

**THE CODE OF THE CITY
OF
MONTEREY, CALIFORNIA**

**The Charter
and
The General Ordinances of the City**

PUBLISHED BY ORDER OF THE CITY COUNCIL

**MICHIE CITY PUBLICATIONS COMPANY OF LOS ANGELES
LOS ANGELES, CALIFORNIA
1967**

Preface

This volume constitutes the first revision and codification of the general ordinances of the City of Monterey, California. It contains the Charter and such of the ordinances of a general and permanent nature passed on or before November 1, 1966, as were found desirable for retention, except those expressly saved from repeal by the Adopting Ordinance.

The ordinances were codified, edited and indexed by the Editorial Staff of Michie City Publications Company of Los Angeles under the supervision of Jesse D. Worley, Stephen C. Willard and Gilbert W. Haith.

The publishers wish to express their appreciation for the cooperation of all the city officials and employees during the preparation of this publication. Particular acknowledgment is due Mr. William C. Marsh, City Attorney, and Mr. John H. Nail, City Manager, for their assistance during the progress of the work.

A feature to which the attention of the user is directed is the arrangement of the chapters in alphabetical order. Attention is also directed to the analysis preceding each chapter, which in many instances will serve as an index within itself. The general index, carried at the end of the Code, has been carefully prepared, and should serve as an accurate medium for locating the individual sections of law within the Code. In the footnotes appearing throughout the Code will be found references to the Charter and applicable and related provisions of state law. These notes also contain cross references to other and related provisions in the City Code itself. By reference to the historical citations, appearing at the end of each section, the user will be able to ascertain the ordinance from which the present section has been derived.

It is a recognized fact that if any Code is to accomplish its intended purpose it must be kept up to date by means of an adequate supplemental service. Accordingly, the publishers point out the advisability and necessity of keeping this Code current.

The new City Code is presented to the officials and citizens of the City of Monterey, California, in the belief that it will merit their approval.

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Procedure for Passing Ordinances after Code Is in Effect

1. Before drafting a new ordinance, check the Code index to determine if sections of similar subject matter are contained in the Code.
2. If sections with similar subject matter are found to be in the Code, compare them against what is to be stated in the new ordinance.
3. If the existing sections in the Code can adequately cover the situation by being amended, the new ordinance should simply amend these sections.

Example: "Section 10-8 is hereby amended to read as follows:"

OR

"Sections 10-5 to 10-8 are hereby amended to read as follows:"

"Section 10-5."

"Section 10-6."

If new sections are to be added to an existing chapter in the Code and such section or sections are to be added between sections now in such chapter, the new sections added should be designated as follows:

Example: If new sections are to be added between sections numbered 10-5 and 10-6, such new sections should be numbered 10-5.1, 10-5.2, etc.

4. If the new ordinance will completely supersede the sections in the Code and it is impractical for any reason to amend the existing sections of the Code, the new ordinance should repeal the sections in the Code which will be superseded by stating in the ordinance that "Sections to are hereby repealed".
5. If the new ordinance covers a subject which is not contained in the Code, it may be added to the Code as a new chapter *in the proper alphabetical arrangement*. If this new chapter would fall between old chapters 10 and 11, it would be numbered "10A," and the sections of chapter 10A should be numbered 10A-1, 10A-2, etc.
If there is any question as to the proper placement of a new ordinance covering a subject not contained in the Code, make no reference to sections of the Code. This new ordinance will be worked into the Code in the proper place when the next supplement is prepared.
6. When a supplement is prepared replacement pages containing the new ordinance material will be returned for insertion in the Codes.

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PART I.

The Charter

Editor's note. This Part consists of the Charter of the city, adopted March 9, 1925, as amended. Except for the use of a uniform system of capitalization and the addition of catchlines where required, the Charter is set out herein as enacted. Amendments are indicated by historical citations following the affected sections.

- § 1. Name.
- § 2. Boundaries.
- § 3. Rights and liabilities.
- § 4. Powers.
- § 5. Elections.
- § 6. Canvass of returns.
- § 7. Initiative, referendum and recall.
- § 8. Elective officers.
- § 9. Eligibility of elective officers.
- § 10. The mayor.
- § 11. The council.
- § 12. Meetings of the council.
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- § 24. City manager and secretary thereto.
- § 25. City manager pro tem.
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- § 34. Chief of police.
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- § 36. Disposition of city moneys.

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- § 37. Deleted May 10, 1965.
- § 38. Expert accountant.
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- § 50. Annual tax levy.
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- § 52. Special tax levy.
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- § 54. Payment of city moneys.
- § 55. Uniform accounts and reports.
- § 56. Newspaper advertising and printing.
- § 57. Counting the city's money; safety deposit boxes.
- § 58. General laws applicable.
- § 59. Official records.
- § 60. Interference with or by city manager.
- § 61. Leases of city property.
- § 62. Inventory of city property.
- § 63. Public library and board of library trustees.
- § 63½. Municipal cemetery board; powers and duties.
- § 64. Continuing boards and commissions.
- § 65. Continuing ordinances in force.
- § 66. Vacations.
- § 67. Moneys received from the sale of cemetery lots.
- § 68. Repealed.
- § 69. Equipment.
- § 70. Resignations.
- § 71. Payment of salaries.
- § 72. Official seal.
- § 73. Zoning system.
- § 73½. Repealed.
- § 74. Administering oaths; subpoenas.
- § 75. Monthly financial reports.
- § 76. Approving illegal claims.
- § 76½. Claims against the city for personal injury and damages.
- § 77. Publication of Charter and ordinances.
- § 78. When Charter effective.

