

THE CHARTER

Senate Concurrent Resolution No. 53

Adopted in Senate May 11, 1949

Secretary of the Senate

Adopted in Assembly May 12, 1949

Chief Clerk of the Assembly

This resolution was received by the Secretary of State this ____ day of _____ 1949, at ____ o'clock ____ M.

Deputy Secretary of State

CHAPTER 126

Senate Concurrent Resolution No. 53—Approving the Charter of the City of Merced, State of California, ratified by the qualified electors of said city at a special municipal election held therein on the twelfth day of April, 1949.

WHEREAS, The City of Merced, in the County of Merced, State of California, contains a population in excess of thirty-five hundred inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the legislature of the State of California; and

WHEREAS, proceedings have been had in and taken by the said City of Merced for the preparation, proposal, adoption, and ratification of a charter for the government of said City of Merced, all as set forth in the following certificate of the mayor and city clerk of said City of Merced, to wit:

Certificate of Adoption

State, of California,	)
County of Merced,	) ss.
City of Merced.	)

We, the undersigned, A. Homer Griffin, mayor of the City of Merced, County of Merced, State of California, and A. H. Groesel, clerk of said city, do hereby certify and declare as follows:

That said City of Merced, County of Merced, State of California, is now, and at all times herein referred to was, a city containing a population of more than three thousand five hundred inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the legislature of the State of California;

That said City of Merced is now, and at all times herein mentioned was, duly organized and existing under the general laws of the State of California, as a city of the sixth class;

That on the 13th day of April, 1948, at a municipal election duly and regularly held on that day in the said City of Merced under and in accordance with the provisions of Section 8 of Article XI of the constitution of the State of California, the electors of said city did duly choose and elect a board of fifteen freeholders, the members of which were all electors of said city and eligible as candidates under said election, to prepare a charter for the government of said city;

That the result of said election of freeholders was duly declared by the legislative body of the City of Merced on the 20th day of April, 1948, and said electors thereafter duly qualified as such freeholders in accordance with law;

That pursuant to the provisions of the Constitution of the State of California and within due and legal time pursuant to Section 8, Article XI of the Constitution of the State of California, the said board of freeholders did prepare and propose a Charter for the government of said City of Merced, which said Charter was signed by a majority of the said board of freeholders and was filed in the office of the city clerk of said City of Merced on the 10th day of January, 1949;

That said board of freeholders did, before said filing, fix and designate on such proposed Charter the 12th day of April, 1949, as the date upon which said Charter should be submitted to the electors of said City of Merced for ratification by them;

That thereupon the said city council of said City of Merced, by resolution, duly called and ordered the holding of a special municipal election to be held in said City of Merced on the 12th day of April, 1949, and gave notice of the holding of such election as required by law; that at said election there was submitted to the qualified electors of the City of Merced, the question whether said proposed Charter prepared and filed by said board of freeholders should be ratified and adopted as the Charter for the government of said City of Merced;

That within fifteen days after the filing of said Charter, said city council caused the same to be published once, to wit: On the 20th day of January, 1949, in the Merced Express, a newspaper of general circulation, printed, published and circulated within said city; that the City of Merced has no official newspaper.

That thereafter, and prior to the said 12th day of April, 1949, the said city clerk of the said City of Merced caused copies of the said proposed Charter to be mailed, postage prepaid to all of the qualified electors of the City of Merced:

That said election was duly and regularly held on the 12th day of April, 1949, and that at said election the majority of the qualified electors voting thereon, voted in favor of said proposed Charter, and for the ratification and adoption thereof;

That the city council of the said City of Merced at an adjourned regular meeting held in the time, form and manner required by law, and in accordance with the law in such cases made and provided, duly canvassed the returns of said election, and duly found, determined and declared that the majority of said electors voting thereon had voted in favor of said proposed Charter and for the ratification and adoption thereof, and that the same was adopted and ratified by more than a majority of the qualified voters of the City of Merced voting thereon; that said Charter, so prepared, proposed, filed, and ratified, as herein set forth together with the certificate and signatures of the members of the board of freeholders attached thereto is in words and figures as follows, to wit:

Proposed Charter of the City of Merced

We, the people of the City of Merced, State of California, do ordain and establish this Charter as the organic law of said city under the constitution of said state.

Article I. - Incorporation and Succession.

Sec. 100. - Name and boundaries.

The City of Merced shall continue to be a municipal corporation under the name and possessed of all the property and interests of which it is possessed at the time this Charter takes effect. The boundaries of the city shall be the boundaries as established at the time this Charter takes effect, or as such boundaries may be changed thereafter in the manner authorized by law.

Sec. 101. - Succession, rights and liabilities.

The City of Merced, as successor in interest of the municipal corporation of the same name, heretofore created and existing, shall own, possess, control, and in every way succeed to and become the owner of all rights and of all property of every kind and nature owned, possessed or controlled by said existing municipal corporation, and shall be subject to all the debts, obligations and liabilities of said existing corporation.

Sec. 102. - Ordinances.

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

Sec. 103. - Continuance of present officers and employees.

The present officers and employees shall continue without interruption to perform the duties of their respective offices and employments upon the same conditions and for the compensation provided by the existing ordinances, resolutions, rules or laws, until the election or appointment and qualification of their successors under this Charter. The terms of office of elective officers whose offices are made appointive under this Charter shall expire upon appointment of their successors, respectively.

Sec. 104. - Continuance of contracts and public improvements.

All contracts entered into by the city or for its benefit prior to the effective date of this Charter, shall continue in full force and effect. Public improvements for which proceedings have been instituted under laws existing at the time this Charter takes effect, in the discretion of the city council, may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws or may be continued or perfected under this Charter.

Sec. 105. - Pending actions and proceedings.

No action or proceeding, civil or criminal, pending at the time when this Charter takes effect, brought by or against the city or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or by anything herein contained, but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any officer, office, department or agency party thereto, by or under this Charter, may be assigned or transferred 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.

Sec. 106. - Effective date of Charter.

For the purpose of nominating and electing members of the city council and the members of the board of education this Charter shall take effect from the time of its approval by the legislature. For all other purposes, it shall take effect on the Tuesday next succeeding the date of the election of the first city council at eight o'clock P.M.

Article II. - Powers of City.

Sec. 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. 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.

To the fullest extent allowed by the Constitution of the State of California, the City hereby establishes its plenary authority in all forms of contracting, specifically exempts itself from the provisions of the California Public Contract Code and specifically reserves the right to determine the manner in which it contracts for public works.

(Amended November 6, 2007).

Sec. 201. - Procedures.

The city shall have the power to and may act pursuant to procedure established by any law of the state, unless a different procedure is established by ordinance.

Article III. - Form of Government.

Sec. 300. - Form of government.

The municipal government established by this Charter shall be known as the "councilmanager" form of government.

Article IV. - City Council.

Sec. 400. - Number and term.

- A. The City Council shall consist of a Mayor elected from the City at large and six City Council Members elected by single-member district election at the times and in the manner provided in this Charter.
- B. The Mayor shall serve a term of four (4) years and until his/her successor is elected and qualified. The Mayor

shall be limited to no more than two terms. For purposes of this subsection, a "term" shall be defined to include serving fifty percent plus one day of a term as Mayor, while service as Mayor for fifty percent or less of a term shall not constitute a term for purposes of term limits.

- C. Individual City Council Members shall serve a term of four (4) years and until his/her successor is elected and qualified. Individual City Council Members shall be limited to no more than two, four-year terms. For purposes of this subsection, a "term" shall be defined to include serving fifty-percent plus one day of a term as a City Council Member, while service as a City Council Member for fifty percent or less of a term shall not constitute a term for purposes of term limits.
- D. Once the Mayor or an individual City Council Member has served the two term maximum in that respective office, he/she shall be ineligible to be elected or appointed to that office again.
- E. District boundaries shall be drawn by ordinance.

(Amended March 3, 2020; amended November 4, 2014; amended November 6, 2007; amended November 3, 1992; amended November 12, 1985; amended June 4, 1968).

Sec. 401. - Eligibility.

No person shall be eligible to hold office as the Mayor or as a Member of the City Council unless he/she is a qualified elector of the City.

(Amended November 6, 2007).

Sec. 402. - Compensation and Reimbursement.

- A. The members of the City Council, including the Mayor, shall receive a monthly stipend for their services as such, and shall receive reimbursement for expenses incurred while performing official duties of their office. Absence of a council member, including the Mayor, from all regular and special meetings of the council during any calendar month shall render such council member, including the Mayor, ineligible to receive such sum for such calendar month.
- B. There shall be established a Citizens' Stipend Setting Commission consisting of seven (7) members to be appointed by the City Council from the qualified electors of the City. Six (6) members will be appointed by district and one (1) member will be appointed at large.
 - 1. The Commission shall hold two (2) public hearings between March 1st and June 30th of every even-numbered year and shall recommend, by majority vote and in writing, to the Council the amount of the monthly stipend which it deems appropriate for the members of the Council for the two (2) year period beginning January 1st of the next year. The amount recommended for each council member shall be the same.
 - 2. The Commission shall hold two (2) public hearings between March 1st and June 30th of a Mayoral election year and shall recommend, by majority vote and in writing, to the Council the amount of the monthly stipend which it deems appropriate for the Mayor for his/her entire term beginning in January of the next year. The stipend recommended for the Mayor shall, at a minimum, be the same as the other council members; however, the Commission may recommend providing the Mayor with reasonable compensation beyond his/her stipend as a member of the City Council.
 - 3. The Council shall, by resolution, adopt the stipends as recommended by the Commission, or in some lesser amount, but in no event may it increase the amount. Stipends of the council members and Mayor may be reduced at any time by two-thirds ($\frac{2}{3}$) vote of the Council. Stipends shall remain in effect until

amended by a subsequent resolution adopted pursuant to the provisions of this section.

