

## Title CHA. Charter

### [Preamble]

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

## ARTICLE I. INCORPORATION AND SUCCESSION

### 100. Name and Boundaries.

The City of Palm Springs, hereinafter termed the City, shall continue to be a municipal corporation under its present name of "City of Palm Springs." The boundaries of the City shall be the boundaries as established at the time this Charter takes effect, and as such boundaries may be changed thereafter from time to time in the manner authorized by law.

### 101. Succession, Rights and Liabilities.

The City of Palm Springs, shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it at the time this Charter takes effect and shall continue to be subject to all its debts, obligations, liabilities and contracts.

### 102. Ordinances.

All lawful ordinances, resolutions, rules and regulations, and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, are hereby continued in force until they are repealed, amended, changed or superseded by proper authority.

### 103. Continuance of Present Officers and Employees.

The present officers and employees of the City shall continue to perform the duties of their respective offices and employments without interruption and for the same compensations and under the same conditions until the appointment or election and qualification of their successors, but subject to removal, amendment, change, or control provided by the provisions of this Charter. Nothing contained in this Charter, unless specifically otherwise provided herein, shall affect or impair the civil service, personnel, pension, or retirement rights or privileges of officers or employees of the City, or of any office, department, or agency thereof, existing at the time this Charter takes effect.

### 104. Continuance of Contracts.

Except with respect to the term of certain franchises as provided in Section **1002**, all contracts entered into by the City or for its benefit prior to the effective date of this Charter and then in effect,

shall continue in full force and effect according to their terms.

## **105. Pending Actions and Proceedings.**

No action or proceeding, civil or criminal, filed and pending at the time this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or by anything contained in the Charter, but all such actions or proceedings may be continued notwithstanding that functions, powers, and duties of any officer, office, department or agency a party thereto, may be assigned or transferred by or under this Charter to another officer, office, department or agency, but in that event the same may be prosecuted or defended by the head of the office, department or agency to which such functions, powers and duties have been assigned or transferred by or under this Charter.

## **106. Seal.**

The City shall have an official seal, which may be changed from time to time by ordinance. The seal of the City at the time this Charter takes effect shall continue to be the official seal of the City until changed as provided herein.

## **107. Validity.**

If any article, sections, sentence, clause or portion of this Charter is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

## **108. Effective Date of Charter.**

This Charter shall take effect upon its approval by the Legislature after it has been ratified by the qualified voters of the City in the manner set forth in the Constitution of the State of California.

## **109. Amendment.**

Any proposal for the amendment, revision, or repeal of this Charter or any portion thereof may be proposed by majority vote of the city council, or by initiative by the People of the City of Palm Springs. No such proposal shall be effective until approved by a majority vote of the voters voting at an election on the question, and until filed with the Secretary of State of the State of California. In the event of any conflict between this section and Article XI, 3 of the California Constitution, as may be amended, the latter shall govern.

# **ARTICLE II. POWERS OF CITY**

## **200. Powers.**

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. The City shall also have the power to exercise, or act pursuant to any and all rights, powers, privileges or procedures, 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, or act pursuant to, 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, the generality of the foregoing provisions. This Charter shall be liberally construed to vest the City with all legal authority and powers necessary to protect the health, safety, and general welfare of all of the citizens of the City.

## 201. Procedures.

The City shall have the power to and may act pursuant to any procedure established by any law of the State, unless a different procedure is required by this Charter.

## 202. Form of Government.

The municipal government established by this charter shall be known as the "Council-Manager" form of government.

## 203. Intergovernmental Relations.

The City may exercise any of its authority and may perform any of its powers jointly, or in cooperation with, one or more other cities, counties, states, the United States, or any political subdivisions, civil divisions, or agencies thereof, or other governmental entity.

## 204. Establishment of Specialized Agencies or Authorities.

The City shall have the power to establish a redevelopment agency, housing authority, economic development authority, special district, or other agency or authority of specialized expertise or application to the full extent as may be permitted by state or federal law, in order to carry out the business of the City or otherwise advance the health, safety, or general welfare of its citizens. All specialized agencies created by the City and in existence on the effective date of this Charter shall continue to perform their duties and operate pursuant to their existing legal authority, unless and until City Council may otherwise provide by ordinance or resolution.

## 205. Sewer Services and Wastewater Treatment Facilities.

- (a) Notwithstanding section **1000** of this Chapter or any other provision of law, the City shall not sell, lease or otherwise transfer ownership or any other possessory interest in the City's sewage works, including waste collection, treatment and disposal facilities, to any entity other than an existing governmental agency that is itself governed by a body in which the majority of electors are voters of Palm Springs.
- (b) The City may not impose a fee or charge for sewer service, hook-up, permitting, transfer or any other service that exceeds the cost of providing that service.
- (c) The City may not collect for its own general fund in-lieu taxes, fees or charges from the Department of Transportation, Wastewater Division for administration or any other purposes.
- (d) The City may not borrow funds held on reserve by the Department of Transportation, Wastewater Division for its use or the use of any other department or program of the City except in the case of a declared emergency pursuant to section 3 (c) of Article XIIB of the California Constitution. (Approved by voters 11/02/99)

## ARTICLE III. CITY COUNCIL

### 300. Powers Vested in the City Council.

All powers of the City shall be vested in the city council except as otherwise provided in this Charter.

### 301. Elective Officers. (See Note Below)

The elective officers of the City shall consist of a city council of five members, one of whom shall be the mayor. The members of the city council shall be elected from the city at large at the time and in the manner provided in this Charter. All members of city council shall serve for a term of four years and until their respective successors qualify.

The five members of the city council in office at the time this Charter takes effect shall continue in office until the termination of their current terms.

Those candidates for city council offices for terms which expire on the fourth Tuesday following June 7, 1994, and who are elected in the same general municipal election at which this Charter is passed, shall serve a term lasting until no later than the fourth Tuesday following the November 4, 1997 general municipal election. Those city councilmembers who are serving existing terms as of the effective date of this Charter shall serve terms until no later than the fourth Tuesday following the November 7, 1995 election. All city council offices filled by general municipal election occurring after the effective date of this Charter shall be for a term of four years, and shall be elected at the general municipal election each fourth year thereafter.