Sec. 1. Name.

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

Sec. 2. Boundaries.

The boundaries of the City of Monterey shall continue as now established until changed in some manner authorized by law.

Sec. 3. Rights and liabilities.

The City of Monterey 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 said municipality, and is hereby declared to be the successor to same. No right, liability, pending suit or prosecution on behalf of, or against, the city shall be affected by the adoption of this Charter. All contracts entered into by the city prior to the taking effect of this Charter shall continue in full force and effect.

Sec. 4. Powers.

The City of Monterey, by and through its council and other officials, shall have and may exercise all powers necessary or appropriate to a municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution and which it would be competent for this Charter to set forth particularly or specifically, including all trustees thereof, and all lawful powers conferred upon the city by the former charter not inconsistent with the provisions hereof; and the specifications herein of any particular powers shall not be held to be exclusive or any limitation upon this general grant of powers.

Sec. 5. Elections.

General municipal elections shall be held in said city on the second Monday in May of each odd-numbered year under and

pursuant to the provisions of the general laws of the State of California governing elections in cities of the sixth class, so far as the same may be applicable, and except as herein otherwise provided. The first general election in said city under this Charter shall be held on the second Monday in May, 1925. All other municipal elections that may be held by authority of this Charter or of general law shall be known as special municipal elections, and shall be held substantially as in this Charter provided for general municipal elections; provided, however, that special elections to authorize any municipal or local public improvement, or levy of assessments therefor, or to create a municipal bonded indebtedness, shall be held in conformity with any general law of the state relative thereto under which any such proceeding is instituted by the council, in case such general law provides for the procedure and manner of holding elections thereunder.

Sec. 6. Canvass of returns.

The council of said city shall meet at its usual meeting place on the first Monday after any municipal election, duly canvass the returns and declare the results thereof, and install the newly elected officers, if any.

Sec. 7. Initiative, referendum and recall.

Ordinances may be initiated, or the referendum exercised on ordinances passed by the council, under and in accordance with the constitution and general laws of the state, and any elective officer may be recalled from office under and in pursuance of the provisions of the Constitution and general laws; provided, however, that in no case shall candidates be elected to fill the place or places of any officer sought to be recalled, but in case of such recall such office shall be deemed vacant and shall be filled by appointment like other vacancies in elective offices; provided, further, that should a majority, or more, of the council be recalled, the city clerk shall call a special election to fill such vacancies, which shall be held within sixty days of the existence thereof. Petitions for exercising the initiative, referendum, or recall, shall not be circulated, but shall be deposited for signatures in not less than three public places in the city to be designated by the council.

Notice of the deposit thereof shall be given by publication three or more times in one or more newspapers published and circulated in said city. The council shall provide by ordinance the detailed procedure for carrying out the provisions of this section.

Sec. 8. Elective officers.

Elective officers of the City of Monterey shall be a mayor and four councilmen. (As amended May 11, 1953.)

Sec. 9. Eligibility of elective officers.

No person shall be eligible for election to, or hold, any elective office of said city, unless he shall have been a resident and elector thereof for at least three years next preceding his election thereto, or his appointment to fill a vacancy therein.

Sec. 10. The mayor.

A mayor shall be elected at each general municipal election and shall hold office for the term of two years from and after the Monday next succeeding the day of such election, and until his successor is elected and qualified, commencing with the first general municipal election held under the provisions of this Charter. The mayor shall receive no compensation and shall be ineligible to hold any other office or employment with the city, except as a member of any board, commission, or committee, thereto of which he is constituted such member by general law.

The mayor shall be the executive head of the city. In case of riot, insurrection, or extraordinary emergency, he shall assume general control of the city government and all of its branches, and be responsible for the suppression of disorders and the restoration of normal conditions. In the name and on behalf of the city he shall sign all legal instruments and documents to which the city is a party, except where otherwise provided herein or by general law. He shall represent the city in all ceremonial functions of a patriotic or social character when it appears to him desirable that the city be officially represented thereat, and shall, consistent with the provisions hereof, possess such other powers and perform such other

duties, as may be prescribed by this Charter, by law, by ordinance, or by resolution of the council.

During the temporary absence or disability of the mayor, the council shall choose one of its members to act as mayor pro-tempore who shall, during such absence or disability only, exercise the powers and perform the duties of the mayor. In case of a vacancy in the office of mayor, a mayor pro-tempore, chosen as aforesaid, shall act as such mayor until the vacancy in said office is filled as provided in this Charter.

Sec. 11. The council.

The city council shall be comprised of the mayor and said four councilmen, and shall be the legislative body of the city, each of the members of which, including the mayor, shall have the right to vote upon all questions coming before it.

