

CHARTER OF THE CITY OF SAN RAFAEL

ARTICLE I - Name, Rights and Liabilities of the City

Section 1. - NAME OF THE CITY.

The municipal corporation now existing and known as the City of San Rafael shall remain and continue a body politic and corporate in name and in fact, by the name of the "City of San Rafael," and by that name shall have perpetual succession.

Section 2. - RIGHTS AND LIABILITIES.

The City of San Rafael shall remain vested with and continue to have, hold and enjoy all property, rights of property and rights of action of every nature and description now pertaining to this municipality, and is hereby declared to be the successor of the same. It shall be subject to all the liabilities that now exist against this municipality. All ordinances of said city, now known as the City of San Rafael, not in conflict with this Charter, shall be continued in force until amended or repealed, and all proceedings providing for any public improvement pending and uncompleted shall be continued in accordance with the law under which said proceedings were commenced.

ARTICLE II - Boundaries

Section 1. - BOUNDARIES DESCRIBED.

The boundaries of the City of San Rafael are as follows:

Beginning at the point of intersection of the westerly line of the public highway leading from San Rafael to Kentfield (formerly known as Ross Landing), by way of D street grade, with the southerly boundary line of the lands conveyed by John Reynolds to John O. B. Short and Jacob Short by a deed dated June 22, 1864, and recorded in the office of the Recorder of Marin County in Liber E of Deeds, at page 112, said point of beginning being near the summit of the ridge immediately south of the City of San Rafael; running thence along the said ridge in a general westerly direction, following the southerly boundary line of the lands conveyed by John Reynolds as aforesaid and following the southerly boundary line of the lands conveyed by John Simms to John O. B. Short and Jacob Short by a deed dated January 14, 1865, and recorded in the office of said Recorder in Liber E of Deeds, at page 251, to an oak tree standing at the most northerly corner of what was formerly designated as the "Hooper Tract" and described in a deed from William B. Hooper to Jonathan G. Kittle dated October 17, 1881, and recorded in the office of

said Recorder in Liber W of Deeds at page 352; thence leaving the summit of the ridge and running northwesterly in a direct line to a point which is south 45 degrees west twenty-five feet from the southwesterly corner of the Town of San Rafael as the corporate limits thereof were surveyed in the month of April, 1874, by order of the Board of Trustees of said Town; thence due north to a point on the summit of the aforesaid ridge, said point being in the northerly boundary line of the tract of land which was conveyed by Rebecca J. Makin and Robert G. Makin to Jonathan G. Kittle by a deed dated the 5th day of December, 1881, and recorded in the office of said Recorder in Liber W of Deeds, at page 344; thence continuing westerly along said summit and said northerly boundary line of the tract of land conveyed to Jonathan G. Kittle to a point which is due south from the highest point in the traveled portion of the public highway leading from San Rafael to San Anselmo, as said highway existed in the month of May, 1889; thence in a general northerly direction, along the summit of a spur or ridge which divides the waters flowing toward San Rafael from those flowing into the San Anselmo Valley, to the summit of a ridge on the lands of the Estate of Alexander Forbes, deceased, which said ridge lies between the aforesaid public highway leading from San Raphael to San Anselmo, and the street formerly known as Culloden Avenue, but now known as Fifth Avenue, extending westerly from San Rafael to Mount Tamalpais Cemetery; thence in a direct line northerly to the northeast corner of the tract of land which was conveyed by Henry A. DuBois Jr. to the Mount Tamalpais Cemetery by a deed dated the 6th day of July, 1880, and recorded in the office of said Recorder in Liber U of Deeds, at page 554, said point being on the summit of the ridge lying immediately south of the Santa Margarita Valley; thence in a general easterly direction along the summit of the last mentioned ridge, crossing and subdividing the lands of the said Forbes Estate, to a white oak tree standing in the westerly boundary line of the tract of land which was conveyed by Arthur W. Foster to Louisiana S. Foster by a deed dated the 2nd day of December, 1885, and recorded in the office of said Recorder in Book 2 of Deeds, at page 474; thence northerly and easterly along the westerly and northerly boundary lines of said tract conveyed to Louisiana S. Foster to a madrone tree standing at the most easterly corner thereof; thence northerly and easterly along the westerly and northerly boundary lines of the tract of land which was conveyed by Alexander Forbes to William T. Coleman by a deed dated the 5th day of October, 1871, and recorded in the office of said Recorder in Liber J of Deeds, at page 306, to the Dixon Puerto Suello, the depression in the San Pedro ridge where said ridge is crossed by the county road leading from San Rafael to Petaluma; thence easterly along said ridge, following the southerly boundary line of the "Wagner Tract" which was conveyed by Henry C. Campbell to O. C. Miller by a deed dated the 28th day of March, 1889, and recorded in the office of said Recorder in Book 9 of Deeds, at page 424, and following the southerly boundary line of the "Kimbell Tract" which was conveyed by A. McCartney to Edward Gray Stetson by a deed dated the 26th day of August, 1887, and recorded in the office of said Recorder in Book 5 of Deeds, at page 371, to a live oak tree standing at the common corner of the said "Kimball Tract," the tract containing 515 570-100 acres of land, which was conveyed by Mary E. McAlester to Ada M. I. McMahon and others by a deed dated April 18, 1904, and recorded in the office of said Recorder in Book 87 of

Deeds, at page 130, and the tract of land which was conveyed by Ellen Ford to M. T. Freias by a deed dated the 9th day of December, 1903, and recorded in the office of said Recorder in Book 85 of Deeds at page 165; thence descending in a general southerly direction along a spur of the said San Pedro ridge which spur divides the waters flowing into the San Rafael Valley from the water flowing direct to the bay of San Francisco, to a point in the San Rafael and Point San Pedro road at Oak Point; thence easterly along the said San Rafael and Point San Pedro road to the point where the same enters the salt marsh; thence crossing the salt marsh in a general southwesterly direction to a stake marked "T. L.S. 55" standing on the edge of the salt marsh at the point of a ridge or spur which lies immediately east of the valley formerly known as the "Laurel Grove Picnic Grounds"; thence southeasterly, ascending along the summit of said spur or ridge, to the summit of the main ridge at a point in the southerly boundary line of the tract of land which was conveyed by David Porter to William T. Coleman by a deed dated the 27th day of May, 1871, and recorded in the office of said Recorder in Liber J of Deeds, at page 99; thence westerly along said ridge and following the line dividing the tract conveyed to William T. Coleman as aforesaid from the tract of land conveyed by David Porter to F. S. Wensinger by a deed dated October 29, 1890, and recorded in the office of said Recorder in Book 13 of Deeds, at page 107, and along the southerly boundary line of said lands conveyed by John Reynolds to John O. B. Short and Jacob Short as aforesaid to the point of beginning.

ARTICLE III - Powers of The City

Section 1. - PREAMBLE.

Without denial or disparagement of other powers held under the Constitution and laws of the State, the City of San Rafael shall have the right and power:

Section 2. - PERPETUAL SUCCESSION.

To have perpetual succession.

Section 3. - OFFICIAL SEAL.

To provide a corporate seal, with appropriate device, to be affixed to all instruments or writings needing authentication.

Section 4. - SUE AND DEFEND.

To sue and defend in all courts and places and in all matters and proceedings.

Section 5. - PROPERTY FOR PUBLIC PURPOSES.

To purchase, receive, have, take, hold, lease, use and enjoy property of every kind and description, both within and without the limits of said city, and to control and dispose of the same for the public benefit.

Section 6. - BEQUESTS AND DONATIONS.

To receive bequests, gifts and donations of all kinds of property, in fee simple or in trust for charitable or for other purposes, and do all acts necessary to carry out the purposes of such bequests, gifts and donations, with power to manage, sell, lease or otherwise dispose of the same, in accordance with the terms of the bequest, gift, or trust, or absolutely in case of such bequests, gift or trust be unconditional.

Section 7. - PUBLIC WORKS, BUILDINGS AND INSTITUTIONS.

To establish, maintain and equip libraries, reading rooms, parks, playgrounds, markets, and all other public buildings, places, works and institutions, and to carry on and conduct any and all kinds of business and to subsidize the same.

Section 8. - TELEPHONE, TELEGRAPH AND TRANSPORTATION.

To acquire by purchase, condemnation or otherwise and to establish, maintain, equip, own and operate telephone and telegraph systems, cable and electric or other railways and transportation service of any and every kind.

Section 9. - WATER, LIGHT, HEAT AND POWER.

To acquire by purchase, condemnation or otherwise, and to establish, maintain, equip, own and operate water works, gas works, electric light, heat and power works within and without the city, and to supply the city and its inhabitants, and also persons, firms or corporations or cities or towns outside the city with water, gas, heat and electricity.

Section 10. - SALE OF PRODUCTS OF PUBLIC UTILITY.

To sell gas, water, electric current, and all products of any public utility operated by the city.

Section 11. - LAND FOR PUBLIC UTILITIES.

To acquire by purchase, condemnation, suit or otherwise within and without the city, such lands or other property as may be necessary for the establishment, maintenance and operation of any public utility, or to provide for and effectuate any other public purpose, and to sell, convey and dispose of the

same for the public benefit.

Section 12. - LEASES OF PROPERTY.

To lease, by ordinance, all city-owned property excepting therefrom leases of five (5) years or less and/or leases where the total rent is Six Thousand (\$6,000.00) Dollars or less. (City Council Resolution No. 5589, adopted December 21, 1978, as ratified by the voters on March 6, 1979. State Charter Statutes Appendix, Chapter 11, 1979.)

Section 13. - EMINENT DOMAIN.

To exercise the right of eminent domain, for the purpose of acquiring real and personal property of every kind for any public use.

Section 14. - TO BORROW MONEY.

To borrow money for any of the purposes for which the city is authorized to provide, and for carrying out any of the powers which the city is authorized to enjoy the exercise, and to issue bonds therefor; provided, that in the procedure for the creation and issuance of such bonded indebtedness the general laws of the State of California in force at the time such proceedings are taken shall be observed and followed.

Section 15. - SPECIAL TAX.

To raise money by special tax in addition to the annual tax levy provided in Article XII of this charter. To authorize such special tax the council shall submit to the electors of the city the question whether such tax shall be raised, by advertising a notice of such election in a newspaper published in said city once a week for three successive weeks, specifying the time and place of holding the election, the amount of money proposed to be raised, and the purpose for which it is intended to be used. Such election shall take place within twenty-five days after the first publication of said notice, and the levy of such tax must be approved by at least two-thirds of the qualified electors who vote at said election. At such election the council may be authorized, in cases where public necessity requires the expenditure of any sum so voted before the next succeeding tax levy, to issue warrants therefor, and provide in the next succeeding tax levy for their payment, with interest not exceeding five per cent per annum. Or the council may be authorized by such election to levy a special tax each year for a period of years, not exceeding three years in all, for any permanent municipal improvement, and the money so raised may be expended each year after the same is collected and available.

Section 16. - POLICE POWER.

To exercise police powers and make all necessary police and sanitary regulations, and to adopt ordinances and prescribe penalties for the violation thereof.

Section 17. - IMPROVEMENT OF STREAMS.

To improve the inlets, waterways and channels flowing through the city or adjoining the same; to widen, straighten and deepen the channels thereof, and to remove obstructions therefrom; to control and improve the water front of the city; and to acquire, own, construct, maintain and operate on any lands bordering on said waterways, inlets and channels, within the limits of said city or contiguous thereto, wharves, chutes, piers or bath houses.

Section 18. - GRADING AND OPENING STREETS.

