bakersfield in conflict herewith is expressly repealed. (Amended November 8, 1988)

CERTIFICATION APPEARING IN ORIGINAL CHARTER WHICH INCLUDED SECTIONS 1 TO 164 INCLUSIVE

IN WITNESS WHEREOF, We have hereunto set our hands at the City of Bakersfield, County of Kern, State of California, the thirty-first day of August, 1914.

S.F. SMITH
LOUIS V. OLCESE
C.L. TAYLOR
JOSEPH REDLICK
GUS SCHAMBLIN
E.A. WHEELER
H.E. METZNER
W.G. HUDLOW
E.B. DUNCAN
A.G. LITTLE
TAY STEVENSON
W.A. STARR
J.B. CRANDALL
ELBERT E. McCLURE
GEO. HAY

Endorsed): Filed Sept. 3, 1914.

A.G. JONES, City Clerk.
STATE OF CALIFORNIA,
County of Kern,
City of Bakersfield.
ss.

I, W.V. Matlack, president of the board of trustees of the City of Bakersfield, State of California, do hereby certify that I now am, and at all times herein mentioned was, the duly elected, qualified and acting president of the board of trustees of said city; that S.F. Smith, Louis V. Olcese, C.L. Taylor; Joseph Redlick, Gus Schamblin, E.A. Wheeler, H.E. Metzner, W.G. Hudlow, E.B. Duncan, A.G. Little, Ray Stevenson, W.A. Starr, J.B. Crandall, Elbert E. McClure and Geo. Hay, a majority of those names appear signed to the foregoing proposed charter were, and each of them as on the 5th day of May, 1914, at a special election held in the City of Bakersfield on said day duly elected by the qualified voters of the city as a board of free-holders to prepare and propose a charter for said City of Bakersfield; that each of said persons so elected was a freeholder and was at the time of said election and had been continuously for more than five years immediately prior thereto a quali-fied elector of said City of Bakersfield; that the foregoing is a full, true and correct copy of said charter prepared by said board of freeholders, and filed in the office of the City Clerk of said City of Bakersfield on the 3rd day of September, 1914, and within 120 days after the result of said election was declared by the said board of trustees as required by Section 8 of Article XI of the constitution of this state; that said proposed charter was then published in the Bakersfield Californian, which at all times herein mentioned was, and now is a daily newspaper of general circulation, printed, published and circulat-

ed in said City of Bakersfield; that said proposed charter was published ten times in said newspaper on the following days of publication, to-wit: September 17, 18, 19, 21, 22, 23, 24, 25, 26 and 28, 1914; that the first publication thereof was made on the 17th day of September 1914, and within fifteen days after the fling of a copy of said charter as aforesaid in the office of the City Clerk of said City of Bakersfield; that, as required by Section 8, Article XI of said constitution, a special election was held in said city not less than twenty days, nor more than forty days after the completion of the publication of said charter, to-wit; on the 7th day of November, 1914, for the purpose of ratifying said proposed charter as a whole; that by a majority of the votes of the qualified electors voting at said election said proposed charter was ratified as a whole. That the returns of said election were duly canvassed by the board of trustees of the City of Bakersfield on the 11th day of November, 1914, and the result thereof declared as above set forth; and that in all matters and things pertaining to said proposed charter all provisions of said section of the constitution and the laws of the State of California pertaining to the adoption of said charter have been fully complied with in every particular.

IN WITNESS WHEREOF. I hereunto set my hand and caused the corporate seal of the City of Bakersfield to be affixed this 2nd day of January, 1915.

M. V. MATLACK,
President of the Board of Trustees
of the City of Bakersfield.

Attest: A. G. Jones

(Seal) City Clerk of the City of Bakersfield.

AND WHEREAS. The said charter of the City of Bakersfield so ratified is now submitted to the legislature of the State of California, for approval or rejection without power of alteration or amendment in accordance with Section Eight of Article Eleven of the Constitution of the State of California. Now therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF CALIFORNIA, THE SENATE THEREOF CONCURRING (a majority of all members elected to each house voting for the adoption of this resolution and concurring therein), That said charter of the said City of Bakersfield hereinbefore set forth as presented and submitted to and adopted and ratified by the qualified electors of the said City of Bakersfield be, and the same is, hereby approved as a whole for and as the charter of the said City of Bakersfield.

The Charter of the City of Bakersfield is current through November 8, 2022.

Disclaimer: The city clerk has the official version of the Charter of the City of Bakersfield. Users should contact the city clerk for amendments adopted subsequent to the amendment cited above.

[City Website: www.bakersfieldcity.us](http://www.bakersfieldcity.us)

[City Telephone: \(661\) 326-3000](tel:(661)326-3000)

[Hosted by General Code.](#)