Two councilmen shall be elected at each general municipal election and shall hold office for the term of four years each from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified; provided, however, that four councilmen shall be elected at the first general municipal election held under the provisions of this Charter. The two councilmen receiving the highest number of votes at said first election shall hold office for the full term of four years each, and the remaining two councilmen elected thereat shall hold office for the term of two years each, from and after the Monday next succeeding the second Monday in May, 1925, and until their successors are elected and qualified.

The councilmen shall receive no compensation, and no councilman shall be eligible to hold any other office or employment with the city, except as a member of any board, commission, or committee, thereof, of which he is constituted such member by general law.

All powers granted to and vested in the City of Monterey by law or by the provisions of this Charter shall, except as herein otherwise provided, be exercised by the council, to be designated the "Council of the City of Monterey." The council shall be the governing body of the city and, subject to the express limitations of this Charter, shall be vested with all powers necessary or convenient for a complete and adequate system of municipal government, consistent with the Constitu-

tion of the state, including all powers now or hereafter granted by general law to boards of trustees of cities of the sixth class.

Sec. 12. Meetings of the council.

The council shall provide by ordinance for the time and place of holding its meetings and the manner in which its special meetings may be called; provided, however, that there shall be at least one regular meeting each month. Any regular meeting may be adjourned to a date and hour certain, and such adjourned meeting shall be a regular meeting for all purposes. All legislative sessions of the council, whether regular or special, shall be open to the public.

Sec. 13. Quorum.

A majority of the council shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and postpone the consideration of or action upon, pending business in like manner. Attendance at meetings of absent members of the council may be compelled in such manner and under such penalties as may be prescribed by ordinance.

Sec. 14. Conduct of meetings.

The council shall determine its own rules of procedure, and may punish its members or other persons present at any meeting, for disorderly conduct.

Sec. 15. Legislation.

The council shall act in legislative matters by ordinance or resolution only. Other action of the council, unless herein otherwise provided, may be taken by resolution, motion, or order.

No ordinance or resolution shall be passed without receiving the affirmative vote of at least three members of the council.

The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the record of the proceedings of the council. Upon the request of any member of the council the ayes and noes shall be taken and recorded upon any vote. All members at any meeting must vote.

Each ordinance shall be headed by a brief title which shall indicate the purport thereof.

The ordaining clause of all ordinances adopted by the council shall be, "The Council of the City of Monterey does ordain as follows:". The ordaining clause of all ordinances passed by the vote of the electors of the city, through the exercise of the initiative shall be, "The People of the City of Monterey do ordain as follows:".

No ordinance shall be passed by the council on the day of its introduction, or within five (5) days thereafter, or at anytime other than a regular or adjourned regular meeting, or until its publication at least once in the official newspaper of the city at least three (3) days before its adoption. In the case of an ordinance being amended before its final adoption, and after its publication, it shall in like manner be republished in full as amended, at least one day before its adoption, as made for the correction of clerical errors or omissions of form only, then such ordinance need not be republished. Each ordinance shall be read in full at a regular or adjourned regular meeting of the council at least once prior to its adoption. An ordinance once read at a regular or adjourned meeting need not be re-read prior to its adoption, only the amended portions must be read. The council may, on affirmative vote of four of its members, waive the reading of any ordinance, except emergency ordinances, either in whole or in part.

An ordinance shall take effect thirty (30) days after its final passage except an ordinance shall take effect immediately, if it is an ordinance:

- (a) Relating to an election.
- (b) For the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and is passed by a four-fifths vote of the city council.
- (c) Relating to street improvement proceedings.
- (d) Relating to taxes for the usual and current expenses of the city.
- (e) Covered by particular provisions of law prescribing the manner of its passage and adoption.

Except as otherwise provided by general law, or by this Charter, no action providing for any specific public improvement or for the appropriation or expenditure of public money, in any amount over one thousand dollars (\$1,000.00), or for

the acquisition, sale, lease, encumbrancing, or disposition of any real property of the city, or any interest therein, or for the purpose of levying any tax or assessment, or the granting of any franchise, or for the establishing or changing of fire limits, or for the imposing of any penalty, shall be taken except by ordinance.

No ordinance, or portion thereof, shall be repealed except by ordinance. 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 according to the method provided in this section for the enactment of ordinances, and such revision, re-enactment, amendment or addition shall be made by ordinance only.

All ordinances shall be signed by the mayor and attested by the city clerk. (As amended May 13, 1935; May 13, 1957; May 10, 1965.)

Sec. 16. Auditor.

The auditor shall be the general accountant of the city. He shall retain and preserve in his office all accounts, books, vouchers, documents and papers relating to the acts and contracts of the city, its debts, revenues and other financial affairs.

He shall keep an account of all moneys paid into and out of the treasury, and shall approve all lawful demands. He shall always know the exact condition of the treasury.

He shall approve no demand unless the same has been allowed by the council and he is satisfied that the money is lawfully due.

He shall possess such other powers and perform such additional duties as provided elsewhere in this Charter, or as may be prescribed by ordinance.

No one shall be eligible for the office of auditor who is not a certified public accountant, or who has not had at least three years practical experience in accountancy and bookkeeping. His salary shall be fixed by ordinance. He shall be appointed by the affirmative vote of three members of the council.

Sec. 17. The chief appointive officials.