The term of each member of the city council shall commence no later than five days from the Certification of the election results by the City Clerk. Ties in voting among candidates for office shall be settled by drawing by lot or by special election as the city council shall determine by ordinance or resolution to be conducted pursuant to procedures which may be established by ordinance. City council may, by ordinance or resolution passed no later than thirty (30) days prior to election, determine whether ties in voting among candidates shall be settled by drawing by lot, by special election, or by other means. (Approved by voters 11/06/01)

[1] *Note: Elements of Sections 301 and 302 of the City Charter that are consistent with an "at-large method of election" as the term is defined by California Elections Code section 14026(a)(3), are superseded by preemptive State law, i.e., the CVRA, pursuant to the court decision of Jauregui v. City of Palmdale, (2014) 226 Cal.App.4th 781. To the extent that Sections 301 and 302 of the City Charter conflict with the provisions of Ordinance No. 1971 on file with the City Clerk, the Ordinance shall govern.*

### 302. The Mayor; Mayor Pro Tempore. (See Note Below)

The office of mayor shall be filled by direct at large election of the voters of the City. The mayor shall serve for a term of four years and until his or her successor qualifies. The mayor shall be the head of the City for all ceremonial purposes. The mayor may make and second motions and shall have a voice and vote in all city council proceedings. The mayor shall serve as the primary, but not exclusive, spokesperson of the City. The mayor shall perform such other duties consistent with his or her office as may be prescribed by this Charter, or as may be imposed by the city council.

At the first regular city council meeting following a general municipal election, in which newly elected councilmembers are sworn and seated, and at the first regular city council meeting following the anniversary of that date for any year in which no general municipal election is held, the city council shall designate one of its members as mayor pro tempore, who shall serve in such capacity at the pleasure of the city council. The mayor pro tempore shall perform the duties of the mayor during any period of the mayor's absence or disability.

- [1] *Note: Elements of Sections 301 and 302 of the City Charter that are consistent with an "at-large method of election" as the term is defined by California Elections Code section 14026(a)(3), are superseded by preemptive State law, i.e., the CVRA, pursuant to the court decision of Jauregui v. City of Palmdale, (2014) 226 Cal.App.4th 781. To the extent that Sections 301 and 302 of the City Charter conflict with the provisions of Ordinance No. 1971 on file with the City Clerk, the Ordinance shall govern.*

### 303. Eligibility.

No person shall be eligible to hold an elective office unless he or she is, at the time of issuance of nomination papers for the elective office, a qualified elector of the City, or of territory annexed thereto. Any elective officer of the City who shall accept or retain any other elective public office, or any other public office whose duties are incompatible with the duties of a member of the city council of the City, except as may be otherwise provided by this Charter, shall be deemed thereby to have vacated his or her office under the City government.

### 304. Compensation.

The members of the city council shall receive such compensation for their services as may be established by ordinance. The mayor may receive compensation in addition to any compensation received as a member of city council, as may be established by ordinance. Those members of city council in office on the effective date of this Charter shall continue to be compensated at the level of compensation effective immediately prior to the effective date of this Charter, and shall continue to be compensated at such level for the remainder of their terms. No ordinance of the city council shall increase the compensation of any member of the council during that member's term of office, provided that nothing herein shall prevent the adjustment of the compensation of all members of a council serving staggered terms whenever one or more members of such council becomes eligible for a salary increase by virtue of beginning a new term of office. Each member of the city council shall receive reimbursement on order of the city council for council-authorized traveling and other expenses when on official duty.

### 305. Vacancies.

If a member of the city council is absent from all regular meetings of the city council for a period of sixty days consecutively from and after the last regular city council meeting attended by such member, unless such absence is by permission of the city council expressed in its official minutes, or is convicted of any felony, any offense involving a violation of his or her official duties, or a crime involving moral turpitude, or ceases to be an elector of the City, the office shall become vacant. The city council shall declare the existence of any such vacancy, and the office shall be deemed vacant from the date of such declaration.

A vacancy in the city council, from whatever cause, may be filled by appointment by a majority of the remaining members of the city council, or by special election. Any person appointed or elected to fill a vacancy in the city council shall serve the remaining unexpired term of the office. In the event it shall fail to fill a vacancy by appointment within forty-five days after such office shall become vacant, the city council shall cause an election to be held forthwith to fill such vacancy. If city council calls a special election to fill the vacancy, the city council may make an interim appointment to fill the vacancy until the date of the special election. The times and procedures for the calling of any special election to fill a city council vacancy may be established by ordinance.

#### 305.5. Vacancy Immediately Before or After Election.

Notwithstanding Section **305** of the City Charter, if a vacancy on the city council occurs for any reason after the adoption of a Resolution by the city council calling for a general municipal election to elect members to the city council, but not more than ninety (90) days after the date of that general municipal election, the person who received the highest number of votes in said election, but was not elected, shall be appointed by the city council to fill that vacancy. The person appointed pursuant to this section shall serve the remaining unexpired term of the office. This section shall not apply to a vacancy in the office of mayor, nor shall a candidate for mayor be appointed to the city council pursuant to this section. (Approved by voters 11-5-02)

## **306. Interference in Administrative Service.**

Except as otherwise provided in this Charter, neither the city council nor any of its members shall interfere with the execution by the city manager of his or her powers and duties, or order, directly or indirectly, the appointment by the city manager or by any of the department heads in the administrative service of the City, of any person to an office or employment, or his or her removal therefrom. Except for the purpose of inquiry, the city council and its members shall deal with the administrative service under the city manager solely through the city manager, and neither the city council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately.

## **307. Regular Meetings.**

Unless otherwise provided by ordinance, or resolution of the city council, the city council shall hold regular meetings at least twice each month. City council meetings shall be held at such times as it shall fix by ordinance or resolution and city council may adjourn or re-adjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment, such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day.

## **308. Special Meetings.**

Special meetings may be called at any time by the mayor, or by three members of the city council, by written notice delivered personally to each member at least twenty-four hours before the time specified for the proposed meeting. A special meeting may also be validly held without the giving of such written notice, if required to be held by this Charter or if all members shall give their consent, in writing, to the holding of such meeting and such consent is on file in the office of the city clerk at the time of such meeting. At any special meeting only such matters may be acted upon as are referred to in such written notice or consent.

## **309. Place of Meetings.**

Unless otherwise provided by ordinance or resolution of the city council, all meetings shall be held in the council chamber of the city hall, or in such place to which any such meeting may be adjourned, and except for any closed sessions permitted under the laws of the State of California shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the mayor, or, if he or she should fail to act, by three members of the city council.

## **310. Quorum; Proceedings.**

Three members of the city council shall constitute a quorum to do business, but a less number may adjourn from time to time. In the absence of all the members of the city council from any regular meeting or adjourned regular meeting, the city clerk may declare the meeting adjourned to a stated day, hour, and place. Notice of a meeting adjourned by less than a quorum or by the clerk shall be given by the clerk or may be waived by consent in the same manner as specified in this Charter for the giving or waiving of notice of special meetings of the city council, but need not specify the matters to be acted upon. The city council shall judge the qualifications of its members as set forth by the Charter. It shall judge all election returns. It may establish rules for the conduct of its proceedings and evict or prosecute any member or other person for disorderly conduct at any of its meetings, or for violation of the rules for conduct of city council proceedings.

Each member of the city council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the city council. The city council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas may be issued by the city council in the name of the City and be attested by the city clerk. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.