To build and repair bridges; to establish, lay out, alter, open, keep open, close, improve and repair streets, sidewalks, alleys, squares and other public highways and places within the city; to drain, sprinkle, oil and light the same; to remove all obstructions therefrom; to establish or change the grades thereon; to grade, pave, macadamize, gravel and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks and cross-walks thereon or on any part thereof; to cause to be planted, set out and cultivated shade trees thereon; and generally to manage and control such highways and places.

Section 19. - FIRE DEPARTMENT.

To equip and maintain a fire department, and to make all necessary regulations for the prevention of fires.

Section 20. - NUISANCES.

To provide for the abatement of any nuisance at the expense of the persons creating, causing, committing or maintaining such nuisances.

Section 21. - REWARDS.

To offer rewards, not exceeding two hundred and fifty dollars in any one instance, for the apprehension and conviction of any person who may have committed a felony in the city, and to authorize the payment thereof.

Section 22. - FIRE LIMITS.

To prescribe fire limits and determine the character and height of buildings that may be erected therein, and the nature of the materials to be used in the construction, alteration or repair of such

buildings, or in the repair or alteration of existing buildings within such fire limits.

Section 23. - BUILDING REGULATIONS.

To regulate the construction and location of, and the materials used in, all buildings, chimneys, stacks, and other structures; to prevent the erection and maintenance of insecure or unsafe buildings, walls, chimneys, stacks or other structures, and to provide for their summary abatement or destruction; to regulate the materials used in, and the method of construction of, foundations and foundation walls, the materials, manner of construction and location of drains and sewers, the materials used in wiring buildings or other structures for the use of electricity for lighting, power, heat or other purposes, and materials used for piping buildings or other structures for the purpose of supplying the same with water or gas, and the manner of so doing; to prohibit the construction of buildings and structures which do not conform to such regulations.

Section 24. - FIRE ESCAPES.

To require the owners and leasees of buildings or other structures to place upon them or in them fire escapes and appliances for protection against fire and for the extinguishment of fires.

Section 25. - PRECAUTIONS AGAINST FIRES.

To prevent the construction and to cause the removal of dangerous chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers, apparatus and machinery used in any building in the city; to prevent the depositing of ashes, the accumulation of shavings, rubbish or any combustible material in unsafe places, and to make provisions to guard against fires.

Section 26. - PROVISIONS FOR SAFETY IN THEATRES, . . . HALLS, ETC.

To regulate the size and construction of the entrances to and exits from all theatres, lecture rooms, halls, schools, churches and other places for public gathering of every kind, and to prevent the placing of seats, chairs, benches or other obstructions in the hallways, aisles or open places therein.

Section 27. - PROVISIONS FOR SAFETY IN STREETS.

To regulate the speed of railroad trains, engines and cars passing through the city, and the speed of cars of street or interurban railway companies using the public streets of the city; to require railroad companies to station flagmen, place gates or signals at all such street crossings as the council may deem proper; to require street cars and local trains to be public; to prohibit the making up of railroad trains on any of the street crossings or street intersections of the city; to regulate the speed with which persons may ride or drive or propel bicycles, motor cycles, automobiles or other vehicles along or upon any of the

streets or highways of the city; to prohibit the blocking or obstructing by railroad trains of any of the street crossings or street intersections of the city.

Section 28. - IMPROPER USE OF STREETS.

To regulate or prohibit the exhibition or carrying of banners, placards, or advertisements, and the distribution of handbills in the streets, public grounds or upon the sidewalks; to regulate and prevent the flying of banners, flags or signs across the streets or from houses; to regulate or prohibit traffic and sales in the streets and public places; to prevent encroachments upon or obstructions to the streets, and to require their removal.

Section 29. - WEEDS AND RUBBISH ON SIDEWALKS.

To compel the owner or occupant of buildings or grounds to remove dirt, rubbish, and weeds therefrom and from the alley and sidewalk thereof, and on default to authorize the removal or destruction thereof by some officer or employee of the city, at the expense of such owner or occupant.

Section 30. - BILLBOARDS AND SIGNS.

To regulate, license or prohibit the construction and use of billboards and signs.

Section 31. - PUBLIC POUND.

To prevent or regulate the running at large of any fowls or animals, and to establish and maintain a pound, and authorize the destruction or other disposition of any fowls or animals running at large.

Section 32. - DOGS.

To regulate and prevent the running at large of dogs; to provide for the destruction of vicious dogs, and to require the payment of license fees by the owners or persons having possession of dogs, and to impose penalties upon such persons for refusing to pay such license fees.

Section 33. - PRESERVATION OF HEALTH.

To make all regulations which may be necessary and expedient for the preservation of health and the suppression of disease; to make regulations to prevent the introduction of contagious, malignant, infectious or other diseases into the city; to make quarantine laws and regulations; to regulate, control and prevent the entry into the city of persons, baggage, merchandise or other property infected with contagious disease.

Section 34. - DANGEROUS AND OFFENSIVE OCCUPATIONS: DISAGREEABLE NOISES.

To regulate or prohibit the operation of all manufactories, occupations and trades which may be of such a nature as to effect the public health or good order of the city or disturb the public peace, or which may be offensive or dangerous to the inhabitants residing in the vicinity, and to provide for the punishment of all persons who may permit the same to be maintained in any building or upon any premises owned or controlled by them; to make regulations for the suppression of disagreeable, offensive or injurious noises.

Section 35. - INSPECTION OF FOOD PRODUCTS.

To provide for and regulate the inspection by the health officer of meats, poultry, fish, game, bread, butter, cheese, lard, eggs, vegetables, breadstuffs, milk and other food products offered for sale in the city, and to provide for the taking and summarily destroying of any such products as are unsound, spoiled, adulterated or unwholesome, and to regulate and prevent the bringing into the city or having or keeping within the city, any such unsound, spoiled, adulterated or unwholesome products.

Section 36. - DAIRIES.

To provide for the regulation and inspection of all dairies, slaughter houses and creameries that offer for sale any of their products in the city.

Section 37. - LODGING, TENEMENT AND APARTMENT HOUSES.

To regulate lodging, tenement and apartment houses and to prevent the overcrowding of the same, and to require that they be put and kept in proper sanitary condition.

Section 38. - SEWER CONNECTIONS.

To regulate the construction, repair and use of sewers, sinks, gutters, wells, cesspools and vaults, and to compel the connecting, cleaning or emptying of the same, and to designate the time and manner in which the work shall be done.

Section 39. - GARBAGE.

To provide for the treatment of and collection and disposal of garbage, ashes, animal and vegetable refuse, dead animals, offal and waste matter.

Section 40. - LICENSING BUSINESS.

To license, for the purpose of regulation and revenue, all and every kind of business not prohibited by

law, and all shows, exhibitions and lawful games carried on in the city; to fix the rate of licenses upon the same, and to provide for the collection thereof by suit or otherwise.

Section 41. - WEIGHTS AND MEASURES.

To provide for the inspection and sealing of all weights and measures used in the city, and to enforce the keeping and use by dealers of proper weights and measures duly tested and sealed.

Section 42. - TAXATION.

To levy and collect taxes upon all the real and personal property within the city, subject to the limitations elsewhere in this charter provided.

Section 43. - ERRONEOUSLY COLLECTED TAXES.

To order the repaying to the persons entitled thereto by the treasurer of any taxes, percentages or costs erroneously or illegally collected.

Section 44. - FEES.

To fix the fees and charges for all official services not otherwise provided for in this charter.

Section 45. - PURCHASE OF PROPERTY UNDER

EXECUTION. To provide for the purchase of property levied upon or under execution in favor of the city, but the amount bid on such purchase shall not exceed the amount of judgment and costs.

Section 46. - REGULATION OF PUBLIC UTILITY RATES.

To fix and determine, by ordinance, in the month of February of each year, and to take effect on the first day of July thereafter, the rates or compensation to be collected by any person, firm or corporation in the city for the use of water, heat, light, power or telephonic service supplied to the city or its inhabitants, and to prescribe the quality of the service.

Section 47. - RAILROADS TO KEEP STREETS IN REPAIR.

To require every railroad company to keep the streets in repair between the tracks, and along and within the distance of two feet upon each side of the track occupied by the company, and to sprinkle the same.

Section 48. - SPUR TRACKS.

To permit the laying down of spur or side tracks and running of cars thereon, for the purpose of connecting warehouses, manufactories or other business industries and enterprises with any line of railroads which do now or may hereafter enter the city, subject to such regulations and conditions as may be prescribed from time to time by the council; such tracks not to be used as a main line or a part thereof; and also for the purpose of excavating and filling in a street or a portion of a street or the adjoining land, and for such limited time as may be necessary for such purpose and no longer. Such tracks must be laid level with the street, and must be operated under such restrictions as not to interfere with the use of the street by the public. All permits granted under the provisions hereof shall be revocable at the pleasure of the council.

Section 49. - REGULATION OF POLES AND WIRES.

To cause the removal and placing under ground of all telephone, telegraph, electric light or other wires within the city or within any designated portion thereof, and to regulate or prohibit the placing of poles and suspending of wires along or across any of the streets, highways and public places in the city.

Section 50. - SIZE AND LOCATION OF PIPES.

To regulate the size and location of all water pipes, gas pipes, and all other pipes and conduits laid or constructed in the streets and public places, and to require the filing of charts and maps of such pipes and conduits.

Section 51. - ELECTIONS.

To make all rules and regulations governing elections not inconsistent with this charter.

Section 52. - PARK COMMISSION.

To establish a park commission and to appoint commissioners thereon, to serve without compensation, with such powers and duties as may be fixed by the council.

Section 53. - IMPROVEMENT OF WATERWAYS.

To acquire by purchase or otherwise and own, operate and control all machinery and all appliances necessary for the improvement of waterways.

Section 54. - VIOLATION OF CHARTER AND ORDINANCES.

To prescribe fines, forfeitures and penalties for the violation of any provision of this charter, or of any ordinance; but no penalty shall exceed a fine of five hundred dollars or six months imprisonment, or

both.

Section 55. - GENERAL GRANT OF POWER.

To exercise such other powers as are now or may be hereafter granted by the legislature to the municipalities within the state, unless the exercise of such powers is contrary to the provisions of this charter; to exercise all other needful powers for the efficient administration of the municipal government, the welfare of the city or its inhabitants, whether such powers are herein expressly enumerated or not; and to enact appropriate legislation, and do or perform any and all other acts and things which may be necessary and proper to carry out the general powers of the city or of any of the provisions of this charter.

Section 56. - GENERAL LAWS FOLLOWED.

In the absence of any procedure for carrying out or effectuating any granted or implied power or authority, the general laws of this state, where applicable and where not inconsistent with any express provision of this charter shall prevail and shall be followed.

Section 57. - DIRECT LEGISLATION BY THE PEOPLE.

The qualified voters of the city shall have the power, through the initiative and otherwise, as provided in this charter and the general laws of the state, to enact appropriate legislation to carry out and enforce any of the general or implied powers of the city.

Section 58. - LIBERAL CONSTRUCTION.

Lastly, this grant of power is to be liberally construed for the purpose of securing the well being of the municipality and its inhabitants.

Section 59. - POWERS OF CITY.

The city shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this charter and in the Constitution of the State of California. It shall also have the power to exercise any and all rights, powers and privileges heretofore or hereafter established, granted or prescribed by any law of the State, by this charter, or by other lawful authority, or which a municipal corporation might or could exercise under the Constitution of the State of California. The enumeration in this charter of any particular power shall not be held to be exclusive of, or any limitation upon, this general grant of power.

(Senate Concurrent Resolution No. 71, May 15, 1953) CA No. 9.