(Amended March 3, 2020).

Sec. 403. - Vacancies.

- A. A vacancy in the office of the Mayor, from whatever cause arising, shall be filled by appointment by the City Council from qualified electors in the City. In the event the City Council shall fail to fill the vacancy by appointment within thirty days after the Mayor's office shall have been declared vacant, the City Council shall forthwith cause an election to be held to fill the vacancy. The election may be conducted by mail-ballot under this Charter.
- B. Any City Council Member appointed or elected to fill a vacancy under subsection A above shall resign as a City Council Member, or his/her office shall automatically be deemed vacated, upon being sworn-in as Mayor and he/she shall serve out the remainder of the unexpired term of the Mayor.
- C. A vacancy in the office of a City Council Member, from whatever cause arising, shall be filled by appointment by the City Council from qualified electors in the City, and the appointee shall hold office until the first Tuesday following the next general municipal election and until his/her successor is elected and qualified. In the event the City Council shall fail to fill a vacancy of a City Council Member by appointment within thirty days after such office shall have been declared vacant, the City Council shall forthwith cause an election to be held to fill the vacancy. The election may be conducted by mail-ballot under this Charter. At the next general municipal election following any vacancy, a City Council Member shall be elected to serve the remainder of the unexpired term, if any.
- D. If the Mayor or any Member of the City Council absents himself/herself 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 the Mayor or such Member respectively, unless by permission of the City Council expressed in its official minutes, his/her office shall become vacant and shall be so declared by the City Council. The vacancy shall be filled pursuant to this Section.
- E. If the Mayor or any Member of the City Council is convicted of a felony or a crime involving moral turpitude, his/her office shall become vacant and shall be so declared by the City Council. The vacancy shall be filled pursuant to this Section. (Amended November 6, 2007).

Sec. 404. - Presiding officer—Mayor.

- A. The Mayor shall have a voice and vote in all proceedings of the City Council. He/She shall be the official head of the City for all ceremonial purposes. He/She shall perform such other duties as may be prescribed by this Charter or as may be imposed by the City Council consistent with his/her office.
- B. The City Council shall also 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 his/her absence or disability. (Amended November 6, 2007: Amended November 3, 1992).

Sec. 405. - Powers vested in the city council.

All powers of the city shall be vested in the city council, subject to the provisions of this Charter and to the Constitution of the State of California.

Sec. 406. - Interference in administrative service.

Neither the Mayor nor any Member of the City Council shall 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/her removal therefrom. Except for the purpose of inquiry, the Mayor and Members of the City Council shall deal with the administrative service under the City Manager solely through the City Manager and neither the Mayor nor any Member of the City Council shall give orders to any subordinates of the City Manager, either publicly or privately.

(Amended November 6, 2007).

Sec. 407. - Regular meetings.

The city council shall hold regular meetings at least twice each month at such times as it shall fix by ordinance or resolution and may adjourn or readjourn any regular meeting to a date certain which shall be specified in the order of adjournment and when so adjourned, each adjourned meeting shall be a regular meeting for all purposes. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day.

Sec. 408. - Special meetings.

Special meetings may be called and held in accordance with and pursuant to the general laws of the State.

(Amended November 6, 2007: Amended June 4, 1968).

Sec. 409. - Place of meetings.

Regular meetings of the City Council shall be held in the City Council Chambers of the City Hall and shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the Mayor, or, if he/she should fail to act, by four Members of the City Council. Special meetings may be held in the City Council Chambers of the City Hall or in any other location within the City limits so long as the location is publicly accessible and properly noticed.

(Amended November 6, 2007).

Sec. 410. - Quorum—Proceedings.

- A. Four 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 of the Members of the City Council from any regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. Notice and call of regular, adjourned regular, special, and emergency meetings shall comply with the general laws of the State.
- B. The City Council may establish rules for the conduct of its proceedings and evict or prosecute any Member or other person for disorderly conduct at any meeting. Such disorderly conduct at any meeting shall constitute a misdemeanor.
- C. 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.
- D. 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 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.

- E. The City Council shall cause the City Clerk to keep a correct record of all its proceedings and at the demand of any Member of the City Council, or upon the adoption of any Ordinance, Resolution, or order for the payment of money, the City Clerk shall call the roll to be taken by either voice or electronic means so long as the vote when counted is publicly visible and shall cause the ayes and noes taken on such question to be entered in the minutes of the meeting.

(Amended November 6, 2007).

Sec. 411. - Public participation.

No person shall be denied the right personally, or through counsel, to present grievances at any regular meeting of the City Council, or offer suggestions for the betterment of municipal affairs. At special or emergency meetings, grievances and comments shall be limited to the topic of the special or emergency meeting. The City Council may, by majority vote, suspend this limitation at any special or emergency meeting.

(Amended November 6, 2007).

Sec. 412. - Adoption of ordinances and resolutions.

With the sole exception of Ordinances, which take effect upon adoption, referred to in this Article, no Ordinance shall be adopted by the City Council on the day of its introduction, nor within five days thereafter, nor at any time other than at a regular or adjourned regular meeting. At the time of adoption of an Ordinance or Resolution, it shall be read in full unless after the reading of the title or a summary of the title thereof, the further reading thereof is waived by a majority of the City Council Members 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 other than a regular or adjourned regular meeting, except that the same may be authorized at an emergency meeting when the order for the payment of money is necessary to mitigate the emergency.

Unless a higher vote is required by other provisions of this Charter, the affirmative votes of at least four Members of the City Council shall be required for the enactment of any Ordinance or Resolution, or for the making or approving of any order for the payment of money. All Ordinances and Resolutions shall be signed by the Mayor, attested by the City Clerk, and approved as to legal form by the City Attorney.

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

(Amended November 6, 2007).

Sec. 413. - Ordinances—Enactment.

In addition to such acts of the city council as are required by this Charter to be by ordinance, every act of the city council establishing a fine or other penalty, or granting a franchise, shall be by ordinance.

The enacting clause of all ordinances shall be substantially as follows: "The city council of the City of Merced does ordain as follows:".

Sec. 414. - Ordinances—Publication.

When publication of the full text of an Ordinance would not otherwise be required by the general laws of the State, the City Clerk shall cause a single publication in the City's official newspaper to occur at least three (3) days prior to the Ordinance's introduction, setting forth the title of the Ordinance, a brief summary of the Ordinance and listing two (2) places where copies of the full text of the proposed Ordinance are available—including the Internet.

Upon adoption, a summary of the Ordinance shall be published at least once in the City's official newspaper within fifteen days after its adoption setting forth the title of the Ordinance, the date of its adoption, those Members of the City Council voting for, against, abstaining, or absent, and listing two (2) places in the City where copies of the full text of the Ordinance are available—including the Internet.

In the event the proposed Ordinance is concise, the City Clerk may elect to publish the full text of the Ordinance in lieu of a summary.

(Amended November 6, 2007).

Sec. 415. - Codification of ordinances.

Any or all Ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged as a comprehensive Ordinance Code, and such Code may be adopted by reference by the passage of an Ordinance for such purpose. Such Code need not be published in the manner required for other Ordinances, but not less than two copies thereof shall be filed with the City Clerk. One copy shall be retained as an official record of the City and the other copy shall be available for use and examination by the public in the Office of the City Clerk. Ordinances codified shall be repealed as of the effective date of the Code. Subsequent amendments to sections of the Code shall be enacted in the same manner as herein required for the amendment of Ordinances generally.

Detailed regulations pertaining to any subject such as the construction of buildings, plumbing, wiring or other subjects which require extensive regulations, after having been arranged as a comprehensive Code, may likewise be adopted by reference in the manner provided in this Section.

(Amended November 6, 2007).

Sec. 416. - Ordinances—When effective.

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

- A. An Ordinance calling or otherwise relating to an election;
- B. An improvement proceeding Ordinance adopted under some law or procedural Ordinance;
- C. An Ordinance declaring the amount of money necessary to be revised by taxation, or fixing the rate of taxation, or levying the annual tax upon property; or,
- D. An emergency or urgency Ordinance adopted in the manner provided for in this Article.

(Amended November 6, 2007).

Sec. 417. - Ordinance—Violation—Penalty.

A violation of any Ordinance of the City shall constitute a misdemeanor unless by that Ordinance it is specifically designated as an infraction. Such violation may be prosecuted in the name of the People of the State of California and/or may be redressed through administrative and/or civil remedies.