The chief appointive officers of the city shall be a city manager, city clerk, who shall be the ex officio assessor, collector, director of public works, city attorney, auditor, treasurer, street superintendent, chief of police, fire chief and five library trustees. The council may, at any time when in its judgment the interest of the city so demands, by a four-fifths vote thereof, consolidate by ordinance the powers and duties of two or more city officers and place the same in charge of one such officer. The council shall by ordinance prescribe the powers and duties of all of said officers except where the same are prescribed in this Charter, and in such case, may by ordinance, prescribe additional powers and duties therefor consistent with the provisions hereof. (As amended May 13, 1957; May 10, 1965.)

Sec. 18. Subordinate officers and employees.

The council shall have the power to create and abolish, by ordinance or resolution, all officers, deputyships, employments, boards and commissions, other than those created by this Charter; to fix the powers and duties thereof; and to determine the procedure for removing any such officer, deputy, employee, or committeeman, therefrom, except as in this Charter otherwise provided.

Sec. 19. Official bonds.

Except as prescribed by this Charter, the council shall fix the amount of all bonds to be required of city officers and employees, the mode of approving the same, and shall determine the particular officers and employees who shall be required to furnish such bonds.

All the provisions of any general law of the state, relative to official bonds, not inconsistent with this Charter, shall be complied with.

Sec. 20. Oath of office.

Every officer of the city, before entering upon the duties of his office, shall take and subscribe the oath of offices as provided for in the Constitution of the state, and shall file the same forthwith with the city clerk.

Sec. 21. Vacancies.

A vacancy in an elective office shall be filled by appointment by the council, such appointee to hold office until the next general municipal election and until his successor is elected and qualified. Such successor shall be elected for the unexpired term of his predecessor at the general municipal election next succeeding such appointment. Should the council fail to fill any such vacancy within forty days after the same occurs, then it shall be filled by appointment by the mayor; provided, however, that if the offices of a majority, or more of the council shall become vacant, the city clerk shall call a special municipal election to fill the same, which election shall be held within sixty days of the existence of said vacancies, and each candidate elected at such election shall hold office for the unexpired term of his predecessor.

If any officer of the city shall die, or be removed from office as herein provided, or shall remove, or absent himself, from the city for more than thirty days consecutively, without permission of the council or for said period shall wilfully fail to qualify, or shall resign, or be adjudged insane, or be convicted of a felony, his office shall thereupon become vacant.

In the event a councilman with an unexpired term is elected as mayor and resigns as councilman after the election and prior to taking his oath of office as mayor, the vacancy so created shall be filled by the council after the newly elected members have qualified.

Sec. 22. Appointment and removal of officers and employees.*A. Appointment of officers and employees.*

(1) The council shall appoint by affirmative vote of three of its members the city manager, city clerk and ex officio assessor, and the collector.

(2) The mayor shall appoint, subject to confirmation by the affirmative vote of three members of the council, all members of municipal boards, commissions, or committees, except advisory committees to the city manager.

(3) Officers appointed by the council may appoint their own deputies when the same are necessary; subject however, to confirmation by the council.

(4) The city manager shall appoint all other officers and employees of the city, except as otherwise herein provided.

B. Removal of officers.

(1) The council may remove any of its appointees at pleasure, without cause stated, or a hearing had, by the affirmative vote of four members; and may remove any of its appointees for cause, after a hearing as hereinafter provided, by the affirmative vote of three members. This provision shall also apply to members of municipal boards, commissions, and committees, except advisory committees to the city manager.

(2) The city manager may remove any of the chief appointive officers, appointed by him, at pleasure, provided that:

a. Said officer is served with at least three days written notice of the reason for such removal, which reason need not be for cause as hereinafter defined, and the time and place of a public hearing thereon. Such notice shall be served personally, or by publication once in the official newspaper of the city at least three days prior to the time fixed for the hearing;

b. Said officer is given a public hearing on said proposed removal, which hearing may be informal;

c. The city manager, after such hearing, shall determine his decision on such matter, in writing, and file such decision thereafter with the city clerk. Should the city manager determine to remove such officer after such hearing, his written decision shall state such fact and the reason therefor. Such decision shall be final and conclusive unless within ten days from the filing thereof it shall be disapproved by a resolution adopted by four affirmative votes of the council, in which case such decision shall be of no effect.

C. Removal of deputies.

(1) Deputies shall be removed by their principals in the same manner as the city manager removes the chief appointive officers appointed by him.

D. Removal of subordinate officers and employees.

(1) The city manager shall remove all other officers and employees of the city, and procedure therefor shall be prescribed by ordinance.

E. Removal for cause.

(1) Grounds for removal for cause shall be: Incompetency or physical incapacity to properly discharge the duties of his office; insubordination to a superior officer in the course of his municipal employment; wilful neglect of official duty; wilful failure or refusal to properly perform the same; gross carelessness in the discharge thereof; notorious misconduct of a disgraceful or scandalous nature; habitual intemperance; malfeasance in office; insanity; or conviction of a felony.

