

CHARTER OF THE CITY OF VISALIA

Article I

Section 1. The territory of the City of Visalia shall be that contained within its present boundaries as now established with the power and authority to change the same in the manner provided by law.

Article II

Section 1. The City of Visalia, as successor in interest of the municipal corporation of the same name, heretofore created and existing, shall own, hold, possess, use, lease, control, and in every way succeed to and become the owner of all rights and all property of every kind and nature by said existing municipal corporation owned, controlled, possessed, or claimed, and shall be subject to all the debts, obligations, liabilities, dues and duties of said existing corporation.

Article III

Powers of City

Section 1. The City of Visalia, a municipal corporation, shall after the adoption of this charter, continue its existence as such municipal corporation, and under the corporate name, City of Visalia, shall have possess, and exercise all powers and rights vested in said City of Visalia, under this charter, and the Constitution of California and the laws of the state, and all powers which a municipal corporation may lawfully possess or exercise under the Constitution of this state. The City of Visalia shall have the right and power to make and enforce all laws and regulations in respect to municipal affairs, subjected only to the restrictions and limitations provided in this charter; provided that nothing herein shall be construed to prevent or restrict the City from exercising or consenting to, and the City is hereby authorized to exercise any and all rights, powers and privileges heretofore or hereafter granted or prescribed by the general laws of the state;

provided also, that where the general laws of the state provide a procedure for the carrying out and enforcement of any rights or powers belonging to the City, said procedure shall control and be followed unless a different procedure shall have been provided in this charter or by ordinance.

Section 2. Without in any way or to any extent limiting or curtailing the powers hereinbefore conferred or mentioned, and for the purpose only of removing all doubt concerning the exercise of powers hereinafter expressly mentioned, the City of Visalia shall have power:

- (1) To have and use a corporate seal;
- (2) To sue or be sued in all courts in all actions and proceedings;
- (3) To levy and collect taxes, and to levy and collect license taxes for both regulation and revenue;
- (4) To borrow money, incur municipal indebtedness, and issue bonds or other evidence of such indebtedness;
- (5) To acquire by purchase, bequest, devise, gift, condemnation or other manner sanctioned by law, within and without the limits of said City, property of every kind and nature for all purposes;
- (6) To acquire by said means and to establish, maintain, equip, own and operate, either within or outside of the City, telephone and telegraph systems, street railways, or other means of transportation, warehouses, free markets, waterworks, filtration plants, gas works, electric light, heat and power works, underground or overhead conduit systems or any other works necessary to a public utility; and to join with any other city or cities or county in the acquisition, construction and maintenance of same;
- (7) To improve the streams and channels flowing through the City or adjoining the same, to widen, straighten and deepen the channels thereof, and remove obstructions therefrom, to construct and maintain embankment and other works to protect the City from overflow and storm waters;
- (8) To furnish the City or its inhabitants or persons without the City, and public utility service or commodity whatsoever;
- (9) To lease, sell, convey and dispose of any and all property herein mentioned for the common benefit;
- (10) To acquire, construct, operate and maintain parks, playgrounds, markets, baths, public halls, auditoriums, libraries, museums, art galleries, gymnasiums,

mausoleum and any and all buildings, establishments, institutions, and places whether situated inside or outside of the City limits, which are necessary or convenient for the transaction of public business or for promoting the health, morals, education, care of the indigent or welfare of the inhabitants of the City or for their amusement, recreation, entertainment, or benefit;

(11) To acquire, construct and maintain all works necessary for the disposition of sewage, garbage and waste, to construct, own, maintain and operate incinerating or garbage reduction plants, and to join with any other city or cities or county in the acquisition, construction and maintenance of any such works or plant;

(12) To define and abate nuisances;

(13) To provide for the care of the indigent;

(14) To establish boulevards and regulate traffic thereon;

(15) To equip and maintain a fire department and to make all necessary regulations for the prevention of fires;

(16) To grant permits to use the streets or public property revocable at any time without notice;

(17) To regulate and establish rates and charges to be imposed and collected by any person or corporation for commodities or services rendered under or in connection with any franchise, permit, or license heretofore or hereafter granted by the City, or other authority, provided, that the same is not inconsistent with the Constitution of the State of California;

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

(19) To regulate and limit the height and bulk of buildings hereafter erected, and to regulate and determine the area of yards, courts and other open spaces and for said purpose to divide the City into districts. Such regulations shall be uniform for each class of buildings throughout any district, but the regulations in one or more districts may differ from those in other districts. Such regulations shall be designed to secure safety from fire and other dangers, and to promote the public health and welfare, including, so far as conditions may permit, provisions for adequate light, air and convenience of access, and shall be made with

reasonable regard to the character of the buildings erected in each district, the value of land and the use to which it may be put, to the end that such regulations may promote the public health, safety and welfare;

(20) To regulate and restrict the location of trades and industries and the location of buildings designed for specified uses, and for said purposes to divide the City into districts and to specify for each such district the trades and industries which shall be excluded or subjected to special regulations and the uses for which buildings may not be erected or altered. Such regulations shall be designed to promote the public health, safety and welfare and shall be made with reasonable consideration, among other things, to the character of the district and to its peculiar suitability for particular uses.

(21) Emergency Powers. Notwithstanding any general or special provision of this Charter, the Council, in order to insure continuity of governmental operations in periods of emergency resulting from disasters of whatever nature, shall have the power and immediate duty:

(a) To provide for prompt and temporary succession to the powers and duties of all City officers, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and

(b) To adopt such other measures as may be necessary and proper for insuring the continuity of City operations, including, but not limited to, the financing thereof. In the exercise of the powers hereby conferred, the Council in all respects shall conform to the requirements of this Charter except to the extent that in the judgment of the Council so to do would be impractical or would admit of an undue delay.

