CHARTER

CITY OF BERKELEY
CALIFORNIA

CHARTER
of the
CITY OF BERKELEY
CALIFORNIA

PREPARED AND PROPOSED BY
THE BOARD OF FREEHOLDERS

Elected November 21, 1908, in Pursuance of the Provisions
of Section 8, Article XI of the Constitution of the
State of California

Ratified by the qualified electors of the Town of Berkeley
at a Special Municipal Election held on January 30, 1909.
Subsequently presented to the Legislature
of the State of California and
thereafter approved.

In effect July 1, 1909
Amended in 1913, 1917, 1921, 1923, 1927, 1933, 1939,
1941, 1943, 1945, 1946, 1947, 1949, 1951, 1953,
1955, 1957, 1959, 1963, 1965, 1969, 1971,
1972, 1973, 1974, 1975, 1977, 1982,
1984, 1986, 1988, 1994, 1996, 1998,
2002, 2004, 2008, 2012, 2014, and 2016

(Revised to November 8, 2016)

Prepared by City Clerk Department
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"Westward the course of empire takes its way
The four first acts already past,
A fifth shall close the drama with the day:
Time's noblest offspring is the last."

George Berkeley, Bishop of Cloyne, a distinguished Irish philosopher and writer, after whom Berkeley California is named, was born at Dysert Castle, near Thomastown, Ireland, March 12, 1685. Educated in Trinity College, Dublin, he was appointed in Episcopal prelate, and devoted himself to literature and to philanthropic efforts to establish in America a college for the education and conversion of the Indians to Christianity. He lived nearly four years in Rhode Island, respected, esteemed and beloved by the people of early New England. The British government neglected to furnish the promised funds for the college, and, having exhausted much of his own fortune in his benevolent design, Bishop Berkeley was compelled to return to his native land. So powerfully impressed had he become with the great future of the American colonies that he wrote the famous poem, "Destiny of America," the concluding stanza of which is quoted above. Alexander Pope, his intimate friend, declared he was "possessed of every virtue." He died January 14, 1753, at Oxford, England.

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INTRODUCTION

THE CITY OF BERKELEY

The City of Berkeley is located in the County of Alameda and is one of the oldest Council-Manager Cities in California, this form of government having been adopted in 1923. The City Manager is appointed by the City Council and all other employees and officers are appointed by the City Manager.

The elective Officers of the City consist of a Mayor, eight Councilmembers, an Auditor, a School Board comprised of five directors and a Rent Stabilization Board comprised of nine commissioners. The Auditor, School Board Directors and Rent Board Commissioners are elected at large for four-year terms. The Mayor is also elected at large for a four-year term. The Council is elected by districts for four-year terms.

THE CHARTER

This Charter of the City of Berkeley was originally adopted in 1909 and has been amended from time to time to keep pace with changes made in the State Constitution and with changing times. A complete list of all Charter amendments, repealed sections, and statutory references is set forth in Appendix A.

The present Charter may be referred to as a Freeholders Home Rule Charter. The City of Berkeley has full control over its municipal affairs and such control extends to all municipal affairs even though they may not be mentioned in the Charter. In other words, as to municipal affairs, the Charter instead of being a grant of power is, in effect, a limitation of power. Therefore, the City of Berkeley has complete authority over all municipal affairs subject only to the limitations and restrictions specified in the Charter or the Constitution of the State. A review of the historical development of the Charter is included here to provide better understanding of the Charter.

The original Town of Berkeley was incorporated on April 4, 1878 by an Act of the State Legislature, Stats. 1878-79, Chapter DLXV, Pg. 888. The Town had no Charter but was able to act as a Town and was governed in its actions by the laws of the State and by its Articles of Incorporation.

The first Charter was adopted under authority of the State Constitution and approved by the legislature on March 5, 1895, and may be found in Stats. 1895, Pg. 407. Chapter XI, Sec. 6 of Art. XI of the State Constitution in 1895 authorized cities to adopt charters but provided that all such charters were subject to and controlled by general state laws.

In 1896, Sec. 6 of Art XI of the Constitution was amended to provide that all city charters shall be subject to and controlled by general laws except in municipal affairs.

INTRODUCTION

In 1908, a Board of Freeholders was elected to prepare a new Charter for the City of Berkeley. The courts of the State had decided that the charter of a city would control over general state laws on all municipal affairs whenever the specific power was given to the city in the charter. The charter was considered a grant of power and as a result the Board of Freeholders included all of the powers that they could imagine that the City would ever need in the original Charter.

In 1914, Section 6 of Article XI of the Constitution was again amended to provide that the electors of a city could amend their charters to provide that the city could make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in the charter. It was not until 1921 that the City of Berkeley took advantage of this amendment and added Section 115 to the Charter that reads as follows:

> "MUNICIPAL AFFAIRS
> **Sec. 115.** The City of Berkeley shall have the right and power to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this Charter; provided, however, that nothing herein shall be construed to prevent or restrict the City from exercising or consenting to, and the City is hereby authorized to exercise any and all rights, powers and privileges heretofore or hereafter granted or prescribed by general laws of the State."

The Courts of the State of California have held that the effect of the 1914 amendment was to change the theory of city charters. The Charter was no longer a grant of power but became a limitation of power. In 1970, Section 6 of Article XI of the State Constitution was repealed, and the provisions discussed in this introduction formerly contained in Section 6 are now set forth in Section 5 of Article XI of the State Constitution.

In Rivera v. City of Fresno (1971) 6 C. 3d 132, 135, the court restated the principle established by a long line of court decisions that a city is sovereign in the area of municipal affairs which has adopted a provision such as the City of Berkeley Charter Section 115. The court said "Accordingly, the City is empowered to exercise full control over its municipal affairs, unaffected by general laws on the same subject matters and subject only to the limitations found in the Constitution and the City Charter."

Further review of cases establishing this principle will be found in West Coast Advertising Co. v. SF (1939) 14 C. 2d 516.

Since 1921, the Charter has been amended many times but at no time was a revision of the entire Charter attempted. Therefore, we find many provisions in the Charter that are unnecessary but if they are not limitations they do no harm. If they are limitations they have been left alone because the people want the limitation.

INTRODUCTION

In general, a municipal affair is one which refers to the internal business affairs of the city. It only affects the people living in the city as distinguished from a state affair that affects all the people of the state. As stated in Bishop v. City of San Jose (1969) 1 Cal. 3d 56, at p. 62:

> "'Because the various sections of article XI fail to define municipal affairs, it becomes necessary for the courts to decide, under the facts of each case, whether the subject matter under discussion is of municipal or statewide concern.' In other words, 'No exact definition of the term "municipal affairs" can be formulated, and the courts have made no attempt to do so, but instead have indicated that judicial interpretation is necessary to give it meaning in each controverted case. The comprehensive nature of the power is, however, conceded in all the decisions....'"

This brief review of the development of the "municipal affairs" doctrine is intended to describe the history of the Berkeley City Charter and its scope and function.

Mark Numainville
City Clerk

CHARTER OF THE CITY OF BERKELEY

ARTICLE I
NAME AND RIGHTS OF THE CITY

Section 1. Name of the City.

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

Section 2. Rights and Liabilities.

The City of Berkeley shall remain vested with and continue to have, hold and enjoy all property, rights of property and rights of action of every nature and description now pertaining to this municipality, and is hereby declared to be the successor of the same. It shall be subject to all the liabilities that now exist against this municipality.

ARTICLE II
BOUNDARIES

Section 3. Boundaries.

The boundaries of the City shall be the boundaries as established at the time this Charter takes effect, and as such boundaries may be changed thereafter from time to time in the manner authorized by law.

ARTICLE III
ELECTIONS

Section 4. General and Special Municipal Elections.

A municipal election shall be held on the first Tuesday following the first Monday of November, 1982 and biennially thereafter. All such elections shall be known as general municipal elections, and shall be held on the same date as the regularly occurring statewide California general elections held on the first Tuesday following the first Monday of November of even numbered years. The City Council shall take the necessary actions to consolidate general municipal elections with statewide California general elections. All other municipal elections that may be held shall be known as special municipal elections.

No special municipal election shall be held in the City, except as provided for in this section:

(a) A special municipal election may be held in accordance with the Recall provisions of Article IV of this Charter; provided, however, that if the provisions of Article IV would require such election to be held between the 10th day of June and the 10th day of October, then such election shall be held on the following first Tuesday after the first Monday in November.

(b) A special municipal election may be held to fill any vacancy in accordance with Article V, Section 12 of this Charter; provided however, if the provisions of Article V, Section 12 would require such election to be held between the 10th day of June and the 10th day of October, then such election shall be held on the following first Tuesday after the first Monday in November.

(c) A special municipal election, other than those provided for in subsections (a) and (b) of this section, may be held upon a determination, by a vote of two-thirds of the Council, that an urgent necessity exists therefor.

Section 4½. Rent Stabilization Board Election.

Notwithstanding the provisions of Section 4, there shall be a Rent Stabilization Board Election as provided in Section 122 of Article XVII.

Section 5. Nomination and Election of Certain Officers.

(1) Procedure for holding elections.

Except as otherwise provided in this Charter, all elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended, for the holding of elections in general law cities.

(2) Posting of Notices.

All notices and other matters which are now or may hereafter be required to be published by the Elections Code, may be publicized in the manner determined by the Council.

(3) Youth Voting.

(a) Notwithstanding anything to the contrary in this Charter, the City Council may, by ordinance, provide for the voting by persons aged 16 and 17 years old who would otherwise be eligible to be electors under the Elections Code, for the office of School Director, subject to all of the following conditions.

(1) No City of Berkeley funds may be used, directly or indirectly, to pay any cost related to voting by persons aged 16 and 17 years old pursuant to this Section, including litigation costs and attorneys' fees, nor shall City of Berkeley funds be used to replace funds used for these purposes by any other public agency or private entity.

(2) Equipment, software, systems, and procedures for voter registration and voting are technically ready to handle voting by persons aged 16 and 17 years old.

(3) Voting by persons aged 16 and 17 years old will not preclude the City from consolidating its municipal elections with the County.

(4) Voting by persons aged 16 and 17 years old will not result in additional election costs that will be paid directly or indirectly by the City of Berkeley.

(b) Any program for allowing voting by persons aged 16 and 17 years may specify the manner in which, method by which, and times at which, votes by such persons may be cast. The manner, method and time of voting for persons aged 16 and 17 years old need not be the same as for other persons.

(4 through 9) (repealed)

(10) Canvass of returns and declaration of results.

The City Council shall meet at its usual place of meeting as soon as practicable after the election, including any runoff election, to receive the certification of results prepared by the City Clerk. The City Clerk shall canvass the results of the election in accordance with procedures established in the State of California Elections Code. The persons having the number of votes required by this Charter for each elective office shall be declared elected.

(11) Use of voting machines, voting devices or vote tabulating devices.

If the use of voting machines, voting devices or vote tabulating devices at a municipal election is authorized by the City Council, any of the provisions of this Section 5 may be modified by the City Council to the extent necessary to permit the use of such voting machines, voting devices or vote tabulating devices.

(12) Use of instant runoff voting in lieu of runoff elections.

For purposes of this charter "instant runoff voting" shall refer to a voting system which, in a single election, determines the candidate supported by the voters. Notwithstanding any section of this Charter to the contrary, upon a determination by the City Council of all of the following, that: a) the voting equipment and procedures are technically ready to handle instant runoff voting in municipal elections; b) instant runoff voting will not preclude the City from consolidating its municipal elections with the County; and c) instant runoff elections will not result in additional City election costs, the Council may by ordinance establish a system of instant runoff voting for the offices of Mayor, City Council, and Auditor in any manner permitted by the State of California Elections Code. Once the Council institutes a system of instant runoff voting, future elections shall be conducted as instant runoff voting elections, unless the Council finds that circumstances have changed such that one or more of the prior Council findings required by this section are no longer valid. In such case, the Council shall articulate the specific basis therefore in order to suspend an existing system of instant runoff voting. Subdivision (e) of Section 9 of Article V relating to the percentage threshold to trigger a runoff election shall have no application to a system of instant runoff voting. The City Clerk shall conduct voter and community education to familiarize voters with instant runoff voting.

Section 6. Votes for Deceased Candidates.

Whenever a candidate whose name appears upon the ballot at a general municipal election dies before the time of the closing of the polls on the day of election, the votes cast for such deceased candidate shall be counted in determining the results of the election for the office for which the decedent was a candidate. If the deceased candidate receives the highest number of the votes cast for the office, or if more than one is to be elected to such office and the deceased candidate receives sufficient votes to be one of those elected for such office, he or she shall be considered elected and the office to which he or she was elected shall be vacant at the beginning of the term for which he or she was elected. The vacancy thus created shall be filled in the same manner as if the candidate had died subsequent to taking office for that term

CHARTER OF THE CITY OF BERKELEY
Section 6.1, Article III

Section 6.1. Nomination - Filing Fee - Candidate's Statement of Qualifications.

Candidates for council office shall be nominated by registered voters from the council district for which they nominate the council candidate, as further provided in the State of California Elections Code.