Any violation of any Ordinance may, in the discretion of the City Attorney, acting as the City Prosecutor, be charged as, prosecuted as, or reduced to an infraction.

The maximum fine or penalty for any violation of a City Ordinance which is an infraction shall be the sum of five-hundred dollars. The maximum penalty for any violation of a City Ordinance which is a misdemeanor shall be the sum of one-thousand dollars or a term of imprisonment for a period not exceeding one year, or both such fine and imprisonment.

(Amended November 6, 2007; Amended January 12, 1977).

Sec. 418. - Ordinances—Amendment.

The amendment of any section or sections of an ordinance may be accomplished solely by the re-enactment of such section or sections at length, as amended.

Sec. 419. - Publishing of legal notices.

In the event that there is more than one newspaper of general circulation published in the City, the City Council, at least once every three (3) years, shall cause a notice to be published inviting bids and contracts for the publication of all legal notices or other matter required to be published in a newspaper of general circulation published and circulated in said City during the ensuing fiscal years. In the event there is only one newspaper of general circulation published in the City, then the City Council shall have the power to contract with such newspaper for the printing and publishing of such legal notices without being required to advertise for bids therefor. The newspaper with which any such contract is made shall be designated the official newspaper for the publication of such notices or other matter for the period of such contract.

In no case shall the contract prices for such publication exceed the customary rates charged by such newspaper for the publication of legal notices of a private character.

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 law or Ordinance.

(Amended November 6, 2007).

Sec. 420. - Acceptance of other office.

Any elective official of the City who shall accept or retain any salaried public office or employment with the City, or any office or employment with another public agency having duties, obligations and/or loyalties inconsistent with his/her duties, obligations and/or loyalties to the City, except as provided in this Charter, shall be deemed thereby to have vacated his/her elected office under the City government.

(Added November 6, 2007).

Article V. - City Manager.

Sec. 500. - City manager.

The City Council shall appoint the City Manager who shall be chosen on the basis of his/her administrative qualifications. He/She shall be paid a salary commensurate with his/her responsibilities as chief administrative officer of the City.

The City Manager may be removed from office by motion of the City Council adopted by at least five affirmative votes.

No City Council Member shall be eligible to receive appointment as City Manager during the term for which he/she shall have been elected, or appointed, nor within one year after the expiration of his/her term.

(Amended November 6, 2007).

Sec. 501. - City manager—Powers and duties.

The City Manager shall be the chief administrative officer and the head of the administrative branch of the City government. He/She shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities and duties, the City Manager shall have power and be required to:

- A. Appoint and remove all department heads and officers of the City except those officers the power of appointment of whom is vested in the City Council, and pass upon and approve all proposed appointments and removals of subordinate employees by all officers and department heads;
- B. Prepare the budget annually and submit it to the City Council and be responsible for its administration after adoption;
- C. Prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;
- D. Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him/her desirable;
- E. Enforce the laws of the State pertaining to the City, the provisions of this Charter and the Ordinances of the City; and,
- F. Perform such other duties as may be prescribed by this Charter or required of him/her by the City Council, not inconsistent with this Charter.

(Amended November 6, 2007).

Sec. 502. - City manager—Council table.

The city manager shall be accorded a seat at the city council table and shall be entitled to participate in the deliberations of the city council, but shall not have a vote.

Sec. 503. - Manager pro tempore.

The City Manager shall appoint one of the other officers or department heads of the City to serve as Manager Pro-Tempore during any temporary absence or disability of the City Manager.

(Amended November 6, 2007).

Article VI. - Officers and Employees.

Sec. 600. - Officers to be appointed by the city council.

In addition to the City Manager, the City Council shall appoint the City Attorney, Finance Officer, and City Clerk, who shall serve at the pleasure of the City Council and may be removed by motion of the City Council adopted by at least four affirmative votes.

(Amended November 6, 2007: Amended May 2, 1977: December 6, 1976).

Sec. 601. - 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 alteration or abolition, for their assignment and reassignment to departments, and for the number, titles, qualifications, powers, duties and compensation of all officers and employees.

Each department so created shall be headed by an officer as department head who shall be appointed by the city manager.

Sec. 602. - City clerk—Powers and duties.

The City Clerk shall have power and be required to:

- A. Attend 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, records, or documents and media in other appropriate forms, that shall bear appropriate titles and be devoted to such purpose;
- B. Maintain separate books, records, or documents and media in other appropriate forms, in which shall be recorded respectively all Ordinances and Resolutions, 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. The City Clerk shall keep all books, records, or documents and media in other appropriate forms, properly indexed and open to public inspection when not in actual use;
- C. Maintain separate books, records, or documents and media in other appropriate forms, in which a record shall be made of all written contracts and official bonds;
- 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; and,
- F. Have charge of all City elections.

(Amended November 6, 2007).

Sec. 603. - City attorney—Powers and duties.

To become eligible to be appointed as the City Attorney, the person appointed shall be an attorney-at-law duly licensed as such under the laws of the State of California. He/She shall have been engaged in the practice of law for at least five years prior to his/her appointment. 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 and any City officer or employee, or former City officer or employee, in any or all actions and proceedings in which the City or any such officer or employee, in or by reason of his/her official capacity, is concerned or is a party, but the City Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein;
- C. Attend all regular meetings of the City Council and give his/her advice or opinion in writing whenever requested to do so by the City Council or by any of the boards, commissions, or officers of the City;
- D. Approve the form of all bonds given to, and all contracts made by the City, endorsing his/her approval thereon in writing;
- E. Prepare any and all proposed Ordinances or Resolutions for the City, and amendments thereto and approve the same as to legal form;
- F. Prosecute on behalf of the People of the State of California as the City Prosecutor such criminal cases for violations of this Charter and of City Ordinances as in his/her opinion, warrant his/her attention;
- G. Devote such time to the duties of his/her office as may be specified in the Ordinance or Resolution fixing the compensation for such office; and,
- H. On vacating the office, surrender to his/her successor all books, papers, files, and documents in whatever form they exist pertaining to the City's affairs.

(Amended November 6, 2007: Amended June 4, 1968).

Sec. 604. - Finance officer—Powers and duties.

The Finance Officer shall have power and be required to:

- A. Have charge of the administration of the financial affairs of the City under the direction of the City Manager;
- B. Compile the budget expense and revenue estimates for the City Council, based upon the City Manager's proposed budget; and at the end of the fiscal year, prepare and submit a complete report on the finances of the City to the City Council in consultation with the City Manager;
- C. Supervise and be responsible for the disbursement of all moneys and have control over 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;
- D. Maintain a general accounting system for the City government and each of its offices, departments and agencies;
- E. Keep separate accounts for the items of appropriation contained in the City budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of the receipts and disbursements

from each receiving and expending agency of the City government to be made daily or at such intervals as he/she may deem expedient;

- F. Submit to the City Council and the City Manager a monthly 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. Collect all taxes, assessments, license fees and other revenues of the City, or for whose collection the City is responsible, and receive all 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;
- H. Have custody of all public funds belonging to or under the control of the City or any office, department, or agency of the City government, and deposit all funds coming into his/her hands in such depository as may be designated by Resolution of the City Council, or, if no such Resolution be adopted, 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;
- I. Supervise the keeping of current inventories of all property of the City by all City departments, offices and agencies;
- J. Establish a centralized purchasing system for all City offices, departments and agencies; and,
- K. 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 Manager and the City Council for adoption by Ordinance; and prepare administrative policies and procedures implementing this Section and recommend them for review and approval by the City Manager.

(Amended March 3, 2020; amended November 6, 2007; amended May 2, 1977).

Sec. 605. - Duties of officers and employees.

The City Council, by Ordinance, may assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

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 provided for in the Charter. No office provided in this Charter, to be filled by appointment by the City Manager, may be combined with an office provided in this Charter to be filled by appointment by the City Council.

Notwithstanding the foregoing, the City Council may transfer or consolidate functions of the City government to or with appropriate functions of the State or County government and in case of any such transfer or consolidation, the provisions of this Charter providing for the function of the City government so transferred or consolidated, shall be deemed suspended during the continuance of such transfer or consolidation, to the extent that such suspension is made necessary or convenient and is set forth in the Ordinance establishing such transfer or consolidation. Any such transfer or consolidation may be repealed by Ordinance.

(Amended November 6, 2007).

Sec. 606. - Administering oaths.

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

(Amended November 6, 2007).

Sec. 607. - Department heads—Appointment powers.

Each department head shall have the power to appoint and remove such deputies, assistants, subordinates and employees as are provided for by the City Council for his/her department, subject to the personnel provisions of this Charter and the rules and regulations promulgated thereunder, and subject to the approval of the City Manager being first had and received.

(Amended November 6, 2007).

Sec. 608. - Repealed November 6, 2007.

Sec. 609. - Acceptance of elected office.

No employee may be sworn into office as the elected or appointed Mayor or Member of the City Council of the City unless he/she resigns as an employee. If the employee does not resign, his/her employment shall automatically terminate upon his/her being sworn into office.