### 311. Citizen Participation.

No person shall be denied the right, personally or through counsel, to address the city council at any regular meeting regarding any item within its subject matter jurisdiction. City council may, by ordinance or resolution, impose reasonable regulations on the exercise of such right to preserve the orderly nature of its proceedings.

### 312. Adoption of Ordinances.

With the sole exception of ordinances which take effect upon adoption, referred to in this article, all ordinances shall be first introduced by the city council, and shall be adopted no sooner than five days after the date of their introduction. All ordinances shall be introduced, deliberated, and passed upon at a regular, adjourned regular or special meeting of the city council. At the time of its introduction, an ordinance shall become a part of the proceedings of such meeting, and a copy of the introduced ordinance shall be kept in the custody of the city clerk. At the time of adoption of an ordinance, it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the councilmembers present. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a regular or adjourned regular meeting held not less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

No order for the payment of money shall be adopted or made at any meeting other than a regular, adjourned regular, or special meeting.

Unless a higher vote is required by other provisions of this Charter, or by the laws of the State of California which supersede this Charter, the affirmative votes of at least three members of the city council shall be required for the enactment of any ordinance, or for the making or approving of any order for the payment of money, or for entering into any contract where the amount to be paid by the City exceeds fifty thousand dollars (\$50,000.00), or such other amount as city council may establish by ordinance. All ordinances shall be signed by the mayor and attested by the city clerk. Resolutions shall be signed by the city manager, and attested by the city clerk.

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

### 313. Ordinances, Publication.

The city clerk shall cause each ordinance or a summary of each ordinance to be published at least once in a newspaper of general circulation in the City, within fifteen days after its adoption.

### 314. Codification of Ordinances.

Any or all ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the city clerk prior to the adoption thereof. Amendments to the code shall be enacted in the same manner as ordinances.

Detailed regulations pertaining to the construction of buildings, plumbing and wiring, mechanical devices, abatement of dangerous buildings, or similar matters consisting of part of a uniform code adopted by the County of Riverside, or generally adopted on a state-wide or region-wide basis, when arranged as a comprehensive code, may likewise be adopted by reference to the full extent permitted by the general laws of the State of California, and pursuant to procedures established therein. Maps, charts and diagrams also may be adopted by reference in the same manner.

### 315. Ordinances, When Effective.

No ordinance shall become effective until thirty days from and after the date of its adoption, except the following, which shall take effect immediately upon adoption:

- (a) An ordinance calling or otherwise relating to an election.
- (b) An improvement proceeding ordinance adopted under some special law or procedural ordinance relating thereto.
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property.
- (d) An emergency ordinance adopted in the manner provided for in this article.

### 316. Ordinances; Violation; Penalty.

City council may designate the violation of any ordinance of the City to constitute a misdemeanor or an infraction. Unless specifically designated as an infraction, a violation of any ordinance of the city shall constitute a misdemeanor and may be prosecuted in the name of the people of the State of California or may be redressed by civil action. The maximum fine or penalty for any violation of a city ordinance, whether a misdemeanor or an infraction, shall be as established by ordinance, resolution, or minute order of the city council.

### 317. Publishing of Legal Notices.

The city clerk shall cause all legal notices to be published in a newspaper of general circulation within the City, pursuant to procedures which may be adopted by city council by ordinance or resolution.



In the event there is no newspaper of general circulation published and circulated in the City, then all legal notices or other matter may be published by posting copies thereof in at least three public places in the city.

No defect or irregularity in proceedings taken under this section, or failure to designate an official newspaper, shall invalidate any publication where the same is otherwise in conformity with this Charter, or ordinance, or other law.

## **318. Contracts; Execution.**

The City shall not be bound by any contract, except as hereinafter provided, unless it is in writing, approved by the city council and signed on behalf of the City by the mayor and city clerk or by such other officer or officers as shall be designated by the city council. Any of said officers shall sign a contract on behalf of the City when directed to do so by ordinance, resolution, or other order of the city council.

By ordinance or resolution the city council may authorize the city manager to bind the city, with or without a written contract, including by purchase order, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the city council, and may impose a monetary limit upon such authority.

The city council may by ordinance or resolution provide a method for the sale or exchange of personal property not needed in the City service or not fit for the purpose for which intended, and for the conveyance of title thereto.

Contracts for the sale of the products, commodities or services of any department or public utility owned, controlled or operated by the City may be made by the manager of such utility or by the head of the department or the city manager upon forms approved by the city manager and at rates fixed by the city council.

The provisions of this section shall not apply to services rendered by any person in the employ of the City.

## **ARTICLE IV. CITY COUNCIL APPOINTED OFFICERS; CITY MANAGER AND CITY ATTORNEY**

### **400. City Manager.**

There shall be a city manager who shall be the chief administrative officer of the city. City council shall appoint, by an affirmative vote of at least three of its members, the person that it believes to be best qualified on the basis of his or her executive and administrative qualifications, with special reference to experience in, and knowledge of, accepted practice in respect to the duties of the office as set forth in this Charter. The city manager shall serve at the pleasure of the city council.

### **401. Eligibility.**

No person shall be eligible to receive appointment as city manager while serving as a member of the city council nor within five years after he or she has ceased to be a member of the city council.

### **402. Compensation and Bond.**

The city council shall be authorized to enter into a contract of employment with the city manager. The

city manager shall have no vested or procedural rights in connection with his or her employment as city manager, except as may be granted by city council through contract or otherwise. The city manager shall be paid a salary commensurate with his or her responsibilities as chief administrative officer of the city, which salary shall be established by ordinance or resolution, or by contract with the city manager.

The city manager shall furnish a corporate surety bond conditioned upon the faithful performance of his other duties in such form and in such amount as may be determined by the city council.

## 403. City Manager, Powers and Duties.

The city manager shall be the head of the administrative branch of the city government. The city manager shall be responsible to the city council for, and shall have jurisdiction over, the proper administration of all affairs of the City except those delegated by this Charter to the city attorney or other appointive boards or commissions. Without limiting the foregoing general grant of powers, responsibilities and duties, the city manager shall have power and be required to:

- (a) Appoint, suspend or remove, subject to the provisions of this Charter including the personnel system provisions thereof, all department heads and officers of the City except elective officers and those department heads and officers the power of whose appointment is vested by this Charter in the city council or in other appointive boards or commissions, and approve or disapprove all proposed appointments and removals of subordinate employees by those department heads who are appointed by the city manager.
- (b) Prepare the budget annually, submit such budget to the city council and be responsible for its administration after its adoption.
- (c) Prepare and submit to the city council as of the end of the fiscal year a comprehensive report on the finances and administrative activities of the City for the preceding fiscal year.
- (d) Keep the city council advised of the financial condition and future needs of the City and make such recommendations as may seem appropriate.
- (e) Prepare rules and regulations governing the contracting for, purchasing, storing, distribution, or disposal of all supplies, materials and equipment required by any office, department or agency of the city government and recommend them to the city council for adoption.
- (f) See that the laws of the State pertaining to the City, the provisions of this Charter and the ordinances of the City are enforced.
- (g) Prescribe such general rules and regulations as he or she may deem necessary or proper for the general conduct of the administrative offices and departments of the City under his or her jurisdiction, and exercise control of all such administrative offices and departments and the officers and employees thereof.
- (h) Perform such other duties consistent with this Charter as may be required by the city council.