At the time of filing his or her nomination papers, each candidate for the office of mayor, councilmember, auditor, rent stabilization board commissioner, and school board director shall pay a filing fee, in the amount of $150. The filing fee may be offset in whole or in part by the submission of up to 150 signatures of registered voters in the City. Each signature of a registered voter shall offset $1 of the filing fee. Any such required submission of signatures, in lieu of filing fees, shall be in addition to the signatures otherwise required by the State of California Election Code to nominate a candidate, but may be of voters registered anywhere in the City.

At the time of filing his or her nomination papers, each candidate for an elective office may file with the City Clerk a verified statement showing the name of the candidate, the office for which he or she is a candidate, his or her place of residence, place of birth, present occupation, what public offices he or she has held, whether he or she is a taxpayer in the City of Berkeley, a statement giving information as to his or her experience and qualifications, and a recent photograph, to the end that the electors may be in a position to estimate his or her fitness to fill the office, and the names of not less than five or more than twenty residents of the City of Berkeley to whom he or she refers. Until otherwise provided by ordinance, such statements shall not exceed two hundred words in length. At the time of filing said statement, each candidate shall also pay to the City Clerk a printing fee which, until otherwise provided by ordinance, shall be the sum of $35.00. The City Clerk shall cause said candidates' statements to be printed in some convenient form and shall mail a copy of said statements to each registered voter with the sample ballot, provided that no name to which the candidate refers shall be included in the publication by the Clerk unless the written consent of the person named is filed with the City Clerk. The provisions of this section are self-executing, but the City Council, by ordinance, may more definitely prescribe the form of said candidate's statement. The printing fees so collected by the City Clerk shall be paid into the City Treasury, and the expense of printing said candidates' statements shall be paid from the City Treasury. No refund from printing fees shall be made to candidates, nor shall any extra charge be made, regardless of whether the printing expense is more or less than the amount of the fees received.

Section 6.2. Fair Elections Fund.

(1) Establishment of Fair Elections Fund.

A special, dedicated, non-lapsing Fair Elections Fund shall be established by the City Council for the purpose of:

(a) Providing public financing for the election campaigns of certified participating candidates; and

(b) Paying for the administrative and enforcement costs of the Berkeley Fair Campaign Practices Commission ("Commission") and City staff related to the Fair Elections Fund public campaign financing program. The administrative and enforcement costs shall not exceed $250,000 in any four year election cycle.

(2) Appropriations to the Fair Elections Fund.

(a) The City Council shall appropriate $4 per Berkeley Resident per year, as determined by the most recent official United States Census Bureau Population Estimate for the City of Berkeley, from the City General Fund to the Fair Elections Fund.

(b) Other sources of revenue to be deposited in the Fund shall include:

i) Unspent funds distributed to any participating candidate who does not remain a candidate until the election for which they were distributed, or such funds that remain unspent by a participating candidate following the date of the election for which they were distributed;

ii) Fines levied by the Commission against candidates for violation of election laws;

iii) Voluntary donations made directly to the Fair Elections Fund;

iv) Other funds appropriated by the City Council;

v) Any interest generated by the Fund; and

vi) Any other sources of revenue determined as necessary by the City Council.

(c) The amount in the Fair Elections Fund shall not exceed $2 million at any time. In order to comply with this limitation, revenue that would otherwise be deposited in the Fair Elections Fund pursuant to subsections (a) and (b) shall instead be deposited in the City General Fund.

(d) The City Council may, by adoption of an ordinance by not less than two-thirds vote of its membership, make an official declaration of fiscal emergency and suspend or reduce the amount of the annual appropriation specified in subsection (a). Any such ordinance suspending or reducing the annual appropriation shall be effective for no more than one year.

(3) Cost of Living Adjustments.

The Commission shall adjust the dollar amounts specified in subsections (1)(b), (2)(a) and (2)(c) of this Section upward or downward, for changes in the cost of living, by the percent change in the Consumer Price Index.

ARTICLE IV
RECALL OF ELECTIVE OFFICERS

Section 7. Recall of Elective Officers.

(1) Persons subject to recall.

Every incumbent of an elective office, whether elected by popular vote or appointed to fill a vacancy, is subject to recall by the voters of the City. The procedure for recall shall be as provided in this Section 7.

(2) Commencement of recall proceedings.

Recall proceedings may be commenced by the service, filing and publication of a notice of intention to circulate a recall petition pursuant to subdivision (6) of this Section 7. Proceedings may not be commenced against the holder of an office unless, at the time of commencement, the holder has held office for at least six months and no recall petition has been filed against such holder within the preceding six months. Recall proceedings may not be commenced if the office holder's term of office ends in six months or less.

(3) Recall petition.

A petition demanding the recall of the officer sought to be recalled shall be filed with the City Clerk. The petition shall be signed by not less than 25 percent of the registered electors of the City eligible to vote for said officer as indicated by the most recent Report of Registration by the county elections official to the Secretary of State.

(4) Repealed.

(5) Recall of more than one officer.

One election is sufficient for the recall of one or more officers, but a separate petition is necessary to propose the recall of each officer.

(6) Notice of intention to circulate petition; statement.

The proponents shall serve, file and publish a notice of intention to circulate a recall petition. Said notice shall contain the name of the officer sought to be recalled and the title of his or her office, a statement in not more than 500 words of the grounds on which the recall is sought, and the name and address of at least one proponent. The notice of intention shall be served, personally or by certified mail, on the officer sought to be recalled, and a copy thereof with a certificate of the time and manner of service shall be filed with the City Clerk.

(7) Answer to statement of proponents.

Within seven days after the filing of the notice of intention, the officer sought to be recalled may file with the City Clerk an answer in not more than 500 words to the statement of the proponents, and, if an answer is filed, shall serve a copy thereof, personally or by certified mail, on one of the proponents named in the notice of intention. The statement and answer are intended solely for the information of the voters and no insufficiency in the form or substance thereof shall affect the validity of the election or proceedings.

(8) Publication of notice, statement and answer.

The notice, statement and answer, if any, shall be published by the proponents at least once in a newspaper of general circulation published in the City, or, if there be no such newspaper, then in a newspaper published in the County and of general circulation within the City. The provision of Section 68 of this Charter indicating that posting shall be sufficient publication of any matter required by the Charter to be published shall not be applicable to the publication requirement of this Subdivision (8) of Section 7.

(9) Circulation of petition.

Seven days after filing an affidavit of publication of the notice, statement and answer, if any, with the City Clerk, the recall petition may be circulated and signed. The petition shall bear a copy of the notice of intention, statement and answer, if any. If the officer has not answered, the petition shall so state. Signatures shall be secured and the petition filed within 90 days from the filing of the affidavit of publication.

(10) Signatures.

The signatures appended to the petition need not all be appended to one paper but may be in sections. Each signer shall print his or her name, add his or her signature, and list his or her residence, giving street and number. If no street or number exists, then a designation of the place of residence shall be given which will enable the location to be readily ascertained.

(11) Affidavit of Circulator.

Each section of the petition shall have attached to it an affidavit made by the circulator of the petition. The affidavit shall be sworn to under penalty of perjury and shall conform to the requirements of the state Elections Code Sections 104 and 9022 or their successors.

Any section of a petition may include a number of attached sheets.

(12) Clerk's examination of petition

In order to be acceptable for filing, the petition must on its face purport to have appended to it signatures of voters in the required number. Within 30 business days from the date the petition is filed, the Clerk shall examine and from the records of registration ascertain whether or not the petition is signed by the requisite number of voters. He or she shall attach to the petition his or her certificate showing the result of his or her examination.

(13) Insufficient petition.

If the certificate of the City Clerk shows that the petition is insufficient, no action shall be taken thereon. The petition shall remain on file pursuant to Elections Code Section 11226 as it may be amended from time to time, and the failure to secure sufficient names shall not prejudice the filing later of an entirely new petition to the same effect.

(14) Submission to Council; order for election.

If the petition is sufficient, the Clerk shall submit certification of petition's sufficiency to the Council without delay. The Council shall at once order a special election to be held, not less than 100 nor more than 180 days after the date of the order, to determine whether the voters will recall the officer sought to be recalled. If a regular municipal election, a previously called special municipal election, or any statewide election is to be held within this time period, the Council may order the recall election to be held on the day of that election.

(15) Nominations.

(a) The provisions of Section 6 1/2 of Article III of the Charter shall be applicable in recall proceedings and elections.

(b) The officer sought to be recalled as well as the candidate or candidates nominated to succeed him or her may file the candidate's statement provided for in Section 6 1/2 of Article III of the Charter. The candidate's statement of the officer sought to be recalled shall be filed not later than the last day upon which nomination papers may be filed.

(c) The City Council shall set the nomination period by resolution. Said filing period shall end no later than the 88th day prior to the election.

(15.5) Sample ballot.

The Clerk shall cause to have mailed to each voter, at least 10 days prior to the election, a sample ballot and a separate printed copy of the statement of the proponents and of the answer, if any, of the officer sought to be recalled. If the recall of more than one officer is sought, the statement and answer for each shall be printed together and shall be clearly distinguished from those of any other officer.

(16) Form of recall question.

There shall be printed on the recall ballot, as to each officer whose recall is to be voted on, the following question: "Shall (name of person) be recalled from the office of (title of the office)?" Following which question shall be the words "yes" and "no" on separate lines, with a voting square at the right of each, in which the voter shall indicate in the manner prescribed his or her vote for or against the recall.

(17) Ballot; nominees; counting votes.

On the recall ballots, under each question, there shall be printed the names of those persons who have been nominated, in the manner provided by this Charter for nominations at municipal elections, as candidates to succeed the incumbent if he or she is recalled from office by the recall election. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. Voting procedure shall be in accordance with Article III, Section 5, Paragraph 12 and Article V, Section 9 of the City Charter.

(18) Canvass of votes.

The City Council shall meet at its usual place of meeting on the first Tuesday after the completion of the canvass of votes cast to declare the results as in a regular election. If a majority of those voting at the election voted in favor of the recall of any incumbent from office, the incumbent shall be deemed removed from office upon the qualification of his successor.

If all of the members of the City Council or Board of Education are recalled, and no candidates are elected to succeed them, the recall shall fail and the incumbents shall remain in office.

If all or part of the members of the City Council or Board of Education are recalled, and not enough candidates are elected to provide a quorum, the appointment of persons to bring the membership up to a quorum shall be by the remaining members of the City Council or Board of Education, as the case may be. The quorum shall fill the remaining vacancies by appointments. If there are any unfilled vacancies remaining 60 days after the completion of the canvass of votes cast, and more than 180 days will elapse before the next general municipal election will be held, the City Council shall immediately cause an election to be held to fill the vacancies.

A person appointed to office under this section shall hold office for the remainder of the unexpired term of the recalled officer whose position he or she is appointed to fill.

(19) Declaration of election of candidate; failure to qualify; filling vacancy.

If the vote recalls the officer, the candidate who has received the highest number of votes for the office shall be declared elected for the unexpired term of the former incumbent. If the person who received the highest number of votes fails to qualify within 10 days after the declaration of his or her election, the office shall become vacant and shall be filled according to law.

(20) Vacancy in office after recall petition is filed.

(1) If a vacancy occurs in the office sought to be recalled and more than one candidate has been nominated for the office, then the election shall be held as a special election to fill the vacancy and the recall question shall not appear on the ballot.

(2) If a vacancy occurs in the office sought to be recalled and only one person has been nominated for the office or no person has been nominated for the office, an election shall not be held. In such case the City Council or Board of Education, as the case may be, shall appoint to the office the person nominated, or, if no person has been nominated, shall appoint any qualified person.

(21) Disqualification from office.

A person who has been recalled, or who has resigned from office while recall proceedings were pending against him or her, shall not be a candidate for nor appointed to such office within one year after his or her resignation or recall.

(22) Further regulations.

The City Council may, by resolution, make such further regulations as may be necessary to carry out the provisions of this Section.

ARTICLE V
ELECTIVE OFFICERS

Section 8. The elective officers.

The elective officers of the City shall be a Mayor, an Auditor, eight (8) Councilmembers, five (5) School Directors and nine (9) Rent Board Commissioners.

The Council shall consist of the Mayor and eight (8) Councilmembers, each of whom, including the Mayor, shall have the right to vote on all questions coming before the Council.

The Board of Education shall consist of five (5) School Directors, each of whom shall have the right to vote on all questions coming before the Board; provided, however, that the Mayor shall serve as a School Director with the right to vote on all questions coming before the Board for the four (4) year term commencing July 1, 1951.

Section 9. Election and Districts.

(a) The Mayor, Auditor and School Directors shall be elected at the general municipal election on a general ticket from the City at large.

(b) The Councilmembers shall be elected at the general municipal election by districts. The Councilmembers shall be recalled by districts. Any person appointed to fill a vacancy on the City Council shall be a citizen of the United States and a qualified elector in the State of California and of the City of Berkeley as required in Article V, Section 10 of the City Charter, and must reside in the district in which he or she runs for election.

(c) No later than April 1st of the second year following the year in which each decennial federal census is taken, commencing with the 2020 census, unless a later deadline is established by Section 9.5(d)(1), the City shall be divided into eight Council districts as set forth in Section 9.5 and any implementing legislation. Any such redistricting shall become effective as of the next general election of Councilmembers immediately following the effective date of the ordinance adopted pursuant to Section 9.5(d).