(Amended November 6, 2007).

Sec. 610. - Nepotism.

The City Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the third degree, as defined under the common law, of any one or more Members of such City Council and neither shall any officer having appointive power appoint any relative within such degree to any such position.

(Amended November 6, 2007).

Sec. 611. - Official bonds.

The City Council shall fix by Ordinance the amounts and terms of the official bonds of all officials or employees who are required by this Charter or 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/her bond for any wrongful act or omission of his/her subordinates unless such superior officer was a party to or conspired in such wrongful act or omission.

(Amended November 6, 2007).

Sec. 612. - Oath of office.

The Mayor and each Member of the City Council and of every board and commission and each officer and department head and all City employees, before entering upon the discharge of the duties of his/her office, shall take, subscribe to and file with the City Clerk the following oath or affirmation:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter."

The oath or affirmation shall be administered by the City Clerk, or his/her appointed deputies.

(Amended November 6, 2007).

Article VII. - Appointive Boards and Commissions.

Sec. 700. - In general.

There shall be the boards and commissions enumerated in this article which shall have the powers and duties herein stated. In addition, the city council may create by ordinance such 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.

Sec. 701. - Appropriations.

The city council shall include in its annual budget such appropriations of funds which in its opinion shall be sufficient for the efficient and proper functioning of such boards and commissions.

Sec. 702. - Appointments—Terms.

The members of each of such boards or commissions shall be appointed by motion of the City Council adopted by at least four affirmative votes, and shall be subject to removal by motion of the City Council adopted by at least five affirmative votes. The members thereof shall serve for a term of four years and until their respective successors are appointed and qualified. For purposes of this Section and Section 702.1, a "term" shall be defined to include serving fifty percent plus one day of a term as a board member or commissioner on a particular board or commission, while service as a board member or commissioner on a particular board or commission for fifty percent or less of a term shall not constitute a term for purposes of term limits in Section 702.1 hereof.

(Amended November 6, 2007: Amended June 4, 1968).

Sec. 702.1. - Limitation of terms.

The members of each of such boards or commissions shall not be eligible to serve more than two consecutive terms. At any time after the expiration of two years following said two consecutive terms, a former member of a board or commission may again be appointed to serve thereon, subject to the limitations of this section.

(Added June 4, 1968).

Sec. 703. - Repealed November 6, 2007.

Sec. 704. - Meetings—Chair.

As soon as practicable, following the first day of July of every year, each of such boards and commissions shall organize by electing one of its members to serve as presiding officer at the pleasure of such board or commission. Each board or commission shall hold regular meetings as required by Ordinance of the City Council, and such special meetings as it may require. All proceedings shall be open to the public.

A majority of the entire membership of such board or commission shall constitute a quorum to conduct business. The affirmative vote of a majority of the quorum present shall be necessary for the board or commission to take action unless otherwise required by an applicable statute.

The City Manager shall designate a secretary to record the minutes for each of such boards and commissions, and to keep a record of its proceedings and transactions. The boards and commissions shall follow the rules and regulations prescribed by and governing the City Council, copies of which shall be kept on file in the Office of the City Clerk where they shall be available for public inspection. The boards and commissions shall have the same power as the City Council to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before them.

(Amended November 6, 2007: Amended January 12, 1977).

Sec. 705. - Compensation—Vacancies.

The members of boards and commissions shall serve without compensation for their services as such, but shall receive reimbursement pursuant to a reimbursement policy adopted by the City Council for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the City Council and the member meets the criteria and the reporting requirements for reimbursement under the policy.

Any vacancies in any board or commission, from whatever cause arising, shall be filled by appointment by 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. If a member of a board or commission absents himself/herself from three regular meetings of such board or commission, consecutively, unless by permission of such board or commission expressed in its official minutes, or is convicted of a felony or a crime involving moral turpitude, or ceases to be a qualified elector of the City, his/her office shall become vacant and shall be so declared by the City Council.

(Amended November 6, 2007).

Sec. 706. - Oaths; affirmations.

Each member of any such board or commission shall have the power to administer oaths and affirmations in any investigation or proceeding pending before such board or commission.

Sec. 707. - Planning commission.

There shall be a City Planning Commission consisting of seven members to be appointed by the City Council from the qualified electors of the City, none of whom shall hold any paid office or employment in the City government. The number of members to comprise the commission may be changed by Ordinance of the City Council to not less than five nor more than nine members.

The services of the City Engineer, City Attorney, Chief Building Official, Director of Development Services and other City staff shall be made available to such commission.

(Amended November 6, 2007).

Sec. 708. - Planning commission—Powers and duties.

The Planning Commission shall have power to:

- A. Recommend to the City Council after a public hearing thereon, the adoption, amendment, approval, or repeal of any matter pertaining to annexation, land subdivision, development, planning, zoning, general plan, master plan, specific plan, or any part thereof, including all necessary environmental review accompanying such matter, for the physical development of the City; and,
- B. Exercise such functions with respect to those matters as may be prescribed by the City Council by Ordinance or Resolution.

(Amended November 6, 2007).

Sec. 709. - Personnel board.

There shall be a Personnel Board consisting, of five members to be appointed by the City Council from the qualified electors of the City, none of whom shall hold any salaried City office or employment, nor while a member of the Board or for a period of one year after he/she has ceased for any reason to be a member, be eligible for appointment to any salaried office or employment in the service of the City, or to any City elective office.

The members of the Personnel Board shall be nominated and appointed in the following manner:

Two members shall be appointed by the City Council from a list of five persons to be nominated by election by the employees in the classified service; two members shall be appointed by the City Council directly, and the fifth shall be appointed by the City Council from a list of three persons nominated by a majority of the four thus appointed. In the event the majority of the four thus appointed is unable to nominate three persons after sixty (60) days, the City Council may appoint from a list of less than three persons nominated. In the event the employees are unable to nominate five persons after sixty (60) days, the City Council may appoint from a list of less than five persons nominated. The successor of any member of the Board shall be nominated and appointed in the same manner as such member was nominated and appointed.

(Amended November 6, 2007).

Sec. 710. - Personnel board—Powers and duties.

The Personnel Board shall have power to:

- A. Recommend to the City Council, after a public hearing thereon, the adoption, amendment or repeal of personnel rules and regulations;
- B. Hear appeals of any person in the classified service, other than one serving a probationary period, relative to any suspension, demotion or dismissal and make recommendations thereon;
- C. Hear appeals relating to grievances when provided for in a memorandum of understanding with the respective employee associations and make recommendations thereon; and,
- D. Make any investigation with the consent of either the City Council or City Manager concerning the administration of personnel in the municipal service and report its findings and recommendations to the City Council and/or the City Manager, respectively.

(Amended November 6, 2007).

Sec. 711. - Recreation and parks commission.

There shall be a recreation and parks commission consisting of seven members to be appointed by the city council from the qualified electors of the city and no member of said commission shall hold any paid office or employment in the city government. The number of members to comprise the commission may be changed by ordinance of the city council to not less than five nor more than nine members. In the event the city council contracts with other agencies interested in recreation and parks for the joint exercise of any of such functions, such contract may provide for representation on the commission of representatives of such agencies during the existence of such contract or extensions thereof.

Sec. 712. - Recreation and parks commission—Powers and duties.

The Recreation and Parks Commission shall have power to:

- A. Act in an advisory capacity to the City Council in all matters pertaining to recreation and parks;
- B. Consider the annual budget for recreation and parks during the process of its preparation and make recommendations with respect thereto to the City Manager and the City Council; and,
- C. Assist in the planning of a recreation program for the inhabitants of the City, promote and stimulate public interest therein, and to that end, solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein.

(Amended November 6, 2007).

Article VIII. - Civil Service.

Sec. 800. - Merit principle.

Appointments and promotions in the classified service of the City shall be made according to merit and fitness and from eligible lists to be established in accordance with personnel rules and regulations adopted in the manner provided in this Charter.

(Amended November 6, 2007).

Sec. 801. - Unclassified and classified service.

The officers and employees of the City shall be divided into the unclassified and the classified service.

- A. The unclassified service shall comprise the following officers and positions:
 - 1. All elective officers;
 - 2. City Manager, City Attorney, Finance Officer, City Clerk, and one confidential secretary to the City Manager;
 - 3. The Assistant City Manager, all department heads, Assistant to the City Manager, and professionally licensed attorneys assuming office on or after the effective date of the 2007 Charter Amendments.
 - 4. All voting members of boards and commissions;
 - 5. Positions in any class or grade created for a special or temporary purpose, and which would exist

for a period of not longer than ninety days in any one calendar year;

6. Persons employed to render professional, scientific, technical or expert service of an occasional and exceptional character; and,
7. Part-time, seasonal, or limited-basis employees paid on an hourly or per diem basis.

B. The classified service shall comprise all positions not specifically included by this Section in the unclassified service.

(Amended November 6, 2007: Amended January 12, 1977).

Sec. 802. - Appointments from classified service positions.