ARTICLE IV - Elections

Section 1. - GENERAL AND SPECIAL ELECTIONS.

A municipal election shall be held in the city on the Tuesday after the first Monday in November of each odd-numbered year or as hereafter provided by the State Legislature under general law provisions determining the date of election for the governing board members of a school district, and shall be known as the general municipal election. All other municipal elections that may be held by authority of this charter or of general law shall be known as special municipal elections. (City Council Resolution No. 5589, adopted December 21, 1978, as ratified by the voters on March 6, 1979. State Charter Statutes Appendix, Chapter 11, 1979.)

Section 2. - CONDUCT OF ELECTIONS.

Nominations and all elections to fill public offices and elections on measures shall be made, held and conducted in the manner provided for by general law.

(Senate Concurrent Resolution No. 46, May 31, 1967.)

ARTICLE V - Initiative, Referendum and Recall

Section 1. - POWERS.

The powers of initiative, referendum and recall of elective municipal offices are hereby reserved to the electors of the city. The provisions of general law governing initiative, referendum and recall shall be applicable.

(Senate Concurrent Resolution No. 46, May 31, 1967.)

ARTICLE VI - City Officials

Section 1. - ELECTIVE OFFICERS.

The elective officers of the city of San Rafael shall be: a mayor, four councilmen, five members of the board of education, a city clerk, a city attorney, a city assessor.

(City Council Resolution No. 5589, § C, adopted December 21, 1978, as ratified by the voters on March 6, 1979—State Charter Statutes Appendix, Chapter 11, 1979; Assembly Concurrent Resolution No. 121, August 20, 1973; Assembly Concurrent Resolution No. 201, August 28, 1970; Senate Concurrent Resolution No. 127, June 18, 1969.)

Section 2. - THE ELECTION AND TERM OF OFFICE OF MAYOR.

The Mayor shall be elected at the general municipal election and shall be elected for a term of four years from and after the seventh day succeeding the day of such election and until his successor is elected or appointed and qualified.

(Senate Resolution No. 46, May 31, 1967 and No. 127, June 18, 1969.)

Section 3. - ELECTION AND TERMS OF OFFICE OF COUNCILMEN AND MEMBERS OF BOARD OF EDUCATION.

The term of office of councilmen and of members of the board of education shall be four years from and after the seventh day succeeding the day of their election and until their successors are elected or appointed and qualified. The terms of two councilmen and two members of the board of education shall expire every four years.

Elections for councilmen and members of the board of education shall be held at the general municipal election.

(Senate Concurrent Resolution No. 46, May 31, 1967.)

Section 4. - ELECTION AND TERMS OF OFFICE OF OTHER ELECTIVE OFFICERS.

If there are any other elective officers, they shall be elected at the general municipal election and shall

hold office for the period of four years, from and after the seventh day succeeding the day of such election and until their successors are elected or appointed and qualified.

(Senate Concurrent Resolution No. 46, May 31, 1967.)

Section 5. - OFFICIAL BONDS.

Appointed officials. before entering upon the duties of their offices, shall execute a bond to the city of San Rafael in such penal sum as the council, annually and after review, by ordinance, may determine, conditioned for the faithful performance of his duties. Such bonds shall be approved by the mayor. All bonds, when approved, shall be filed with the city clerk; except the bond of the city clerk, which shall be filed with the mayor. All of the provisions of any law of this state relating to official bonds of officers shall apply to bonds, except as herein otherwise provided. Every elective and appointive officer of the city, before entering upon the duties of his office, shall take and file with the city clerk, the constitution oath of office.

(Senate Concurrent Resolution No. 46, May 31, 1967.)

Section 6. - VACANCIES.

Any vacancy occurring in the elective office of members of the board of education shall be filled by appointment by the board of education by a majority vote thereof. Any vacancy occurring in any other elective office shall be filled by appointment by the council by a majority vote of the remaining members of the council.

If the council or board of education fails for a period of sixty days after any such vacancy to fill the same, it shall immediately call an election to be held to fill the vacancy. If such vacancy is created within the first two years of the term of office of the seat vacated, said appointment or election shall be until the next general municipal election. At the said next general municipal election, the term of office of the person so elected shall be for a period of two years.

If said vacancy is created in the third or fourth years of the term of office of the seat vacated, said appointment or election shall be for the unexpired term of the office so filled.

(Assembly Concurrent Resolution No. 121, August 20, 1973: Senate Concurrent Resolution No. 46, May 31, 1967.)

Section 7. - WHAT CONSTITUTES A VACANCY.

A vacancy shall exist in any office when the person elected or appointed thereto fails to qualify, dies, resigns, is removed from office, ceases to be a resident of the city or absents himself continuously therefrom for a period of more than sixty days without permission from the council, is convicted of a

felony, or of a misdemeanor connected with his duties in office, is judicially determined to be incompetent, forfeits his office under any provision of this charter or is removed from office by judicial proceeding.

Section 8. - QUALIFICATIONS OF OFFICERS.

No person shall be eligible to hold any elective office in said city of San Rafael unless he be a resident and elector therein, and shall have resided in said city for one year next preceding the date of such election.

(Assembly Concurrent Resolution No. 121, August 20, 1973; Senate Concurrent Resolution No. 68, May 14, 1951.)

Section 9. - COMPENSATION.

Compensation of the mayor and councilmen shall be as permitted by general law and shall be set by ordinance.

(Senate Concurrent Resolution No. 110, May 23, 1957, and No. 46, May 31, 1967.)

Section 10. - CONSOLIDATION OF OFFICES.

The council may consolidate the following offices:

- (a) City tax and license collector and city assessor;
- (b) City treasurer and city tax and license collector;
- (c) City clerk and city tax and license collector;
- (d) City clerk and city assessor.

Such consolidation shall be by ordinance adopted, published and recorded as required for general ordinances at least forty days before a general municipal election at which city officers are to be elected.

Section 11. - APPOINTIVE OFFICERS.

The council shall appoint a chief of police, a city treasurer, a city tax and license collector, a city engineer, a superintendent of streets, a chief of the fire department, who shall be ex officio fire marshal, and a poundmaster, each of whom shall hold office for the period of four years. The council may consolidate the offices of city engineer and superintendent of streets. All such appointive officers may be removed at any time by the affirmative vote of three members of the council.

(City Council Resolution No. 5589, adopted December 21, 1978, as ratified by the voters on March 6, 1979— State Charter Statutes Appendix, Chapter 11, 1979; Assembly Concurrent Resolution No. 121,

August 20, 1973: Assembly Concurrent Resolution No. 201, August 28, 1970: Senate Concurrent Resolution No. 127, June 18, 1969.)

Section 12. - DEPUTYSHIPS.

The council shall have power by ordinance or by resolution to create and discontinue offices, deputyships, assistantships, boards and commissions and employments other than those prescribed in this charter, to fix their terms of office, to provide the mode of filling them, to prescribe the duties pertaining thereto, according to its judgment of the needs of the city and to determine the mode of removing any such officer, assistant or employee.

ARTICLE VII - The Council

Section 1. - COUNCIL OF THE GOVERNING BODY.

All powers herein granted to and vested in the City of San Rafael shall, except as herein otherwise provided, be exercised by a council, to be designated the Council of the City of San Rafael. Said council shall be the governing body of the city, and shall consist of a mayor and four councilmen, and, subject to the express limitations of this charter, shall be vested with all powers of legislation in municipal affairs adequate to a complete system of local government consistent with the constitution of the state.

Section 2. - PRESIDENT AND VICE-PRESIDENT.

The mayor shall be president of the council, and shall preside at its meetings when present. The council shall elect one of its number to be vice-president.

Section 3. - MEETINGS OF COUNCIL.

The council shall, by ordinance, provide for the time and place of holding its meetings and the manner in which its special meetings may be called.

Section 4. - MEETINGS TO BE PUBLIC.

All legislative sessions of the council, whether regular or special, shall be open to the public.

Section 5. - QUORUM.

A majority of the council shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and postpone the consideration of pending business in like manner.

Section 6. - RULES OF PROCEEDING.

The council shall determine its own rules of procedure, may punish its members for disorderly conduct and compel their attendance at the council meetings.

Section 7. - ORDINANCES, RESOLUTIONS AND MOTIONS.

- (1) The council may act by ordinance, resolution or motion, except in cases where it is required to act by ordinance under this charter or by applicable laws of the State of California.
- (2) AYES AND NOES. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the council. Upon the request of any member, the ayes and noes shall be taken and recorded on any vote. Every member when present, must vote.
- (3) MAJORITY VOTE OF COUNCIL. No ordinance or resolution shall be passed or become effective without receiving the affirmative votes of at least three members of the council.
- (4) TITLE. Every ordinance shall be preceded by a brief title which shall indicate the subject and purport thereof.
- (5) ENACTING CLAUSE OF ORDINANCE. The ordaining clause of all ordinances shall be: "The Council of the City of San Rafael do ordain as follows"; and the ordaining clause of all ordinances adopted in accordance with the provisions of Article V of the charter shall be, "The People of the City of San Rafael to ordain as follows."
- (6) REQUIREMENTS OF ORDINANCES
 - (a) No ordinance shall be passed by the council on the day of its introduction, nor within five days thereafter, nor at any time other than at a regular meeting, nor until its publication at least once in full in a newspaper of general circulation published in the City of San Rafael at least three days before its adoption; and in case of amendment being made thereto before the final adoption of the ordinance, it must in like manner be republished in full as amended at least three days before its adoption as amended.
 - (b) The publication of ordinances requirements of subdivision (a) may be satisfied alternatively in accordance with the general laws of the State of California in effect at the time the ordinance is enacted as set forth in Government Code Section 36933(c). (City Council Resolution No. 8982, adopted July 6, 1993, as ratified by the voters on November 2, 1993—State Charter Statutes Appendix, Chapter 25, 1993.)
- (7) ORDINANCES REQUIRED IN CERTAIN CASES. No action providing for the sale of public property; for the granting of any franchise; for establishing or changing fire limits; or for the imposing of any penalty, shall be taken except by ordinance; provided, that such exceptions shall be observed as may be called for in cases where the council takes action in pursuance of

a general law of the state. (Sen. Con. Res. No. 68, May 14, 1951, Nos. (1), (6) & (7).)

- (8) RECONSIDERATION. When any ordinance is put upon its final passage and fails to pass, and a motion is made to reconsider, the vote upon such motion shall not be taken except at a meeting of the council held not less than one week after the meeting at which such motion was made.
- (9) SIGNING AND ATTESTING. All ordinances shall be signed by the mayor and attested by the city clerk.
- (10) REVISION AND AMENDMENT. No ordinance shall be revised, re-enacted or amended by reference to its title only; but the ordinance to be revised or re-enacted, or the section or sections thereof to be amended, or the new section or sections to be added thereto, shall be set forth and adopted in the method provided in this section for the adoption of ordinances.
- (11) REPEAL. No ordinance nor section thereof shall be repealed except by ordinance adopted in the manner provided in this Section
- (12) RECORD OF CITY ORDINANCES. A true and correct copy of all ordinances shall be kept and certified to by the city clerk in book marked "City Ordinances." Such record copy, with such certificate, or the original ordinance, shall be prima facie evidence of the contents of the ordinances and of the due passage and publication of the same, and shall be admissible as such in any court or proceeding. Such record shall not be filed in any case, but shall be returned to the custody of the city clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of an ordinance in the usual way.

Section 8. - CLAIMS AND DEMANDS, PRESENTATION AND PAYMENT.

All claims and demands against the City of San Rafael and the presentation and payment thereof shall be in the manner provided by the general law of the state.