(d) Each Councilmember shall be elected by the electors within a Council district, must have resided in the District in which he or she is elected for a period of not less than thirty days immediately preceding the date he or she files a declaration of candidacy for the office of Councilmember, must continue to reside therein during his or her incumbency, and shall be removed from office upon ceasing to be such resident, except as set forth in Section 9.5(g)(6).

(e) The candidate receiving the highest number of votes for the offices, respectively, of Mayor, Auditor and Councilmembers of the City shall be elected to such offices, provided that such candidate receives at least 40% of the votes cast for each such office. In the event that no candidate for Mayor, Auditor and Councilmember for one or more Council offices receives at least 40% of the votes cast for that office, then there shall be a runoff election between the two candidates receiving the most votes, which runoff election shall be held on the first Tuesday after the first Monday in February of the odd numbered year following the initial election. No other issues shall appear on the ballot of any runoff election. The successful candidate in any runoff election shall assume office on March 1, after the election results have been declared by the Council. If the provisions of Article III, Section 5, Paragraph 12 related to instant runoff voting are operative, the vote threshold requirements in this section shall have no application to municipal elections.

(f) Should any provision of this section be held invalid, the remainder of this section shall not be affected thereby, and such word, phrase, sentence, part, section, subsection, or other portion shall be severable, and the remaining provisions of this section shall remain in full force and effect. The voters hereby declares that they would have passed this section and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more, subsections, sentences, clauses or phrases had been declared invalid.

Section 9.5. Citizens Redistricting Commission

The purposes of this Section are to: 1) establish a redistricting process that is open and transparent and allows public comment on the drawing of district boundaries; 2) ensure that City Council district boundaries are drawn according to the redistricting criteria set forth in this Charter and applicable State and Federal laws; and 3) ensure that the redistricting process is conducted with integrity, fairness, and without personal or political considerations. In order to accomplish these purposes, a Citizens Redistricting Commission (Commission) is hereby created.

(a) Duties and authority of Commission and City Council.

(1) The Citizens Redistricting Commission shall be solely responsible for drawing City Council district boundaries in accordance with state and federal law and this Charter, and shall make adjustments as appropriate, taking into consideration public comment at public meetings and public hearings. The City Council shall have no role in developing or adopting a redistricting plan, and its sole responsibilities in redistricting shall be to: adopt an ordinance establishing procedures to implement this Section; adopt a redistricting ordinance as set forth in subdivision (d)(3); submit a final redistricting plan to the voters as set forth in subdivision (d)(4); submit a redistricting ordinance that is the subject of a referendum to the voters as set forth in subdivision (d)(5); and to adopt the redistricting plan determined by a special master as set forth in subdivision (d)(4).

(2) The City Council, as part of the adoption of the City Budget, shall allocate sufficient funds to support the work of the Citizens Redistricting Commission, including funds necessary for community outreach, costs for city staff time associated with supporting the work of the Citizens Redistricting Commission, and the hiring of any necessary consultants or outside counsel.

(3) The City Clerk or his or her designee shall serve as Secretary to the Commission.

(4) The City Council, by a two-thirds vote, shall adopt an ordinance establishing procedures to implement this Charter section. An implementation ordinance cannot be modified by the Council for a period of five years after initial adoption, and without a two-thirds vote of the Council.

(b) Appointment of Commission.

(1) Membership. The Commission shall consist of thirteen members, each of whom is a registered voter in the City of Berkeley. The application and selection process set forth below and by ordinance is intended to produce a Citizens Redistricting Commission that is independent from legislative and political influence, and reasonably representative of the City's population.

(2) Term. Members of the Citizens Redistricting Commission shall be appointed following each decennial federal census as set forth below. The term of office of each member of the Commission shall expire upon the effectiveness of a redistricting plan for that decennial federal census period.

(3) Qualifications and eligibility. All registered Berkeley residents who have voted in the last two General Municipal elections, unless ineligible to do so by reason of age, are eligible for membership on the Citizens Redistricting Commission, subject to the following limitations.

(i) The following individuals are prohibited from serving on the Citizens Redistricting Commission:

(A) any individual who currently holds, has held, or who has been a qualified candidate for the office of Mayor or City Councilmember within the two years preceding the date of application;

(B) any other individual who holds or has held any City of Berkeley elective office identified in this Charter within the two years preceding the date of application;

(C) the immediate family of the Mayor or any Councilmember, as well as immediate family of staff to the Mayor or Councilmember;

(D) any employee of the City of Berkeley;

(E) any person performing paid services under a contract with the City of Berkeley, including employees of subcontractors;

(F) any individual who has served as an officer, paid staff, or paid consultant of a campaign committee of a candidate for Mayor or City Council within the two years preceding the date of the application;

(G) any individual who is currently, or within the two years preceding the date of application, has been a paid staff member or unpaid intern to the Mayor or any Councilmember;

(H) any individual ineligible to serve in public office under Government Code sections 1021, 1021.5, 1770, or the Constitution and laws of the State of California.

(ii) If an applicant currently serves on a City of Berkeley board or commission whose members are appointed by the Mayor, a City Councilmember, or the full City Council, he or she may serve on the Citizens Redistricting Commission if selected, provided he or she resigns from the board or commission and he or she agrees not to serve on another City of Berkeley board or commission during his or her term of office on the Citizens Redistricting Commission.

(iii) If an applicant has made a disclosable monetary or non-monetary contribution to a candidate for Mayor or Councilmember, he or she shall be permitted to serve on the Citizens Redistricting Commission if selected, under the condition that he or she discloses under penalty of perjury all monetary and non-monetary contributions made within the four years prior to the date of application to a candidate for Mayor or Councilmember in the City of Berkeley.

(iv) No person, within two years after the termination of his or her service on the Commission, will be eligible for employment as a paid staff member for the Mayor or any Councilmember or to serve on a City of Berkeley board or commission.

(4) Outreach. The City shall widely publicize the fact that a Citizens Redistricting Commission will be appointed during the following year, the date by which applications for appointment to the Commission must be received, and such other information as will adequately inform potentially interested residents of the Commission. The City shall conduct outreach throughout the City of Berkeley in order to solicit a large pool of applicants and applicant diversity by race, ethnicity, gender, and geography.

(5) Application process. The City Clerk shall initiate and advertise a 30-day nomination period for appointment to the Citizens Redistricting Commission. The nomination process shall be open to all registered Berkeley voters, and be conducted in a manner that promotes a diverse and qualified applicant pool.

(6) Selection process.

(i) The City Clerk shall screen all applications submitted to ensure that each applicant satisfies the eligibility criteria of subsection (b)(3)(i). Procedures to implement the nomination and screening process that are not specified in this Section will be specified in the implementing ordinance adopted by Council.

(ii) At a time and place open to the public, and subject to at least ten days public notice, the City Clerk shall select the initial eight members of the Citizens Redistricting Commission. The City Clerk shall randomly select one person from each of the eight council districts. The first person chosen from each pool shall be appointed to the Citizens Redistricting Commission. The City Clerk shall then randomly select one additional individual from each of the eight council districts to serve as an alternate for the individual who has been appointed from that district. To implement this paragraph, the City Clerk shall determine a randomized method that meets professional standards and best achieves a random selection.

(iii) The Citizens Redistricting Commission, consisting of the initial eight (8) members, shall then convene within ten days for the purpose of selecting the remaining five members and five alternates from the pool of eligible applicants. In appointing the remaining ("at-large") five members, the Citizens Redistricting Commission shall attempt to achieve community representation by taking into consideration geographic diversity, race, age and gender. At-large alternates shall be appointed as voting members as the at-large commissioners leave office for any reason. The order in which the alternates shall be seated on the Commission as voting members shall be established by a random method at the time they are selected. All appointments under this paragraph shall be at a noticed meeting of the Citizens Redistricting Commission open to the public.

(c) Commission procedures.

(1) The Citizens Redistricting Commission shall establish and implement an open process for public input and Commission deliberation that shall be promoted through a thorough outreach program to solicit broad public participation in the redistricting process. All Citizens Redistricting Commission meetings shall be open to the public unless necessary to convene in closed session under California Government Code sections 54950 et seq. Members of the public shall have the opportunity to provide written and oral comments to the Citizens Redistricting Commission. The Commission's process must be designed to provide the widest public access reasonably possible to draft redistricting maps and to provide ample opportunity for the public to observe and participate in the redistricting process.

(2) The City Manager shall produce redistricting plans and maps based on specific direction from the Commission. The Commission shall also accept and consider maps that are submitted by the public.

(d) Commission redistricting proceedings.

(1) The Citizens Redistricting Commission shall adopt City Council district boundaries no later than February 1st of the second year after the year in which each decennial federal census is taken, or nine months after final adjustments are made to the census data, whichever is later. The boundaries shall be effective until the adoption of new district boundaries following the next decennial federal census. The City Council may not rescind, supersede or revise the district boundaries adopted by the Citizens Redistricting Commission.

(2) Decisions by the Citizens Redistricting Commission to adopt a redistricting plan shall be by seven votes of the Commission.

(3) Concurrently with its adoption of a redistricting plan, the Commission shall issue a report that explains its decisions in achieving compliance with the criteria listed in this Section and shall include definitions of the terms and standards used in drawing the final City Council districts map. The redistricting plan adopted by the Commission shall be submitted to the City Council at its next regular or special meeting consistent with Berkeley Municipal Code Chapter 2.06, and the City Council shall at that meeting adopt a redistricting ordinance that implements the redistricting plan without change.

(4) Impasse procedure. If the Commission is unable to achieve seven affirmative votes to adopt a redistricting plan, then the Commission shall submit to the City Council the map which received the most votes of the Commission to be placed on the ballot. In the event that redistricting plan is rejected by the voters, the Commission shall have 30 days to adopt a new redistricting plan by seven affirmative votes. If the Commission, after rejection of the map by the voters, cannot adopt a final redistricting plan by seven affirmative votes, then the Commission shall request that the City Clerk recommend a list of at least three special masters to develop a redistricting plan. The Commission shall consider the recommendations of the City Clerk and select a special master, by majority vote, to develop a redistricting plan. The City Council shall adopt by ordinance the redistricting plan determined by the special master.

(5) A redistricting ordinance adopted by the City Council shall be subject to referendum in the same manner that an ordinance is subject to referendum pursuant to state law and Article XIV of the City Charter. The date of final adoption of the ordinance by the City Council shall be deemed the date of final passage for the purposes of Section 93 of the Charter. The procedures of Section 93 shall apply to a referendum of a redistricting ordinance, except that if a referendum petition is signed by the requisite number of qualified electors the City Council shall submit the ordinance to the voters at the next General Municipal Election.

(e) Removal of Commissioners.

(1) Commissioners should apply the law in a manner that is impartial and reinforces public confidence and integrity in the redistricting process.

(2) In the event of substantial neglect of duty, gross misconduct in office or inability to discharge the duties of office, or if it is determined that a commissioner is ineligible under subdivision (d)(3), a Commissioner may be removed by a two-thirds vote of the Citizens Redistricting Commission, after having been served written notice and provided with an opportunity to respond.

(3) Any vacancy, whether created by removal, resignation, or absence pursuant to Berkeley Municipal Code Section 3.02.020 or its successor, shall be filled by the alternate for that Commission seat selected at the time of the original selection. If the alternate is unable to serve, the Citizens Redistricting Commission shall fill the vacancy by selecting an applicant from the original pool of applicants by a two-thirds vote at a noticed meeting open to the public. If the seat to be filled is one representing a specific City Council district, the Citizens Redistricting Commission shall appoint an individual who resides in that City Council district.

(4) No disqualification of a commissioner shall have any effect on the validity of any action by the Commission or any redistricting map it may adopt.

(f) Criteria for redistricting.

(1) The Commission shall adjust the boundaries of City Council districts in a manner that complies with the Constitution and statutes of the United States and the State of California, in order that the eight City Council districts shall be as nearly equal in population as may be according to the most recent decennial federal census, except where deviation is required to comply with the federal Voting Rights Act.

(2) In establishing and modifying district boundaries, the Citizens Redistricting Commission shall take into consideration topography, geography, cohesiveness, contiguity, integrity and compactness of territory of the districts, as well as existing communities of interest as defined below, and shall utilize easily understood district boundaries such as major traffic arteries and geographic boundaries to the extent they are consistent with communities of interest. The geographic integrity of a neighborhood or community of interest shall be respected to the extent possible without violating State or Federal law or the requirements of this Section. For purposes of this subsection "communities of interest" shall mean the following: A community of interest is a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Such shared interests include but are not limited to those common to areas in which the people share similar living standards, use the same transportation facilities, have similar work opportunities, or have access to the same media of communication relevant to the election process, as well as neighborhoods, students, organized student housing, shared age, and racial demographics. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

(3) Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.

(4) The Citizens Redistricting Commission may consider existing district boundaries as a basis for developing new district boundaries. Should the Commission deviate substantially in its redistricting plan from the previous district boundaries in order to reflect population growth, protect communities of interest or better comply with the redistricting criteria in the Charter, it shall issue a report explaining its reasons for doing so.

(5) The Citizens Redistricting Commission shall not consider the residence of sitting Councilmembers.