In the event an officer or employee of the City holding a position in the classified service is appointed to a position in the unclassified service, and should thereafter be removed or resign therefrom, he/she shall revert to his/her former position in the classified service, unless he/she is dismissed from the service of the City, without loss of any rights or privileges and upon the same terms and conditions as if he/she had remained in said position continuously, if the former position is vacant. If the former position is not vacant, the officer or employee may be placed on the eligibility list for that position and may be reinstated within two years from the date of his/her removal or resignation from the unclassified service.

(Amended November 6, 2007).

Sec. 803. - Recruitment.

Examinations of applicants for positions in the classified service shall be practical and relate to those matters which fairly test the relative capacity of the applicants to discharge the duties of the positions to which they seek to be appointed.

(Amended November 6, 2007).

Sec. 804. - Appointments.

Upon receipt of notice of a vacancy in the classified service, the City Manager, or such officer under the City Manager having charge of personnel administration, shall certify to the appointing power the names of the three highest candidates on the eligible list for such position. The appointing power may appoint, of the three thus certified, whichever one in his/her opinion is best qualified for such position. No candidate may be certified more than three times for any one classified position.

The City Manager, or other officer having charge of personnel administration, with the consent of the appointing power and of the Personnel Board, may authorize the certification of less than three names for appointment in the event there remains less than three names on an eligible list and in the opinion of such officer and of the Personnel Board conditions warrant such action. When no eligible lists are available, the City Manager, upon the recommendation of the Personnel Board, and under such rules and regulations as it may prescribe, may authorize the appointing power to make temporary appointments in the classified service, in order to prevent the stoppage of public business and in order to meet extraordinary conditions, which appointments shall remain in force until regular appointments can be made, but in no case to exceed six months in any fiscal year.

All original appointments shall be for a probationary period of not less than twelve months for all employees except public safety, which period shall be for not less than eighteen months, during which the employee may be rejected at any time without right of a hearing before the Personnel Board. All promotional appointments shall be for a probationary period of not less than six months.

An employee rejected during the probationary period from a position to which he/she has been promoted shall be reinstated to the position from which he/she was promoted, if that position is vacant, unless he/she is dismissed from the service of the City in addition to the rejection in which event he/she shall have the right of a hearing before the Personnel Board as to such order of dismissal. If the former position is not vacant, the employee may be placed on the eligibility list for that position and may be reinstated within two years from the date of their rejection during the probationary period.

(Amended November 6, 2007).

Sec. 805. - Abolition of position—Lay-offs.

In the event a memorandum of understanding with an employee association does not provide for lay-off procedures, or no memorandum of understanding with certain employees is in effect, then lay-offs shall be conducted in accordance with this Section.

Whenever it becomes necessary, in the opinion of the City Council, to abolish a position, or to reduce the number of employees in a given class in the classified service, the City Council may do so, by stating in its proceedings its reasons therefor.

All lay-offs occasioned by the abolishment of a position or the reduction in number of employees in a given class shall be governed by seniority in service and shall be in the reverse order of employment. Re-employment shall be determined in accordance with the needs of the City.

(Amended November 6, 2007).

Sec. 806. - Suspension, demotion and dismissal.

The department heads and officers having appointive power are vested with the right to exercise the disciplinary and removal powers hereafter provided.

An employee holding a position in the classified service, other than one serving a probationary period, shall be subject to suspension without pay for a period not exceeding thirty days in any one calendar year, or to demotion, or to removal from his/her position, for misconduct, incompetency, inefficiency, or for failure to observe the rules or regulations of the department, office or agency, or to cooperate reasonably with his/her superiors or fellow employees, but subject to the right of the employee to a hearing before the Personnel Board in the manner set forth herein.

Such employee shall be entitled to receive a written statement of the reasons therefore. He/She shall have ten days after the receipt of such statement within which to file an answer to such statement of reasons should he/she desire to do so.

The answer shall be filed in the Office of the City Clerk. In the answer, the employee may request a hearing by the Personnel Board to review such suspension, demotion or removal. The hearing shall be called and held as provided for in the personnel rules and regulations. Hearings may be conducted informally and the rules of evidence need not apply.

Within ten days after concluding the hearing, the Personnel Board shall certify its findings and recommendations to the City Manager and City Council. The recommendations of the Personnel Board shall be advisory only to the City Manager. The City Manager, or his/her designee, shall review the entire record of the proceedings before the Personnel Board and their recommendations and shall render a decision in accordance with the authority vested in the City Manager pursuant to Sections 501 and 607 of this Charter. The decision of the City Manager or his/her designee with respect to such recommendations shall be final and conclusive and no appeal shall be taken therefrom.

Where an appeal is taken to the Personnel Board from an order of dismissal, the vacancy in the position shall be considered a temporary vacancy pending final action by the City Manager or his/her designee and may be filled only by an acting or temporary appointment.

A reduction in pay shall be a demotion under this Section, unless it is a part of a plan to reduce salaries and wages in connection with a general economy or curtailment program. A failure to grant an increase to an individual, at a time when increases are granted generally as a part of a plan to increase salaries and wages throughout the City service, shall likewise be a demotion.

The City Manager and any other department head or officer in whom is vested the power to make transfers, promotions, demotions, reinstatements, lay-offs, and to suspend or dismiss employees, shall retain such power, subject to the provisions of this Charter and the rules established hereunder, it being the intent and spirit of this Charter to provide a fair and just approach to municipal employment in order that the City employee may be selected and promoted on a merit basis, but in no sense to impair the efficiency of the public service.

(Amended November 6, 2007).

Sec. 807. - Political activities prohibited.

No person holding any position in the classified service, or on an eligible list shall take an active part in any municipal political campaign or contribute thereto in behalf of any candidates, nor shall such person seek signatures to any petition seeking to advance the candidacy of any person for any municipal office. Nothing in this section shall be construed to prevent any such person from seeking election or appointment to public office. Upon becoming a candidate for public office, any such person shall request and be granted a leave of absence, without pay, to remain in effect during the period of time such person is a candidate.

No person in the classified service, or seeking admission thereto, shall be employed, promoted, demoted or discharged or in any way favored or discriminated against because of political opinions or affiliations or because of race or religious belief.

No officer or employee of the city and no candidate for any city office shall, directly or indirectly, solicit any assessment, subscription or contribution, whether voluntary or involuntary, for any political purpose whatever, from anyone on the eligible lists or holding any position in the classified service.

Sec. 808. - Prohibitions.

No person shall willfully or corruptly make any false statements, certificate, mark, rating or report in regard to any application, test, certification or appointment held or made under the personnel provisions of this Charter or in any manner commit or attempt any fraud preventing the impartial execution of such personnel provision or rules and regulations made hereunder. In addition to the penalties provided for in this Charter for violations of its provisions, any person who by himself/herself or with others willfully or corruptly violates any of the provisions of this Article shall upon conviction thereof be ineligible for a period of five years for employment in the City service and shall immediately forfeit his/her office or position if he/she be an officer or employee of the City.

(Amended November 6, 2007).

Sec. 809. - Contract for performance of administrative functions.

The city council may contract with the governing body of a city, or county within this state, or with a state department or other agency for the preparation or conducting of competitive examinations for positions in the city service or for the performance of any other personnel administration service.

Article IX. - Retirement.

Sec. 900. - Employee retirement system.

The City Council may join or arrange for reciprocity of membership in, or continue as a contracting agency in, any retirement or pension system existing or hereafter created under state or federal law to or in which municipalities and municipal officers or employees are eligible. Plenary authority and power are hereby vested in the City, its City Council, and its several officers, agents and employees to do and perform any act, or exercise any authority granted, permitted, or required under the provisions of the California Public Employees' Retirement Law, as it now exists or may hereafter be amended, to enable said City to continue as a contracting City participating in the California Public Employees' Retirement System. The City Council may terminate any such contract with the Board of Administration of the California Public Employees' Retirement System only under authority granted by Ordinance adopted by a majority vote of the electors of the City, voting on such proposition at an election at which such proposal is presented.

(Amended November 6, 2007).

Article X. - Elections.

Part I. - General Provisions

Sec. 1000. - General municipal elections.

- A. General municipal elections for the election of the Mayor and Members of the City Council and for such other purposes as the City Council may prescribe shall be held in said City in each odd numbered year commencing with the year 1981 on the date established under general law for the election of governing board members of elementary school districts.
- B. After the 2013 general municipal election, general municipal elections thereafter shall be in November of even numbered years and to the maximum extent possible consolidated with other elections held in the State and in the County of Merced.
- C. Notwithstanding the two, two-year Mayor term limit set forth in Article IV, Section 400 of this Charter, a Mayor elected in the November 2013 general municipal election whose term of office would have ended in 2015, prior to the first even-numbered year election shall continue in his/her office until either he/she is re-elected or his/her successor is elected and qualified, but in no event shall the term be extended beyond twelve months.
- D. Notwithstanding the two, four-year City Council Member term limit set forth in Article IV, Section 400 of this Charter, a City Council Member elected in the November 2013 general municipal election whose term of office would have ended in 2017 shall continue in his/her office through the 2018 general municipal election until he/she is either re-elected or his/her successor is elected and qualified, but in no event shall the term be extended beyond twelve months.