(Senate Concurrent Resolution No. 46, May 31, 1967.)

Section 9. - INDEBTEDNESS NOT TO EXCEED MONEYS PROVIDED.

The council shall not create, audit, allow or permit to accrue any debt or liability in excess of the available money in the treasury that may be legally apportioned and appropriated for such purpose, except in the manner provided in this charter for incurring indebtedness. No warrant shall be drawn or evidence of indebtedness be issued unless there be at the time sufficient money in the treasury legally applicable to the payment of the same, except as in this charter provided.

Section 10. - PUBLICATION OF CHARTER AND ORDINANCES.

The Council shall cause all ordinances to be properly classified and indexed and kept at the city hall, in

a form readily accessible to all persons interested therein, and may from time to time cause the charter of the city and the ordinances in force, either together or separately, to be published in book form.

Section 11. - ANNUAL FINANCIAL REPORT.

The council shall cause to be prepared and published, within ninety days after the end of each fiscal year, a report showing the financial transactions and financial condition of the city for the last fiscal year.

(Senate Concurrent Resolution No. 46, May 31, 1967.)

Section 12. - INDEPENDENT AUDIT.

The council shall provide for an independent annual audit of all city accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The council may, without requiring competitive bids, designate such accountant or firm annually or for a period of not exceeding three years, providing that the designation for any particular fiscal year shall be made no later than thirty days after the beginning of such fiscal year.

(Senate Concurrent Resolution No. 46, May 31, 1967.)

Section 13. - EXPENDITURES.

The council may, by ordinance or resolution, authorize the expenditure of money not to exceed the sum of one thousand dollars in any one fiscal year for advertising purposes or for the celebration of such public events or demonstrations as the council may deem proper.

ARTICLE VIII - Executive and Administrative Departments

Section 1. - THE MAYOR.

The chief executive officer of the city of San Rafael shall be the mayor.

The mayor shall be the presiding officer of the council. He may call special meetings of the council, and must do so upon the request, in writing, of a majority of its members. He shall sign the minutes of each of its meetings after they have been entered in the journal by the city clerk and approved by the council.

The mayor shall see that the laws of the State of California, the provisions of this charter and the ordinances of the city of San Rafael are strictly enforced and duly observed within said city. He shall take

all measures necessary for the preservation of public order and the suppression of mobs, riots and tumults, for which purpose he may use the police force, and, in case such force is inefficient, he may call upon the governor of the state for military aid.

The mayor shall diligently observe the official conduct of all officers and employees of the city, and note the manner in which they perform their duties, especially in the collection, administration and disbursement of public funds and property. The books, records and official papers of all departments, boards, officers and employees of the city shall, at all times, be open to his inspection and examination, and he shall use special care to see that such books, records and documents are kept in proper legal form. He shall have general supervision of all departments, public institutions and offices of the city, and shall see that they are lawfully, economically and honestly administered and conducted.

The mayor shall see that all contracts and agreements with the city are faithfully kept and performed, and to that end he shall, with the consent of the council, cause legal proceedings to be instituted and prosecuted, in the name of the City of San Rafael, against all persons failing, in whole or in part, to fulfill their agreements with said city.

The mayor shall have power to administer oaths and affirmations and take affidavits and depositions in all matters relating to the business of the city.

The mayor shall sign all conveyances made by the City of San Rafael, and all contracts to which it is a party, and shall acknowledge the execution of all instruments executed by said city that require acknowledge-ment, and shall sign all warrants ordered drawn by the council.

When, by reason of absence from the city or from any other cause, the mayor is temporarily unable to perform the duties of his office, the vice-president of the council shall act as mayor during such temporary absence or disability.

Section 2. - CITY TREASURER.

it shall be the duty of the city treasurer to receive and safely keep all moneys which shall come into his hands as city treasurer for all of which he shall give duplicate receipts one of which shall be filed with the city clerk. He shall pay out said money on warrants, signed by the proper officers, and not otherwise, except interest coupons on bonds. He shall make quarterly settlements with the city clerk. He shall exercise such other powers and perform such other duties as may be prescribed or conferred in this charter, by law, or the ordinances of the city.

Section 3. - ASSESSOR.

It shall be the duty of the city assessor, between the first day of May and the first day of August in each year, to make out a true list of all the taxable property within the city. The mode of making out said

list, and proceedings relating thereto, shall be in conformity with laws now in force regulating county assessors, except as the same may be otherwise provided in this charter or by ordinance. Said list shall describe the property assessed and the value thereof, and shall contain all other matters required to be stated in such lists by county assessors. Said city assessor shall verify said list by his oath, and shall deposit the same with the city clerk on or before the first Monday of August in each year. Said assessor and his deputy shall have power to administer all oaths and affirmations necessary in the performance of his duties.

Section 4. - CITY CLERK.

It shall be the duty of the city clerk to keep a full and true record of all the proceedings of the council and of the board of equalization. The proceedings of the council shall be kept in a book marked "Records of the Council." The proceedings of the board of equalization shall be kept in a separate book marked "Records of the Board of Equalization." He shall keep a book, which shall be marked "City Accounts," in which shall be entered as a credit all moneys received by the city for licenses, the amount of any tax when levied, and all other moneys received; and in which shall be entered on the debit side all commissions deducted, and all warrants drawn on the treasury. He shall also keep a book, marked "City Tax and License Collector's Account," in which he shall charge the city tax and license collector with all the tax lists, if any, delivered to him, and all licenses delivered to him. He shall credit the city tax and license collector with the delinquent lists returned by him. He shall also keep a book, marked "City Treasurer's Account," in which he shall keep a full account of the transactions of the city with the city treasurer. He shall also keep a book, marked "City Licenses," in which he shall enter all licenses delivered by him to the city tax and license collector. He shall also keep a book, marked "City Ordinances," into which he shall copy all city ordinances, with his certificate annexed to said copy, stating the foregoing ordinance is a true and correct copy of an ordinance of said city, and giving the number and title of said ordinance, and stating that the same has been published or posted according to law. Each of the foregoing books, except the records of the council and the board of equalization, shall have a general index sufficiently comprehensive to enable a person to readily ascertain matters contained therein. The city clerk shall also keep a book, marked "Demands and Warrants," in which he shall note every demand against the city, and file the same. He shall state therein, under the note of the demands, the final disposition made of the same; and if the same is allowed and a warrant is drawn, he shall also state the number of the warrant, with sufficient dates. This book shall contain an index, in which reference shall be made to each demand. Upon the completion of the assessment roll for any of the taxes of the city, and levying of the tax thereon, the city clerk shall apportion the taxes upon such assessment roll, and shall deliver it to the officer charged with the duty of collecting taxes. It shall not be necessary to make a duplicate assessment roll. He may appoint a deputy, for whose acts he and his bondsmen shall be responsible; and he and his deputy shall have power to administer oaths and affirmations, to take

affidavits and depositions to be used in any court or proceedings in the state, and to certify the same. He and his deputies shall take all necessary affidavits to demands against the city, and certify the same without charge. He shall make a quarterly statement, in writing, showing the receipts and expenditures of the city for the preceding quarter, and the amount remaining in the treasury. He shall, at the end of every fiscal year, make a full and detailed statement of the receipts and expenditures of the preceding year, and a full statement of the financial condition of the affairs of the city. He shall perform such other services as this charter and the ordinances of the council shall require.

Section 5. - CITY ATTORNEY.

It shall be the duty of the city attorney to advise the city authorities and officers in all legal matters pertaining to the business of the city, and to render such other services in the line of his profession as may be required of him by the council.

Section 6. - CHIEF OF POLICE.

The department of the police shall be under the direction of the chief of police. He shall have all the powers given to peace officers under the laws of this state. He shall have power, and it is made his duty, to preserve the public peace, to suppress riots, tumults and disturbances. He shall have all the powers conferred on sheriffs by the laws of the state. His orders shall be promptly executed by the police officers, peace officers or watchmen in the city, and every citizen shall lend him aid, when required, for the arrest of offenders and the maintenance of order and protection of persons and property. He shall execute and return all processes issued to him by legal authority; and it is hereby made his duty to arrest on view, with or without a warrant, persons violating any law of the state or ordinance of the city. It shall be his duty to take persons arrested before the judge of the police court, or a justice of the peace. Persons arrested for violating any of the ordinances of the city, may, before or after trial, be confined in the city prison. He shall perform all duties imposed upon him by the ordinances of the council.

Section 7. - CITY TAX AND LICENSE COLLECTOR.

The city tax and license collector shall collect all taxes, general and special, all city licenses, and such other branches of the city revenue not otherwise provided for as the council, by ordinance, may direct, and pay the same over to the city treasurer daily. He shall at all times keep proper books, showing in detail the amount of money received, by whom, at what time and for what purpose paid, and the funds to which the same is apportioned. He shall also keep a book containing a record of every deed issued by him for or on account of said city for real property sold by him for delinquent taxes. All such books shall at all times, when not in actual use, be open for public inspection.

Whenever any person required by any city ordinance to take out a license shall fail, or neglect, or

refuse to take out such license, and pay therefor in the manner and at the time as such ordinance provides, or, if any person required to take out any license shall transact, do or carry on any business, trade or occupation without first having procured the requisite license for such trading or carrying on, the city tax and license collector shall report such delinquent to the chief of police, who shall at once take such delinquent into custody, and the city attorney shall prosecute said delinquent in the manner provided by law.

Section 8. - CITY MANAGER.

There shall be a city manager. He shall be appointed by the council for an indefinite term and the council shall fix his compensation. The city manager shall be the chief administrative officer of the city. The council shall prescribe by ordinance the duties, responsibilities, and scope of the authority of the city manager.

(Senate Concurrent Resolution No. 46, May 31, 1967.)

Section 10. - FIRE COMMISSION.

There shall be a board of fire commissioners appointed by the council, the exact number of which shall be set by ordinance or resolution of the council, one of whom may be a councilman. The chief of the fire department shall be an ex officio member of the commission but shall not be entitled to vote as a member of the commission. The members of the commission shall serve for a term of four years and shall be subject to removal by the affirmative vote of three members of the council. The terms of office of members of the commission shall be staggered in the manner provided by resolution of the council. The board of fire commissioners shall exercise such powers and perform such duties as may be prescribed or conferred in this charter or by the ordinances of the city.

(Assembly Concurrent Resolution No. 121, August 20, 1973; Senate Concurrent Resolution No. 46, May 31, 1967.)

Section 11. - PARK AND RECREATION COMMISSION.

There shall be a park and recreation commission appointed by the council, the exact number of which shall be set by ordinance or resolution of the council, one of whom may be a councilman. The members of the commission shall serve for a term of four years, and shall be subject to removal by the affirmative vote of three members of the council. The terms of office of members of the commission shall be staggered in the manner provided by resolution of the council. The park and recreation commission shall exercise such powers and perform such duties as may be prescribed or conferred in this charter or by ordinances of the city.

(Assembly Concurrent Resolution No. 121, August 20, 1973: Senate Concurrent Resolution No. 46, May 31, 1967.)

Section 12. - TRANSFER OF ACCOUNTING AND FINANCIAL DUTIES OF CITY CLERK TO DIRECTOR OF FINANCE.

The financial and accounting duties imposed upon the city clerk by this charter may be transferred to a director of finance when such office has been established and the powers and duties thereof defined by ordinance.

ARTICLE IX - Public Library

Section 1. - BOARD OF LIBRARY TRUSTEES.