(6) If the Citizens Redistricting Commission adopts a redistricting plan that removes the residence of a sitting Councilmember from his or her then-current district, that Councilmember shall continue to serve on the City Council until the expiration of his or her term.

(g) Severability.

Should any provision of this Section be held invalid, the remainder of this Section shall not be affected thereby, and such word, phrase, sentence, part, section, subsection, or other portion shall be severable, and the remaining provisions of this Section shall remain in full force and effect. The voters hereby declare that they would have passed this Section and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more, subsections, sentences, clauses or phrases had been declared invalid.

Section 10. Eligibility of Mayor, Auditor, Councilmember, and School Director.

To be eligible for the office of Mayor, Auditor, Councilmember, or School Director, a person must, at the time of filing nomination papers for the office, be a citizen of the United States and a qualified elector of the State of California and of the City of Berkeley. Any person who has served as a voting member of the Citizens Redistricting Commission shall be ineligible to file nomination papers for the office of Council member in his or her district of residence or Mayor in the next occurring general municipal election in which said office appears on the ballot after his or her service on the Commission terminates under Sections 9.5(b)(2) or 9.5(e).

Section 11. (repealed)

Section 12. Vacancy in Office of Mayor or Councilmember.

(1) If a vacancy shall occur in the office of Mayor or Councilmember:

(a) If the unexpired term is less than one year, the remaining members of the Council shall elect a successor with requisite qualifications to fill the vacancy for the unexpired term. Vacancies shall be filled only at a regular meeting of the Council after reasonable notice of intent to fill the vacancy has been given to all remaining members of the Council by any Councilmember by placement on the agenda. Should the Council fail to fill any vacancy within 60 days after its occurrence, the Council shall, within 10 days, order a special municipal election, to be held not less than 60 nor more than 90 days after the date of the order; provided, however, if any regular statewide or general municipal election is to be held in the City not more than 180 days or less than 80 days from the date of the occurrence of the vacancy in the case of a regular statewide election, or not more than 180 days nor less than 60 days from the date of the occurrence of the vacancy in the case of a general municipal election, then the vacancy shall not be filled by the Council nor by special election, but at said regularly occurring election.

(b) If the unexpired term is for one year or more, the vacancy shall be filled by special election, to be called by the Council within ten days after the occurrence of the vacancy and to be held not less than 60 nor more than 90 days after the date of the order; provided, however, if any regular statewide or general municipal election is to be held in the City not more than 180 days nor less than 80 days from the date of the occurrence of the vacancy in the case of a regular statewide election, or not more than 180 days nor less than 60 days from the date of the occurrence of the vacancy in the case of a general municipal election, then the vacancy shall not be filled by special election, but at said regularly occurring election.

(2) If at any municipal election a Mayor or the required number of Councilmembers be not elected by reason of a tie vote among any of the candidates therefor, then the Council, after the qualification of the persons, if any, elected thereto at such election, shall appoint one of the persons receiving such tie vote to fill such office. In such case the person so appointed shall hold office, subject to the provisions of the Recall, to and including the April 30th following the next general municipal election.

Section 12.1. Vacancy in office of Auditor.

If a vacancy shall occur in the office of Auditor, the Council shall appoint a person to fill such vacancy. If at any municipal election an Auditor be not elected by reason of a tie vote among any of the candidates therefor, then the Council, after the qualification of the persons, if any, elected thereto at such election, shall appoint one of the persons receiving such tie vote to fill such office as in the case of a vacancy therein. In such case the person so appointed shall hold office, subject to the provisions of the Recall, to and including the June 30th following the next general municipal election.

Section 12.2. Vacancy in Office of Rent Stabilization Board Commissioner.

(1) If a vacancy shall occur in the office of Rent Stabilization Board Commissioner:

(a) An election shall be held at the next feasible general municipal election to elect a successor, as provided in subsection (b). In the interim, the remaining members of the Rent Stabilization Board shall appoint a successor with requisite qualifications to fill the vacancy until such election. Such interim appointment shall be made only at a regular meeting of the Rent Stabilization Board after reasonable notice of intent to fill the vacancy has been given to the remaining members of the Board by any Rent Stabilization Board Commissioner by placement on the Rent Stabilization Board agenda. The term of such appointed Commissioner shall expire on November 30 of the year that an election is held to elect a successor, as provided in subsection (b).

(b) If the vacancy occurs within the first two years of the four year term of the office being vacated, and there is sufficient time to nominate and elect a successor at the next general municipal election, the Commissioner elected shall serve the remaining two years of the term of the vacated office. At any general municipal election that includes an election to fill the unexpired term of a Rent Stabilization Board Commissioner, the Commissioner elected with the fewest votes shall serve the remaining two years of the unexpired term. If the vacancy occurs after the first two years of the four year term of the vacated office, the election for that office shall be held at the next general municipal election as required by this Charter even if the office was not vacant.

(2) If at any municipal election the required number of Rent Stabilization Board Commissioners are not elected by reason of a tie vote among any of the candidates, then the Rent Stabilization Board, after the qualification of the persons, if any, elected at the election, shall appoint the necessary number of the persons receiving the tie vote to fill any office vacant by reason of the tie vote. In this case, any person so appointed shall hold office, subject to the provisions of a recall, to and including November 30, following the next general municipal election.

Section 13. Vacancy in office of School Director.

If a vacancy shall occur in the office of School Director, the Board of Education shall appoint a person to fill such vacancy. If at any municipal election a School Director be not elected by reason of a tie vote among any of the candidates therefor, then the Board of Education, after the qualification of the persons, (if any, elected thereto at such election, shall appoint one of the persons) receiving such tie vote, to fill such office as in case of a vacancy therein. In each case the person so appointed shall hold office, subject to the provisions of the Recall, to and including the April 30th following the next general municipal election.

Section 14. Mayor's term of office.

The Mayor shall hold office for a term of four years from and after the first day of December after his or her election is certified by the City Clerk and until a successor is elected and qualified. However, the term of the Mayor elected in the November 2006 general municipal election shall expire on the first day of December, 2008 after a successor is elected in the November, 2008 general municipal election. Thereafter, mayoral elections shall coincide with presidential elections.

Section 14.1. Auditor's term of office.

The Auditor shall hold office for a term of four years from and after the first day of December after his or her election is certified by the City Clerk and until a successor is elected and qualified. However, the term of the Auditor elected in the April, 1979 general municipal election shall expire on the first day of December, 1982 after a successor is elected in the November, 1982 general municipal election.

Section 15. Councilmember's term of office.

Except as provided in this section, Councilmembers shall hold office for a term of four years from and after the first day of December after their election is certified by the City Clerk and until their successors are elected and qualified. However, the terms of the Councilmembers elected in the November, 1994 general municipal election shall expire on the first day of December, 1996 after their successors are elected and qualified in the November, 1996 general municipal election. In addition, four of the eight Councilmembers elected at the November, 1996 general municipal election shall serve two year terms which shall expire on the first day of December, 1998 after their successors are elected and qualified in the November, 1998 general municipal election. The remaining four Councilmembers elected at the November, 1996 general municipal election shall serve four year terms which shall expire on the first day of December 2000, until their successors are elected and qualified in the November 2000 general municipal election.

At the City Council meeting which occurs immediately after the effective date of this charter amendment establishing four year terms commencing with the November 1996 general municipal election, the City Clerk shall conduct a drawing by lot to determine the four Council districts in which Councilmembers shall serve the two year terms which expire on the first day of December, 1998. In the remaining Council districts, the Councilmembers from those districts shall serve four year terms commencing with the November, 1996 general municipal election. Commencing with the November, 1998 general municipal election, and at each general municipal election thereafter, each Councilmember elected at each general municipal election shall serve a four year term.

Section 16. School Director's term of office.

The School Directors shall hold office for a term of four (4) years from and after the first day of December after their election and until their successors are elected in the November, 1982 general municipal election, and the terms of the School Directors elected in the April, 1981 general municipal election shall expire on the first day of December, 1984 after their successors are elected in the November, 1984 general municipal election.

At the general municipal election of November, 1982, and at each second general municipal election thereafter, three School Directors shall be elected; and at the general municipal election of November, 1984, and at each second general municipal election thereafter, two School Directors shall be elected.

Section 17. Bonds.

The Mayor, the Auditor, each Councilmember and each School Director shall, before entering upon the duties of their respective offices, be covered by an official bond with a surety company as sole surety.

The Council shall, by ordinance, fix the form, conditions, terms and amounts of the official bond or bonds of all officers and employees of the City who are required by this Charter or by ordinance to be covered by such bond or bonds.

A blanket or master official bond, or other form of blanket or master bond may be used which shall provide coverage on more than one officer or employee.

All bonds shall be approved by the City Attorney as to form and shall be filed with the City Clerk.

The premium on any official bond or bonds providing coverage for any officer or officers or employee or employees and executed by a corporate surety shall be paid by the City.

Section 18. Oath of office.

Every officer of the City, including the City Manager, before entering upon the duties of their respective offices, shall take the oath of office as provided for in the Constitution of this State, and shall file the same with the City Clerk.

Section 19. Salaries.

The Councilmembers shall receive remuneration for the performance of their official duties at the rate of up to $1,800 per month, and the Mayor shall receive up to $2,850 per month, effective the Council term beginning in December 1998. Such amount shall be adjusted upward by the increase in the cost of living for the San Francisco Bay Area as verified by official United States economic reports. Either the Mayor or any Councilmember may, at his or her sole discretion, reduce the remuneration paid himself or herself. In any such case, the difference between the reduced amount actually paid to such Mayor or Councilmember and the amount of remuneration authorized by this Article shall be appropriated as part of the budget of the Mayor or Councilmember taking the voluntary reduction in remuneration and such differential may be expended for any purpose otherwise authorized for the expenditure of sums so budgeted. If the Mayor or any member of the Council is absent from one or more regular meetings of the Council during any calendar month, unless excused by the Council in order to attend to official business of the City, or unless excused by the Council as a result of illness from attending no more than two regular meetings in any calendar year, he or she shall be paid for each regular meeting attended during such months in an amount equal to the monthly remuneration divided by the number of regular meetings held during such month.

The Auditor shall receive such salary as may be fixed by the Council, provided, however, that said salary shall not be less than $3,600.00 per annum.

The School Directors shall receive remuneration for the performance of their official duties at the rate of $1500 per month, effective the School Board term beginning in December, 2002. Any School Director absent from one or more regular meetings of the Board of Education during any calendar month unless excused by the Board in order to attend to official business of the Board, shall be paid for each regular meeting of the Board attended during such month an amount equal to the monthly remuneration divided by the number of regular meetings held during such month. Any School Director may, at his or her sole discretion, reduce the remuneration paid himself or herself. In any such case, the difference between the reduced amount actually paid to such Director and the amount of remuneration authorized by this Article may be used by such Director for the expenses of conducting official business. The City Council is authorized and directed to increase the remuneration authorized by this chapter for School Directors by the cost of living in the immediate San Francisco Bay Area.

Section 20. Administering oaths, subpoenas.

The City Council or, when authorized by ordinance, any subcommittee of the Council, Board, Commission or Committee, shall have the power to subpoena witnesses, take testimony under oath and require the production of records by subpoena. Every elected officer, every department head and every member of any such Board, Commission or Committee, when authorized by such Board, Commission or Committee, shall have the power to administer oaths and affirmations. The Chief of Police must, on request of any such body, detail a police officer or officers to serve such subpoena. Any person so subpoenaed who neglects or refuses to appear, to produce any records or refuses to testify or answer any question, which a majority of such body shall decide to be proper and pertinent, shall be subject to contempt proceedings brought in accordance with the general laws of the State.

ARTICLE VI
THE MAYOR

Section 21. The Mayor's powers.

The Mayor shall be the chairman of the Council, and shall preside at the meetings of the Council and perform such other duties consistent with his or her office as may be imposed by the Council. He or she shall be entitled to a vote on all matters coming before the Council, but shall possess no veto power. He or she shall be recognized as the official head of the City for all ceremonial purposes, by the courts for the purposes of serving civil processes, and by the Governor for military purpose. He or she may use the title of Mayor in any case in which the execution of contracts or other legal instruments in writing, or other necessity arising from the general laws of this State, may so require; but this shall not be construed as conferring upon him or her administrative or judicial functions or other powers or functions of a Mayor, under the general laws of the State. The powers and duties of the Mayor shall be such as are conferred upon him or her by this amendment, together with such others as may be conferred by the Council in the pursuance of the provisions of this amendment, and no others.

Section 22. Mayor pro tempore.

During the temporary absence or disability of the Mayor, the Vice-President of the Council shall act as Mayor pro tempore. In case of the temporary absence or disability of both the Mayor and Vice-President the Council shall elect one of its members to be Mayor pro tempore. In case of vacancy in the office of Mayor, the Vice-President of the Council shall act as Mayor until such vacancy can be filled as provided in this Charter.

Section 23. (repealed)

Section 24. Mayor to have City's books examined.