- E. Notwithstanding the two, four-year City Council Member term limit set forth in Article IV, Section 400 of this Charter, a City Council Member whose current term expires in November 2015 shall have his/her term continue through the 2016 municipal election and shall be eligible for re-election and if not re-elected in the 2016 general municipal election until his/her successor is elected and qualified, but in no event shall such term be extended beyond twelve months.

(Amended November 5, 2013; amended November 6, 2007; amended November 4, 1980; amended January 18, 1973;).

Sec. 1001. - 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.

Sec. 1002. - Repealed November 6, 2007.

Sec. 1003. - Procedure for holding elections.

- A. Unless otherwise provided by Ordinance enacted by the City Council, all elections, including mail-ballot elections, shall be held in accordance with the procedural provisions of the Elections Code of the State of California, as the same now exists, or may hereafter be amended, for the holding of municipal elections insofar as the provisions of the Elections Code are not in conflict with this Charter or any Ordinance enacted hereunder. Any election that does not occur on the same date as a statewide primary election or statewide general election may be conducted by mail-ballot.
- B. The City Council shall judge the qualifications of its Members as set forth by the Charter and shall judge all election returns. (The text of this subsection moved in its entirety from existing Section 410 without change.)

(Amended November 6, 2007).

Sec. 1004. - 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 the Mayor and Members of the City Council. The provisions of the Elections Code of the State of California, as the same now exist, or may hereafter be amended, governing the initiative and referendum and of the recall of the Mayor and Members of the City Council, shall apply to the use thereof in the City insofar as such provisions of the Elections Code are not in conflict with this Charter.

(Amended November 6, 2007).

Part II. - Limitations on Campaign Contributions

Sec. 1050. - Purpose.

The purpose of this Part is to prevent corruption and the appearance of corruption by ensuring an environment in the City of Merced wherein all candidates for elective office are afforded an equal opportunity to raise campaign funds and to ensure that the amount contributed by any person or entity does not materially influence the outcome of any election or impact the decision-making of the City Council after the election. To achieve this purpose, this Part imposes a maximum limitation on the amount of campaign contributions which may be received from a single source for an election campaign.

(Added November 6, 2007).

Sec. 1051. - Definitions.

For purposes of this Part, the words, terms, and phrases set forth below shall have the meaning as set forth below:

"Candidate" means any person running for the office of Mayor or City Council.

"Contribution" means a cash or in-kind payment, or provision of goods and services which is made to the candidate or the candidate's agent for the purpose of promoting the candidate's campaign. A "contribution" includes a "loan" as defined herein.

"Entity" means a proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, and any other organization or group of persons acting in concert, other than a single person as defined in this Part.

"Election Cycle" means as follows:

1. For purposes of a candidate for the office of Mayor of the City, the term "election cycle" means any four-year period commencing on January 1 following a City election for the office of Mayor, and concluding on December 31 following the next succeeding City election for the office of Mayor.
2. For purposes of a candidate for the office of City Council, the term "election cycle" means any four-year period commencing on January 1 following a City election for the office of a City Council Member and concluding on December 31 following the next succeeding city election for that office.

"Loan" means the furnishing of cash, goods, or services to another party for temporary use with the agreement that it or its equivalent, with or without interest, will be returned. The term "loan" as used herein shall not include a candidate lending to his/her campaign from the candidate's personal resources—including obtaining a personal loan from a commercial lending institution, so long as the candidate is personally responsible for the repayment thereof.

"Person" means a single natural person.

(Amended March 3, 2020; added November 6, 2007).

Sec. 1052. - Campaign contribution limitations.

1. Contribution by Persons. No candidate shall receive either personally or through an agent, including, but not limited to, the candidate's campaign treasurer, a contribution from a person, other than the candidate, which will cause the total amount contributed by such person in any election cycle for that candidate to exceed five-hundred dollars (\$500.00).
2. Contributions by an Entity or Entities. No candidate shall receive either personally or through an agent, including, but not limited to, the candidate's campaign treasurer, a contribution by an entity which would cause the total amount contributed by such entity in any election cycle for that candidate to exceed two-thousand dollars (\$2,000.00).

(Added November 6, 2007).

Sec. 1053. - Loans.

No candidate shall procure a loan or loans from a person which exceeds five-hundred-dollars (\$500.00) or from an entity which exceeds two-thousand-dollars (\$2,000.00) during an election cycle. This restriction shall not apply to loans made by the candidate to the candidate's campaign—including obtaining a personal loan from a commercial lending institution, so long as

the candidate is personally responsible for the repayment thereof.

(Added November 6, 2007).

Sec. 1054. - Campaign contribution statements—Supplemental filing requirements and schedule.

In addition to the requirements for filing a campaign disclosure or campaign statement imposed by the Political Reform Act, every candidate for Mayor or City Council shall file a duplicate copy of his/her campaign disclosure or campaign statement with the City Clerk at the same time the candidate is otherwise required to file any campaign disclosure or campaign statement under the Political Reform Act.

(Added November 6, 2007).

Sec. 1055. - Adjustment of campaign contribution limits and candidate loans.

The campaign contribution limitations set forth in Sections 1052 and 1053 shall be adjusted annually by the City Clerk and noted in the official records of his/her office as follows:

- A. The base for computing the adjustment for inflation shall be the Consumer Price Index ("CPI") for the area closest to the City, published by the United States Department of Labor, Bureau of Labor Statistics.
- B. If the CPI is discontinued or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same results as would be obtained if the index had not been discontinued or revised.

(Added November 6, 2007).

Sec. 1056. - Penalty.

- A. Investigation. The City Clerk shall be charged with the responsibility to refer for prosecution all candidates required to file under this Part when the candidate fails to file. The City Clerk shall also investigate all alleged violations of this Part and after completing the investigation thereof, shall refer any violations he/she believes warrant prosecution to the City Attorney for prosecution. In conducting the investigation, the City Clerk shall have the power to compel the production of documents relating to the investigation.
- B. Misdemeanor. Any candidate who receives either personally or through an agent a contribution greater than the amount allowed in this Part shall be guilty of a misdemeanor.
- C. Safe Harbor. Any candidate who receives either personally or through an agent a contribution greater than what is allowed in this Part shall have ten (10) days from the date of receipt of the contribution violating this Part to return the entire contribution to the donor or donors thereof to avoid prosecution hereunder.
- D. Infraction. Any candidate who fails to file campaign disclosure or campaign statements in compliance with Section 1054 of this Part shall be guilty of an infraction and upon conviction thereof shall pay a fine in the amount of five-hundred dollars (\$500.00).

(Added November 6, 2007).

Sec. 1057. - Additional regulations.

The City Council by Ordinance may adopt additional regulations and definitions which supplement, clarify, or are more restrictive than the provisions of this Part.

(Added November 6, 2007).

Article XI. - Fiscal Administration.

Sec. 1100. - Fiscal year.

The fiscal year of the city government shall begin on the first day of July of each year and end on the thirtieth day of June of the following year.

Sec. 1101. - Annual budget—Preparation by the city manager.

At such date as he/she shall determine, the City Manager, through the Finance Officer, shall obtain from each department head estimates of revenue and expenditure for his/her 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 department heads, respectively, and may revise the estimates as he/she may deem advisable.

(Amended November 6, 2007).

Sec. 1102. - Budget—Submission to city council.

At least thirty-five days prior to the beginning of each fiscal year, the City Manager shall submit to the City Council the proposed budget as prepared by him/her. After reviewing same 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, by at least one insertion in the official newspaper.

(Amended November 6, 2007).

Sec. 1103. - Budget—Public hearing.

At the time so advertised, or at any time to which such public hearing shall from time to time be adjourned, the city council shall hold a public hearing on the proposed budget, at which interested persons desiring to be heard shall be given such opportunity.

Sec. 1104. - Budget—Further consideration and adoption.

After the conclusion of the public hearing, the City Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and on or before June 30th, it shall adopt the budget with revisions, if any, by the affirmative votes of at least four Members. Upon final adoption, the budget shall be in effect for the ensuing fiscal year. A copy thereof, certified by the City Clerk, shall be filed with the person retained or appointed by the City Council to perform auditing functions for the City Council 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 inspection. The budget so certified shall be reproduced and copies made available for the use of departments, offices and agencies of the City.

(Amended November 6, 2007).

Sec. 1105. - 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 therein named. 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 amend or supplement the budget by motion adopted by the affirmative votes of at least five members.

Sec. 1106. - Repealed November 6, 2007.

Sec. 1107. - Tax system.

The procedure for the assessment, levy and collection of taxes upon property for municipal purposes shall be prescribed by Ordinance of the City Council consistent with the applicable provisions in the State Constitution.

(Amended November 6, 2007).

Sec. 1108. - Bonded debt limit.

The bonded indebtedness of the city may not exceed the sum of fifteen percent of the total assessed valuation of all the real and personal property within the city.

No bonds which shall constitute general obligation bonds of the city may be issued unless authorized by the affirmative votes of two-thirds of the electors voting on such proposition at any election at which the question is submitted to the electors and unless in full compliance with the provisions of the state constitution and of this Charter.