Article IV

Officers, Deputies and Employees and Their

Compensation

Section 1. The officers of the City of Visalia shall be five members of the Council, members of the Board of Education, five Library Trustees, a City Manager, a City Clerk, and a City Attorney. The Council may also provide by ordinance for additional offices and for the duties thereof, and for additional duties of officers herein provided for, but in no such manner as to encroach upon the duties of

any officer as provided for by this Charter. The Council may also provide by ordinance for such subordinate officers, assistants, deputies, clerks and employees in the several offices and departments as they deem necessary. The members of the Council and the members of the Board of Education shall be elected from the City at large, as provided in this Charter; provided, however, that all qualified electors of the Visalia Unified School District shall also have the right to vote for members of the Board of Education. All other officers, assistants, deputies, clerks and employees shall be appointed as provided in this Charter, or as the Council may provide by ordinance in case no provision for their appointment is herein made, and shall hold their respective offices or positions at the pleasure of the appointing power. Where the appointment of any of said officers, assistants, deputies, clerks or employees, is vested in the Council, such appointment and any removal must be made by a three-fifths vote of the members of the appointing power.

Section 2. All elective officers of the City shall be subject to recall as provided in this Charter.

Section 3. All officers, assistants, deputies, clerks and employees shall receive such compensation as the Council may from time to time determine by resolution; provided, however, that the compensation of elective officers, not otherwise fixed by this Charter, shall be fixed and determined by ordinance only.

Section 4. The Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the second degree of any one or more of the members of such Council and neither shall any department head or other officer having appointive power appoint any relative within such degree to any such position.

Article V

Elections

Section 1. General municipal elections, after the effective date of this Charter, for the election of officers and for such other purposes as the Council may prescribe shall be held on the date prescribed by the Education Code. All other municipal elections that may be held by authority of this Charter, or of the general law, shall be known as special municipal elections.

Section 2. Provisions of State Law to Apply: The Council may, by ordinance, make further provisions as to the manner of holding and conducting elections.

The provisions of the laws of the State of California relating to municipal elections, the qualifications of electors, the manner of voting, the duties of election officers, and all other particulars so far as they may be applicable, shall govern all municipal elections, except as otherwise provided in this Charter, or by such ordinance; provided, that no primary elections shall be held.

Section 3. Terms of Elective Officers: Elective officers shall hold office for a period of four years from and after eight o'clock p.m. of the first Monday following the day of election, and until their successors are elected and qualified; provided further that any person elected to fill a vacancy shall serve for the remainder of the unexpired term. In the election of councilmen and members of the Board of Education, where full terms and one or more unexpired terms are to be filled, no distinction shall be made in nomination or voting between the full terms and the unexpired terms, but the person or persons elected by the highest number of votes shall be elected for the full term or terms, and the persons receiving the next highest vote shall be elected for the unexpired term or terms, as the case may be.

Article VI

Legislative. The Council. Powers and Duties

Section 1. The legislative power of the City of Visalia shall be vested in the people through the initiative and referendum, and in a body to be designated The Council. Each candidate for member of the Council shall have been an elector of the City for at least 30 days prior to the final date for filing nomination papers for the election at which he is a candidate.

Section 2. Meetings: The Council shall meet in the Council Chambers at the City Hall in regular session on the fourth Monday in April following their election at 8 p.m., and shall organize as herein required. Thereafter the Council shall meet at such times and places as the Council may prescribe by rule, except that it shall meet regularly at least once each month. All of the meetings of the Council shall be open to the public. Special meetings may be called by the Mayor, by two members of the Council, or by the City Manager, but notice of every such meeting must be served personally upon every member not joining in the call, and upon the City Manager, if not called by him, or left at the place of residence or of business of each person to be so served, not less than two hours before the time of such special meeting.

Such notice must state the subject or subjects to be considered or acted upon and must state the time of such meeting. All meetings of the Council and all records thereof, shall be open to the public, and no citizen shall be denied the right personally, or through counsel, to present grievance, or offer suggestions for the betterment of municipal affairs.

Section 3. Quorum: Three members of the Council shall constitute a quorum, but a less number may adjourn from time to time. No franchise shall be granted, ordinance passed, budget adopted, supplemented or amended, appropriation made, or payment of money ordered unless three members of the Council concur in such action.

Section 4. General Powers of the Council: Subject to the provisions and restrictions in this Charter contained, and the valid delegation by this Charter of any powers to any person, officer, board or committee, which delegation of power, if any, shall control, the Council shall have the power, in the name of the City, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants and which are not specifically forbidden by the Constitution of the State or which now or hereafter it would be competent for this Charter specifically to enumerate. No enumeration or specific statement herein of any particular powers shall be held to be exclusive of, or a limitation of, the foregoing general grant of powers.

Section 5. Certain Powers and Duties Enumerated: The Council shall--

- (1) Judge the qualifications of its members and of election returns;
- (2) Establish rules for its proceedings;
- (3) Cause a correct record of its proceedings to be kept. The ayes and noes shall on demand of any member, be taken and entered therein, and they shall be recorded on all votes passing any ordinance or appointing or dismissing or confirming the appointment or dismissal of any officer, or authorizing the execution of contracts, or the appropriation or payment of money.
- (4) Choose one of its members as presiding officer, to be called Mayor. The Mayor shall preside over the sessions of the Council, shall sign official documents when the signature of the Council or Mayor is required by law, and he shall act as the official head of the City on public and ceremonial occasions. He shall have power to administer oaths and affirmations. When the Mayor is absent from any meeting of the Council, the members of the Council may choose another member to act as Vice Mayor, and he shall for the time being, have the powers of the Mayor.

(5) Appoint a City Attorney, a City Manager, a City Clerk, and five Library Trustees.