The Mayor shall employ, for a stipulated compensation, at the beginning of each fiscal year, a certified public accountant, who shall examine, at least once during the year, the books, records and reports of the Auditor and of all officers and employees who receive or disburse City moneys, and the books, records and reports of such other officers and departments as the Mayor may direct, and annually, after the close of each fiscal year, make a report of such examination. Such report shall be presented to the Mayor and copies thereof shall be filed with the Auditor, City Manager and City Clerk. Such accountant shall have unlimited privilege of investigation, to examine under oath or otherwise all officers, clerks and employees of the City, and every such officer, clerk and employee shall give all required assistance and information to such accountant, and submit to him or her for examination such books and papers of his or her office as may be requested, and failure to do so shall be deemed and held to be a forfeiture and abandonment of his or her office. The Council shall provide for the payment of the services of such accountant.

Sections 25 and 26. (repealed)

ARTICLE VII
EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS

Section 27. The City Manager.

The Council shall appoint an officer known as the City Manager, who shall be the administrative head of the Municipal Government and who shall be responsible for the efficient administration of all departments. The City Manager shall receive such salary as may be fixed by the Council. The City Manager shall be chosen by the Council without regard to his or her political beliefs, and solely on the basis of executive and administrative qualifications.

Except as otherwise provided in this Charter, the City Manager shall be appointed for an indefinite period, and cannot be removed from office except by a vote of five members of the Council. The City Manager shall serve at the will of the Council, and in case of removal may demand written charges and a public hearing thereon before the Council, prior to the date upon which this final removal is to take place; but the decision and action of the Council upon such hearing shall be final, and pending such hearing the Council may suspend the City Manager from duty.

During the absence or disability of the City Manager, the Council shall designate some properly qualified person to perform his or her duties. Whenever a vacancy occurs in this office, the Council shall immediately proceed to appoint a City Manager.

Section 28. Powers and duties of City Manager.

The City Manager shall be responsible to the Council for the implementation of Council policy and for the efficient administration of all the affairs of the City. The City Manager shall have the following powers and duties:

(a) To see that all laws and ordinances are duly enforced, and the City Manager is hereby declared to be beneficially interested in their enforcement and to have the power to sue in the proper court to enforce them.

(b) Except as otherwise provided in this Charter, to appoint, discipline or remove all officers and employees of the City, subject to the Civil Service provisions of this Charter. The appointment of a department head by the City Manager shall become effective upon affirmative vote of five members of the Council. Neither the Council nor any of its committees or members dictate or attempt to dictate, either directly or indirectly, the appointment of any specific person to office or employment by the City Manager. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Manager, either publicly or privately.

(c) To exercise control over all departments, divisions and bureaus of the City Government and over all the appointive officers and employees thereof.

(d) Except when the Council is considering the City Manager's removal, to attend all regular meetings of the Council and its committees, with the right to take part in discussions, but without power to vote. The City Manager shall receive notice of all special meetings.

(e) To recommend to the Council for adoption such measures and ordinances as may be deemed necessary.

(f) To make investigations into the affairs of the City, or any department or division thereof, or any contract, or the proper performance of any obligation running to the City.

(g) To prepare and submit to the Council for its consideration the proposed annual budget.

(h) To keep the Council at all times fully advised as to the financial condition and needs of the City.

(i) To submit to the Council, at least once each month, a list of all claims and bills approved by the City Manager for payment.

(j) To devote full time to the duties and interests of the City.

(k) To perform such other duties as may be prescribed by this Charter or be required by ordinance or resolution of the Council.

(l) The City Manager shall be charged with the general supervision of all public utility companies insofar as they are subject to municipal control; the City Manager shall keep fully informed as to their compliance in all respects with the law, and shall see that all franchises granted by the City are faithfully observed. The City Manager shall cause to be instituted such actions or proceedings as may be necessary to prosecute public utility companies for violations of law, and revoke, cancel or annul all franchises that may have been granted by the City to any person, firm or corporation, which have become forfeitable in whole or in part, or which for any reason are illegal and void and not binding upon the City. The City Attorney, on demand of the City Manager, must institute and prosecute the necessary actions to enforce the provisions of this subsection.

Section 29. Probation period.

The Council may by ordinance prescribe a probation period for a City Manager or department head appointed after the effective date of this section. At the end of the probation period the City Manager or department head may be retained only upon affirmative vote of five members of the Council.

Section 30. Library trustees.

Five Library Trustees shall be appointed and may be removed by a vote of five members of the Council and one of such trustees must be appointed by the Council from its own members.[1] The Board of Library Trustees shall have power to manage the library and to appoint, discipline and dismiss all officers and employees of the library.

Section 31. Creation of departments and job classifications.

The Council shall have power by ordinance to create and discontinue departments and by resolution establish job classifications to prescribe the duties thereof.

Section 32. Compensation of officers and employees.

The Council shall fix the compensation of all officers and employees on recommendation of the City Manager, except as in this Charter otherwise provided. No officer or employee shall be allowed any fees, perquisites, emoluments, rewards or compensation, aside from the salary or compensation as fixed by the Council, but all fees received by him or her in connection with his or her official duties shall be paid into the City Treasury.

[1] "…of the Council and one of such trustees must be appointed by the Council from its own members" was inadvertently omitted from the 1994 through 2004 printings of the Charter due to a clerical error. The complete sentence was corrected in November, 2005.

Section 33. Reports of departments.

Each department and commission shall annually on such date as may be fixed by the Council, render to the City Manager and the Council a full report of all operations of such department or commission for the year.

Section 34. Reports to be published.

The Council shall provide for the publication of the annual report of the City Manager.

Section 35. Councilmembers to hold no other office.

No member of the Council shall hold any other position, office or employment, the compensation of which is paid by the City, except as otherwise provided in this Charter.

No member of the Council, during the term for which he or she has been elected or appointed, or within one year after the term's expiration, shall be appointed to the office of the City Manager or as a department head.

No member of the Council, during the term for which he or she has been elected or appointed, or within one year after the term's expiration, shall be appointed to any other position, office or employment the compensation of which is paid by the City, if such other position, office or employment was created or the compensation increased by the Council while he or she was a member.

This section shall not prevent the appointment of any member of the Council to any non-compensated position, office or employment or from being appointed to fill a vacancy in the office of Mayor.

Section 36. Officers not to be interested in contracts or franchises.

No officer or employee shall be directly or indirectly interested in any contract, work or business of the City, or in the sale of any article, the expense, price or consideration of which is paid for from the treasury or by assessment levied by any act or ordinance; nor in the purchase or lease of any real estate or other property belonging to the City or which shall be sold for taxes or assessments or by virtue of legal process at the suit of the City. No officer shall be in the employ of any public service corporation in the City or of any person having any contract with the City or of any grantee of a franchise granted by the City.

Provided, however, the prohibitions in this Section contained shall not apply to the following:

(a) Members of advisory Boards, Commissions, or Committees of the City, who serve without salary or other compensation; provided, however members of Boards, Commissions or Committees which perform functions other than advisory functions shall not be included within this exception.

(b) Officers or employees of the State of California or of any department, division, or constitutionally created agency thereof.

Any contract or agreement made in contravention of this Section shall be void.

Any violation of the provisions of this Section shall be deemed a misdemeanor.

The Council shall enforce the provisions of this Section by appropriate legislation.

Section 37. Non-discrimination.

No appointment to position under the City Government shall be made or be withheld by reasons of any religious or political opinions or affiliations or political services, or by reason of sex, race, color, national origin or ancestry, and no appointment to or selection for or removal from any office of employment, and no transfer, promotion, reduction, reward or punishment shall be in any manner affected by such opinions, affiliations or services, or by sex, race, color, national origin or ancestry.

Section 37a. Residency requirement for sworn members of the fire department.

Any sworn member of the fire department who is hired subsequent to January 1, 1995, may not reside greater than a radius of forty (40) air miles from the boundaries of the City of Berkeley.

ARTICLE VIII
THE COUNCIL

Section 38. The Council, the governing body.

The Council shall be the governing body of the municipality. It shall exercise the corporate powers of the City, and, subject to the express limitations of this Charter, shall be vested with all powers of legislation in municipal affairs adequate to a complete system of local government consistent with the Constitution of the State.

Section 39. President and Vice-President.

The Mayor shall be President of the Council and shall preside at its meetings when present. The Council shall elect one of its number to be Vice-President.

Section 40. Meetings of Council.

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

Section 41. Meetings to be public.

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

Section 42. Quorum.

A majority of the members of the Council shall constitute a quorum for the transaction of business.

Section 43. Rules of proceeding.

The Council shall establish rules for its proceedings.

Section 44. Ordinances, resolutions and motions.

(1) Action by Council.

The Council may act by ordinance, resolution or motion.

(2) Ayes and noes.

The ayes and noes shall be taken upon the passage of all ordinances, resolutions and motions and entered upon the journal of the proceedings of the Council.

(3) Majority vote of Council.

No ordinance, resolution or motion shall be passed or become effective without receiving the affirmative votes of at least five members of the Council.

(4) Subject and title.

Every ordinance or resolution, except an ordinance making appropriations, shall be confined to one subject, which shall be clearly expressed in the title, and every ordinance making appropriations shall be confined to the subject of appropriations. If any subject shall be embraced in an ordinance which shall not be expressed in its title, such ordinance shall be void only as to so much thereof as shall not be expressed in its title.

(5) Enacting clause of ordinances.

The enacting clause of all ordinances passed by the Council shall be in these words: "Be it ordained by the Council of the City of Berkeley as follows:".

(6) Requirements of an ordinance.

To constitute an ordinance a bill must before final action thereon be publicized as provided in Article III Section 5(2) with the ayes and noes for two days, and, in case of any amendment being made thereto before the final adoption of the ordinance, must in like manner be republicized as amended for not less than one day.

(7) Ordinance required in certain cases.

No action providing for the acquisition, sale or lease of public property; for the levying of any tax or assessment; for the granting of any franchise; for establishing or changing fire limits; or for the imposing of any penalty, shall be taken except by ordinance; provided, that such exceptions be observed as may be called for in cases where the Council takes action in pursuance of a general law of the State.

(8) Reconsideration.

When any bill is put upon its final passage and fails to pass, and a motion is made to reconsider, the vote upon such motion shall not be taken except at a meeting of the Council held not less than one week after the meeting at which such motion was made.

(9) Signing and attesting.

All resolutions and ordinances shall be signed by the Mayor and attested by the City Clerk.

(10) Revision and amendment.

No ordinance shall be revised, re-enacted or amended by reference to its title only; but the ordinance to be revised or re-enacted, or the section or sections thereof to be amended, or the new section or sections to be added thereto, shall be set forth and adopted in the method provided in this section for the adoption of ordinances.

(11) Repeal.

No ordinance nor section thereof shall be repealed except by ordinance adopted in the manner provided in this section.

(12) (repealed)

(13) Record of City ordinances.

A true and correct copy of all ordinances shall be kept and certified to by the City Clerk in a book marked "City Ordinances." Such record copy, with such certificate, or the original ordinance, shall be prima facie evidence of the contents of the ordinance and of the due passage and publication of the same, and shall be admissible as such in any court or proceeding. Such records shall not be filed in any case, but shall be returned to the custody of the City Clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of an ordinance in the usual way.

Section 45. (repealed)

Section 46. Publication of Charter and ordinances.

The Council, during the first year after its organization under this Charter and from time to time thereafter, shall cause all ordinances at such time in force to be classified under appropriate heads, and, together with or separately from the Charter of the City and such provisions of the Constitution and laws of the State as the Council may deem expedient, to be published in book form.

ARTICLE IX
POWERS OF THE CITY AND OF THE CITY COUNCIL

Sections 48 and 49. (repealed)

ARTICLE X
FINANCE AND TAXATION

Section 50. 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 51. Tax system.

The Council shall by ordinance provide a system for the assessment, levy and collection of all City taxes not inconsistent with the provisions of this Charter.

The Council shall have power to avail itself by ordinance of any law of the State of California now or hereafter in force and comply with the requirements thereof whereby assessments may be made by the Assessor of the County in which the City of Berkeley is situated and taxes collected by the Tax Collector of said County for and on behalf of the City of Berkeley. Other provisions of this Charter concerning the assessment, levy and collection of taxes shall be subject to the provisions of any such ordinance while the same shall be in force.

Section 52. Department estimates of annual requirements.

On such date in each year as shall be fixed by the City Manager, the heads of departments, offices, boards and commissions, shall send to the City Manager a careful estimate, in writing, of the amounts, specifying in detail the objects thereof, required for the business and proper conduct of their respective departments, offices, boards and commissions, during the next ensuing fiscal year.

Section 53. Annual estimate of City's requirements and revenue.

On or before the first Monday in May in each year, or on such date in each year as shall be fixed by the Council, the City Manager shall submit to the Council a tentative budget which shall contain an estimate of the probable expenditures of the City Government for the next ensuing fiscal year, stating the amount required to meet the interest and sinking funds for the outstanding funded indebtedness of the City, and the wants of all the departments of the municipal government in detail, and showing specifically the amount necessary to be provided for each fund and department; also 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 54. Annual Budget.

The Council shall meet annually prior to fixing the tax levy, and after considering the tentative budget submitted by the City Manager shall make a final budget of the estimated amounts required to pay the expenses of conducting the business of the City Government for the next ensuing fiscal year. The final budget shall be prepared in such detail as to the aggregate sum and the items thereof allowed to each department, office, board or commission, as the Council may deem advisable. The Council may also provide, in the final budget, an emergency fund in such amount as it may deem advisable, which said fund shall not be allotted to any particular department, office, board or commission except as hereinafter provided.