Sec. 1109. - Contracts on public works.

Every project involving an expenditure of more than fifty thousand dollars (\$50,000.00) for the construction or improvement of public buildings, works, streets, drains, sewers, utilities, parks and playgrounds shall be let by contract to the lowest responsive and responsible bidder after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least ten days before the time for opening bids. This threshold amount shall be adjusted annually by the Finance Officer by memorandum to his/her official file, beginning July 1, 2008, in accordance with the Engineering Construction Cost Index—U.S. City Average as published by the Engineering News Record. In the event this Cost Index is no longer available, the Finance Officer shall use a similar index that is standard in the industry to account for inflation in any adjustment.

The City Council may reject any and all bids presented and may re-advertise in its discretion. The City Council, after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the work in question may be performed better or more economically by the City with its own employees and, after the adoption of a Resolution to this effect by at least five affirmative votes of the City Council, may proceed to have said work done in the manner stated without further observance of the provisions of this Section.

Such contracts likewise may be let without advertising for bids, if such work shall be first determined and authorized by the City Manager and thereafter confirmed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by motion passed by at least five affirmative votes of the City Council and containing a declaration of the facts constituting such urgency.

Pursuant to the authority contained in Section 200 of this Charter, the City Council may establish procedures to implement public works contracting processes through Ordinance or Resolution. Such procedures may include the use of design-build contracting.

(Amended November 6, 2007; Amended January 12, 1977).

Sec. 1110. - Repealed November 6, 2007.

Sec. 1111. - Competitive bidding—Supplies, materials or equipment.

Before making purchases of, or contracts for, supplies, materials or equipment, ample opportunity shall be given for competitive bidding, under such rules and regulations and with such exceptions as the City Council may prescribe in the Ordinance setting up such rules and regulations. When making purchases for the City, local merchants shall be given preference, quality and prices being equal.

(Amended November 6, 2007).

Sec. 1112. - Cash basis fund.

The City Council shall maintain a revolving fund to be known as the "Cash Basis Fund," for the purpose of placing the payment of running expenses of the City on a cash basis. An operating reserve shall be built up in this Fund from any available sources in an amount that the City Council deems sufficient with which to meet all lawful demands against the City for the first five months, or other necessary period, of the succeeding fiscal year prior to the receipt of ad valorem tax revenues. Transfers may be made by the City Council from such Fund to any other fund or funds of such sum or sums as may be required for the purpose of placing such funds, as nearly as possible, on a cash basis.

All moneys so transferred from the Cash Basis Fund shall be returned thereto before the end of the fiscal year.

(Amended November 6, 2007).

Sec. 1113. - Repealed November 6, 2007.

Sec. 1114. - Repealed November 6, 2007.

Sec. 1115. - Presentation of demands.

Each invoice or similar demand or request for payment against the City shall be presented to the Finance Officer, who shall examine the same. If the amount thereof is legally due and there remains a sufficient balance in the approved budget appropriation against which the invoice or payment request may be charged, the Finance Officer shall approve such invoice or payment demand or request and authorize a check or electronic payment to be issued and drawn on the City Treasury therefor, payable out of the proper fund. Objections of the Finance Officer may be overruled by the City Council and the check or electronic payment ordered drawn.

(Amended November 6, 2007; Amended January 12, 1977).

Sec. 1116. - Repealed November 6, 2007.

Sec. 1117. - Actions against city.

No suit shall be brought on any claim for money or damage against the City or any board or officer thereof until a demand for the same has been presented as herein provided and rejected in whole or in part. If rejected in part, suit may be brought to recover the whole. Except in those cases where a shorter time is otherwise provided by law, all claims for damages against the City must be presented to the City Clerk in accordance with the time limitations set forth in Government Code Section 911.2 and its successor statutes. Claims for equitable indemnity against the City shall be presented to the City Clerk in accordance with Government Code Section 901 and its successor statutes. All claims shall meet the requirements as set forth under state law, this Section, and as enacted by Ordinance.

In all cases, such claims shall be approved or rejected in writing and the date thereof given. Failure to act upon any claim or demand within forty-five days from the day the same is filed with the City Clerk shall be deemed a rejection thereof.

(Amended November 6, 2007; Amended January 12, 1977).

Sec. 1118. - Independent audit.

The City Council shall employ, at the beginning of each fiscal year, a qualified accountant who, at such time or times as may be specified by the City Council, shall examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and all such other officers, employees or departments as the City Council may direct. At the end of the year, a final audit and report shall be submitted by such accountant to the City Council, one copy thereof to be distributed to each Member, one each to the City Manager, Finance Officer and City Attorney, respectively, and three additional copies to be placed on file in the Office of the City Clerk where they shall be available for inspection by the general public.

(Amended November 6, 2007).

Sec. 1119. - Public water system—Water fund.

A fund is hereby created to be known as the Water Fund. All revenues derived by the City from the sale of water or otherwise from the operation of waterworks or the provision of water service, within or without the boundaries of the City, shall be credited to the Water Fund.

The Water Fund is created for the purpose of providing a source of operational funds, capital outlay funds, debt service funds and incidental funds for the acquisition, construction, operation, maintenance, expansion, upgrade, and improvement of waterworks and water distribution system in or near the City of Merced, including compliance with all applicable state and federal regulations, the retirement of revenue bonds issued for the acquisition thereof, and the retirement of revenue bonds or other evidences of indebtedness issued for the improvement thereof.

Except as herein stated, such fund, once created, shall remain inviolate for the purpose for which it was created. No other use may be made of such fund unless the use of such fund for some other purpose is authorized by the affirmative vote of a majority of the electors voting on such proposition at a general or special election at which proposition is submitted.

The City Council shall, by Ordinance or Resolution, establish a schedule of rates and charges, and shall have the authority to modify such schedule of rates and charges upon a finding of the necessity for modification thereof, provided, however, that such rates and charges shall be based upon reasonable classifications of service, throughout the area served by said water system.

Adequate reserves shall be established within said Water Fund, to meet anticipated operating, upgrading, regulatory compliance and administrative costs, capital outlays, depreciation, obsolescence, retirement of bonds or other evidences of indebtedness which may be issued or created in connection with the acquisition, improvement, upgrade, or expansion of said system, and a contingency reserve for unanticipated costs and expenses connected with said water system.

Accumulation of moneys not needed for the purposes stated above shall not be permitted. If it shall appear that excess funds have accumulated or will accumulate within a given fiscal year by reason of the continuance of any schedule or rates and charges, then the City Council shall, within a reasonable time, proceed to adjust said schedule of rates and charges to prevent the accumulation of such excess funds, provided that accumulation of moneys in a reserve fund for future capital improvement, upgrade, and compliance with regulatory requirements of said water system and accumulation of moneys in a fund for advance retirement of water system revenue bonds shall not be deemed to be the accumulation of excess funds.

(Amended November 6, 2007: Amended January 18, 1973).

Article XII. - Board of Education.

Sec. 1200. - Repealed April 15, 2002.

Sec. 1201. - Repealed April 15, 2002.

Sec. 1202. - Repealed April 15, 2002.

Sec. 1203. - Repealed April 15, 2002.

Article XIII. - City Court.

Sec. 1300. - Repealed June 4, 1968.

Sec. 1301. - Repealed June 4, 1968.

Article XIV. - Franchises.

Sec. 1400. - Granting of franchises.

No person, firm, company, or corporation shall exercise any franchise in the City except insofar as such person, firm, company, or corporation may be entitled to do so by direct authority of the Constitution of the State of California or of the United States, unless such person, firm, company, or corporation shall have obtained a grant therefor in accordance with the provisions of this Article. Subject to the foregoing, any person, firm, company or corporation furnishing the City or its inhabitants with utilities or services that are transmitted or delivered through a portion or portions of public streets, alleys, ways, rights-of-way, buildings, structures, or other public places and properties, as the same may now or may hereafter exist, either above or below ground, including but are not limited to, transportation, communication, digital and electronic

information and entertainment, terminal facilities, water, light, heat, natural gas, electricity, any form of power and energy for household or other use within the City, or any other public utility or service, may be required by Ordinance of the City Council to have a valid and existing franchise.

The City Council is empowered to grant such franchise by Ordinance and prescribe the terms and conditions of any such grant to any person, firm, company or corporation, whether operating under an existing franchise or not, without calling for bids or may, in its discretion, advertise for bids for the sale of a franchise, not in conflict with the provisions of this Charter, to be set out in the advertisement for bids and notice of sale. The City Council may also provide, by Ordinance, the method of procedure and additional terms and conditions for making such grants, subject to the provisions of this Charter.

(Amended November 6, 2007).

Sec. 1401. - Resolution of intention—Notice and public hearing.

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 date, time, and place when and where any person having any interest therein or any objection to the granting thereof may appear before the City Council and be heard thereon. The City Clerk shall publish said Resolution in the official newspaper at least once within fifteen days of the passage thereof and not less than ten days prior to the date of the hearing.

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

(Amended November 6, 2007).