There shall be a board of library trustees to be appointed by the council, the exact number of which shall be set by ordinance or resolution of the council, one of whom may be a councilman. The members of the board shall serve for a term of four years and, shall be subject to removal by the affirmative vote of three members of the council. The terms of office of members of the board shall be staggered in the manner provided by resolution of the council. The board of library trustees shall exercise such powers and perform such duties as may be prescribed or conferred in this charter or by the ordinances of the city.

(Assembly Concurrent Resolution No. 121, August 20, 1973: Senate Concurrent Resolution No. 46, May 31, 1967.)

ARTICLE XI - Educational Department

Section 1. - SCHOOL DEPARTMENT.

The school department of the city of San Rafael shall comprise all the schools within the city of San Rafael, the San Rafael school district, and all territory that is now or may hereafter be annexed thereto for school purposes, which shall be known as "San Rafael School District," and which shall succeed to all the obligations, property rights and privileges of the San Rafael School District. It shall consist of elementary and secondary schools as now established or that may hereafter be established, and may, at the discretion of the board of education, include technical, industrial, kindergarten and night schools; provided, that no school money shall be used for technical, industrial or night schools or kindergarten when such use would prevent the board of education from maintaining elementary and secondary schools as provided by law.

Section 2. - SCHOOL TERRITORY.

All territory included within the limits of the San Rafael school district, or that may hereafter be included within such limits, but not within the city limits, shall be deemed a part of said city for the purpose of holding the general municipal elections, and shall constitute one or more separate election precincts, and the qualified electors therein shall vote only for members of the board of education and on questions submitted to a vote of the people at special or general elections pertaining to school matters; and said outside territory shall be deemed a part of said city for all matters connected with the school department.

Section 3. - GOVERNMENT.

The government of the school department of the district shall be vested in a board of education, and who shall receive no compensation.

Section 4. - MEETINGS.

The board of education shall meet on the first Monday after the election of its members shall have been officially declared, and shall organize by electing one of their number president, and they shall also elect a secretary and fix his salary, and shall meet thereafter at such times as may be designated by resolution, and in tile place provided for them by the council. Special meetings may be called by the president of the board of education, or by three members of said board united in a call. All meetings of said board shall be public.

Section 5. - QUORUM.

A majority of the board shall be a quorum, and the affirmative vote of a majority of the board shall be necessary to pass any measure, but a less number may adjourn from day to day and compel the attendance of absent members in such manner as the board may prescribe.

Section 6. - POWERS OF BOARD OF EDUCATION.

The board of education shall have entire control and management of the general public schools in the city in accordance with the constitution and general laws of the state, and is hereby vested with all the powers and charged with all the duties provided by this chapter and by the general laws of the state of city board of education.

Section 7. - PROCEDURE FOR CLOSURE OF SECONDARY SCHOOL.

- (a) A secondary school within the San Rafael School District may be closed only after the Board of Education holds an advisory election for the purpose of allowing voters to voice their opinion on the issue of the closure of the school. The Board of Education must hold such an advisory election in consolidation with a regular election or special election, or in a special election the Board may choose to call for this purpose, no less than 180 days prior to the date a secondary school is to be closed. For purposes of this section, a school is deemed "closed" on the first day, exclusive of normal weekends, holidays and vacation periods, that the school is not attended by its normally assigned students.
- (b) Ballots used in the advisory vote shall contain the words "Shall (Name of School) be closed effective (Date designed for closure)?" and the words YES or NO placed so that the voters may indicate their choice. The heading above the ballot question shall contain the words "Advisory Vote Only."
- (c) As used in this section, "advisory vote" means an indication of general voter opinion regarding the closure of a secondary school. The results of the advisory vote will in no manner be controlling on the Board of Education.
- (d) This procedure shall not apply to the temporary closure of a secondary school in the event of loss or destruction of necessary school facilities or during an emergency which threatens health or safety.

(City Council Resolution No. 7221, adopted November 12, 1985, as ratified at general municipal election held November 5, 1985. State Charter Statutes Appendix, Chapter 15, 1985.)

ARTICLE XII - Revenue and Taxation

Section 1. - TAX SYSTEM.

The council shall, by ordinance, provide a system for the assessment, levy and collection of all city taxes. During the month of August in each year it shall levy such a tax as may be necessary to raise revenue for the maintenance of the city and the several departments thereof during the fiscal year; but such tax levy for all municipal purposes, except the payment of principal and interest on the bonded debt, the maintenance of the public library, and an annual tax in an amount not exceeding ten cents per one hundred dollars of assessed valuation for the purpose of providing funds for and of financing participation by the city (by the purchase of insurance or otherwise) in defraying the annual cost of a pension or retirement plan or system, including disability and death benefits, for city officers and employees, shall not exceed the sum of one dollar for each one hundred dollars assessed valuation as the same appears upon the assessment roll.

Section 2. - TAX LIENS.

All taxes assessed, together with any percentage imposed for delinquency and the cost of collection, shall constitute liens upon the property assessed. Every tax upon personal property shall be a lien upon the real property of the owner thereof. The liens provided for in this section shall attach as of the first Monday of March in each year, and may be enforced by actions in any court of competent jurisdiction to foreclose such liens, or by sale of property affected, and for the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance; provided that when real property is offered for sale for taxes thereon, the same shall be struck off and sold to the city in like case and in like manner and with like effect and with like right of redemption as it may be struck off and sold to the state when offered for sale for state and county taxes; and the council shall have the power to provide for the procedure to be followed in such sales to the city and for the redemption of the property thereafter.

Section 3. - EQUALIZATION.

The council shall meet on the second Monday of August in each year, at ten o'clock in the forenoon of said day, and sit as a board of equalization, and shall continue in session from day to day until all the returns of the assessor have been rectified. They shall have power to hear complaints, and to correct, modify or strike out any assessment made by the assessor, and may, of their own motion, raise any assessment, upon notice to the party whose assessment is to be raised. The corrected list for each tax shall be the assessment roll for said tax for said year. It shall be certified by the city clerk, who shall act as clerk of the board of equalization, as being the assessment roll for said tax, and shall be the assessment roll upon which such tax is to be levied in said year.

Section 4. - ASSESSMENT AND COLLECTION— TAXES.

The city council may, by ordinance, provide for the performance of the following duties by appropriate officers of the County of Marin, State of California, as authorized by any laws of the State of California then in force and effect:

- (a) The assessment of city property for city taxes.
- (b) The equalization and correction of assessments.
- (c) The collection, payment and enforcement of the taxes, including delinquent taxes.
- (d) The redemption of property from sale or other penalty for non-payment of city taxes.

During such periods of time as such an ordinance may be in effect and such duties are being performed by appropriate county officers, the offices of the city assessor and city tax collector shall become and remain suspended and vacant, and all of the duties of the city assessor not being so performed by county officers shall be performed by the city clerk, and all of the duties of the city tax collector not being performed by county officers, shall be performed by the city treasurer.

Also during such periods of time as such ordinance may be in effect and such services are being performed by appropriate county officers, the provisions of Section 3 of Article XII of this charter, requiring the city council to meet as a board of equalization, shall also be ineffective and inoperative.

All provisions of this charter and ordinances adopted thereunder, which may be in conflict herewith, are hereby repealed.

ARTICLE XIII - Public Works and Contracts

Section 1. - FORM OF CONTRACTS.

All contracts must be in writing, approved by the city attorney, executed in the name of the city by an officer or officers authorized thereunto, countersigned, numbered and registered by the city clerk in a book kept for that purpose.

Section 2. - PROGRESSIVE PAYMENTS ON CONTRACTS.

Contracts may provide for progressive payments, but no progressive payments can be provided for or made at any time which, with prior payments, shall exceed ninety percent of the value of the labor done and the materials used up to that time, and no contract shall provide for or authorize the payment of more than ninety percent of the contract price before completion of the work done thereunder and the acceptance thereof by the proper officer, board or department.

Section 3. - PURCHASES AND CONTRACTS.

The City Manager or an officer authorized by the City Manager shall purchase or contract for equipment, materials, supplies and public works required by the City in the manner prescribed by ordinance.

(City Council Resolution No. 8982, adopted July 6, 1993, as ratified by the voters on November 2, 1993—State Charter Statutes Appendix, Chapter 25, 1993. City Council Resolution No. 5589, adopted December 21, 1978, as ratified by the voters on March 6, 1979—State Charter Statutes Appendix, Chapter 11, 1979. Assembly Concurrent Resolution No. 121, August 20, 1973: Senate Concurrent Resolution No. 46, May 31, 1967.)

Section 3.1. - BIDS AND AWARDS.

The Council shall establish annually by ordinance at a public hearing the conditions and procedures for any purchase or contract, and establish advertising and bidding requirements.

(City Council Resolution No. 8982, adopted July 6, 1993, as ratified by the voters on November 2, 1993—State Charter Statutes Appendix, Chapter 25, 1993. City Council Resolution No. 5589, adopted December 21, 1978, as ratified by the voters on March 6, 1979—State Charter Statutes Appendix, Chapter 11, 1979. Senate Concurrent Resolution No. 68, May 14, 1951.)

Section 4. - ADVERTISING.

The city clerk shall submit a list of blanks and blank books used in the several offices and departments, and the council shall annually fix the price therefor, and also the price of all job and city advertising; and each officer, board or department shall produce such blanks, blank books, job printing and advertising at a price no greater than is so fixed, and certify the bill therefor to the council.

Section 5. - CONTRACTS FOR LIGHTING.

No contract for lighting streets, public buildings, places or offices shall be made for a longer period than three (3) years, nor at a higher rate than the minimum price charged private consumers.

Section 6. - COLLUSION WITH BIDDERS.

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 wilfully mislead any bidder in regard to the character of the material or supplies called for, or who shall knowingly certify to a greater amount of labor than has actually been performed, or to the receipt of a

greater amount or different kind of material or supplies than has been received, shall be guilty of malfeasance in office.

Section 7. - COLLUSION OF BIDDER.

If any person to whom a contract has been awarded, has in presenting any bid or bids, colluded with any other person for the purpose of preventing other bids, then the contract so awarded shall be null and void, and the council shall re-advertise, or said work may be done by the council.

Section 8. - OFFICERS INTERESTED IN CONTRACTS.

No officer shall be interested in any contract made by him in his official capacity, or by any body or board of which he is a member, and any such contract shall be null and void; and it shall be a felony punishable as provided in section seventy-one of the Penal Code of California for any commissioner or officer to suggest or require of any employee that such employee or any member of his family trade individually, or directly, or indirectly with any certain person, firm or corporation.

Section 9. - HOURS OF LABOR.

The maximum time of labor or service required of any laborer, workman or mechanic employed upon any municipal work, whether employed directly by the city and its officers or by a contractor or sub-contractor, shall be eight hours during any one calendar day and the minimum wages of any laborer, workman or mechanic shall be Three (\$3.00) Dollars per day.

ARTICLE XIV - Franchises

Section 1. - POWERS OF COUNCIL.

The council shall have power to designate the terms, conditions and duration of all franchises, subject to the general laws of the state and provisions of this charter relating thereto; provided that no exclusive franchise shall ever be granted.

Section 2. - CONDITIONS ATTACHED TO FRANCHISE.

The grant of every franchise or privilege shall be subject to the right of the city, whether reserved or not, to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare and accommodation of the public, including among other things the right to pass and enforce ordinances to protect the public from danger of inconvenience in the operation of any work or business authorized by the grant of the franchise, and the right to make and enforce all such regulations as shall

be reasonable necessary to secure adequate, sufficient and proper service and accommodations for the people and insure their comfort and convenience.

Section 3. - RATES, FARES AND RENTALS.