(2) Procedure in cases of removal for cause:

a. A written, verified complaint subscribed by the person accusing the officer, specifying the charge alleged against such officer, shall be filed with the city clerk.

b. Upon the filing of such a complaint, the mayor shall fix a time and place for a public hearing thereon before the council, which hearing shall be held within sixty days of the filing of the complaint.

c. The city clerk shall thereupon, and at least ten days prior to the hearing, serve, or have served, personally upon the accused officer, written notice of such hearing, and to such notice shall be annexed a full and correct copy of the complaint; or, in lieu of personal service, notice of said hearing shall be published once in the official newspaper of the city at least ten days prior to the time fixed for the hearing, and in such published notice, reference shall be made to the complaint on file for further particulars.

d. At the hearing before the council, evidence for and against the accused may be introduced and the accused may testify in his own behalf; provided, however, that the testimony of all witnesses shall be under oath; and provided further that hearsay testimony shall be inadmissible. Should the accused be found guilty as charged in the complaint by the affirmative votes of three members of the council after such hearing, said determination shall be final and conclusive, and the accused shall forfeit his office forthwith.

e. If any officer or employee shall be found guilty in a court of competent jurisdiction upon any of the grounds for removal for cause, or upon any charge directly embracing any of such grounds, he may be removed forthwith by the council, or by the person having the power of removal, without a hearing or notice thereof.

f. Any officer, or employee, upon notification of any pending charge against him, may waive any hearing provided for in this section by tendering his resignation in writing; and, in such case, and upon the acceptance thereof, said hearing shall be dispensed with.

F. Limitations on removals.

(1) The council shall not remove any officer within three months next succeeding a general municipal election except for cause.

(2) The city manager shall not remove any officer within three months next succeeding his qualification as city manager unless the reason for so doing is based upon one of the grounds for removal for cause.

G. Suspension in lieu of removal.

(1) Any officer or employee, in lieu of removal, may be suspended up to thirty days without pay for the same reasons or on the same grounds and on the same procedure as herein provided for removal. (As amended May 10, 1965.)

Sec. 23. Compensation of appointive officers and employees.

The compensation of all appointive officers and employees of the city, except officials, and members of boards, commissions and committees, serving gratuitously shall be fixed, increased or changed by ordinance, adopted by the four-fifths vote of the council, only subject to the provisions of this Charter regarding minimum compensation. No officer or employee shall be allowed any fee, perquisite, emolument, or stipend, in addition to, or save as embraced in the salary or compensation fixed for such office by the council, and all fees received by such officer in connection with his official duties shall be paid by him into the city treasury.

Sec. 24. City manager and secretary thereto.

The city manager shall be chosen by the council without regard to political consideration and with reference solely in his qualifications for such office. No one shall be eligible for appointment thereto who has not had at least one year's special training therefor, or who has not served as city manager, or as an assistant or deputy thereof.

It shall not be necessary for such appointee to be a resident or elector of the city at the time of his appointment, but he shall become a resident thereof within sixty (60) days after his appointment and qualification as city manager and shall thereafter continue to reside therein during his incumbency of said office. The city manager shall be ex officio city purchasing agent, which office is hereby created, and as such he shall on behalf of the city make all purchases of materials and supplies, and contracts for the purchase, lease or rental of the same, where in any case the cost thereof does not exceed the sum of five hundred dollars (\$500.00); subject, however, to such conditions and restrictions as may be imposed by ordinance and except as any such powers are herein delegated to the board of library trustees.

The salary of the city manager, and ex officio city purchasing agent, shall be fixed by ordinance, payable in equal monthly installments. The office of secretary to the city manager is hereby created, which shall be filled by appointment by the city manager, and such secretary may be removed from office by the city manager at any time without a hearing, and such removal shall not be subject to disapproval by the council. The salary of such secretary shall be fixed by ordinance.

The powers and duties of the city manager shall be:

- (1) To see that all ordinances are enforced.
- (2) To appoint, except as otherwise provided in this Charter, or by general law, all heads of departments, and other city officers and employees, and remove the same at pleasure, except as otherwise herein prescribed, and to have general supervision and control over all officers and employees whether appointed by himself or the council.
- (3) To exercise general supervision over all privately owned public utilities operating within the city so far as the same are subject to municipal control.
- (4) To see that the provisions of all franchises, leases, contracts, permits and privileges, granted by the city are fully observed, and to report to the council any violation thereof.
- (5) To attend all meetings of the council unless excused therefrom by three members thereof or by the mayor.
- (6) To examine, or cause to be examined, without notice, the conduct, or the official accounts or records, of any officer or employee of the city.

(7) To keep the council advised as to the needs of the city.

(8) To devote his entire time to the business and interests of the city.

(9) To have general supervision over all city property, including public buildings, parks and playgrounds.

(10) To appoint such advisory boards as he may deem desirable to advise and assist him in his work, provided the members of such boards shall receive no compensation.

(11) To supervise generally the preparation of the assessment roll by the assessor, and make such recommendations to the council or board of equalization regarding the same as he may deem advisable.

(12) To possess such other powers and perform such additional duties as are prescribed by this Charter or may be prescribed by ordinance; provided however, that the powers or duties of any city office or employment created by the provisions of this Charter shall not be consolidated with those of the city manager, other than that of city purchasing agent. (As amended May 10, 1965.)

Sec. 25. City manager pro tem.