## 404. Meetings.

The city manager or his or her designated representative shall attend all city council meetings, and may attend all meetings of other boards and commissions, and shall be entitled to participate in their deliberations, but shall not have a vote.

## 405. Removal.

The city manager shall not be removed from office during or within a period of ninety days next succeeding any municipal election at which a member of the city council is elected. At any other time the city manager may be removed only at a regular meeting of the city council and upon the affirmative votes of at least three members of the city council. In removing the city manager, the city council shall have absolute discretion, and its actions shall be final. The city manager shall not have any procedural rights entitling him or her to a hearing or other notice prior to termination, except as may be provided by ordinance or contract.

## 406. Interim City Manager Pro Tempore.

The city manager may appoint, subject to the approval of the city council, one of the officers or department heads of the city, or any other qualified person, to serve as interim city manager during the temporary absence or disability of the city manager. In the event of the death, resignation or dismissal of the city manager, the city council may appoint any qualified person to act as interim city manager pending the appointment of a new city manager.

## 407. City Attorney.

There shall be a city attorney, who shall be appointed by and serve at the pleasure of the city council. An affirmative vote of three members of the city council shall be required to appoint or remove the city attorney. To become and remain eligible for city attorney the person appointed shall be an attorney-at-law duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of municipal law for at least five years prior to his or her appointment.

## 408. City Attorney, Powers and Duties.

The city council is authorized to enter into a contract with the city attorney. The city attorney shall have no vested or procedural rights in connection with his or her employment as city attorney, except as may be granted by city council, through ordinance, contract or otherwise. The city attorney shall have power and be required to:

- (a) Represent and advise the city council and all city officers in all matters of law pertaining to their offices.
- (b) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any city officer or employee, or former city officer or employee, in any or all actions and proceedings in which any such officer or employee is concerned or is a party for any act arising out of his employment or by reason of his or her official capacity.
- (c) Attend all meetings of the city council and give advice or opinions in writing whenever requested to do so by the city council or by any of the boards or officers of the City.
- (d) Approve the form of contracts made by and bonds given to the City, and all deeds or covenants recorded for or on behalf of the City.
- (e) Approve any and all proposed ordinances and resolutions for the City and amendments thereto.
- (f) Surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.
- (g) Prosecute on behalf of the people of the City any or all criminal cases arising from violation of this Charter or city ordinances, and such State misdemeanors as the City has the power to prosecute.

- (h) Recommend and oversee the hiring and supervise the work of any and all other attorneys employed by the City to perform legal work on any litigation or other matter, or to otherwise assist the city attorney.
- (i) To otherwise serve as the legal counselor to the City, and to perform other duties consistent with the Charter, as directed by the city council.

## ARTICLE V. OFFICERS AND EMPLOYEES

### 500. Administrative Departments.

The city council may provide, by ordinance not inconsistent with this Charter, for the organization, conduct and operation of the several offices and departments of the city as established by this Charter, for the creation of additional departments, divisions, offices and agencies and for their consolidation, alteration or abolition. Each new department created by the city council shall be headed by an officer as department head who shall be appointed and may be suspended or removed by the city manager.

All department heads, the city clerk, and the director of finance and treasurer shall be at-will employees, all of whom shall be appointed to serve at the pleasure of the city manager, and shall have no procedural hearing rights on termination, but shall be entitled to all vested compensation and benefits at the time of termination, provided, however, that nothing in this Charter shall change the status or rights of any existing officer or employee.

The city council, by ordinance or resolution, may assign additional functions or duties to offices, departments or agencies not inconsistent with this Charter. Where the positions are not incompatible, the city council may combine in one person the powers and duties of two or more offices created or authorized by this Charter. No office provided in this Charter to be filled by appointment by the city manager may be consolidated with an office to be filled by direct appointment by the city council. The city council shall provide for the number, titles, qualifications, powers, duties and compensation of all officers and employees.

### 501. City Clerk, Powers and Duties.

There shall be a city clerk who shall be appointed by the city manager, and the city manager shall have the authority to discipline or dismiss the city clerk. The city clerk shall have power and shall be required to:

- (a) Attend in person or through authorized representative, all meetings of the city council and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the city council in books that shall bear appropriate titles and be devoted to such purpose.
- (b) Maintain records, in which shall be recorded respectively all ordinances, with the certificate of the clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this charter; and keep all books properly indexed and open to public inspection when not in actual use.
- (c) Have the responsibility for records management of official actions of the city council, including contracts, bonds, deeds, and other recorded instruments.
- (d) Be the custodian of the seal of the City.
- (e) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.

- (f) Be ex-officio assessor, unless the city council has availed itself, or does in the future avail itself, of the provisions of the general laws of the State relative to the assessment of property and the collection of city taxes by county officers, or unless the city council by ordinance provides otherwise.
- (g) Serve as the election official of the City and have charge of all City elections.
- (h) Serve as the City's agent for service of process.
- (i) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the city council.

## 502. Director of Finance and Treasurer.

There shall be a director of finance and treasurer who shall be appointed by the city manager, and whose appointment, suspension or removal by the city manager shall be subject to the approval of the city council. The director of finance and treasurer shall be qualified by sufficient technical accounting training, skill, and experience to be proficient in the discharge of the responsibilities of the office. The director of finance and treasurer shall have power and shall be required to:

- (a) Serve as the chief fiscal officer of the City.
- (b) Have charge of the administration of the financial affairs of the City under the direction of the city manager, and to assist and advise the city council and city manager in all matters pertaining to City finances.
- (c) Compile annual expense and income estimates for the city manager.
- (d) Maintain a general accounting system for the City government and each of its offices, departments and agencies, and perform all financial and accounting duties.
- (e) Supervise and be responsible for the disbursement of all moneys and have control of all expenditures to insure that budget appropriations are not exceeded; audit all purchase orders before issuance; audit and approve before payment, all bills, invoices, payrolls, demands or charges against the City government and, with the advice of the city attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges.
- (f) Submit to the city council through the city manager a periodic statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the City; and, as of the end of each fiscal year, submit a complete financial statement and report.
- (g) Supervise the keeping of current inventories of all property of the City by all City departments, offices and agencies.
- (h) Receive all taxes, assessments, license fees and other revenues of the City, or for whose collection the City is responsible, and receive all taxes or other money receivable by the City from the county, state or federal government, or from any court, or from any office, department or agency of the City.
- (i) Have custody of all public funds belonging to or under control of the City or any office, department or agency of the City government and deposit all funds coming into his or her hands in such depository as may be designated by resolution of the city council, or, if no such resolution be adopted, then in such depository designated in writing by the city manager, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.
- (j) Perform such other duties consistent with this Charter as may be required by the city council.