The grant of every franchise or privilege shall be subject to the right of the city, whether reserved or not, to prescribe and regulate the rates, fares, rentals or charges made for the service rendered under such franchise. The grant of every franchise for a street suburban or interurban railroad shall provide that all United States mail carriers and all officials, policemen and firemen of the city shall at all times, while in the actual discharge of their duties, be allowed to ride on the cars of such railroad within the boundaries of the city, without paying therefor and with all the rights of other passengers.

Section 4. - MAINTENANCE.

Every grant of any franchise or privilege in, over, under or along any of the streets, highways or public places of the city for railway purposes, shall be subject to the conditions that the person, firm or corporation exercising or enjoying the same shall sprinkle, clean, keep in repair, and pave and repave so much of said street, highway or other public place as may be occupied by said railway as lies between the railway track, and between the lines of double track, and for a space of two feet on each side of said tracks.

Section 5. - ACQUISITION OF PROPERTIES BY CITY UPON EXPIRATION OF FRANCHISE.

Every ordinance granting any franchise shall provide that, at the expiration of the period for which the franchise was granted, the city, at its election, and upon the payment of a fair valuation therefor to be made in the manner provided in the ordinance making the grant, may purchase and take over to itself the property and plant of the grantee in its entirety; but in no case shall the value of the franchise of the grantee be considered or taken into account in fixing such valuation. Or it may be provided in the ordinance granting any franchise that the property and plant of the grantee shall, at the expiration of the period for which the franchise was granted, become the property of the city, without any compensation to the grantee.

Section 6. - ACQUISITION OF PROPERTIES BY CITY BEFORE EXPIRATION OF FRANCHISE.

Every ordinance granting any franchise may further provide that upon the payment of the city of a fair valuation in the manner provided in the ordinance, the plant and property of the grantee shall become the property of the city by virtue of the grant in payment thereunder, and without the execution of any instrument or conveyance. Or in case it is provided in the ordinance granting any franchise that the property and plant of the grantee shall, at the expiration of the period for which it was granted, become

the property of the city without any compensation to the grantee; the property and plant of the grantee shall then become the property of the city by virtue of the grant and without the execution of any instrument or conveyance.

ARTICLE XV - Miscellaneous

Section 1. - WHEN CHARTER TAKES EFFECT.

This charter shall take effect on the first day of July, 1913.

Section 2. - FIRST ELECTION UNDER THIS CHARTER.

The first general municipal election under this charter shall be held on the second Monday in April, 1915. The board of trustees of the city of San Rafael in office at the time this charter takes effect shall provide for the holding of the first election under this charter, shall canvass the votes and declare the result of said election. The amount of the bonds of all officers elected at such election shall be fixed by said board of trustees at least thirty days prior to such election.

Section 3. - TERMS OF INCUMBENTS IN OFFICE.

The members of the board of trustees and all other elective officers of the city of San Rafael in office at the time this charter takes effect shall continue to hold office and discharge their respective duties until the election and qualification of the officers first elected under this charter; provided that the said board of trustees shall constitute the council, the president of the board of trustees shall perform the duties of mayor, trustees shall perform the duties of councilmen and the city recorder shall perform the duties of police judge, and the marshal shall perform the duties of chief of police. The term of each of the other officers in office at the time this charter takes effect shall cease and terminate when the council first elected thereunder shall by resolution so declare.

Section 4. - EXISTING ORDINANCES TO CONTINUE IN FORCE.

All city ordinances, resolutions and regulations in force at the time this charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in force until the same shall be duly amended or repealed.

Section 5. - CONDUCT OF LEGAL PROCEEDINGS.

The city attorney shall be the prosecuting attorney in behalf of the people in all criminal cases arising from violations of the provisions of this charter and the ordinances of the city, and shall attend to all suits

and proceedings in which the city may be legally interested; provided, the council shall have control of all litigation of the city, and may employ other attorneys to take charge of any litigation or to assist the city attorney therein.

Section 6. - VIOLATION OF CHARTER AND ORDINANCES.

The violation of any provisions of this charter, or of any ordinance of the city, shall be deemed a misdemeanor, and may be prosecuted by the authorities of the city in the name of the People of the State of California, or may be redressed by civil action, at the option of said authorities. Any person sentenced to imprisonment for a violation of the provisions of this charter, or of any ordinance, may be imprisoned in the city jail, or in the Marin County jail, in which latter case the expense of such imprisonment shall be a charge in favor of such county against the city of San Rafael.

Section 7. - MEANING OF WORDS.

The word "City" wherever it occurs in this charter means the city of San Rafael; and every commissioner, board, officer or employee wherever mentioned in this charter means the commissioner, board, officer, or employee, as the case may be, of the city of San Rafael. The word "council" when used in this charter means the Council of the City of San Rafael.

Section 8. - PROVISIONS FOR ELECTION.

If, for any reason, the first general municipal election is not held on the day herein provided for, the validity of this charter and of such election is not effected thereby, and the board of trustees of the city of San Rafael then in office must provide for the holding of such election as soon as possible thereafter.

Section 9. - ILLEGAL APPROVAL OF DEMANDS.

Every officer who shall approve, allow or pay any demand on the treasury not authorized by law, ordinance, or this charter, shall be liable to the city, individually, and on his official bonds for the amount of the demand so illegally approved, allowed or paid.

Section 10. - WOMEN ELIGIBLE TO OFFICE.

Nothing in this charter shall be construed as prohibiting the election or appointment of women to any office and the words used in this charter in the masculine gender shall include the feminine.

Section 11. - SURRENDER OF BOOKS AND RECORDS.

All officers, boards, commissioners, and departments of the city shall, upon vacating office, turn over

to their successors all books, papers, documents, records, archives and other property which may be in their possession or under their charge.

Section 12. - BOUNDARIES.

The boundaries of the city of San Rafael as described in this charter may be altered and the territory embraced therein may be added to or diminished in accordance with the laws of the State of California covering the annexation and the exclusion of territory by municipalities.

Section 13. - ADDITIONAL DUTIES OF OFFICERS.

All officers of the city of San Rafael, elective or appointive, shall, in addition to the duties prescribed in this charter, perform such duties as may be imposed by ordinance or by the general laws of the State of California.

Section 14. - BOOKS AND RECORDS OPEN TO INSPECTION.

All books and records of the various offices and departments of the city, except those of the police department and city attorney, shall, during business hours, be open to the inspection of any citizen or taxpayer, who may make copies of any portions thereof. Upon request, copies shall be made or certified by the officer in charge of the records on payment of a fee as established by the city manager, the fee to reflect the cost to the city in providing the service.

(Senate Concurrent Resolution No. 46, May 31, 1967.)

Section 15. - FISCAL YEAR.

The fiscal year mentioned in this charter shall commence with the first day of July and end with the thirtieth day of June following of each year.

Section 16. - PETITION—PERCENTAGE OF VOTES.

After this charter becomes effective and until after the first general municipal election is held thereunder, the per centum of signatures required to any petition for any of the purposes provided for in Articles IV and V of this charter shall be based upon the entire vote cast in the city of San Rafael at the general election held November 5th, 1912.

Section 17. - FILLING OF VACANCIES.

If all the offices of members of the council and mayor should become vacant and no member of the council remains to fill any of the vacancies of elective offices, successors may be appointed pursuant to

the general laws of the State of California to fill such offices. In such case, the city clerk, as soon as reasonably possible, shall call and conduct a special municipal election to fill such offices for the remainder, if any, of the unexpired terms.

(Senate Concurrent Resolution No. 46, May 31, 1967.)

Section 18. - AMENDMENTS.

This charter may be amended at such times and in such manner as is provided in the Constitution of the State of California.

Section 19. - GENERAL PROVISION.

In all matters pertaining to municipal affairs, concerning which no special provision is made in this charter, the general law of the state shall be a part of this charter as far as the same may be applicable.

ARTICLE XVI - Off-Street Vehicular Parking

Section 1. - GENERAL.

The city of San Rafael, in addition to all other powers elsewhere enumerated in this charter, shall have power to acquire (whether by purchase, lease, eminent domain, or otherwise), construct, establish, improve, extend, maintain, operate, administer, lease and sublease off-street vehicular parking facilities and places within the city of San Rafael, including any and all public parking lots, garages or other automotive parking facilities, in order to relieve traffic congestion and promote the welfare of the citizens and inhabitants of said city, and for the payment of the cost thereof, to issue bonds payable from the revenues of any such parking facilities and from other revenues, all as hereinafter provided in this article.

Section 2. - DEFINITIONS.

The following terms whenever used or referred to in this article, or in any resolution of issue, shall have the following meanings, respectively, unless a different meaning appears from the context:

- (a) PROJECT. The term "project" means any one or more off-street vehicular parking facilities referred to in Section 1 and designated by the city as a project in a resolution of issue.
- (b) BONDS. The term "bonds" or "revenue bonds" means the written evidence of any obligation issued by the city, payment of which is secured by a pledge of revenues or any part of revenues, as provided in this article, in order to obtain funds with which to carry out any of the purposes of this article, irrespective of the form of such obligation.

- (c) The term "existing off-street parking facilities" means and includes any off-street vehicular parking facilities now or hereafter owned by the city and operated or controlled by the city at the time of adoption of a resolution of issue and not theretofore designated by the city as a project in a resolution of issue and not acquired, constructed, established, improved, extended, maintained or operated, in whole or in part, from the proceeds of sale of any revenue bonds.
- (d) REVENUES. The term "revenues" means and includes any and all rates, fees and other charges received or receivable in connection with, and any and all income and receipts of whatever kind and character derived by the City, from the operation of a project, or arising from a project, including any such revenues as may have been or may be impounded or deposited in any fund created for the security or further protection of revenue bonds or for the purpose of providing for the payment of the principal thereof or the interest thereon. The term "revenues" also includes net revenues from on-street parking meters within the City now owned or controlled or hereafter acquired or controlled by the City and net revenues of any existing off-street parking facilities to the extent that the same shall be pledged or otherwise made available for the payment of operation and maintenance costs of any project or as security or further protection for bonds by a resolution of issue.
- (e) NET REVENUES. The term "net revenues" when used with reference to on-street parking meters within the City means and includes the gross revenues collected by the City during any fiscal year from the establishment and operation of such on-street parking meters after deducting therefrom the actual necessary costs and expenses of the acquisition, installation, maintenance and replacement of such parking meters and of the collection of revenues therefrom, all calculated on sound accounting principles, but without any allowance for depreciation or obsolescence. The term "net revenues" when used with reference to any existing off-street parking facilities means and includes the gross revenues collected by the City during any fiscal year from the establishment and operation of such existing off-street parking facilities after deducting therefrom the actual necessary expenses of maintaining and operating such facilities, calculated on sound accounting principles, but without any allowance for depreciation or obsolescence.
- (f) RESOLUTION OF ISSUE. The term "resolution of issue" means any agreement entered into by the council, including any resolution adopted by the council, pursuant to which revenue bonds are issued, and includes any agreement entered into or resolution adopted by the council amending, modifying or supplementing a resolution of issue irrespective of the form thereof.

Section 3. - GRANT OF POWER.