In case of the extended absence from the city of the city manager, or his temporary disability to act as such, or a temporary vacancy in the office of city manager, the council shall appoint a city manager pro tem who shall possess the powers and discharge the duties of the city manager during such absence, disability, or temporary vacancy; but any such appointment shall not exceed six months; provided, however, that a city manager pro tem shall have no authority to remove any city official or employee except with the unanimous formal approval of all members of the city council. The city manager pro tem need not have the qualifications of the city manager. (As amended May 11, 1953.)

Sec. 26. City clerk and ex officio assessor.

The city clerk shall be ex officio assessor of the city, and clerk of the council and of the board of equalization thereof. His salary as such shall be fixed by ordinance. The office of deputy city clerk is hereby created, which shall be filled by

appointment by the city clerk, and at his pleasure such deputy city clerk may be removed therefrom. Such deputy shall possess the powers and shall perform the duties of the city clerk, subordinate to the principal of the office. The salary of such deputy shall be fixed by ordinance.

It shall be the duty of the city clerk to attend all sessions of the council and the board of equalization, and to keep a full and correct record of the proceedings of each of said bodies. The proceedings of the council shall be kept in a book marked "Minutes of the Council," and the proceedings of the board of equalization shall be kept in a separate book marked "Minutes of the Board of Equalization." He shall keep a book, or books, marked "City Ordinances" into which he shall copy all city ordinances certifying that each such copy is a full and correct copy of the original ordinance, and stating that the same has been published as required by law. Said record copy, so certified, shall be prima facie evidence of the contents of the ordinance, and of its passage and publication and shall be admissible as such evidence in any court or proceeding. Such record shall not be filed but shall be returned to the custody of the city clerk. He shall also keep a book, or books, marked "resolutions," into which he shall copy all resolutions passed by the council. Both the books containing ordinances and resolutions, shall be adequately and comprehensively indexed. He shall conduct promptly, and keep a systematic record of, all correspondence between the council and third parties relating to city business.

He shall be the keeper of the corporate seal of the city, and shall affix the same to instruments or writings requiring authentication. He shall safely keep all records, documents, ordinances, resolutions, books, and such other papers and matters, as may be regularly delivered into his custody or required by law or ordinance to be filed with him.

It shall be the duty of the city clerk, as ex officio assessor, between the first Monday in March and the first Monday of August of each year, to assess all taxable property, within the City of Monterey, at the time and in the manner prescribed by the general laws of the state, except as may be otherwise provided by ordinance. Prior to the first Monday in August of each year he shall make out a list of all taxable property within the city, which list shall describe the property assessed and the value thereof, and shall contain all other matter re-

quired to be stated in such list by ordinance. The assessor shall verify such list by his oath and deposit the same with the auditor on or before the first Monday of August of each year. The assessor shall possess such other powers and perform such additional duties, not inconsistent with this Charter, as may be prescribed by ordinance.

Sec. 27. Collector.

It shall be the duty of the collector to collect all taxes levied by the council and other moneys due the city. He shall at the close of each business day pay to the treasurer all taxes or other funds of the city collected by him during such day, or in his possession. Upon receipt of any tax list he shall give his receipt therefore to the auditor, and shall upon delivery to the auditor of the delinquent tax list, take his receipt for the same. He shall be charged with all taxes levied upon real and personal property within the city, upon his receipt of the tax list from the auditor. He shall be charged with, and indebted to the city for, the full amount of all taxes due upon delinquent list delivered to him for collection, unless the council determine by resolution that he is unable to collect the same by levy and sale of the property assessed therefor. He shall possess such other powers and perform such additional duties, not in conflict with this Charter, as may be prescribed by ordinance.

The salary of the collector shall be fixed by ordinance.

Sec. 28. Deleted, May 10, 1965.

Sec. 29. Director of public works.

The director of public works, at the time of his appointment, shall have been a practicing civil engineer for a period of at least three years. All other things being equal, an engineer who has had special training and experience in municipal engineering shall be appointed to this office, if practicable.

As director of public works he shall be the custodian of, and responsible for, all maps, plans, profiles, field notes, and other records and memoranda belonging to the city and pertaining to his office and the work thereof, all of which he shall keep

in proper order and condition. He shall turn the same over to his successor upon relinquishing his office, who shall give him duplicate receipts therefor, one of which he shall file with the city clerk. All maps, plans, profiles, field notes, estimates and other memoranda of surveys and other professional work made or done by him, or under his direction or control, for or on behalf of the city during his term of office, shall be the property of the city. He shall perform all engineering work and surveying in prosecuting public improvements in or for the city, and in relation to public streets, lanes, alleys, ways, places and real property of the city, and shall possess such other powers and perform such additional duties not in conflict with this Charter, as may be prescribed by ordinance or the general laws of the state. His salary shall be fixed by ordinance. The director of public works shall also be the city engineer and superintendent of streets and shall be fully empowered to act in said capacities and execute all documents as city engineer or superintendent of streets when empowered or required to do so by ordinance or general law. (As amended May 10, 1965.)

Sec. 30. City attorney.

The city attorney shall be an attorney-at-law, admitted to practice as such before the supreme court of the state, and who has been in actual practice therein for at least three years next preceding his appointment. All other things being equal, an attorney who has had special training or experience in municipal corporation law shall be appointed to this office, if practicable. The city attorney shall be legal advisor of the council, and all other city officials. He shall prosecute all violations of city ordinances and shall draft all ordinances, resolutions, contracts, and other legal documents and instruments, required by the council or the city manager. He shall perform such other legal services as the council may direct and shall attend all meetings of the council unless excused therefrom by three members thereof or by the mayor. The salary of the city attorney shall be fixed by ordinance.