And the Council at the same time shall pass an annual appropriation ordinance, which shall be based upon the budget submitted by the City Manager, and made up as herein provided. The total amount of appropriations shall not exceed the estimated revenues of the City.

Before the annual appropriation ordinance has been passed, the Council may make temporary appropriations for current department expenses, chargeable to the appropriations of the year when passed, to an amount sufficient to cover the necessary expenses of the various departments until the annual appropriation is in force. No other liabilities shall be incurred by any officer or employee of the City except in accordance with the provisions of the annual appropriation ordinance, or under continuing contracts and loans authorized under the provisions of this Charter.

At any meeting after the passage of the appropriation ordinance, the Council by a vote of six of its members may amend such ordinance, so as to authorize the transfer of unused balances appropriated for any purpose, including the emergency fund, to another purpose, or to appropriate available revenues not included in the annual budget.

Section 55. (repealed)

Section 56. Annual tax levy.

The Council must finally adopt, not later than the first day of August, an ordinance levying, subject to the provisions of this Charter, a rate of taxation sufficient to raise the amount estimated to be required in the annual budget for support of general debt obligations of the City and other voter approved obligations consistent with Article XIII(a) of the Constitution of the State of California.

Section 57. (repealed)

Section 58. Bond tax. Library tax.

The Council shall have power to levy and collect taxes, in addition to the taxes herein authorized to be levied and collected, sufficient to pay the interest and maintain the sinking fund of the bonded indebtedness of the City and to provide for the establishment and support of free public libraries and reading rooms.

Section 59. (repealed)

Section 60. Tax liens.

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

Section 61. Duties of the Auditor.

The Auditor shall have the authority and responsibility to conduct performance and financial audits or special studies of all phases of the City of Berkeley government in accordance with government auditing standards. Such audits may include financial, compliance, efficiency and economy, and program results auditing. The Auditor shall consult with the Mayor, City Council, and City Manager regarding the selection of audit entities, but the final decision of what to audit shall remain with the Auditor. The Auditor shall furnish the City Council with a planned audit schedule by the beginning of each fiscal year. The Auditor may modify the audit schedule as necessary and will notify the City Council of such modifications.

The Auditor shall have unrestricted access to employees, officials, records and reports, and as necessary, require all branches, departments, and officials of government to produce documents, files, and other records and information.

Audit reports completed by the Auditor shall be provided to the Council and made available to the public. The Auditor shall retain workpaper files concerning all audit reports issued for at least three years.

Funds sufficient to carry out the responsibilities specified herein shall be provided (subject to available resources).

Payment by the City, excepting redemption of bonds and interest coupons, shall be made only upon vouchers certified by the head of the appropriate department and approved by the City Manager, and by means of warrants on the City Treasury, or by checks drawn upon deposits maintained in a bank or banks, issued by the Auditor and countersigned by the City Manager. The Auditor shall examine all payrolls, bills and other claims and demands against the City, and shall issue no warrant or check for payment unless he finds the claim is in proper form, correctly computed and duly certified; that it is justly and legally due and payable; that a budget appropriation has been made therefor which has not been exhausted, or that the payment has been otherwise legally authorized; and that there is money available to make payment. He may require any claimant to make oath as to the validity of the claim. He may investigate any claim, and for such purpose may examine witnesses under oath; and if he finds it fraudulent, erroneous or otherwise invalid, he shall not issue a warrant or check therefor. No suit shall be brought on any claim for money against the City or of any officer, board or commission of the City until a demand for the same has been presented and rejected in whole or in part. If rejected in art, suit may be brought to recover the whole. Nor shall suit be brought against the City or any officer, board or commission thereof upon any claim or demand which has been approved and audited; provided, that nothing therein shall be construed so as to deprive the holder of any demand of his right to resort to writ of mandamus or other proceeding against the City Council or any officer, board or commission to compel him or it to act upon such claim or demand, or to pay the same when audited.

Section 62. Money to meet warrants or checks.

When the running expenses of the City have been placed on a cash basis, warrants payable on demand shall be drawn upon the Treasurer, or against any funds in his or her hands, or checks drawn upon deposits maintained in a bank or banks, only when at the time of the drawing and issuing of such warrants or checks there shall be sufficient money in the appropriate fund in the treasury or bank or banks to pay said warrants or checks.

Section 63. Disposition of money collected.

Every officer collecting or receiving any moneys belonging to or for the use of the City shall settle for the same with the Treasurer on or before the last day of each month, or at more frequent intervals as may be directed by the Council, and immediately pay all the same into the treasury, on the order of the Auditor, for the benefit of the funds to which such moneys severally belong. When the last day of the month falls upon Sunday or legal holiday, the said payments shall be made on the next preceding business day. The Council may provide, in its discretion, for the deposit of the City moneys in banks in accordance with the State law.

Section 64. Uniform accounts and reports.

The Council shall prescribe uniform forms of accounts, which shall be observed by all officers and departments of the City which receive or disburse moneys.

ARTICLE XI
PUBLIC WORKS AND SUPPLIES

Section 65. Form of contracts.

All contracts shall be drawn under the supervision of the City Attorney. All contracts must be in writing, executed in the name of the City of Berkeley by an officer or officers authorized to sign the same, and must be countersigned by the Auditor, who shall number and register the same in a book kept for that purpose.

Section 66. Progressive payments on contracts.

Any contract may provide for progressive payments, if in the ordinance or resolution authorizing or ordering the work permission is given for such a contract. But no progressive payments can be provided for or made at any time which, with prior payments, if there have been such, shall exceed in amount at that time ninety per cent of the value of the labor done and the materials used up to that time, and no contract shall provide for or authorize or permit the payment of more than ninety per cent of the contract price before the completion of the work done under said contract and the acceptance thereof by the proper officer, department or board.

Section 67. Expenditures in excess of the limitation established by ordinance.

(a) Each specific improvement and each purchase of supplies, equipment or materials the expenditure for which exceeds an amount set by ordinance, as provided for in Section 67(b) hereof, shall be done by contract authorized by resolution of the Council and said contract shall be let to the lowest responsible bidder after advertising for sealed proposals for five (5) consecutive days as required by this Charter. Such notice shall give a brief description of the work to be done or the supplies, equipment or materials to be purchased. The Council may reject any and all bids. If all bids are so rejected or if no bids are received, the Council may readvertise for new bids, or authorize the City Manager to negotiate in the open market for a contract at a reasonable price, or authorize the City Manager to purchase in the open market, or authorize the City Manager to have the work performed by City employees.

(b) The ordinance establishing the amount for which each specific improvement or purchase shall be approved by the City Council shall not be adopted or amended except upon a 6/9 vote of the City Council.

Section 67.1. Work performed by City employees.

The provisions of Section 67 of this Charter shall not apply to any work which is being performed by City employees with City materials and with equipment owned or rented by the City.

Section 67.2.

The Council may, by resolution, authorize the purchase of any personal property from the United States of America or any State, municipality or other public corporation or agency without calling for bids as required by Section 67, and may, in said resolution, authorize any municipal officer to submit a bid for said personal property, or to make a down payment or payment in full that may be required in connection with such bidding or sale.

Any provisions of this Charter which are inconsistent with the provisions of this Section are suspended to the extent that such provisions are inconsistent herewith.

Section 67.3. Purchases from utilities.

The provisions of Section 67 of this Charter shall not apply to the purchases from any utility publicly owned or regulated by the Public Utilities Commission of the State of California or its successor.

Section 67.4. Emergencies.

(a) The provisions of Section 67 of this Charter shall not apply to work done or purchases made for that which is deemed by the City Manager to be an actual emergency and of urgent necessity for the preservation of life, health or property; provided, that any such expenditure in excess of an amount set by ordinance, as provided for in Section 67.4(b), must be authorized by resolution of the Council.

(b) The ordinance establishing the maximum expenditure which the City Manager may make in an actual emergency shall not be adopted or amended except upon a 6/9 vote of the City Council.

Section 67.5. Other expenditures in excess of the limitation established by ordinance.

(a) Except as specifically authorized in Sections 67.1, 67.2 or 67.3, any action providing for the expenditure of public money the amount of which exceeds an amount set by ordinance, as provided for in Section 67.5(b), shall be authorized by resolution of the Council or shall be done by contract authorized by resolution of the Council.

(b) The ordinance establishing the amount for which each expenditure authorized in Section 67.5(a) must be approved by the City Council shall not be adopted or amended except upon a 6/9 vote of the City Council.

Section 68. Publication.

The Council may in its discretion establish the manner of publicizing all matters required by this Charter to be publicized including any matter required by Section 44(6) of this Charter.

Sections 69 and 70. (repealed)

Section 71. Hours of labor.

The maximum time of labor or service required of any laborer, workman or mechanic employed upon any municipal work, whether so employed directly by the City and its officers, or by a contractor or sub-contractor, shall be eight hours during any one calendar day.

Section 72. Collusion with bidder.

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

Section 73. Collusion by bidder.

If at any time it shall be found that the person to whom a contract has been awarded has, in presenting any bid or bids, colluded with any other party or parties for the purpose of preventing any other bid being made, then the contract so awarded shall be null and void, and the Council shall advertise for a new contract for said work, or provide for such public work to be done by the Department of Public Works.

ARTICLE XII
FRANCHISES

Section 74. Franchises to operate.

No person, firm or corporation shall exercise any franchise right or privilege mentioned in this Article, except insofar as he, she, or it may be entitled to do so by direct authority of the Constitution of the State of California or of the United States, in the City of Berkeley, unless he, she, or it shall have obtained a grant therefor in accordance with the provisions of this Article of this Charter and in accordance with the procedure prescribed by ordinance. Nothing in this Article contained shall be construed to invalidate any lawful franchise heretofore granted nor to necessitate the obtaining of a new franchise for a use for which a franchise holder shall have a valid unexpired franchise.

Section 75. Authority to grant franchises.

The City Council is empowered to grant by ordinance a franchise to any person, firm or corporation, whether operating under an existing franchise or not, to furnish the City and its inhabitants with transportation, communication, terminal facilities, water, light, heat, power, refrigeration, storage or any other public utility or service, or to use the public streets, ways, alleys and places, as the same may now or may hereafter exist, in connection therewith.

Section 76. Franchise terms, conditions and procedures.

The City Council shall, by ordinance, prescribe the terms and conditions under which franchises will be granted, subject to the provisions of this Charter, and the procedure for granting franchises; providing, however, that such procedural ordinance or ordinances shall make provisions for the giving of notice of franchise applications, for protests against the granting of such franchises and for public hearings on such applications.

The City Council, in granting franchises, shall prescribe the terms and conditions of such franchises in accordance with the applicable provisions of this Charter and any ordinance adopted pursuant thereto, and may in such franchise impose such other and additional terms and conditions not in conflict with said Charter or ordinances, whether governmental or contractual in character, as in the judgment of said Council are in the public interest or as the people, by initiative, indicate they desire to have so imposed.

Section 77. Method of granting franchise.

The City Council may grant a franchise without calling for bids or may, in its discretion, advertise for bids for the sale of a franchise upon a basis, not in conflict with the provisions of this Article, to be set out in the advertisement for bids and notice of sale.

Section 78. Term of franchise.

Every franchise shall be either a fixed term not to exceed twenty-five (25) years, or for an indeterminate period. If for a fixed term, the franchise shall state the term for which it is granted; if indeterminate, it shall set forth the terms and conditions under which it may be terminated.

Section 79. Purchase or condemnation by City.

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

Section 80. Article not applicable in certain cases.

Nothing in this Article shall be construed as applying to spur or side tracks provided for in subdivision fifty-two (52) of section forty-nine (49) of this Charter, nor to require the operators of refrigeration or storage facilities or the carriers of freight or passengers not operating over a fixed route, or other public utilities or services not specifically listed in section seventy-five (75), to obtain a franchise to operate within the City unless required so to do by ordinance of the City of Berkeley.

ARTICLE XIIA
OFF-STREET VEHICULAR PARKING

Sections 81 through 91. (repealed)

ARTICLE XIII
THE INITIATIVE

Section 92. Direct legislation.

The qualified voters of the City shall have power through the initiative and otherwise, as provided by this Charter and the general laws of the State, to enact appropriate legislation to carry out and enforce any of the powers of the City or any of the powers of the Council.

(1) Any proposed ordinance or charter amendment may be submitted to the Council by a petition signed by registered electors of the City equal in number to the percentage hereinafter required.

(2) Provisions of Article III apply.

The provisions of Article III respecting the forms and conditions of the petition and the mode of verification and certification and filing shall be substantially followed, with such modification as the nature of the case requires.

(3) Initiative Ordinance: Ten percent petition.

If the petition accompanying the proposed ordinance be signed by electors equal in number to ten percent of the entire vote cast for all candidates for Mayor at the last preceding general municipal election at which a Mayor was elected, and contain a request that said ordinance be submitted forthwith to the vote of the people at the next occurring regular statewide or general municipal election, then the Council shall either:

(a) Pass said ordinance without alteration within twenty days after the attachment of the City Clerk's certificate of sufficiency to the accompanying petition (subject to a referendary vote, under the provision of Article XIV of this Charter); or

(b) Within twenty-five days after the City Clerk shall have attached to the petition accompanying such ordinance the certificate of sufficiency, the Council shall cause said ordinance without alteration to be submitted to a vote of the people at the next occurring regular statewide or general or special municipal election providing no posting, publication or other legal deadline as set forth in the California Elections Code and Government Code, has expired at the time the City Clerk reports verification of the petition to the City Council.