Without limiting the generality of Section 1 the council of the City of San Rafael has power for any of

the purposes of this article:

- (a) To acquire, by grant, purchase, gift, devise, lease or by the exercise of right of eminent domain, and to hold, use, sell, lease, sublease or dispose of any real or personal property or any interest in any thereof, including rights-of-way, necessary or appropriate for the full exercise, or convenient or useful for the carrying on, of any of its powers pursuant to this article;
- (b) To acquire, by any of the means specified in the foregoing clause (a) , any lands, property or rights-of-way necessary or convenient for the opening, widening, straightening and extending of streets or alleys necessary or convenient for ingress to or egress from any project;
- (c) To improve any lands so acquired by the construction thereon of garages or other buildings or improvements necessary or convenient for any project;
- (d) To construct, establish, improve, extend, maintain, operate, administer, lease and sublease any project;
- (e) To fix rates, fees or charges for the use of the facilities provided by any project, or for any services rendered in connection therewith, and to alter, change or modify the same at its pleasure, subject to any contractual obligation which may be entered into by the City with respect to the fixing of such rates, fees or charges; and, by a resolution of issue or otherwise, to enter into covenants to increase rates, fees or charges from time to time; provided, however, that any person shall be permitted to use or operate any facilities provided by any project only upon payment of the regularly established charge therefor, except as may be otherwise specifically provided in a resolution of issue in the case of firemen, policemen and other essential public employees. All rates, fees and charges shall be paid only in such coin or currency as on the date of payment is legal tender for public and private debts, or in scrip or tokens issued only upon payment of the face value thereof in such coin or currency;
- (f) At any time and from time to time to issue revenue bonds in order to raise funds for the purpose of establishing any project or of acquiring lands for any project or of acquiring, constructing, completing, improving, extending, maintaining, operating or administering any project, or of refinancing any project, or for any combination of such purposes, which bonds may be secured as hereinafter provided;
- (g) To make contracts, leases, subleases and agreements, relative to the acquisition, operation or maintenance of any project or any part of any project with any person or public corporation, political subdivision, city, county, district, the State of California, or the United States of America, or any department or agency of any thereof, subject to any contractual obligation which may be entered into by the City with respect to the issuance of bonds;
- (h) To lease for commercial purposes space in any project which in the opinion of the Council is

not and will not during the term of such lease be required for off-street vehicular parking facilities, provided that the aggregate of all such space so leased at any one time in any project shall not exceed twenty per cent (20%) of the surface area of such project and that the term of any such lease shall not exceed a period of five (5) years from its date;

- (i) To sell, lease, convey or otherwise dispose of any rights, interests or property acquired under this article, subject to any contractual obligation which may be entered into by the City with respect to the issuance of bonds;
- (j) To exercise the right of eminent domain for the condemnation of private property or any right of interest therein for any of the purposes of this article;
- (k) To adopt such rules and regulations as may be necessary regarding the operation and maintenance of any project and to enable the City to exercise the powers and perform the duties conferred or imposed by this article; and
- (l) To do any and all acts or things necessary or appropriate to carry out the purposes of this article and the provisions, covenants and agreements contained in any resolution of issue adopted pursuant to the authority conferred by this article; provided that nothing in this section or elsewhere in this article contained shall be construed directly or by implication to be in any way in derogation or in limitation of any powers conferred upon or existing in the city by virtue of the provisions of the Constitution of the State of California or any other provision of this charter.

Section 4. - PLEDGE OF NET PARKING METER REVENUES.

In addition to all other powers elsewhere enumerated in this article, the council shall have power to pledge, place a charge upon, or otherwise make available and authorize payment of all or any part of the net revenues collected by the city from the establishment and operation of (i) on-street parking meters within the city now owned or controlled or hereafter acquired or controlled by the city, and (ii) existing city off-street parking facilities, for such periods of years as shall be determined by the council, for the payment of operation and maintenance costs of any one or more projects authorized by this article or as security or further protection for the payment of principal of and interest on bonds issued pursuant to this article.

Section 5. - ISSUES OF BONDS: SERIES AND DIVISIONS.

The council may provide for one or several issues of bonds and may issue bonds in series, or may divide any issue into one or more series or divisions and fix different maturities or dates for each series or division, different rates of interest, or different terms and conditions for the bonds of the several series or divisions. It is not necessary that all bonds of the same authorized issue be of the same kind or

character, have the same security, or be of the same interest rate, but the terms thereof shall in each case be provided for by the council by a resolution of issue at the time of or prior to the issue thereof.

Section 6. - AUTHORIZATION OF REVENUE BONDS.

Each issue of revenue bonds shall be authorized by the council by a resolution of issue adopted by affirmative votes of at least four (4) members of the council at a duly assembled meeting.

Section 7. - RESOLUTION OF ISSUE.

Resolutions of Issue shall provide for the aggregate principal amount, date or dates, maturities, interest rates, denominations and form, and may provide for the registration, transfer and interchange, of any revenue bonds and coupons issued pursuant to this article; and shall prescribe the purpose or purposes for which said bonds are to be issued and the terms and conditions on which said bonds are to be executed, issued, secured, sold and paid, and if desired, the terms and conditions on which said bonds may be redeemed prior to maturity or refunded.

Section 8. - PROVISIONS RELATING TO BONDS.

The following provisions shall govern and apply to (a) all revenue bonds issued pursuant to this article and (b) each resolution of issue relating to the bonds thereby authorized:

- (1) Date of Bonds. Bonds shall bear dates prescribed by the resolution of issue.
- (2) Maturity. Bonds may be serial bonds or sinking fund bonds with such maturities as shall be provided in the resolution of issue. No bond by its terms shall mature in more than forty (40) years from its own date and, in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date of each such series or division shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.
- (3) Interest. Bonds shall bear interest at a rate of not to exceed six (6) per cent, per annum, payable annually or semi-annually, or in part annually and in part semi-annually.
- (4) Coupon or Registered Bonds. Bonds may be issued as coupon bonds or as registered bonds. A resolution of issue may provide for the interchange of coupon bonds for registered bonds and registered bonds for coupon bonds, and may provide that the bonds shall be registered as to principal only, or as to both principal and interest, or otherwise as the resolution of issue shall prescribe.
- (5) Redemption. Bonds may be callable upon such terms and conditions and upon such notice

as the resolution of issue shall prescribe and upon payment of such premium (not exceeding six per cent (6%) of the par value of such bonds) as may be fixed in the resolution of issue. No bond shall be subject to call or redemption prior to its fixed maturity date, unless the right to exercise such call is expressly stated on the face of the bond.

- (6) Source of Payment. All revenue bonds shall be payable exclusively from revenue.
- (7) Reference on Bonds to Resolution of Issue. Reference on the face of a revenue bond to the resolution of issue by its date of adoption is sufficient to incorporate all of the provisions thereof and of this article into the body of said revenue bond and its appurtenant coupons. Each taker and subsequent holder of a revenue bond or coupons, whether such coupons are attached to or detached from said revenue bond, shall have recourse to all of the provisions of the resolution of issue and of this article and shall be bound thereby.
- (8) Recital in Bonds. All revenue bonds shall contain a recital on their face that neither the payment of principal or nor of interest on such bonds constitute a debt, liability or obligation of the City of San Rafael, except as provided in this article.
- (9) Place and Manner of Payment. The principal of and interest on bonds may be paid at any one or more places within or without the State of California and in any specified coin or currency of the United States of America, as may be provided in the resolution of issue.
- (10) Execution and Authentication of Bonds: Validity of Signatures and Countersignatures. Bonds may be executed and authenticated by the manual, lithographed or printed facsimile signature of any officer or officers of the city and may also be authenticated by a trustee or fiscal agent appointed by the council. If any of the officers whose signatures or countersignatures appear on the bonds cease to be officers before the delivery of the bonds or coupons to the purchasers thereof, their signatures or countersignatures shall nevertheless be valid and of the same force and effect as if such officers had remained in office until the delivery of the bonds and coupons.
- (11) Issuance of Temporary Bonds. Pending the actual issuance or delivery of definitive bonds, the council may issue temporary or interim bonds, certificates or receipts of any denominations whatsoever, and with or without coupons, and with such provisions as the council shall determine, to be exchanged for definitive bonds when ready for delivery. In the absence of an express recital on its face that a temporary bond or interim receipt is non-negotiable, such bond or interim receipt is a negotiable instrument.
- (12) Replacement of Lost, Destroyed, Mutilated or Stolen Bonds. Lost, destroyed, mutilated or stolen bonds or coupons may be replaced as provided in the resolution of issue.
- (13) Security. All revenue bonds shall be secured by an exclusive pledge and charge upon (a) all

or a portion of the gross revenues of the project for the acquisition, construction and completion of which said bonds are issued or authorized to be issued, (b) revenues from on-street parking meters, (c) revenues of any existing off-street parking facilities, all as provided for in the resolution of issue. Gross revenues of a project include improvements and extensions of such project later constructed or acquired. The gross revenues of the project, any interest earned on the gross revenues of the project, and all pledged on-street parking meter revenues and pledged revenues of existing off-street parking facilities shall constitute a trust fund for the security and payment of the principal of and interest on the bonds and so long as any bonds or interest thereon are unpaid said revenues and interest shall not be used for any other purpose; provided, however, that a resolution of issue may provide that if the principal of and interest on the bonds and all charges to protect and secure them are paid when due, an amount for the maintenance and operation costs of the project may be apportioned from revenues, but only to the extent specified in the resolution of issue.

- (14) Bonds of Same Issue to be Equally Secured. Bonds of the same issue shall be equally secured by a pledge and charge upon revenues, without priority for number, date of bonds, of sale, of execution, or of delivery; except that if the council authorizes the issuance of bonds of different series it may provide that the bonds in any series shall, to the extent and in the manner prescribed in the resolution of issue, be subordinated and be junior in standing with respect to the payment of principal and interest and the security thereof to such other bonds as may be specified in the resolution of issue.
- (15) Refunding Bonds. The council may provide for the issuance, sale or exchange of refunding bonds for the purpose of redeeming, retiring or refunding any revenue bonds issued under this article, subject to any limitations contained in the resolution of issue pursuant to which such revenue bonds are issued. All provisions of this article applicable to the issuance of revenue bonds shall be applicable to the refunding bonds and to the issuance, sale or exchange thereof.
- (16) Amount of Refunding Bonds. Refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all bonds to be refunded thereby, and, in addition, for the payment of all expenses incident to the calling, retiring or paying of such outstanding bonds and the issuance of such refunding bonds. Such expenses may include the difference in amount between the par value of the refunding bonds and any amount less than par for which the refunding bonds are sold, any amount necessary to be made available for the payment of interest upon such refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded, or to the date upon which the bonds to be refunded will be paid pursuant to call thereof or agreement with the holders

thereof, and also the premium, if any, necessary to be paid in order to call and retire the outstanding bonds and the interest accruing thereon to the date of call or retirement.

(17) Validity of Bonds Not Affected by Actions of City Relative to Project. The validity of the authorization and issuance of any revenue bonds by the council shall not be dependent on or affected in any way by:

- (a) Proceedings taken by the city for the acquisition, construction, or completion of any project or any part thereof.
- (b) Any contracts made in connection with the acquisition, construction or completion of any project; or
- (c) The failure to complete any project for which bonds are authorized to be issued.

Section 9. - SALE OF BONDS.

Before selling any bonds the council shall give notice inviting sealed bids in such manner as the council may prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received or if the council determines that the bids received are not satisfactory as to price or responsibility of the bidders, the council may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

Section 10. - SALE BELOW PAR.

The council may sell bonds at a price below the par or face value thereof, provided that the maximum net interest cost (computed on a 360-day year basis) on bonds sold below par or face value shall not exceed an average of six per cent (6%) per annum, payable semi-annually, to the respective maturity dates of said bonds.

Section 11. - PAYMENT OF INCIDENTAL EXPENSES AND INTEREST AND CREATION OF FUNDS FROM PROCEEDS OF SALE OF BONDS.