When from any cause the city attorney is unable to perform the duties of his office, he may, with the consent of the city manager, appoint some other qualified attorney to temporarily act in his place; and whenever, in the judgment of the

council, the interests of the city require it, it may employ assistant counsel.

The city attorney shall deliver all books, records, papers, documents and personal property of every description, owned by the city, to his successor in office, and the city shall provide a means of safe-guarding the same.

He shall possess such other powers and perform such additional duties, not in conflict with this Charter, as may be prescribed by ordinance.

Sec. 31. Treasurer.

It shall be the duty of the treasurer to receive and safely keep all moneys of the city, or deposited with him in connection with any business thereof, for all of which he shall give duplicate receipts, one of which shall be filed forthwith with the auditor. Before any money is accepted or received by him on account of any indebtedness due the city, he shall receive a certificate from the auditor specifying the amount thereof to be paid. He shall pay out all moneys, except the principal and interest due on bonds of the city, including improvement bonds thereof, on warrants signed by the proper officers, and not otherwise. He shall make quarterly statements showing the receipts and disbursements for the quarters ending September 30th, December 31st, March 31st, and June 30th, in each year. Such statements shall show in detail the condition of each and every fund required to be set apart by him. All statements shall be made in duplicate, one copy of which shall be filed with the city clerk, and one delivered to the city manager, within ten days after the end of each quarter. He shall make quarterly settlements with the auditor, and shall possess such other powers and perform such additional duties, not in conflict with this Charter, as may be prescribed by ordinance.

Before entering upon his duties, the treasurer shall file with the city clerk an official bond for the faithful performance thereof, payable to the City of Monterey in the sum of ten thousand dollars. Said bond shall be to the satisfaction of the mayor and his approval shall be endorsed thereon. The premium of such bond shall be paid by the city. The salary of the treasurer shall be fixed by ordinance.

Sec. 32. Street superintendent.

The street superintendent shall possess such powers and perform such duties as may be prescribed by ordinance or the general laws of the state. His salary shall be fixed by ordinance.

Sec. 33. Deleted May 10, 1965.**Sec. 34. Chief of police.**

The chief of police, shall be the head of the police department of the city, which is hereby created, and he shall have all the powers that are now, or may be hereafter conferred upon sheriffs and other peace officers by the laws of the state. It shall be his duty to preserve the public peace, and to suppress riots, tumults, and disturbances. His orders shall be promptly executed by the police officers or watchmen of the city, and every citizen shall lend him aid, when requested, for the arrest of offenders, the maintenance of public order, or the protection of life or property.

He shall execute and return all process issued to him by legal authority. He shall have the power, and it is hereby made his duty, to arrest persons violating any law of the state, or ordinance of the city. Those arrested for violating city ordinances may before or after trial, be confined in the county jail of Monterey County, or in the city prison of said city. The chief of police shall possess such other powers and perform such additional duties, not in conflict with this Charter as may be prescribed by ordinance. His salary shall be fixed by ordinance.

Sec. 35. Fire chief.

The fire chief shall be head of the fire department of the city, which is hereby created, and he shall have charge and supervision over all matters relating to the prevention and extinction of fires, and of all measures necessary to guard and protect all property exposed thereby. He shall possess such other powers and perform such additional duties, not in conflict with this Charter, as may be prescribed by ordinance. His salary shall be fixed by ordinance.

Sec. 36. Disposition of city moneys.

Every officer receiving, or in possession of any moneys belonging to or for the use of the city, shall within forty-eight hours thereafter, notify the auditor thereof and thereupon pay the same forthwith into the treasury, on order of the auditor for the benefit, and to the credit, of the funds to which such moneys severally belong, provided however, that Saturdays, Sundays, legal holidays and other days on which the city offices are closed for business shall not be considered in computation of the forty-eight hour period. (As amended May 10, 1965.)

Sec. 37. Deleted May 10, 1965.

Sec. 38. Expert accountant.

The city shall employ a certified public accountant annually to investigate the accounts and transactions of all city officers and employees having the collection, custody or disbursement, of public money or property, or the power to approve, allow or audit demands on the city treasury.

Sec. 39. Residential qualification.

All members of city boards, commissions, council appointees, and department heads, must be residents, or become residents, of the City of Monterey, within three months after such appointment. (As amended May 11, 1953.)

Sec. 40. Illegal contracts.

The prohibition of certain financial interest of specified officers and employees shall be governed by the provisions of the general laws of the State of California. (As amended May 10, 1965.)

Sec. 41. Contract work.

In the erection, improvement and repair of all public works, and in furnishing supplies, labor or materials for the same, or for other use or purpose, when the expenditure required for the same shall exceed the sum of one thousand dollars (\$1,000.00), the same shall be awarded by contract, and shall be let, by the council to the lowest responsible bidder, after

notice by publication in the official newspaper, and security for due execution and performance of any such contract may be required of the bidder and successful contractor, respectively. The detailed procedure for carrying out the provisions of this section shall be prescribed by ordinance.