### **503. Administering Oaths.**

Each department head and his or her deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to his or her department.

### **504. Department Heads; Appointment Powers.**

Each department head and appointive officer shall have the power to appoint, suspend or remove such deputies, assistants, subordinates and employees as are provided for by the city council for his or her department or office, subject to the provisions of this Charter and of any personnel system adopted hereunder. Any such appointment or removal by a department head appointed by the city manager shall be subject to approval of the city manager.

### **505. Official Bonds.**

The city council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the city attorney, and shall be filed with the city clerk. Premiums on official bonds shall be paid by the City.

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

### **506. Compensation.**

The city council shall determine, by ordinance, resolution, or contract the amount of compensation to be paid to all City officers, department heads, and employees.

### **507. Indemnification of Employees.**

Upon request by any employee or former employee of the City named in any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the City, made in writing not less than ten (10) days before the trial of the action, and so long as the employee or former employee cooperates reasonably and in good faith in the defense of the claim or action, the City shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the City has agreed. Where the City conducts the defense of the claim or action pursuant to an agreement with the employee or former employee, reserving the City's rights not to pay the judgment, compromise, or settlement until it is established the injury arose out of act or omission occurring within the scope of his or her employment as a City employee, the City shall be required to pay the judgment, compromise, or settlement only if it is established the injury arose out of an act or omission occurring within the scope of his or her employment as a City employee. The City may indemnify any employee or former employee for any part of a claim or judgment that is for punitive or exemplary damages only upon a vote to do so by a majority of the membership of the city council.

## **ARTICLE VI. APPOINTIVE BOARDS AND COMMISSIONS**

## 600. In General.

There shall be the following enumerated boards and commissions which shall have the powers and duties herein stated. In addition, the city council may create by ordinance or resolution such additional advisory boards or commissions as in its judgment are required, and may grant to them such powers and duties as are consistent with the provisions of this Charter.

## 601. Appropriations.

The city council shall include in its annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of such boards and commissions. City council may, by ordinance or resolution, set reasonable fees and charges for defraying the costs of hearings or other administrative proceedings of the City's appointive boards and commissions.

## 602. Appointments; Terms.

The members of each City board or commission shall be appointed by motion of the city council, adopted by at least three (3) affirmative votes. Nominations for appointment to a City board or commission shall be made by the mayor or any other member of the city council at a public meeting. Each member shall be an elector of the City, unless otherwise provided by ordinance. Notice of the availability of a position for appointment shall be posted in three (3) public places at least ten (10) days before the appointment and the city council may, by resolution, adopt additional procedures to receive and consider applicants for City boards and commissions. No member of a City board or commission shall hold any paid office or employment in the City government. They shall serve at the pleasure of the city council, and shall be subject to removal by motion of the city council, adopted by at least three (3) affirmative votes. The members thereof shall serve for a term of four (4) years, unless the city council by ordinance or resolution establishes a different term, and until their respective successors are appointed and qualified. (Approved by voters 11-5-02)

## 603. Meetings; Chairmen.

As soon as practicable, following the first day of every fiscal year, each of such boards and commissions shall organize by electing one of its members to serve as chairman and by electing one of its members to serve as co-chairman at the pleasure of such board or commission. Unless otherwise provided by ordinance or in the rules of proceeding promulgated by the applicable board or commission, each board or commission shall hold regular meetings at least once each month, and may hold special meetings as such board or commission may require. All proceedings shall be open to the public, except for such closed sessions as may be authorized by law, and shall be conducted in accordance with open meeting laws of the State of California.

Except as may be otherwise provided in this Charter, the city manager shall designate a secretary for the recording of minutes for each of such boards and commissions, who shall keep a record of its proceedings and transactions and shall provide staff support for such board or commission. Each board or commission shall be governed by Roberts Rules of Order except that each board or commission may by resolution adopt such other rules and regulations which shall be consistent with this Charter, as each may deem appropriate. Copies of all such resolutions shall be kept on file in the office of the city clerk, where they shall be available for public inspection. The city council may by ordinance or resolution grant to board or commission the same power as the city council to compel the attendance of witnesses, to examine them under oath, to compel the production of evidence before it and to administer oaths and affirmations.

## 604. Compensation.

Unless otherwise provided by ordinance, the members of boards and commissions shall serve without compensation for their services as such, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the city council.

## 605. Removal; Vacancies.

Any member of a board or commission may be removed at any time by a vote of a majority of the membership of the city council and, notwithstanding any other provision of this section mandating city council consideration of removal of a board or commission member, removal may be with or without cause. The issue of whether to declare the office of a board or commission member vacant shall be brought before the city council as follows:

- (a) Upon the resignation of the board or commission member;
- (b) Upon the request of any member of the city council;
- (c) Upon excessive absenteeism, to be defined as absence from three consecutive meetings of such board or commission or for twenty five percent (25%) of the duly scheduled meetings of the board or commission within any fiscal year, unless by permission of such board or commission expressed in its official minutes;
- (d) Upon conviction of any felony or crime of moral turpitude;
- (e) If the member of the board or commission ceases to be a qualified elector of the City;
- (f) Failure of the board or commission member to file a financial disclosure statement as may be required by State law or city ordinance; or
- (g) Such other cause as city council may provide by ordinance.

The city council may declare the office of any board or commission member vacant, and the vacancy shall be effective from the date of the declarant unless otherwise specified in the declaration.

Any vacancies in any board or commission shall be filled by appointment by the mayor, with the approval of the city council. Upon a vacancy occurring leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term.

## 606. Indemnification of Members of Boards and Commissions.

Upon request by any member or former member of any appointed board or commission established in this article, named in any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her duties as a member of such board or commission of the City, made in writing not less than ten (10) days before the trial of the action, and so long as the member cooperates reasonably and in good faith in the defense of the claim or action, the City shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the City has agreed. Where the City conducts the defense of the claim or action pursuant to an agreement with the member or former member of such board or commission, reserving the City's rights not to pay the judgment, compromise, or settlement until it is established the injury arose out of act or omission occurring within the scope of his or her duties as a member of such board or commission, the City shall be required to pay the judgment, compromise, or settlement only if it is established the injury arose out of an act or omission occurring within the scope of his or her duties as a member of such board or commission. The City may indemnify any member or former member



of such board or commission for any part of a claim or judgment that is for punitive or exemplary damages only upon a vote to do so by a majority of the membership of the city council.