Section 6. Ordinance: The enacting clause of every ordinance passed by the Council shall be: "Be it ordained by the Council of the City of Visalia." The enacting clause of every ordinance initiated by the people shall be: "Be it ordained by the people of the City of Visalia." At least five days must elapse between the introduction and the final passage of any ordinance; provided, that amendments germane to the subject of any proposed ordinance may be made when it is brought up for final passage; and provided further, that in case of an extraordinary epidemic or any disaster, such as flood, fire, or earthquake requiring immediate action on the part of any public authority, an emergency ordinance may be introduced and passed at either a regular or special meeting without any intervention of time between introduction and final passage. A final vote on any ordinance or any vote on any appropriation must be taken only at a regular or adjourned regular meeting. Every ordinance must be signed by the Mayor, attested by the Clerk and the ordinance or a brief summary thereof published once in the official newspaper. Any ordinance granting any franchise or privilege shall be published at the expense of the applicant therefor.

Section 7. When Ordinances go into Effect: Except as otherwise provided in this Charter every ordinance, and every measure passed by the Council granting any franchise or privilege, shall go into effect at the expiration of thirty days after its final passage, unless otherwise provided in said ordinance or measure; provided, however, that no such ordinance or measure shall go into effect less than thirty days from its final passage. But ordinances declared by the Council to be necessary as emergency measures for the immediate preservation of the public peace, health, or safety, containing a statement of the reasons for their urgency and passed by a four-fifths vote of the Council, ordinances ordering or otherwise relating to annexations, elections, and ordinances relating to public improvements, the cost of which is to be borne wholly or in part by special assessments, may go into effect at the will of the Council.

Section 8. Amending Ordinances: No ordinance shall be amended by reference to its title, but the sections thereof to be amended, shall be re-enacted at length as amended; and any amendment passed contrary to the provisions of this section shall be void, except the City Council may adopt and amend any standard code of technical regulations by reference thereto without the necessity of publishing said ordinances in their entirety; providing, however, that three (3) copies of the specific codes to be adopted by reference are available for inspection in the City Clerk's office between the introduction and passage of said ordinance.

Section 9. Codification of Ordinances: Any or all ordinances of the City which have been enacted and published in the manner required at the time of their

adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference with the same effect as an ordinance by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three (3) copies thereof shall be filed for use and examination by the public in the office of the City Clerk prior to the adoption thereof. Ordinances codified shall be repealed as of the effective date of the code. Subsequent amendments to sections of the code shall be enacted in the same manner as herein required for the amendment of ordinances generally.

Detailed regulations pertaining to any subject such as the construction of buildings, plumbing, wiring, or other subject which require extensive regulations, when arranged as a comprehensive code, may likewise be adopted by reference in the manner provided in this section.

Section 10. Contracts: In the erection, improvement, and repairing of all public buildings and works, in all street and sewer work, the installation of pipes, fire hydrants, wells, pumping plants, conduits, electric transmission lines, substations, power plants; gas mains and generators, improvements and development of parks and playgrounds, and works for protection against overflow, and in furnishing any supplies, or materials for the same, when the expenditures required for the same shall exceed the amount specifically set by the State of California, from time to time covering the requirement of formal bids, the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least seven days before the time for opening bids; provided, that the Council may reject any and all bids presented and may re-advertise in their discretion; and provided further, that after rejecting bids, or if no bids are received, the Council may declare and determine that in its opinion the work in question may be performed better or more economically by day labor, or the materials or supplies purchased at a lower price in the open market and after the adoption of a resolution to this effect by a four-fifths vote, they may proceed to have the said work done or materials or supplies purchased without further observance of the foregoing provisions of this section; provided further, that nothing in this section shall require the care, repair or maintenance of streets or public utilities to let by contract.

Section 11. Power to do Public Work Direct: The Council shall have the power to provide by ordinance a complete procedure whereby the City may bid on all public work done under the provisions of any local improvement ordinance or resolution. Said ordinance shall provide the procedure whereby the City shall perform such public work for which the City may be the lowest bidder. A

revolving fund may be created by bond issue for the purpose of financing the cost of such public work.

Section 12. Advertising: All official advertising of the City shall be done in a newspaper of general circulation as defined by the laws of the State of California, which newspaper shall be published in the City of Visalia, and shall be designated by the Council as the official newspaper. The Council shall annually call for bids for such advertising, and a contract therefor shall be awarded to the lowest responsible bidder; provided, that the Council may reject all bids and may again call for bids; and provided further that no defect or irregularity in proceedings taken under this section, or failure of the Council to designate an official newspaper, shall invalidate any publication, where the same is otherwise in conformity to law or this charter.

Section 13. Councilmen Ineligible to Other City Positions: No member of the Council shall be eligible to any office or employment provided for in this charter except an elective office, during the term for which he was elected.

Section 14. Vacancies in the Council: Any member of the Council who is absent from all meetings thereof for two consecutive months, unless excused by the Council, shall forfeit his office. Any vacancies occurring in the Council may be filled by a person appointed by a majority vote of the whole Council. Said person appointed shall serve until his successor is elected and qualified. Such successor shall be elected at the next regular election at which members of the Council are chosen, provided there is sufficient time to nominate and elect such successor at said next regular election.

Section 15. Committees of Council: The Council shall appoint such standing and other committees as it deems necessary.

Section 16. Sale or Lease of City Property: No sale of real estate shall be authorized by the Council except by ordinance passed by the affirmative vote of four-fifths of all the members and no lease shall be made for a period of longer than five years, except by ordinance adopted by the Council.

Section 17. Independent Audit: The Council shall employ, at the beginning of each fiscal year an independent certified public accountant who, at such time or times as may be specified by the Council, at least annually, 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 and employees and departments as the Council may direct. As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the Council, one copy thereof to be distributed to each member, one to the Fiscal Officer, one to the City Manager and one to the City

Attorney respectively, and three (3) 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.

Section 18. Official Bonds: The Council shall fix by ordinance the amounts and terms of the official bonds of all officials or employees who are required by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the City Attorney and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City.