All costs and expenses incidental to the issuance and sale of bonds, including the cost of preparation of the bonds and coupons, the cost of all surveys, of preparation of plans and specifications, of all architectural, engineering, inspection, legal, trustee's and fiscal agent's fees, the creation of a bond reserve fund, the creation of a working capital fund, and bond interest estimated to accrue during the period of acquisition or construction of a project and for a period of not to exceed six (6) months thereafter, all as provided for in the resolution of issue, may be paid out of the proceeds of sale of the bonds.

Section 12. - PROVISIONS RELATING TO RESOLUTIONS OF ISSUE.

The following provisions shall govern and apply to each resolution of issue adopted by the council:

- (1) Construction Fund; Investment. A resolution of issue may provide that the proceeds of sale of all revenue bonds authorized thereby shall either be deposited in a fund separate and apart from all other funds of the city or paid direct to any bank or trust company designated by the council as the fiscal agent of the city, and that said proceeds shall be held by the city or such fiscal agent in a separate account to be designated the Construction Fund and be disbursed in the manner and upon the conditions provided in the resolution of issue for the object and purpose of the acquisition, construction and completion of the project therein designated, including the payment of all incidental expenses and interest and the creation of funds as provided for in Section 11 of this article. Moneys in any construction fund may be invested as the council in its sole discretion shall determine, subject only to such limitations as may be provided in the resolution of issue.
- (2) Construction Fund Surplus. A resolution of issue may provide that any moneys in a construction fund remaining unexpended after said object and purpose shall have been completed shall be applied to the payment of the principal of and interest on said bonds, and that none of said moneys shall be transferred to any other fund of the city or used for any purpose other than as specified in the resolution of issue.
- (3) Continuous Operation of Project; Repairs, Renewals and Replacements. A resolution of issue may provide that, so long as any bonds thereby authorized shall be outstanding, the city shall operate the project designated in the resolution of issue continuously and in an efficient and economical manner and in good working order and condition and shall make all necessary repairs, improvements and replacements.
- (4) Rates, Fees and Other Charges. A resolution of issue may provide that the council will prescribe, revise and collect rates, fees and charges for use of the facilities provided by the project acquired, constructed or completed from the proceeds of sale of the bonds issued pursuant to such resolution of issue, or for any services rendered in connection with such project, and for use of any on-street parking meters and existing off-street parking facilities any revenues from which are pledged to secure the bonds; that such rates, fees and charges shall at all times be sufficient to yield revenues from the project and net revenues from such on-street parking meters and existing off-street parking facilities equal to all redemption payments and interest charges on said bonds as the same fall due, together with such additional sums as may be required for any sinking fund, reserve fund or other special fund provided for the security or further protection of said bonds, or as a depreciation charge or other charge in connection with such project; and that such rates,

fees and charges shall not be reduced below an amount sufficient to provide funds to meet all obligations specified in the resolution of issue.

- (5) Holding and Application of Revenues. A resolution of issue may require the city to hold or cause to be held in trust the revenues pledged to the payment of the principal of and interest on the bonds issued pursuant to said resolution of issue, or to any reserve or other fund created for the security or further protection of the bonds, and to apply such revenues or cause them to be applied only as provided in the resolution of issue.
- (6) Preservation and Protection of Security of Bonds. A resolution of issue may require the city to preserve and protect the security of the bonds issued thereunder and the rights of the holders thereof and to warrant and defend such rights.
- (7) Discharge of Lien Claims. A resolution of issue may require the city to pay and discharge or cause to be paid and discharged all lawful claims for labor, materials and supplies or other charges which, if unpaid, might become a lien or charge upon revenues, or which might impair the security of any bonds issued for the acquisition, construction or completion of any project.
- (8) Limitations Upon Power to Encumber Project. A resolution of issue may limit, restrict or prohibit, except upon such terms and conditions as may be provided therein, any right, power or privilege of the city to mortgage or otherwise encumber, or to sell, lease or dispose of a project or to enter into any lease or agreement which impairs or impedes the operation of a project or of any part thereof necessary to provide adequate revenues, or which otherwise impairs or impedes the rights of the holders of the bonds with respect to such revenues.
- (9) Proceeds of Project Taken by Eminent Domain. A resolution of issue may provide that if any part of a project shall be taken by eminent domain or other proceeding authorized by law, the proceeds to the city therefrom shall be applied to the replacement of such project or to the payment and retirement of the bonds issued pursuant to such resolution of issue, or as otherwise set forth in said resolution of issue.
- (10) Insurance. A resolution of issue may specify or limit the kinds and amounts of insurance to be maintained by the city on a project or any part thereof (including insurance of any project against loss of revenues from any cause whatsoever, against public liability or property damage and against loss by fire or any other hazard, as may be provided in any resolution of issue), and providing for the payment of the premiums thereon, and specifying the use and disposition of proceeds of any such insurance thereafter collected.
- (11) Books, Records and Accounts. A resolution of issue may provide:
 - (a) that the city will keep accurate books and records of account showing all revenues

received from the operation of any project and all expenditures thereof, and all revenues from on-street parking meters and existing off-street parking facilities pledged or otherwise made available as security or as further protection for the bonds issued pursuant to said resolution of issue;

- (b) that all such books and records shall be open at all times during business hours to the inspection of the holders of one or more of the bonds or of any specified percentage of such holders or their duly authorized representatives;
 - (c) that annual or other periodic statements of the condition of such project and of all of said other revenues will be furnished to the holders of the bonds;
 - (d) that summaries of all such statements will be published at least annually in the official newspaper of the city; and
 - (e) that the books and records of the city pertaining to the operation of any project and to all of said other revenues shall be audited by independent public accountants in such manner and under circumstances as may be set forth in said resolution of issue.
- (12) Trustees; Fiscal Agent, Paying Agents. A resolution of issue may designate a bank or trust company, qualified to do business in the State of California, as a trustee or fiscal agent for the city and holders of bonds issued under said resolution of issue, and may authorize any such trustee to act on behalf of the holders of the bonds or any stated percentage thereof, and to exercise and prosecute on behalf of the holders of the bonds such rights and remedies as may be available to the holders. A resolution of issue may authorize the city to designate any bank or trust company in any city in which any bonds are made payable as the city's paying agent in such city. A resolution of issue may fix and determine the conditions upon which any trustee, fiscal agent or paying agent shall receive, hold or disburse any or all revenues deposited with it by or by authority of the city or the council. A resolution of issue may prescribe the duties and powers, if any, of any such trustee, fiscal agent or paying agent with respect to the issuance, authentication, sale or delivery of the bonds, the payment of the principal thereof and interest thereon, the redemption thereof, the registration and discharge from registration of bonds and the management of any funds provided for in the resolution of issue as security for the bonds.
- (13) Competitive Projects. A resolution of issue shall contain a covenant that the city shall not, while any revenue bonds authorized by this article are issued or outstanding, acquire, construct, complete or maintain any off-street vehicular parking facilities or places within the City of San Rafael excepting those hereinafter described, which compete in any way with any project or which are similar to any off-street vehicular parking facilities or places maintained or operated by the city or the council through the issuance of revenue bonds pursuant to this article; excepting, however, any and all off-street vehicular parking

facilities now or hereafter maintained by the city in any area adjacent to the City Hall and used exclusively for official parking.

- (14) Limitation on Additional Indebtedness. A resolution of issue may limit or restrict the incurring of additional indebtedness payable in whole or in part from the revenues charged with payment of the bonds issued pursuant to such resolution of issue.
- (15) Events of Default. A resolution of issue may designate the rights, limitations, powers and duties arising upon breach by the city of any of the covenants, conditions or obligations therein contained, and may provide the terms and conditions upon which all bonds issued thereunder may be declared or become due and payable prior to maturity and the terms and conditions upon which such declaration and its consequences may be waived.
- (16) Amendment or Modification of Resolution of Issue. A resolution of issue may prescribe a procedure by which its terms and conditions may be subsequently amended or modified with the consent of the city and the vote or written assent of the holders of a specified principal amount or proportion of the bonds issued and outstanding, including
 - (a) provisions for meetings with bondholders and the manner in which the consents of the bondholders may be given;
 - (b) a specific statement of the effect of each such amendment or modification upon the rights of the holders of all of the bonds and interest coupons appertaining thereto; and
 - (c) if desired, a provision that bonds held by the city or by the State of California or any public corporation, political subdivision, city, county, district or any agency of any thereof, shall not be counted as outstanding bonds or be entitled to vote or consent, but shall nevertheless be subject, to any such amendment or modification.
- (17) Use of Surplus. After all of the revenue bonds issued pursuant to a resolution of issue shall have been fully paid or discharged, or provision for their payment and discharge irrevocably made, any surplus moneys in any construction fund or other fund provided for the security or further protection of the bonds shall, subject to the limitations and restrictions in said resolution of issue, become and be the property of the city and be used by the city for any lawful purpose.
- (18) Additional Covenants and Agreements. A resolution of issue may provide for such other acts and matters and may include any and all such additional covenants and agreements on the part of the city as the council shall deem necessary or advisable for the better security of the bonds issued thereunder or to make said bonds more marketable.

Section 13. - RIGHTS OF BONDHOLDERS.

Except as provided otherwise in any resolution of issue the holder of any bond issued pursuant to this

article may by mandamus or other appropriate proceedings require and compel the performance of any of the duties imposed upon the city or the council or any official or employee of the city or assumed by any thereof in connection with the acquisition, construction, completion, operation, maintenance, repair, reconstruction or insurance of any project, or the collection, deposit, investment, application and disbursement of rates, fees and charges derived from the operation and use of any project and all other revenues, or in connection with the deposit, investment or disbursement of the proceeds received from the sale of the bonds under this article. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds issued pursuant to this article.

Section 14. - ARTICLE CONFERS COMPLETE AUTHORITY.

The provisions of this article constitute full and complete authority for the issuance of revenue bonds as herein provided by the council of the City of San Rafael and no other procedure, or proceedings, consents, approvals, orders or permission from any municipal officer or board of the City of San Rafael, shall be required for the acquisition, construction or completion of any project, or the issuance of any revenue bonds under this article, except as specifically provided in this article.

Section 15. - PROVISIONS OF ARTICLE ALTERNATIVE.

The powers and authorities conferred by this article are in addition to and supplemental to all other powers and authorities conferred upon the City of San Rafael. The method provided in this article for the acquisition, construction and completion of projects and the issuance of revenue bonds shall be deemed an additional method of acquiring, constructing and completing such projects and providing funds therefor: provided that the City of San Rafael may, in its discretion, acquire any properties for the off-street vehicular parking facilities and issue general obligation bonds of the City of San Rafael therefor, subject, however, to the condition that the City of San Rafael shall not, while any revenue bonds authorized by this article are issued and outstanding, acquire, construct or complete any off-street parking facilities, other than those specifically described in paragraph (13) of Section 12 of this article, which compete with any project operated or maintained through the issuance of revenue bonds by the council.

Section 16. - REVENUE BONDS EXCLUDED FROM BONDED INDEBTEDNESS OF CITY.

Revenue bonds issued under this article shall not be taken into consideration in determining the bonded indebtedness which the City of San Rafael is authorized to incur pursuant to Section 14 of Article III of this charter and shall be excluded from any limitation provided by this charter or by law on the amount of bonded indebtedness of the city.

(Senate Concurrent Resolution No. 71, May 15, 1953).

ARTICLE XVII - Disciplinary Action

Section 1. - STRIKE.

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

Section 2. - JOB ACTIONS.

Section 2.1. - DEFINITIONS.

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

Section 2.2. - SLOWDOWNS.

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

Section 3. - ACTION FINAL.

No disciplinary action taken pursuant to the provisions of this Article shall be subject to the provisions of any ordinance or resolution of the City providing for appeals to, or hearings by, the Board of Review.