## 607. Planning Commission.

There shall be a planning commission consisting of seven members. There shall be a director of planning and zoning whose duties shall be established by ordinance, resolution, or regulation, and who shall be the recording secretary for the planning commission. The director of planning and zoning, or his or her designated representative shall attend all planning commission meetings. The planning commission may meet with and receive advice from the city attorney as it or the city attorney may deem necessary. The planning commission shall have all of the following powers and duties, which powers and duties may be modified by ordinance of the city council:

- (a) All duties set out in the California Planning and Zoning Law for a planning agency.
- (b) After public hearing, recommend to the city council any amendment to the general plan or any part thereof, or any zoning ordinance amendments.
- (c) Exercise authority granted to it by ordinance over subdivisions, use permits, or other matters not inconsistent with this Charter.
- (d) Make recommendations to the city council concerning public works.
- (e) Perform other duties specified by the city council not inconsistent with this Charter.

## 608. Rent Review Commission.

There shall be a rent review commission consisting of five members. The rent review commission may meet with and receive advice from the city attorney as it or the city attorney may deem necessary. The rent review commission shall have the following powers and duties:

- (a) Receive, hear, and determine petitions from tenants, landlords, or other interested parties regarding the application and interpretation of the City's rent control ordinances and regulations;
- (b) Make or conduct such independent hearings or investigations as may be appropriate to obtain such information as is necessary to carry out its duties;
- (c) Render, at least semi-annually, a written report to the city council concerning its activities, rulings, actions, results of hearings, and all other matters pertinent to the rent control ordinances and regulations of the city; including recommendations for amendment thereof;
- (d) Maintain and keep hearing files and dockets listing the time, date, and place of hearings, the parties involved, the addresses of such parties and final disposition of each petition;
- (e) Adopt rules and regulations establishing categories of petitions, which may include priorities of the different categories so established; and
- (f) Perform other duties specified by the city council not inconsistent with this Charter, or with the provisions of Title 4 of the Palm Springs Municipal Code on the effective date of this Charter, or as may be amended.

## 609. Board of Library Trustees.

There shall be a board of library trustees consisting of five members. There shall also be a city librarian, whose duties shall be established by ordinance, resolution, or regulation of the City and who shall serve as recording secretary to the board of library trustees. The city librarian, or his or her

designated representative shall attend all board of library trustee meetings. Except as otherwise specifically provided in this Charter, the board of library trustees shall have the powers and duties provided by, and shall be administered pursuant to, the provisions of the general laws of the State of California governing municipal libraries and boards of library trustees. Unless and until the board of library trustees for the City in existence on the effective date of this Charter shall be disbanded pursuant to procedures established in the general law of the State of California, and notwithstanding any other provision of this Charter, the board of library trustees shall have the powers and duties provided by, and shall be administered pursuant to, the provision of the general laws of the State of California governing municipal libraries and boards of library trustees.

## ARTICLE VII. PERSONNEL SYSTEM

### 701. Personnel Rules and Policies.

City council may by ordinance establish a system of personnel rules and policies, governing the terms of employment of any or all employees of the City.

The personnel rules and policies may govern, without limitation, the following aspects of the personnel system:

- (a) Classification of employment by employment position between exempt and non-exempt appointments, and determination of "at will" categories of employment positions.
- (b) The preparation, installation, revision and administration of a position classification plan covering all positions in the competitive service.
- (c) The preparation, installation, revision and administration of a plan of compensation corresponding to the position classification plan, providing a rate or range of pay for each class.
- (d) The public announcement of examinations and application for and acceptance of applications for employment and establishing of criteria related thereto.
- (e) The preparation and administration of examinations and the establishment and use of resulting employment lists containing names of persons eligible for appointment.
- (f) The certification and appointment of persons from employment lists, and the making of temporary, emergency, and provisional appointments.
- (g) The establishment of hours of work, attendance and leave regulations, training programs, benefits, conduct guidelines and other conditions of work.
- (h) The evaluation of employees during the probationary period and at periodic intervals.
- (i) The transfer, promotion, demotion, reinstatement, separation, or any other change of status of employees in the competitive service.
- (j) The discipline of employees.
- (k) A system or systems for submission to and review by the personnel board, city manager, city council, personnel manager or other designated person or persons, of designated types of discipline and personnel decisions, for fact-finding, recommendations, final decision or other designated purposes or effects.
- (l) The system for any employee-selected board members to be elected and for the board to conduct its business established by the personnel rules.

### 702. Personnel Board.

There shall be a personnel board consisting of five members, unless the city council by ordinance provides for a different number of members, or provides for the discontinuance or dissolution of the personnel board entirely, in favor of some other board or alternative procedure for the review and recommendation of issues arising under the personnel system. Notwithstanding any other provision of this Charter to the contrary, none of the members of the personnel board may be employees of the City, and the rules and regulations for appointment of members to the personnel board shall be as determined by ordinance of the city council. The personnel board may meet with and receive advice from the city attorney, as it or the city attorney may deem necessary. The personnel board shall have the following powers and duties, which powers and duties may be modified by ordinance of the city council:

- (a) Conduct hearings in accordance with personnel rules and policies adopted by the city council, and make findings and recommendations thereon.
- (b) Make recommendations to the city council on amendments to the personnel rules and policies.
- (c) Conduct investigations regarding hearings pending before it.
- (d) Have the power to compel the attendance of witnesses and the production of documents by way of subpoena, and to examine witnesses appearing before it.
- (e) Perform other duties specified by the city council not inconsistent with this Charter.

## **703. Hearings Before Personnel Board.**

City council may by ordinance establish rules and regulations governing the presentation and hearing of protests, grievances, or questions arising under the personnel system before the personnel board. Any person aggrieved by any action of the personnel board may appeal such action to the city council, according to procedures which shall be established by ordinance. The decision of the city council in any such appeal shall be final.

## **704. Contracts with Employees.**

The City may enter into any contracts or collective bargaining agreements with its employees, and shall meet and confer with the duly authorized representative of such employees regarding wages, hours and other terms and conditions of employment to be included in any such agreement. If any provision of the general law of the State of California imposes a mandated benefit for employees of general law cities, then so long as that benefit is so mandated for employees of general law cities, the same benefit shall be extended to all employees of the City that would otherwise qualify for the benefit under the general law.

## **705. State Employees Retirement System.**

Plenary authority under this Charter shall be vested in the City and the city council, and by delegation of the city council, to its several officers, agents, and employees, to do all acts and exercise all authority granted, permitted, or required to enable the City to continue as a contracting city under the Public Employees' Retirement System.