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

Section 19. Every officer of the City, before entering upon the duties of his office, shall take and file with the City Clerk the constitutional oath of office, except that the oath of the City Clerk shall be filed with the Fiscal Officer.

Section 20. City Clerk: The City Clerk shall keep, under the direction of the Council, a full and true record in a book, of all proceedings of the Council. He shall keep a book, marked "Ordinances," in which he shall copy all ordinances, with his certificate annexed to said copy, stating that it is a full and true record thereof, and that such ordinance has been duly published. Said record copy, with such certificate shall be prima facie evidence of the contents of such ordinances and of the passage and publication thereof. The Clerk shall also keep an index to the minutes of the Council and to said Ordinance Book. The City Clerk shall be the custodian of the City Seal and shall affix the same to all official certificates made by him and to other papers when directed by the Council to attest or execute the same. He shall have power to administer oaths and affirmations, to take affidavits, and to certify the same. He shall have such other powers and perform such other duties as may be provided by this Charter or by ordinance.

Article VII

City Attorney

Section 1. The City Attorney shall be a qualified elector of the City at the time of his appointment, and shall be an attorney and counselor-at-law, duly admitted to practice law in the State of California. He shall have been actually engaged in the

practice of his profession in this State for a period of at least three years next before his appointment.

Section 2. It shall be his duty when directed by the Council to prosecute on behalf of the people, all criminal cases for violations of this Charter and of City ordinances, and to attend to all suits and other matters to which the City is a party or in which the City may be legally interested. He shall be in attendance at every meeting of the Council unless excused therefrom by the Mayor or the Council. He shall give his advice or opinion in writing whenever required by the Council or other officers, except the Board of Education. He shall be the legal advisor of all City officers; he shall approve the forms of all bonds given to and all contracts made with the City; he shall, when required by the Council, or any member thereof, draft all proposed ordinances for the City, and amendments thereto; and shall do and perform all such things touching his office as the Council may require of him, and at the expiration of this term shall surrender to his successor all books, papers and documents pertaining to the City's business.

Section 3. He shall receive as compensation a salary to be fixed by resolution, and in case the Council shall require him to devote all of his time to the duties of his office, he shall receive in addition thereto, such reasonable fees as the Council may allow for suits or proceedings before any court or commission in which he has been directed by the Council to act or appear.

Section 4. The Council shall have power to direct and control the prosecution and defense of all suits and proceedings to which the City is a party or in which it is interested, and may employ counsel to assist the City Attorney therein.

Article VIII

City Manager

Section 1. The City Manager need not be a resident of the State of California at the time of his appointment. His powers and duties shall be:

- (1) To see that all ordinances of the City are enforced;
- (2) To appoint, except as otherwise provided in this Charter, all officers, heads of departments or divisions, and all deputies, assistants and employees in the several departments and offices, and to remove same. Appointment and removal of department heads shall be subject to the approval of the Council and shall not be effective without such approval;

(3) To keep the Council fully informed as to compliance with the law in the operation of public utilities, to see that the provisions of franchises, permits and privileges granted by the City are fully observed, and to report to the Council any violation thereof;

(4) To attend all meetings of the Council unless excused therefrom by the Council or by the Mayor;

(5) To act as purchasing agent for all departments of the City. Provided, however, that he may designate some officer or employee of the City to act as assistant purchasing agent, and perform the duties of the purchasing agent;

(6) To examine or cause to be examined, without notice, the official conduct of any officer, assistant, deputy, clerk or employee in any of the departments of the city government, except of the Council and Board of Education;

(7) To keep the Council advised as to the needs of the City;

(8) To appoint and remove at his pleasure, a secretary;

(9) To prepare, or cause to be prepared, plans and specifications for work which the Council may order, coming under his supervision;

(10) To have control, subject to such ordinances as may from time to time be adopted, of all public utilities owned and operated by the City;

(11) To devote his entire time to the discharge of his official duties;

(12) To perform such other duties as may be required by this Charter or as the Council may require of him.

Section 2. In case of absence, sickness, or other disability of the City Manager to act, the Council may designate some other person to perform his duties during such disability.

Article IX

Fiscal Administration

Section 1. Indebtedness: No indebtedness shall be incurred on behalf of the City, for any purpose, unless and until the same shall have been authorized by ordinance, resolution or order of the Council.

Section 2. Fiscal Officer: A fiscal officer shall be appointed by the City Manager subject to the approval of the City Council, and the City manager shall establish the qualifications, duties and functions of such fiscal officer.

Section 3. Demands Against the City: Moneys shall be drawn from the City Treasury only in the manner prescribed by ordinance of the Council.

Section 4. Filing of Claims: Except as otherwise provided by the provisions of State law applicable to chartered cities, claims against the City shall be filed as prescribed by ordinance.

Section 5. The Fiscal Year: The fiscal year of the City shall commence upon the first day of July of each year, or at such other time as may be fixed by ordinance.

Section 6. Annual Budget: On such date in each year as shall be fixed by the Council, the City Manager shall send to the Council a careful estimate, in writing, of the amounts required for the business and proper conduct of the various departments, offices, boards and commissions of the City, over which he has control during the next ensuing year. The City Manager shall also at said time submit to the Council an estimate of the amount of income from fines, licenses, and other sources of revenue, exclusive of taxes upon property, and the probable amount required to be levied and raised by taxation.

Section 7. Public Hearing on the Budget: After reviewing the proposed budget as submitted by the City Manager and making such revisions as it may deem advisable, the Council shall determine the time for holding of a public hearing upon, and shall cause a notice thereof to be published not less than ten (10) days prior to said hearing by at least one insertion in the official newspaper of the City.

Copies of the proposed budget shall be available for inspection by the public at the office of the City Clerk at least ten (10) days prior to said hearing.