(4) Initiative Ordinance: Five percent petition.

If the petition be signed by electors in number to at least five but less than ten percent of the entire vote cast for all candidates for Mayor at the last preceding general municipal election at which a Mayor was elected, and said ordinance be not passed by the Council as provided in the preceding subdivision, then such ordinance, without alteration, shall be submitted by the Council to a vote of the people at the next general municipal election providing no posting, publication or other legal deadline as set forth in the California Elections Code and Government Code, has expired at the time the City Clerk reports verification of the petition to the City Council.

(5) The Charter may be amended by initiative pursuant to the California Elections Code and Government Code.

(6) Publicizing of Popular Ordinance or Charter Amendment.

Whenever any ordinance, charter amendment, or proposition is required by this Charter to be submitted to the voters of the City at any election, (a) the Council shall cause the ordinance, charter amendment, or proposition to be printed and it shall be the duty of the City Clerk to enclose a printed copy thereof in an envelope with a sample ballot and mail the same to each voter prior to the election, and (b) the Council shall order such ordinance, charter amendment, or proposition to be printed in the official newspaper of the City and publicized in the like manner as ordinances adopted by the Council are required to be publicized.

(7) (repealed)

(8) Several ordinances or charter amendments at one election.

Any number of proposed ordinances, charter amendments, or both may be voted upon at the same election, in accordance with the provisions of this Article.

(9) Repeal of popular ordinance or charter amendment.

The Council may submit a proposition for the repeal of any such ordinance, charter amendment, or for amendments thereto, to be voted on at any succeeding general municipal election; and should such proposition, so submitted, receive a majority of the votes cast thereon at such election, such ordinance or charter amendment shall be repealed or amended accordingly. An ordinance or charter amendment proposed by petition, or adopted by a vote of the people, cannot be repealed or amended except by a vote of the people.

(10) Further regulations.

The Council may, by ordinance, make such further regulations as may be necessary to carry out the provisions of this section, and to adapt the provisions of Article III thereto.

ARTICLE XIV
THE REFERENDUM

Section 93. Mode of protesting against ordinances.

No ordinance passed by the Council shall go into effect before thirty days from the time of its final passage except when otherwise required by the general laws of the State or by the provisions of this Charter respecting street improvements, and except the ordinance making the annual tax levy, and except an ordinance for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency, and is passed by a seven-ninths (7/9) vote of the Council, provided, that no grant of any franchise shall be construed to be an urgency measure, but all franchises shall be subject to the referendum vote herein provided. If during said thirty days a petition signed by qualified electors of the City equal in number to at least ten percent of the entire vote cast for all candidates for Mayor at the last preceding general municipal election at which a Mayor was elected, protesting against the passage of such ordinance, be presented to the Council, the same shall thereupon be suspended from going into operation and it shall be the duty of the Council to reconsider such ordinance, and if the same be not entirely repealed, the council shall submit the ordinance, as is provided in Article XIII of the Charter, to the vote of the electors of the city, at the next occurring regular statewide or general or special municipal election providing no posting, publication or other legal deadline as set forth in the California Elections Code and Government Code, has expired at the time the City Clerk reports verification of the petition to the City Council, and such ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. The provisions of Article III respecting the forms and conditions of the petition and the mode of verification and certification and filing shall be substantially followed with such modification as the nature of the case requires.

Section 94. Reference of measures to popular vote.

Any ordinance or measure that the Council or the qualified electors of the City shall have authority to enact, the Council may of its own motion submit to the electors for adoption or rejection at a regular statewide or general or special municipal election, in the same manner and with the same force and effect as is provided in this Charter for ordinances or measures submitted on petition. At any such election there shall be no bar to the submission of other questions to a vote of the electors in addition to the ordinance or measures herein provided for, if said other questions are such as may legally be submitted at such election. If the provisions of two or more measures approved or adopted at the same election conflict then the measure receiving the highest affirmative vote shall control.

Section 95. Further regulations.

The Council may, by ordinance, make such further regulations as may be necessary to carry out the provisions of this Article, and to adapt the provisions of Article III thereto.

ARTICLE XV
THE PUBLIC SCHOOLS

Section 96. The Board of Education.

The Board of Education shall have entire control and management of the public schools in the City in accordance with the Constitution and general laws of the State, and is hereby vested with all the powers and charged with all the duties provided by this Charter and by the general laws of the State for City Boards of Education.

Section 97. President of the Board.

The Board of Education shall annually elect one of its own members to be President of the Board. He or she may be removed by the affirmative vote of four members. The President shall have no other vote than his or her vote as member of the Board.

Section 98. Meetings.

The Board of Education shall meet at such times as may be designated by resolution of said Board and in the place provided therefor by the Council. The Board shall provide the manner in which special meetings shall be called.

Section 99. Quorum.

Three members of the Board shall constitute a quorum, and the affirmative votes of three members shall be necessary to pass any measure, but a less number than three may adjourn from day to day and compel the attendance of absent members in such manner as the Board may prescribe.

Section 100. Rules of proceedings.

The Board of Education may determine the rules of its proceedings.

Section 101. Meetings to be public.

All meetings of the Board of Education shall be public.

Sections 102 through 108. (repealed)

ARTICLE XVI
MISCELLANEOUS

Section 109. When this Charter takes effect.

For the purpose of nominating candidates and electing Mayor, Auditor, Councilmembers and School Directors in accordance with this Charter, this Charter shall take effect from the time of the approval of the same by the Legislature; for all other purposes it shall take effect on the first day of July, 1909.

Sections 110 and 111. (repealed)

Section 112. Existing ordinances continued in force.

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

Section 113. Conduct of legal proceedings.

The City Attorney shall prosecute, in behalf of the people, all criminal cases arising from violations of the provisions of this Charter and the ordinances of the City, and shall attend to all suits and proceedings in which the City may be legally interested; provided, the Council shall have control of all litigation of the City and may employ other attorneys to take charge of any litigation or to assist the City Attorney therein.

Section 114. Violation of Charter and ordinances.

The violation of any provision of this Charter or of any ordinance of the City may be deemed a misdemeanor, and may be prosecuted by the authorities of the City in the name of the people of the State of California, or may be redressed by civil action, at the option of said authorities. Any person sentenced to imprisonment for the violation of a provision of this Charter or of an 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 Berkeley is situated, in which case the expense of such imprisonment shall be a charge in favor of such county against the City of Berkeley.

Section 115. Municipal affairs.

The City of Berkeley shall have the right and power to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this Charter; provided, however, that nothing herein shall be construed to prevent or restrict the City from exercising or consenting to, and the City is hereby authorized to exercise any and all rights, powers and privileges heretofore or hereafter granted or prescribed by general laws of the State.

Section 116. (repealed)

Section 117. Rights of existing bondholders.

The City of Berkeley shall issue no bonds for the financing of off-street vehicular parking that in any way affect, alter or diminish the rights of bondholders who purchased municipal revenue bonds pursuant to City Council Resolution No. 35,324-N.S.

Section 118. Additional powers.

The City Council shall have the power to enact appropriate legislation and do and perform any and all other acts and things which may be necessary and proper to carry out any of the powers of the City or any of the provisions of this Charter, and to exercise all powers not in conflict with the Constitution of the State, with this Charter or with ordinances adopted by the people of the City.

Section 119. Personnel Board.

The City Council shall have the power to establish a Personnel Board and to appoint the members thereof to serve without compensation, to administer a personnel system under rules and regulations to be made by the Council. Such Board shall, among other things, provide for the classification of all employments in the administrative service of the City not excepted by the provisions of this Charter, by the Council, or by the people, for open, competitive and free examinations as to fitness, for an eligible list from which vacancies shall be filled for a period of probation before employment is made permanent, and for promotion on the basis of merit, experience and record.

ARTICLE XVII
ELECTED RENT STABILIZATION BOARD

Section 120. Purpose of Elected Rent Stabilization Board.

The purpose of this article is to provide for proper administration of programs to regulate residential rents; to protect tenants from unwarranted rent increases and arbitrary, discriminatory or retaliatory evictions; to help maintain the diversity of the Berkeley community; and to ensure compliance with legal obligations relating to the rental of housing.

Section 121. Composition of Rent Board.

There shall be in the City of Berkeley an elected Rent Stabilization Board. The Board shall consist of nine elected Commissioners. The Board shall elect annually one of its members to serve as Chairperson.

(1) Eligibility.

Residents who are duly qualified electors of Berkeley are eligible to serve as Commissioners of the Board.

(2) Full Disclosure of Holdings.

Candidates for the position of Commissioner shall fulfill the requirements as set forth in this Charter in Article III, Sec. 6 1/2.

In addition, when filing nomination papers, candidates shall submit a verified statement of their interests and dealings in real property, including but not limited to its ownership, sale or management and investment in and association with partnerships, corporations, joint ventures and syndicates engaged in its ownership, sale or management during the previous three years.

(3) Conflict of Interest.

Commissioners shall be subject to the requirements of the California Political Reform Act and other applicable state and local conflict of interest codes.

Section 122. Election of Commissioners.

Commissioners shall be elected at the statewide general election held in November of even numbered years, except as provided by subsection (3) below.

(1) Term of Office.

Commissioners shall serve terms beginning on the first day of the month following their election. Terms shall be four years, except as provided by subsection (4) below. Commissioners shall serve a maximum of two full terms.

(2) Recall.

Commissioners shall be subject to recall as provided in Article IV of this charter.

(3) The First Election of Board.

The election for the first board shall be held at the regular municipal, statewide primary or statewide general election, whichever first occurs at least 90 days after enactment of this article.

(4) Term of Office of First Board.

Of the nine Commissioners elected under subsection (3), the five Commissioners receiving the least votes shall hold office until the last day of November in the next even numbered year. The remaining four Commissioners shall hold office for an additional two years, those terms also ending on the last day of November of the appropriate year.

Section 123. Powers and Duties.

The elected Rent Stabilization Board shall have the power to determine, to arbitrate and to set rent levels, whether through general or individual adjustments, of any unit which has controlled rents under any Berkeley Ordinance, and to administer any Berkeley program which regulates rents and evictions.

(1) Replacement of Appointed Board.

The Board provided for in this Article shall, upon taking office, replace and supersede the appointed Board provided in Berkeley Ordinance 5261-N.S. The elected Board shall assume each and every, all and singular, powers, duties, rights and responsibilities of said appointed Board. At such time, said appointed Board shall cease exercising any of the above except to aid in transition as requested by the newly elected Board. At the conclusion of the transitional period (as determined by the elected Board) said appointed Board shall cease to exist as a legal entity.

(2) Hiring of Staff.

The Board shall be a working Board and shall employ such staff as may be necessary to perform its functions efficiently and as provided by Berkeley Ordinance. The Board shall have the power to hire and fire staff notwithstanding Article VII, Sections 28(b) and (c) and Article XVI, Section 119 of the City Charter. The City Manager shall continue to provide such supportive services as are appropriate under Berkeley Ordinance. The Board shall follow the City of Berkeley affirmative action employment policy.

(3) Financing.

The Board shall finance its reasonable and necessary expenses by charging landlords, annual registration fees in amounts deemed reasonable by the Board. Such registration fees shall not be passed on to tenants in the form of rent increases except with the express prior approval of the Board. The Board is also empowered to request and receive funding, when and if necessary, from the City of Berkeley and/or any other available source for its reasonable and necessary expenses.

(4) Additional Powers and Duties.

With the Rent Board's consent, the City Council may assign additional powers and duties to the Rent Board as appropriate. Furthermore, the electorate may give additional powers or duties through initiative ordinance as provided by this Charter.

(5) Quorum.

Five (5) Commissioners shall constitute a quorum for the Board. The affirmative vote of five (5) Commissioners of the Board is required for a decision, including all motions, rules, regulations and orders of the Board.

Section 124. Severability.

If any provision of this Article is adjudged by a court of competent jurisdiction to be unenforceable, such adjudication shall not affect the enforceability of any other provisions, and this Article shall continue in full force and effect as if such unenforceable provision were not a part hereof.

APPENDIX A
REFERENCES TO STATE STATUTES AUTHORIZING CHARTER AND AMENDMENTS

The present Charter of the City of Berkeley was adopted at an election held on January 30, 1909 and was approved by the Legislature on March 4, 1909 as Chapter 17, Statutes 1909, pg. 1208 and became effective July 1, 1909.