## **706. Termination of State Employees Retirement System.**

City Council may terminate the contract with the Board of Administration of the Public Employees Retirement System only as provided herein. City Council may initiate proceedings for termination of the contract with the Board of Administration of the Public Employees Retirement System by

passage of a resolution of intention to do so, and not less than one year after passage of the resolution of intention, by placing an ordinance ordering the termination of the ballot for a vote by the People of Palm Springs. Any action to place such an ordinance on the ballot shall require a vote of two-thirds of the membership of the City Council. If the ordinance is passed by a majority vote of the voters voting in an election on the question, the City Clerk shall forward a certified copy of the ordinance so approved to the Board of Administration of the Public Employees Retirement System for processing and finalization of the termination.

## 707. Eligibility for Appointed Office.

No person holding or retaining any elective public office, and no person holding any appointed office whose duties are incompatible with the duties to be discharged for the City, shall be eligible for appointment as city manager, city attorney, or a member of any appointed board or commission. No person shall be eligible for appointment as city manager, city attorney, or a member of any appointed board or commission who is a relative by blood or marriage within the third degree of any one or more members of the city council. The city manager, respective department heads, and all other persons empowered by this Charter or ordinance to appoint any person to any appointed position in the City government shall not appoint any person who is a relative by blood or marriage within the third degree of the person making the appointment.

## 708. Illegal Contracts; Financial Interest; Incompatible Employment.

No member of the city council, department head or other officer of the City (except a member of any board or commission), shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the City is a party. No member of any board or commission shall be financially interested, directly or indirectly, in any contract, sale or transaction to which the City is a party and which comes before the board or commission of which such person is a member for approval or other official action or which pertains to the department, office or agency of the City with which such board or commission is connected. Any contract, sale or transaction in which there shall be such an interest, as specified in this section, shall become void at the election of the City when so declared by resolution of the city council. The general laws of the State of California shall be used in determining what constitutes a financial interest for the purpose of this section, which general laws may be supplemented or modified by regulations of the city council adopted by ordinance. If any member of the city council, department head or other officer of the City, or member of a board or commission shall be financially interested as aforesaid, upon conviction thereof he or she shall forfeit his or her office in addition to any other penalty which may be imposed for such violation of this Charter. No city councilmember, department head, or other officer or employee of the City shall engage in any employment activity or enterprise which is inconsistent, incompatible, or in conflict with his or her duties with the City. City council may, by ordinance, resolution, or regulation, adopt rules for determining those outside activities which are inconsistent, incompatible, or in conflict with the official duties for the City for the various offices or employment positions involved.

# ARTICLE VIII. ELECTIONS

## 800. General Municipal Elections.

General municipal elections for the election of city councilmembers and for such other purposes as the city council may prescribe shall be held in the City on November 7, 1995, on November 4, 1997, and on the first Tuesday in November in each odd numbered year thereafter.

## 801. Special Municipal Elections.

All other municipal elections that may be held by authority of this Charter, or of any law, shall be known as special municipal elections.

## 802. Procedure for Holding Elections.

Unless otherwise provided by ordinance, all elections shall be held in accordance with the provisions of the **Elections Code** of the State of California, as the same now exist or hereafter may be amended, for the holding of municipal elections, so far as the same are not in conflict with this Charter.

## 803. Initiative, Referendum and Recall.

There are hereby reserved to the electors of the City the powers of the initiative and referendum and of the recall of municipal elective officers. The provisions of the **Elections Code** of the State of California, as the same now exist or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, shall apply to the use thereof in the City so far as such provisions of the Elections Code are not in conflict with the provisions of this Charter.

# ARTICLE IX. FISCAL ADMINISTRATION

## 900. Fiscal Year.

The fiscal year of the City government shall be as specified by ordinance of the City Council.

## 901. Annual Budget; Preparation by the City Manager.

At such date as the city manager shall determine, each department head shall furnish to the city manager estimates of revenue and expenditures for the respective department, detailed in such manner as may be prescribed by the city manager. In preparing the proposed budget, the city manager shall review the estimates, hold conferences thereon with the respective department heads, and may revise the estimates.

## 902. Budget, Submission to City Council.

At least sixty days prior to the beginning of each fiscal year, the city manager shall submit to the city council the proposed budget. After reviewing the proposed budget and making such revisions as it may deem advisable, the city council shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than ten days prior to said hearing. Copies of the proposed budget shall be available for inspection by the public in the office of the city clerk at least ten days prior to said hearing.

## 903. Budget, Public Hearing.

At the time and place specified in the notice, the city council shall hold a public hearing on the proposed budget, at which interested persons shall be given the opportunity to be heard and present

evidence. The hearing may be continued from time to time by the city council.

## 904. Budget Adoption.

After the conclusion of the public hearing the city council shall make any revisions of the proposed budget it may deem appropriate. On or before the first date of the fiscal year, city council shall adopt the budget for that fiscal year by resolution. If because of an emergency the city council does not adopt the budget in a timely fashion, one-twelfth of the amount of the total prior fiscal year's budget may be expended each month until the budget is adopted, provided that, if the city manager's estimates project a decrease in revenues from the prior fiscal year, the amount which may be expended in any month shall be reduced by one-twelfth of the total revenue decrease projected. A copy of the approved budget, certified by the city clerk, shall be filed with the director of finance and treasurer and a further copy shall be placed, and shall remain on file, in the office of the city clerk where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the City.

## 905. Budget, Appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes stated. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

At any meeting after the adoption of the budget, the city council may by resolution amend or supplement the budget by motion adopted by the affirmative votes of at least three members so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available funds not included in the budget, or to cancel any appropriation not expended or encumbered.

## 906. Tax Limits.

- (a) Except as may be otherwise specifically provided in this Charter, the City shall have the full power to enact any taxes, assessments, fees, or any other measures for the purpose of raising revenue which charter cities in the State of California may enact.
- (b) The city council shall not levy a property tax for municipal purposes, except as otherwise provided in this section, in excess of the maximum amount permissible to the City on the effective date of this Charter, unless authorized by the affirmative votes of two-thirds of those electors voting on a proposition to increase such levy at any election at which the question of such additional levy for municipal purposes is submitted to the electors, or unless authorized for general law cities under the general laws of the State of California.
- (c) There may be levied and collected at the same time and in the same manner as other property taxes for municipal purposes are levied and collected, in addition to the above limit, a tax sufficient to meet all liabilities of the City for principal and interest of all bonds and judgements due and unpaid, or to become due during the ensuing fiscal year, which constitute general obligations of the City.
- (d) Special levies, in addition to the above limits, may be made annually for the purposes, within the limits, and to the extent that cities may make special levies in addition to their general tax limit, under the codes and statutes of the State as they may exist from time to time.

The proceeds of any such special levy shall be used only for the respective purposes for which it is levied.

## 907. Tax Procedure.

The procedure for the assessment, levy and collection of taxes upon property, taxable for municipal purposes, may be prescribed by ordinance of the city council.