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

Section 8. Adoption of the Budget: After the conclusion of the public hearing, the Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable, and thereafter it shall adopt the budget with revisions, if any. Upon final adoption, the budget shall be in effect for the ensuing fiscal year.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the various departments or activities therein described. 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 Council may amend or supplement the budget by motion.

Section 9. Tax System: The Council shall by ordinance provide a system for the assessment, levy and collection of City taxes upon property.

Section 10. The Council shall have power by ordinance to authorize the transfer to and the assumption and discharge by officers of the County of Tulare, of any function of the City relating to the assessment of property for taxation, and equalization of such assessment, the collection of taxes levied for municipal purposes, the collection of assessments levied for local improvements, the sale of property for non-payment of taxes levied for municipal purposes or for non-payment of assessments levied for local improvements, and the redemption of property from sales for either of said purposes and may repeal any such ordinances.

Section 11. Tax Rate: The total property tax for any one year shall not exceed one per cent of the assessed valuation, unless a special tax be authorized, as provided in this Charter; and the proceeds of any such special tax shall be used for no other purpose than that specified for which it was voted; provided, however, that in addition to said one per cent there shall be included in every annual levy, a sufficient amount to cover all liabilities of the City for principal and interest of all bonds or judgments due and unpaid or to become due during the ensuing fiscal year and not otherwise provided for.

Special Levies: Special levies in addition to the above may be made annually in amounts not to exceed the limits hereinafter enumerated in this section, respectively, on each \$100 of the assessed value of the taxable property in the City:

(1) For the support and maintenance of free public libraries and reading rooms, Thirty Cents (\$.30).

(2) For the support and maintenance of parks, playgrounds and recreation centers, Thirty Cents (\$.30).

The City shall spend each fiscal period not less than the total amount raised each year from special levies for the free public libraries and reading rooms, and the parks, playgrounds and recreation centers.

Section 12. Special Taxes and Bonds:

(a) Whenever the Council shall determine that the public interest demands a special tax for a specified purpose, either for any specified number of years or for an indefinite period of time, in excess of the maximum tax rates provided for in Section 11 of this Article IX, the Council may submit to the qualified voters of the City at a regular or special election a proposition to authorize such tax for such purpose and for such number of years for an indefinite period of time, but no such special tax shall be levied unless authorized by the affirmative votes of the same number of voters voting on such proposition as is at the time required to authorize indebtedness of the City evidenced by general obligation bonds.

(b) No indebtedness evidenced by general obligation bonds shall be incurred by the City unless authorized by the affirmative votes of that number of voters voting on the proposition for incurring such indebtedness that shall at the time be required by the Constitution and general laws of the State. All proceedings for the incurring of indebtedness evidenced by general obligation bonds of the City shall be taken in accordance with the Constitution and general laws of the State. All proceedings for the incurring of indebtedness evidenced by general obligation bonds of the City shall be taken in accordance with the Constitution and general laws of the State, except as provided in Section 13 of this Article IX.

Section 13. Limit of General Obligation Bonded Indebtedness: The general obligation bonded indebtedness of the City shall at no time exceed a total of twenty per cent of the assessed valuation of all property taxable for City purposes.

Section 14. City Promotion: The Council may appropriate and spend money from the funds of the City for any or all of the following purposes: Reception and entertainment of public guests, assistance of public celebrations, fairs and exhibitions, to aid or carry on the work of immigration to the City, to encourage and promote industrial and commercial development and tourism; and generally, for the purpose of advertising the City; provided, however, that the aggregate expenditures from property taxes for all of said purposes shall not exceed in one fiscal year the sum of four (\$.04) cents on each One Hundred Dollars (\$100) of the assessed value of property within the City.

Article X

Department of Education

Section 1. Board of Education: The control of the Public School Department of the City of Visalia, including the whole of the Visalia Unified School District, shall be vested in a Board of Education, which shall consist of members elected from the district at large.

Section 2. The powers and duties of the Board of Education shall be such as are prescribed by the Constitution and Laws of the State of California.

Article XI

City Library

Section 1. Library Trustees: The Board of Library Trustees shall each serve for a term of four years and until his successor is appointed and qualified; provided, that at the first appointment under this Charter, two trustees shall be appointed for two years, and three trustees for four years and until their successors are appointed and qualified. In case of a vacancy, the same shall be filled by appointment by the Council for the remainder of the term then vacant.

Section 2. The Board of Library Trustees shall have the power and duty to:

- (a) Act in an advisory capacity to the Council and the City Manager in all matters pertaining to library administration;
- (b) Formulate and recommend annually to the Council and the City Manager a budget for library services;
- (c) Act in an advisory capacity to the Council and the City Manager regarding provision of library services for the inhabitants of the City.

Article XII

Parks, Playgrounds and Recreation Centers

Section 1. The Council may, by ordinance, provide for the appointment of a commission of five members to serve without compensation, and to act in an advisory capacity to the Council and City Manager in all matters pertaining to parks, playgrounds and recreation centers. This commission shall be known as the City Parks and Recreation Commission.

Article XIII

City Planning

Section 1. Planning Commission: The Council may, by ordinance, provide for the appointment of a City Planning Commission of five members, to serve without compensation, and to have such powers and duties as the Council may prescribe relating to City planning.

The Planning Commission shall have the power and duty to:

- (a) Recommend to the Council, after a public hearing thereon, the adoption, amendment or repeal of a General Plan or any part thereof, for the physical development of the City;
- (b) Exercise such functions with respect to land subdivisions, planning and zoning as may be prescribed by ordinance or resolution.
- (c) Perform such other duties relating to planning and zoning as the Council may require by ordinance or resolution.

Article XIV

Franchises

Section 1. Franchise, renewals, extensions or amendments of franchise may be granted by the City Council whenever, in its opinion, the public necessity or

convenience may require any such grant. No such grant shall be exclusive, nor made except by ordinance, nor in violation of any limitation contained in this Charter, nor for a longer term than fifty years. The enactment, publication and taking effect of any such ordinance shall be governed by and subject to the provisions of Article VI and Article XV of this Charter; provided, that no such ordinance shall be passed as an emergency measure. No public utility franchise shall be transferable except with the approval of the City Council expressed by ordinance; and copies of all transfers, trust deeds, mortgages or other documents affecting the title or use of public utilities shall be filed with the City Council within ten days after the execution thereof.