Amendments adopted since 1909 and in effect as of November 5, 2002, are as follows:

Article	Section	Action	Statutes	Chapter
I	1	Amended	1974	95
II	3	Amended	1974	95
III	4	Amended	1923	20
	4	"	1949	146
	4	"	1972	96
	4	Added	1974	95
	4	Amended	1982	6
	4 1/2	Added	1982	8
	5(1)	Amended	1923	20
	5(1)	"	1949	146
	5(1)	"	1963	2
	5(2)	Amended	1949	146
	5(2)	"	1996	30
	5(3)	Amended	1949	146
	5(3)	Repealed	1984	14
	5(3)	Added	2016	30
	5(4)	Repealed	1949	146
	5(4)	"	1963	2
	5(4)	"	1975	24
	5(4)	Repealed	1984	14
	5(5)	Amended	1949	146
	5(5)	"	1951	88
	5(5)	"	1963	2
	5(5)	"	1974	95
	5(5)	Repealed	1984	14

Article	Section	Action	Statutes	Chapter
III	5(6)	Amended	1949	146
	5(6)	Repealed	1984	14
	5(7)	Amended	1939	81
	5(7)	"	1949	146
	5(7)	Repealed	1963	2
	5(8)	Amended	1949	146
	5(8)	Repealed	1963	2
	5(9)	Amended	1949	146
	5(9)	Repealed	1963	2
	5(10)	Amended	1939	81
	5(10)	"	1949	146
	5(10)	"	1984	14
	5(10)	Amended	1986	9
	5(10)	"	2004	6
	5(10 1/2)	Added	1939	1
	5(10 1/2)	Repealed	1951	88
	5(11)	Amended	1939	81
	5(11)	Repealed	1949	146
	5(11)	Added	1965	94
	5(12)	Repealed	1949	146
	5(12)	Added	1974	95
	5(12)	Repealed	1984	14
	5(12)	Added	2004	6
	5(12)	Amended	2012	3
	5(13)	Repealed	1949	146
	5(14)	Amended	1923	20
	5(14)	Repealed	1949	146
	5(15)	"	1949	146
	5(16)	"	1949	146
	5(17)	"	1949	146
	5(18)	"	1949	146
	5(19)	"	1949	146
	5(20)	"	1949	146
	5(21)	"	1923	20
	5(22)	"	1923	20
	5(23)	"	1923	20
	5(24)	"	1923	20
	5(25)	Repealed	1949	146
	5(26)	"	1949	146

Article	Section	Action	Statutes	Chapter
III	5 1/2	Added	1923	20
	5 1/2	Amended	1927	20
	5 1/2(1)	Repealed	1949	146
	5 1/2(2)	"	1949	146
	5 1/2(3)	"	1949	146
	5 1/2(4)	"	1949	146
	5 1/2(5)	"	1949	146
	5 1/2(6)	"	1949	146
	5 1/2(7)	"	1949	146
	5 1/2(8)	"	1949	146
	5 1/2(9)	"	1949	146
	6	Amended	1969	163
	6	"	1975	24
	6(1)	"	1923	20
	6(1)	Repealed	1949	146
	6(2)	"	1949	146
	6(1)	Added	1969	163
	6 1/2[2]	Added	1949	146
	6 1/2[2]	Amended	1953	145
	6 1/2[2]	"	1975	24
	6 1/2[2]	"	2004	6
	6.2	Added	2016	29
IV	7(1)	Amended	1965	94
	7(2)	"	1965	94
	7(2)	Amended	2014	14
	7(3)	Repealed	1949	146
	7(3)	Added	1965	94
	7(3)	Amended	1974	95
	7(3)	"	1986	9
	7(3)	Amended	2014	14
	7(4)	Amended	1965	94
	7(4)	Repealed	2014	14
	7(5)	Amended	1965	94
	7(6)	Amended	1949	146
	7(6)	"	1965	94
	7(6)	"	1975	24
	7(6)	Amended	2014	14
	7(7)	Amended	1965	94

[2]All references to “Section 6 ½” in the Charter were recodified as “Section 6.1” in 2016.

Article	Section	Action	Statutes	Chapter
IV	7(8)	Amended	1965	94
	7(8)	Amended	2014	14
	7(9)	"	1965	94
	7(9)	Amended	2014	14
	7(10)	Amended	1949	146
	7(10)	"	1965	94
	7(10)	"	1975	24
	7(10)	Amended	2014	14
	7(11)	Added	1965	94
	7(11)	Amended	2014	14
	7(12)	"	1965	94
	7(12)	Amended	1975	24
	7(12)	Amended	2014	14
	7(13)	Added	1965	94
	7(13)	Amended	1975	24
	7(13)	Amended	2014	14
	7(14)	Added	1965	94
	7(14)	Amended	2014	14
	7(15)	"	1965	94
	7(15)	Amended	2014	14
	7(15.5)	Added	2014	14
	7(16)	"	1965	94
	7(16)	Amended	1975	24
	7(17)	Added	1965	94
	7(17)	Amended	1975	24
	7(17)	Amended	2014	14
	7(18)	Added	1965	94
	7(18)	Amended	1975	24
	7(18)	Amended	2014	14
	7(19)	Added	1965	94
	7(19)	Amended	1975	24
	7(20)	Added	1965	94
	7(20)	Amended	2014	14
	7(21)	"	1965	94
	7(21)	Amended	1975	24
	7(22)	Added	1965	94
	7(23)	"	1974	95
	7(23)	Repealed	2014	14

Article	Section	Action	Statutes	Chapter
V	8	Amended	1923	20
	8	"	1951	88
	8	"	1972	96
	8	"	1982	6
	8	"	1982	8
	9	Amended	1986	9
	9	"	1998	17
	9	Amended	2004	6
	9	"	2008	17
	9	"	2012	3
	9	Amended	2016	28
	9.5	Added	2016	28
	10	Amended	1974	95
	10	Amended	2016	28
	11	Repealed	1974	95
	12	Amended	1949	146
	12	Amended	1974	95
	12.1	Added	1949	146
	12.2	Added	1984	29
	12.2	Amended	2007	7
	13	Amended	1949	146
	13	"	1963	2
	14	Amended	1923	20
	14	"	1949	146
	14	"	1974	95
	14	"	1975	24
	14	"	1982	6
	14	"	1986	9
	14	"	2005	33
	14.1	Added	1949	146
	14.1	Amended	1975	24
	14.1	"	1982	6
	14.1	"	1986	9
	15	Amended	1923	20
	15	"	1949	146
	15	"	1974	95
	15	"	1982	6
	15	"	1986	9
	15	"	1995	1
	16	Amended	1951	88
	16	"	1963	2

Article	Section	Action	Statutes	Chapter
V	16	"	1974	95
	16	"	1982	6
	17	Amended	1923	20
	17	"	1949	146
	17	"	1965	94
	17	"	1975	24
	18	Amended	1923	20
	18	"	1975	24
	19	Amended	1913	6
	19	"	1923	20
	19	"	1945	96
	19	"	1955	147
	19	Amended	1965	94
	19	"	1971	64
	19	"	1973	102
	19	"	1975	24
	19	"	1982	8
	19	"	1988	19
	19	"	1998	17
	19	"	2002	65
	20	Amended	1923	20
	20	"	1975	24
VI	21	Amended	1923	20
	21	"	1975	24
	23	Repealed	1923	20
	24	Amended	1923	20
	24	"	1965	94
	24	"	1975	24
	25	Repealed	1923	20
	26	Repealed	1923	20
VII	27	Amended	1923	20
	27	"	1947	138
	27	"	1975	24
	28	Amended	1923	20
	28	"	1975	24
	28(i)	"	1951	88

Article	Section	Action	Statutes	Chapter
VII	29	Repealed	1923	20
	29	Added	1975	24
	30	Amended	1923	20
	30	"	1965	94
	30	"	1975	24
	31	Amended	1923	20
	31	"	1975	24
	31	"	1982	8
	32	Amended	1923	20
	32	"	1975	24
	33	Amended	1923	20
	33	"	1975	24
	34	Amended	1923	20
	35	Amended	1923	20
	35	"	1947	138
	35	"	1975	24
	36	Amended	1949	146
	36	"	1965	94
	36	"	1974	95
	37	Amended	1965	94
	37	"	1974	95
	37a	Added	1995	1
VIII	44(1)	Amended	1951	88
	44(2)	"	1951	88
	44(3)	Amended	1923	20
	44(3)	"	1951	88
	44(6)	Amended	1996	30
	44(7)	Amended	1945	96
	44(7)	"	1951	88
	44(12)	Repealed	1949	146
	45	Repealed	1923	20
	47(9)	Repealed	1951	88
	47	Added	1975	24
	47	Repealed	1982	6
IX	All	Repealed	1974	95

Article	Section	Action	Statutes	Chapter
X	52	Amended	1923	20
	52	"	1965	94
	53	Amended	1923	20
	54	Amended	1923	20
	55	Amended	1923	20
	55	Repealed	1982	6
	56	Amended	1951	88
	56	"	1982	8
	57	Amended	1913	6
	57	"	1943	7
	57	"	1946	2
	57	"	1951	88
	57	Repealed	1957	206
	58 1/2	Added	1941	98
	58 1/2	Repealed	1949	146
	59	Amended	1965	94
	59	Repealed	1982	8
	61	Amended	1923	20
	61	"	1959	188
	61	"	1998	17
	62	Amended	1959	188
	62	"	1975	24
	63	Amended	1982	8
	64	Amended	1965	94
XI	66	Amended	1953	145
	67	Amended	1945	96
	67	"	1951	88
	67	"	1959	188
	67	"	1965	94
	67	"	1977	5
	67.1	Added	1945	96
	67.1	Amended	1951	88
	67.2	Added	1945	96
	67.3	Added	1949	146
	67.3	Amended	1951	88
	67.4	Added	1951	88

Article	Section	Action	Statutes	Chapter
XI	67.4	Amended	1953	145
	67.4	"	1977	5
	67.5	Added	1953	145
	67.5	Amended	1959	188
	67.5	"	1965	94
	67.5	"	1977	5
	68	Amended	1923	20
	68	"	1927	20
	68	"	1984	29
	68	"	1996	30
	69	Repealed	1949	146
	70	Repealed	1949	146
XII	74	Amended	1949	146
	74	"	1975	24
	75	Amended	1949	146
	76	Amended	1949	146
	77	Amended	1949	146
	77(2)	"	1917	16
	77(3)	"	1917	16
	77 1/2	Added	1917	16
	77 1/2	Repealed	1949	146
	78	Amended	1917	16
	78	"	1949	146
	79	Amended	1949	146
	80	Amended	1949	146
	81	Repealed	1949	146
	82	Amended	1917	16
	82	Repealed	1949	146
	83	Repealed	1949	146
	84	Repealed	1949	146
	85	Amended	1917	16
	85	Repealed	1949	146
	86	Repealed	1949	146
	87	Repealed	1949	146
	88	Amended	1917	16
	88	Repealed	1949	146
	89	Repealed	1949	146

Article	Section	Action	Statutes	Chapter
XII	90	Repealed	1949	146
	91	Repealed	1949	146
XII-A	81	Added	1953	145
	81.1	"	1953	145
	81.2	"	1953	145
	81.3	"	1953	145
	81.4	"	1953	145
	81.5	"	1953	145
	81.6	"	1953	145
	82	Added	1953	145
	83	Added	1953	145
	83.1	"	1953	145
	83.2	"	1953	145
	83.3	"	1953	145
	83.4	"	1953	145
	83.5	"	1953	145
	83.6	"	1953	145
	83.7	"	1953	145
	83.8	"	1953	145
	83.9	"	1953	145
	83.10	"	1953	145
	84	Added	1953	145
	85	Added	1953	145
	85.1	"	1953	145
	85.2	"	1953	145
	85.3	"	1953	145
	85.4	"	1953	145
	85.5	"	1953	145
	85.6	"	1953	145
	85.7	"	1953	145
	85.8	"	1953	145
	85.9	"	1953	145
	85.10	"	1953	145
	85.11	"	1953	145
	85.12	"	1953	145

Article	Section	Action	Statutes	Chapter
XII-A	85.13	Added	1953	145
	85.14	"	1953	145
	85.15	"	1953	145
	85.16	"	1953	145
	85.17	"	1953	145
	85.18	"	1953	145
	86	Added	1953	145
	87	Added	1953	145
	88	Added	1953	145
	88.1	"	1953	145
	88.2	"	1953	145
	88.3	"	1953	145
	88.4	"	1953	145
	88.5	"	1953	145
	88.6	"	1953	145
	88.7	"	1953	145
	88.8	"	1953	145
	88.9	"	1953	145
	88.10	"	1953	145
	88.11	"	1953	145
	88.12	"	1953	145
	88.13	"	1953	145
	88.14	"	1953	145
	88.15	"	1953	145
	89	Added	1953	145
	90	Added	1953	145
	91	Added	1953	145
XII-A	All	Repealed	1974	95
XIII	92	Amended	1974	95
	92(1)	Added	1974	95
	92(2)	Amended	1949	146
	92(3)(b)	"	1984	14
	92(4)	"	1939	81

Article	Section	Action	Statutes	Chapter
XIII	92(4)	Amended	1984	14
	92(5)	"	1984	14
	92(6)	Amended	1996	30
	92(7)	Repealed	1984	14
	92(10)	Amended	1939	81
XIV	93	Amended	1923	20
	93	"	1949	146
	93	"	1974	95
	93	"	1984	14
	94	Amended	1974	95
	94	"	1984	14
	95	Amended	1949	146
XV	97	Amended	1975	24
	102	Repealed	1965	94
	103	Repealed	1965	94
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