## 908. Bonded Debt Limit.

The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of fifteen per cent of the total assessed valuation, for purposes of City taxation, of all the real and personal property within the City.

No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative votes of two-thirds of those electors voting on such proposition at any election at which the question is submitted to the electors, in full compliance with the provisions of the State Constitution and of this Charter, or unless otherwise authorized for general law cities under the general law of the State of California.

## 909. Presentation of Demands.

All claims for damages against the City shall be governed by the general laws of the State of California, so far as such general laws are applicable. For all claims not otherwise covered by the general laws of the State of California, all claims for damages against the City must be verified and presented to the city clerk within ninety days after the occurrence, event or transaction from which the damages allegedly arose, or within such shorter time as is otherwise provided by law, and shall set forth in detail the name and address of the claimant, the time, date, place and circumstances of the occurrence and the extent of the injuries or damages sustained. All such claims shall be approved or rejected by order of the city council and the date thereof given. City council may delegate its authority to reject claims to the city manager, city attorney, risk manager or other appropriate officer or department head. Any claim not approved or rejected by the city council within forty-five days of presentation of the claim to the city clerk shall be deemed rejected by operation of law.

All other demands against the City must be in writing and may be in the form of a bill, invoice, payroll, or formal demand. Each such demand shall be presented to the director of finance and treasurer within ninety days after the last item of the account or claim accrued, but claims presented after ninety days may be honored in the discretion of the director of finance and treasurer. The director of finance and treasurer shall examine all claims presented. If the amount thereof is legally due and there remains on the books an unexhausted balance of an appropriation against which the same may be charged, the demand shall be approved and a warrant drawn therefor, payable out of the proper fund. Otherwise the claim shall be rejected, but any such rejection may be overruled by the city council.

The director of finance and treasurer shall transmit such demand, with his approval or rejection thereof endorsed thereon, and warrant, if any, to the city manager. If a demand is one for an item included within an approved budget appropriation, it shall require the approval of the city manager, otherwise it shall require the approval of the city council, following the adoption by it of an amendment to the budget authorizing such payment. Any person dissatisfied with the refusal of the city manager to approve any demand, in whole or in part, may present the same to the city council which, after examining into the matter, may approve or reject the demand in whole or in part.

## 910. Registering Warrants.

Warrants which are not paid for lack of funds shall be registered. All registered warrants shall be

paid in the order of their registration when funds therefor are available and may bear interest from the date of registration at such rate as shall be fixed by the city council by resolution.

## 911. Actions Against City.

No suit shall be brought for money or damages against the City or any board, commission or officer thereof until a claim or demand for the same has been presented as provided herein and such claim and demand has been rejected in whole or in part. If rejected in part suit may be brought to recover the whole. The city attorney shall respond to any such suit on behalf of the City.

## 912. Independent Audit.

The city council shall employ, at the beginning of each fiscal year, a qualified certified public accountant who shall, at such time or times as may be specified by the city council, and at such other times as the accountant shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and of all such other officers, employees or departments as the city council may direct. As soon as practicable after the end of the fiscal year, a final audit and a report shall be submitted by such accountant to the city council, one copy thereof to be distributed to each member, one to the city manager, director of finance and general services, and city attorney, respectively, and sufficient additional copies of the audit shall be placed on file in the office of the city clerk where they shall be available for the general public, and a copy of the financial statement as of the close of the fiscal year shall be published in the official newspaper.

## 913. Purchasing Ordinance.

The city council may, by ordinance, establish procedures for the procurement of supplies, services, construction of public works, and the like. Such ordinance may provide requirements and procedures for competitive bidding, except that no competitive bidding shall be required for sole source contracts, contracts for professional services, or contracts undertaken in response to emergency situations. Such ordinance may also establish standards or qualifications for the screening of contractors or providers of goods and services by a prequalification process.

# ARTICLE X. FRANCHISES

## 1000. Granting of Franchises.

Any person, firm or corporation furnishing the City or its inhabitants with transportation, communication, terminal facilities, water, light, heat, electricity, gas, power, television, refrigeration, storage or any other public utility or service, or using the public streets, ways, alleys or for the operation of plants works or equipment for the furnishing thereof, or traversing any portion of the City for the transmitting or conveying of any such service elsewhere, may be required by ordinance to have a valid and existing franchise therefor. The city council is empowered to grant such franchise to any person, firm or corporation, whether operating under an existing franchise or not, and to prescribe the terms and conditions of any such grant. It may also provide, by procedural ordinance, the method of procedure and additional terms and conditions of any such grant or the making thereof, all subject to the provisions of this charter.

Nothing in this section, or elsewhere in this article, shall apply to the City, or to any department thereof, when furnishing any such utility or service.



## 1001. Resolution of Intention; Notice and Public Hearing.

Unless otherwise provided by ordinance of the city council, before granting any franchise, the city council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any persons having any interest therein or any objection to the granting thereof may appear before the city council and be heard thereon. It shall direct the city clerk to publish said resolution at least once, within fifteen days of the passage thereof, in a newspaper of general circulation in the City. Said notice shall be published at least ten days prior to the date of hearing.

At the time set for the hearing the city council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter it may by ordinance grant the franchise on the terms and conditions specified in the resolution of intention to grant the same, subject to the right of referendum of the people, or it may deny the same. If the city council shall determine that changes should be made in the terms and conditions upon which the franchise is proposed to be granted, a new resolution of intention shall be adopted and like proceedings had thereon. In connection with granting any franchise, city council may set and collect any franchise fee it deems reasonable, so long as such fee is not arbitrary or confiscatory.

## 1002. Term of Franchise.

Every franchise shall state the term for which it is granted, which shall not exceed fifteen years. Any franchise agreement entered into by the city and effective on the effective date of this Charter, whose term extends beyond twenty years after the effective date of this Charter, shall continue in effect for a period of fifteen years beyond the effective date of the Charter, and no further, provided that any franchisee whose franchise is in effect on the effective date of this Chapter may seek an extension of the franchise from city council beyond the fifteen year limit, which city council may grant if it finds the fifteen year limit would impair the franchisee's ability to realize a reasonable return on investment of funds invested prior to the effective date of this Charter, in reliance on the franchise. City council may promulgate rules and regulations for the making and consideration of applications for such extensions of franchises.

## 1003. Franchise Inapplicable to City.

No franchise requirement of the City shall apply to the City, nor any subdivision, department, or division thereof.

## 1004. Eminent Domain.

No franchise grant shall in any way, or to any extent, impair or affect the right of the City to acquire the property of the grantee thereof either by purchase or through the exercise of the right of eminent domain, and nothing therein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to any public or private utility. In such a proceeding, no value shall be assigned to the franchise rights themselves, but only to any fixtures or equipment, or other interests arising out of the exercise of the franchise rights, as may be compensable under the general laws of the State of California.