Section 2. Any person desiring any franchise or a renewal of any franchise, may file with the City Clerk a written application therefor, accompanied by a cash deposit of One Hundred (\$100) Dollars, as a fund out of which to pay the expenses connected with such application, and proceedings had or taken thereunder. In the event the franchise or the renewal of franchise so applied for is not granted, the unexpended portion of said deposit, if any, shall be returned to the applicant; and if the franchise or the renewal of franchise applied for shall be awarded to some other than the applicant, such deposit shall be returned to the applicant. No franchise or any renewal of a franchise shall be finally awarded, until all expenses incurred in connection with the awarding of the same shall have been fully paid by the person to whom the same shall be awarded.

Section 3. Upon the filing of the said application and the making of the deposit, as aforesaid, the City Council shall, if it propose grant the same, proceed to determine the character of the franchise or of the renewal franchise applied for, and shall determine the terms, restrictions, reservations, conditions, provisions, and the form of the ordinance to be adopted for the purpose of granting the same. And if such application be for the renewal of an existing franchise, the Council shall not be in any way limited or restricted in its determination of such terms, restrictions, reservations, conditions or provisions, by the provisions of the franchise sought to be renewed.

Section 4. The Council shall thereupon advertise the fact of said application, together with the statement that it proposes to grant the same in the form so determined, in one or more newspapers of general circulation published in the City of Visalia, once a day for five successive days, or as often during said period as such newspapers are published, and the full publication must be completed not less than twenty nor more than thirty days before any further action is taken thereon. Said advertisement must state the character of the franchise or of the renewal of franchise proposed, and set forth in full the form of the ordinance proposed for the granting of the same, and must state that sealed bids therefor will be received and open at a time and place to be stated in said advertisement, and that the said franchise or renewal of franchise will be awarded to the highest

and best bidder; provided that no franchise nor any renewal of any franchise shall be sold for less than \$500.

Section 5. At the time of opening the sealed bids, any responsible person, firm or corporation may bid for said franchise or renewal of franchise, a sum not less than ten percent above the highest sealed bid therefor and such bid so made may be raised, and such bidding may continue until finally said franchise or renewal of franchise shall be struck off, sold and awarded by the City Council to the person, firm or corporation offering the highest and best bid therefor; provided, that such bidder shall, before the making of such award deposit with the City Clerk at least ten per cent of the amount of his bid, and if such successful bidder be not the applicant, the sum of One Hundred (\$100) Dollars in addition to his bid shall be deposited by him at the same time, and in the event of his failure to make such deposit or deposits, his bid shall be rejected and no further proceedings for the sale of said franchise, or renewal of franchise shall be had without re-advertising in the manner hereinbefore provided; and in case the successful bidder shall fail to deposit with the Treasurer, the remaining ninety per centum of his bid within five days after its acceptance, the award of said franchise or renewal of franchise shall be set aside and all deposits theretofore made thereon shall be forfeited to the City, and no further proceedings for the sale of said franchise or renewal of franchise shall be had without re-advertising in the manner hereinbefore provided.

Section 6. The successful bidder for any franchise or renewal of franchise sold or awarded under this Charter, shall file a bond running to the City of Visalia, with at least two good and sufficient sureties or other good and sufficient bond provided by law, to be approved by the City Council, in a penal sum to be prescribed by the City Council and set forth in the advertisement for bids, conditioned that such bidder shall well and truly observe, fulfill and perform each and every term, condition and provision of such franchise or renewal of franchise, and that in case of any breach of condition of such bond, the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages and shall be recoverable from the principal and sureties upon said bond, or from any or either of them. Said bond shall be filed with the City Clerk within five days after such franchise, or renewal of franchise is awarded, and upon the filing and approval of such bond the said franchise or renewal of franchise shall be granted by the City Council by ordinance to the person, firm or corporation to whom it was struck off, sold and awarded. And in case the said bond shall not be so filed, the award of such franchise or renewal of franchise shall be set aside and any money paid therefor shall be forfeited to the City and said franchise or renewal of franchise may, in the direction of the City Council, be re-advertised and again offered for sale in the same manner and under the same restrictions as in this Charter provided for the original application, advertisement and sale.

Section 7. No clause or condition of any kind shall be inserted in any franchise or renewal of franchise offered for sale under the terms of this Charter, which shall directly or indirectly restrict free and open competition in bidding therefor, and no clause or provision shall be inserted in any franchise or renewal of franchise offered for sale, which shall in any wise favor one person, firm or corporation as against another in bidding for the purchase therefor.

Section 8. Extensions and amendments of existing franchise may be granted by the City Council in the same manner and subject to the same limitation, restrictions and provisions as provided in this Charter for the granting of franchises and renewals of franchises; provided that extensions or amendments of franchises shall not be advertised for sale, or sold, or awarded to the highest bidder, and the provisions of this Charter governing the advertising for sale, and the sale and award of franchises or renewals of franchises to the highest bidder, shall have no application to the granting of extensions or amendments of existing franchises.

Section 9. If any ordinance granting a franchise or a renewal, extension or amendment of any franchise shall fail to go into effect by reason of its not being approved by a majority of the votes cast at an election to which the same was referred by referendum proceedings as provided in this Charter, such failure to go into effect shall not entitle the person to whom the grant of such franchise or renewal, extension or amendment of franchise was made, to claim a refund of any moneys paid or deposited by him as provided in this Charter, on account of any of the proceedings had for the obtaining of such grant. But if any such ordinance shall be repealed by the City Council upon the filing of a referendum petition demanding its repeal, or a reference thereof to a vote of the electors of the City, without submitting it to such vote, all moneys paid or deposited by the grantee of such franchise renewal, extension or amendment of franchise as provided in this Charter, in excess of the actual expenses of the proceedings for such grant shall be refunded to such grantee.