Sec. 1402. - Term of franchise.

Every franchise shall be either a fixed term not to exceed a maximum of twenty-five years after its first effective date, or for an indeterminate period. If for a fixed term, the franchise shall state the term for which it is granted; if indeterminate, the franchise shall set forth the terms and conditions under which it may be terminated.

(Amended November 6, 2007).

Sec. 1403. - Grant to be in-lieu of all other franchises.

Any franchise granted by the City with respect to any given utility or service shall be in-lieu of all other franchises, rights, or privileges owned by the grantee, or by any successor of the grantee to any right under such franchise, for the rendering of such utility or service within the limits of the City as they now or may hereafter exist. The acceptance of any franchise hereunder shall operate as an abandonment of all such franchises, rights and privileges within the limits of the City.

Any franchise granted hereunder shall not become effective until written acceptance thereof shall have been filed by the grantee thereof with the City Clerk. Such acceptance shall be filed within ten days after the adoption of the Ordinance granting the franchise, or any extension thereof granted by the City Council, and when so filed, such acceptance shall constitute a continuing agreement of such grantee that if and when the City shall thereafter annex, or consolidate with additional territory, any and all franchises rights and privileges owned by the grantee therein shall likewise be deemed to be abandoned within the limits of such territory. No grant of any franchise may be transferred or assigned by the grantee except

by consent in writing of the City Council and unless the transferee or assignees thereof shall unconditionally covenant and agree to perform, and assume and be bound by, each and all of the terms and conditions imposed in the grant, the Ordinance, and this Charter.

(Amended November 6, 2007).

Sec. 1404. - Eminent domain.

No franchise grant shall in any way, or to any extent, impair, diminish, or adversely 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. Upon any such acquisition by the City, the compensation or price shall not include the value of the franchise. Nothing herein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to any public utility or privately-owned public utility.

(Amended November 6, 2007).

Sec. 1405. - Duties of grantees.

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

- A. Comply with all Ordinances, rules and regulations theretofore or thereafter adopted by the City Council;
- B. Pay to the City on demand the cost of all repairs to public property made necessary by any of the operations of the grantee under such franchise, including repairs required for portion or portions of public streets, alleys, ways, rights-of-way, buildings, structures, or other public places and properties, as the same may now or may hereafter exist, either above or below ground;
- C. Protect, defend, indemnify, save and hold harmless the City and its officers, agents, and employees from any and all claims, liabilities, or causes of action for death or injury to persons, or damage to property proximately resulting from any operation under such franchise or from the intentional or negligent acts, errors, or omissions of the grantee or its officers, employees, or agents, or from any violation of any federal, state, or municipal law or ordinance, or by the quality or character of grantee's work or activities under the franchise;
- D. Remove and relocate without compensation to grantee or expense to the City any facilities installed, used and maintained under the franchise, either above or below ground, if and when made necessary by change of grade, alignment, width, or use of any public street, way, alley, right-of-way, building, structure, or other public place or property, including the construction of any subway, bridge, viaduct, or overpass, or if the public health, comfort, welfare, convenience, or safety so demands; and,
- E. Pay to the City during the life of the franchise a percentage, to be specified in the grant, of the gross annual receipts of the grantee within the limits of the City, or such other compensation as the City Council may prescribe in the grant.

(Amended November 6, 2007).

Sec. 1406. - Exercising rights without franchise.

The exercise by any person, firm, company or corporation of any privilege for which a franchise is required, without possessing a valid and existing franchise therefor, shall be a misdemeanor and shall be punishable in the same manner as violations of this Charter are punishable and each day that such condition continues to exist shall constitute a separate violation.

(Amended November 6, 2007).

Sec. 1407. - Existing franchise.

Nothing contained in this Article shall be construed to:

- A. Invalidate any lawful franchise heretofore granted, nor to necessitate the obtaining of a new franchise for a use which a franchise holder shall have a valid unexpired franchise;
- B. Affect or impair any rights, powers, or privileges vested in, possessed by, or available to the City by virtue of previous Charter provisions relating to franchises;
- C. Apply to the City, or any department thereof, when furnishing any public utility or service.

(Added November 6, 2007).

Sec. 1408. - Miscellaneous.

Upon annexation of areas to the City without an existing franchise granted by another governmental entity pursuant to state law, the grantee, by its acceptance of a franchise under this Article, shall serve such areas under the terms of this Article and the franchise.

No grantee shall be relieved of its obligation to comply with any provision of this Article, or to perform any term or condition of the franchise by any failure of the City to enforce such term or condition.

(Added November 6, 2007).

Article XV. - Miscellaneous.

Sec. 1500. - Definitions.

Unless the provision or the context otherwise requires, as used in this Charter:

- A. "Shall" is mandatory, and "may" is permissive;
- B. "City" is the City of Merced and "department," "board," "commission," "agency," "officer," or "employee," is a department, board, commission, agency, officer, or employee as the case may be, of the City of Merced;
- C. "County" is the County of Merced; and,
- D. "State" is the State of California.

(Amended November 6, 2007).

Sec. 1501. - Violations.

The violation of any provision of this Charter shall be deemed a misdemeanor and be punishable upon conviction by a fine of not exceeding one thousand dollars or by imprisonment for a term of not exceeding one year or by both such fine and imprisonment.

Sec. 1502. - Validity.

If any provision of this Charter is held invalid, the remainder of the Charter shall not be affected thereby.

(Amended November 6, 2007).

Certificate

WHEREAS, the City of Merced, for years last past, has been and now is a city containing more than three thousand five hundred inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the Legislature of the State of California; and

WHEREAS, on the 13th day of April, 1948, at a municipal election duly and regularly held on that day in the city under and in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California, the electors of said city did duly choose and elect

Sarah Brown	Wilbur C. McMurry
Carroll L. Cabral	J. J. McNamara
Emma L. Gaestel	A. E. Montgomery
Wm. J. George	Jeanne Roduner
Frank Guterrez	John Roth
Joseph T. Herb	Artimigia Viarengo
James A Hutchison	Burdette E. White
Donald M. Lyons	

who are all electors of said city and eligible as candidates under said section, a board of fifteen freeholders to prepare a Charter for the government of said city; and

WHEREAS, the result of said election of freeholders was duly declared by the legislative body of the City of Merced on the 20th day of April, 1948, and said electors thereafter duly qualified as such freeholders in accordance with law;

Be it known that in pursuance of the provisions of said constitution and within the period of one year after the result of said election was so declared, the board of freeholders has prepared and does now propose the foregoing Charter as the Charter for the government of the City of Merced: and

Be it further known that said board of freeholders hereby requests said legislative body of the City of Merced to cause the publication of said proposed Charter as provided in said Constitution and does hereby fix and designate Tuesday the 12th day of April, 1949 as the date of the election at which the proposed Charter shall be submitted to the qualified electors of the City of Merced for their ratification and adoption;

In witness whereof, we, the duly elected, qualified and under signed freeholders of the City of Merced, County of Merced, State of California, have hereunto set our hands at the City of Merced, County of Merced, State of California, this 10th day of January, 1949.

Wilbur C. McMurry

Burdette E. White

Chairman

Carroll J. Cabral

Emma L. Gaestel

Joseph T. Herb

Secretary

Sarah Brown

Frank Guitierrez

Jeanne Roduner

Donald M. Lyons

Emma L. Gaestel

J. J. McNamara

Wilbur C. McMurry

Artimigia Viarengo

Freeholders of the

John Roth

City of Merced,

Wm. J. George

State of California

ATTEST:

Emma L. Gaestel

Secretary of the

Board of Freeholders

We do hereby further certify and declare that the foregoing constitutes a full, true and correct statement of the actions and proceedings had by the City of Merced and the city council of said city in the matter of the election of a board of freeholders as contemplated in Section 8 of Article XI of the Constitution of the State of California, and in the preparation, proposal, filing, voting upon, and canvassing the returns and declaring the result of said election in the matter of the proposed Charter for the government of the City of Merced;

That the said Charter as hereinbefore set forth is a full, true and correct copy of the Charter as prepared and proposed by the said board of freeholders and filed in the office of the city clerk of said City of Merced, California, on the 10th day of January, 1949, and that the certificate or proposal of said board of freeholders attached thereto is a full, true and correct

copy of said certificate or proposal of the said board of freeholders of the said City of Merced.

In witness whereof, we have hereunto set out our hands and hereunto affixed the seal of said City of Merced, this 23rd day of April, 1949.

A. Homer Griffin

Mayor of the City of Merced ;34; A. H. Groesel

City Clerk of the City of Merced

(SEAL)

and,

WHEREAS, said Charter has been submitted to the Legislature of the State of California for approval or rejection without alteration or amendment in accordance with Section 8 Article XI of the Constitution of the State of California; now, therefore, be it

Resolved by the senate of the State of California, the assembly thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein. That the said Charter as presented to, adopted, and ratified by the electors of the City of Merced and as hereinbefore set forth, be, and the same is hereby approved as a whole, as and for the Charter of the City of Merced.

President of the Senate

Speaker of the Assembly

Attest:

Secretary of State