Section 10. Any public utility franchise may be terminated by ordinance at specified intervals of not more than ten years after the beginning of operation, whenever the City shall determine to acquire by condemnation or otherwise, the property of such utility. Indeterminate franchise may also be granted, subject always to the right of the City at any time and upon six months' notice in writing to acquire and possess the property of the grantee.

Section 11. All grants, renewals, extensions or amendments of public utility franchises, whether so provided in the ordinance or not, shall be subject to the right of the City:

- (a) To repeal the same by ordinance at any time for non-use, or for failure to begin construction within the time prescribed;
- (b) To require proper and adequate extensions of plant service, and the maintenance of the plant and fixtures at the highest practicable standard of efficiency;
- (c) To regulate the rates and charges of all public utilities;
- (d) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (e) To prescribe the form of accounts and at any time to examine and audit the accounts and other records of any such utility, and to require annual and other reports by each such public utility; provided, that if a public service commission or any other authority shall be given the power by law to prescribe the forms of accounts for public utilities throughout the state or throughout any district of which the City is a part, the forms so prescribed shall be controlling so far as they go, but the City Council may prescribe more detailed forms for the utilities within its jurisdiction;
- (f) To impose such other regulations as may be conducive to the safety, welfare, and accommodation of the public.

Section 12. The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility, but any such property owner shall be entitled to recover from the owner of such public utility, the actual amount of damages to such property on account thereof, less any benefits received therefrom; provided, suit is commenced within two years after the damage is begun.

Section 13. All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter, and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Sections 10, 11 and 17 hereof.

Section 14. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in this Article, whether or not such terms are specifically mentioned in such franchise. Nothing in this Charter shall operate to limit in any way, except as specifically stated, the discretion of the City Council or the electors of the City in imposing terms and conditions in connection with any franchise grant.

Section 15. Within six months after this Charter takes effect, every public utility and every owner of a public utility franchise, shall file with the City, certified copies of all the franchises owned or claimed or under which any such utility is operated. The City shall compile and maintain a public record of all public utility franchises and of all public utility fixtures in the streets of the City.

Section 16. It shall be the duty of the City Manager to investigate and report on all proposed ordinances relating to public utilities. He shall exercise a diligent oversight over the operation of all public utilities operated within the City. The City Attorney shall represent the City in all proceedings before any State Public Utilities Commission involving the public utilities within the City. The City Manager shall perform such other duties in relation to public utilities as may be prescribed by the City Council.

Section 17. Accounts shall be kept for each public utility owned or operated by the City, distinct from other City accounts and in such manner as to show the true and complete financial results of such City ownership, or ownership and operation, including all assets, liabilities, revenues and expenses. Such accounts shall show the actual cost to the City of each public utility owned, the cost of all extensions, additions and improvements, all expenses of maintenance, the amounts set aside for sinking fund purposes, and in the case of City operation, all operating expenses of every description. The accounts shall show as nearly as possible the value of any service furnished to or rendered by any such public utility by or to any other City or governmental department. The accounts shall also show a proper allowance for depreciation, insurance and interest on the investment, and estimates of the amount of taxes that would be chargeable against the property if privately owned. The City Council shall annually cause to be made and printed for public distribution, a report showing the financial results of such City ownership or ownership and operation, which report shall give the information specified in this section and such other information as the City Council shall deem expedient.

Section 18. The City may establish, acquire, lease and operate, or cease to operate and dispose of public utilities and quasi-public utilities at its own option in the manner provided by the laws now existing or hereafter enacted or by the majority vote of the registered, qualified electors of the City in the manner provided by ordinance enacted by the City Council by the affirmative vote of four members of such Council. All amendments of such ordinances shall require a like vote. In such ordinances the City Council may define what are public utilities and quasi-public utilities.

Section 19. In acquiring public utilities and quasi-public utilities, the City may purchase the same subject to existing bond issues and other obligations thereof, whether secured by mortgages or trust deeds against the property of such

utilities or not, and may assume and pay such obligations as part of the purchase price.

Article XV

Initiative, Referendum and Recall

Section 1. The Initiative, Referendum and Recall: Except insofar as is otherwise provided by ordinances hereinafter enacted, the provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended, governing the initiative, the referendum and the recall of municipal officers shall apply to the use thereof in the City insofar as the same are not in conflict with this Charter.

Article XVI

Miscellaneous Provisions

Section 1. Notwithstanding anything in this Charter contained, the City Manager may from time to time, in order to facilitate the prompt, economical and efficient dispatch of City business, assign assistants, deputies, clerks or employees from any office or department of the City government to perform work or service in connection with any other office or department of the City government or may assign any assistant, deputy, clerk or employee of the City to work in more than one of said offices or departments.

Section 2. All general laws of the State applicable to municipal corporations, now or hereafter enacted, and which are not in conflict with the provisions of this Charter or with ordinances or resolutions adopted in pursuance of this Charter, shall be applicable to the City.

Section 3. Wherever in this Charter the word "City" occurs, it means the City of Visalia, and every department, board or officer whenever either is mentioned, means a department, board or officer, as the case may be, of the City of Visalia.

Section 4. The compensation of elective officers shall not be increased during the terms of their respective offices.

Section 5. If any officer of the City shall die or remove from the City, or absent himself therefrom for more than thirty days consecutively, without the permission of the Council, or if he shall fail to qualify by taking the oath of office and filing his official bond, whenever such bond is required, within fifteen days from the time his certificate of election or appointment is mailed or delivered to him, or if he shall resign or be removed from office, or if his election shall be finally declared void by any competent tribunal, or if he shall be convicted of a felony, or if he shall be adjudged insane, or if he shall cease to discharge the duties of his office (other than that of member of the Council) for two consecutive months, unless prevented by sickness, his office shall become vacant.

Section 6. The improvement, widening and opening of streets, the planting of trees, and the making of any other public improvement may be done and assessments therefor may be levied in conformity with and under the authority conferred by general laws; provided, however, that the Council may by ordinance adopt a procedure for the improvement of streets, alleys or other public places, the laying of pipes, or conduits or for the removal of dirt, rubbish, weeds and other rank growths and materials which may injure or endanger neighboring property or the health or the welfare of inhabitants of the vicinity, from buildings, lots and grounds and the sidewalks opposite thereto, and for making and enforcing assessments against property benefitted or affected thereby or from which such removal is made, for the cost of such improvements or removal and may make such assessments a lien on such property superior to all other claims or liens thereon, except State, County and Municipal taxes, but no such ordinances shall prevent the Council from proceeding under general laws for said purposes.

Section 7. All officers and boards shall deliver to their successors all papers, books documents, records, archives and other properties pertaining to their respective offices or departments in their possession or under their control.

Section 8. No member of the Council or of any board and no officer or employee of the City shall be or become interested in any contract for which bids are or may be required for the furnishing of labor or materials to or for the City, nor shall either or any of them receive any gratuity or advantage from any contract or from the contractor furnishing any labor or material under any contract, the cost or consideration of which is payable from the City Treasury. Any such contract with the City in which any such officer or employee is or becomes interested shall be declared void by the Council.

Section 9. All officers, clerks and assistants of the City and departments thereof, except such as may be employed for special purposes must be citizens of the United States during their period of employment.

Section 10. No officer or employee of the City shall give or promise to give to any person, any portion of his compensation, or any money or thing of value in consideration of having been or of being nominated, appointed, voted for or elected to any office or employment.

Section 11. No officer or employee shall accept any donation or gratuity in money, or other thing of value, either directly or indirectly from any subordinate or employee, or from anyone under his charge, or from any candidate or applicant for any position as employee or subordinate in any department of the City.

Section 12. No officer or employee of the City shall aid or assist a bidder in securing a contract to furnish labor, or materials or supplies at a higher price or rate than that proposed by any other responsible bidder, or shall favor one bidder over another, giving or withholding information, or shall willfully mislead any bidder in regard to the character of the materials or supplies of a quality inferior to that called for by the contract, or shall knowingly certify to a greater amount of labor performed than has actually been performed or to the receipt of a greater amount of material or supplies than has actually been received.

Section 13. Every officer who shall willfully approve, allow or pay any demand on the Treasury, not authorized by law, shall be liable to the City individually and his official bond for the amount of the demand so approved, allowed or paid, and shall forfeit such office and be forever disbarred and disqualified from holding any position in the service of the City.

Section 14. All books and records of every office and department shall be open to the inspection of any citizen during business hours subject to the proper rules and regulations for the efficient conduct of the business of such department or office; but the records of the Police Department shall not be subject to such inspection except by permission of the proper police authorities.

Section 15. Copies or extracts, duly certified, from said books and records open for inspection, shall be given by the officer having the same in custody to any person demanding the same and paying the costs of reproduction thereof.

Section 16. All officers, assistants and employees in office, when this Charter takes effect, shall continue to hold and exercise their respective offices or employment, under the terms of this Charter, until the election or appointment and qualification of their successors.

Section 17. The present City Council, in accordance with Article V of this Charter shall provide for the holding of the first election of officers under this Charter and declare the results thereof.

Section 18. All vested rights of the City shall continue and shall not in any manner be affected by its adoption of this Charter, nor shall any right, liability, pending suit or prosecution, either in behalf of or against the City, be affected by the adoption of this Charter, unless otherwise herein expressly provided. All contracts entered into by the City or for its benefit prior to the taking effect of this Charter shall be continued and perfected hereunder. Public improvements for which legislative steps shall have been taken under laws in force at the time this Charter takes effect, may be carried to completion in accordance with the provisions of such laws.

Section 19. If any section or part of a section of this Charter proves to be invalid, it shall not be held to invalidate or impair the validity of any other section or part of a section, unless it clearly appears that such other section, or part of a section, is dependent for its operation upon the section or part of a section so held invalid.

Section 20. When making purchases for all departments of the City, local merchants shall be given the preference, quality and prices being equal.

Section 21. (Deleted November 4, 1974)

Section 22. All the powers of the City except as otherwise provided in this Charter, are hereby vested in the Council.

Section 23. The violation of any provisions of this Charter or of any ordinance of the City shall be deemed a misdemeanor, and may be prosecuted by the authorities of the City in the name of the people of the State of California, or may be redressed by civil action, at the option of said authorities. The maximum penalty upon conviction for the violation of any provisions of this Charter, or of any ordinance of the City, shall be by a fine of not exceeding \$1,000 or by imprisonment for a term of not exceeding one year or by both such fine and imprisonment. Any person sentenced to imprisonment for the violation of a provision of this Charter or of any ordinance may be imprisoned in the City jail, or, if the Council by ordinance shall so prescribe, in the County jail of the county in which the City of Visalia is situated, or any road camp established in Tulare County, in which case the expense of such imprisonment shall be a charge in favor of such county against the City of Visalia.

Section 24. The members of the City Council and Board of Education in office at the time of the approval of this Charter by the Legislature shall continue to hold office and discharge their duties for the balance of the term for which they were elected, or until their successors are elected and qualified. All appointive officials, officers and employees of the City now in office or employed at the time of the approval of this Charter by the Legislature, shall continue to hold their office or

employment until they are re-appointed or their successors are appointed in their place in accordance with the provisions of this Charter.

Section 25. For the purpose of electing all elective officers and all other purposes, this Charter shall take effect from the time of its approval by the Legislature.