Provided, that the council may reject any and all bids presented, and may in its discretion, re-advertise for other bids.

Provided, further, that after rejecting bids, the council may determine and declare by a four-fifths vote of all of its members, that the work in question may be more economically or satisfactorily performed by day labor, or the materials or labor purchased at a lower price in the open market, and after the adoption of a resolution to this effect, it may proceed to have the same done in the manner stated without further observance of the foregoing provisions of this section; and

Provided, further, that in case of a great public calamity, such as an extraordinary fire, flood, storm, epidemic or other disaster, the council may by resolution passed by a vote of four-fifths of all members, determine and declare that the public interest or necessity demands the immediate expenditure of public money to safeguard life, health, or property, and thereupon they may proceed, without advertising for bids or receiving the same, to expend or enter into a contract involving the expenditure of any sum required in such emergency on hand in the city treasury and available for such purpose; and

Provided, further, the mayor or mayor pro tempore is empowered to make immediate expenditures of public moneys, or to contract on behalf of the city for materials or services necessary to safeguard life or property, whenever the Governor of the State of California, the President of the United States, or other designated state or federal authorities have declared the city, or an area in which the city is included, to be a disaster area, or said persons have declared a state of emergency to exist, or other similar designation. (As amended May 13, 1935; May 10, 1965.)

Sec. 42. Public improvements and street work.

All public improvements, including the improving, widening, opening, extending and closing of streets, lanes, or alleys,

may be done and made in pursuance of the general laws of the state or procedure ordinances adopted by the council or the electors, and the whole or any portion of the cost thereof paid out of the city treasury or assessed on the property fronting on the improvement, or the district of lands benefited.

Sec. 43. Franchises.

Every franchise or privilege to construct, maintain, or operate, any means or method of transportation in or over any street, lane, alley, or other public place within the city, or to lay pipes or conduits, or erect poles or wires or other structures in or across any such public way or place, for the transmission of gas, electricity, or other commodity, or for the use of public property or places now or hereafter owned by the city, shall be granted under and in pursuance of the general laws of the state relating to the granting of franchises; provided, no new franchise or the renewal of an existing franchise shall be granted except upon the condition that at least two per cent of the gross annual receipts derived from the use of such franchise shall be paid to the city. In all cases the applicant for a franchise shall advance the cost of advertising the same.

Every such franchise shall require the grantee thereof to agree to a joint use of its property with others, wherever practicable, and nothing herein shall be construed as prohibiting the council from requiring other conditions in granting the same not inconsistent with the constitution and general laws. No franchise or privilege so granted shall be sold, leased, assigned, or otherwise alienated, without the express consent of the council given by ordinance and subject to referendum.

Sec. 44. Franchise required when.

No person, firm, or corporation shall exercise any franchise or privilege, except to the extent he or it may be entitled to do so by the Constitution of the state or of the United States, in, upon, under, over, or along any street, public way, or public place in the city without having first obtained a grant therefore as provided in this Charter and by general law.

Sec. 45. Inalienable rights of city.

The rights of the city in and to its waterfront, wharf property, land under water, public landings, wharves, and docks, are hereby declared inalienable.

Sec. 46. Budget.

Not later than thirty days before the time for fixing the annual tax levy, the city manager shall submit to the council an estimate of the expenditures and revenues of the city departments for the ensuing year. This estimate shall be compiled from detailed information obtained from the several departments on uniform blanks to be furnished by the manager. The classification of the estimate of expenditures shall be as nearly uniform as possible and shall give in parallel columns the following information:

(a) A detailed estimate of the expense of conducting each department as submitted by the department.

(b) Expenditures for corresponding items for the last two fiscal years.

(c) Expenditures for corresponding items for the current fiscal year plus an estimate of expenditures necessary to complete the current fiscal year.

(d) Amount and description of supplies and material on hand at the date of preparation of the invoice.

(e) Increase or decrease of requests compared with the corresponding appropriations of the current year.

(f) Such other information as is required by the council or that the city manager may deem advisable to submit.

Sec. 47. Fiscal year.

The fiscal year of the city shall commence on the first day of July of each year, or at such other time as may be fixed by ordinance.

Sec. 48. Taxation.

Except as otherwise herein provided the council shall, by ordinance, provide a system for the assessment, equalization, levy, and collection of taxes, which, as nearly as may be, shall conform to the system provided by the general laws of the

state; provided, that all sales for delinquent taxes shall be made to the City of Monterey. Should the council fail to fix the tax rate within the time prescribed, then the tax rate of the previous year shall constitute the rate for the current year.

Sec. 49. Board of equalization.

The council shall meet at its usual meeting place on the 2nd Monday in July of each year, at ten o'clock A. M., and sit as a board of equalization, and shall continue in session by adjournment from day to day until all returns of the assessor have been rectified and assessments equalized. The board of equalization shall have the power to hear complaints, to take testimony under oath, and to correct, modify, strike out, or raise any assessment, provided that notice shall first be given to anyone whose assessment is proposed to be raised. (As amended May 10, 1943.)

Sec. 49-A. County collection of taxes.

The council is hereby authorized to enter into a contract with the board of supervisors of the County of Monterey wherein the council may agree that the duties and functions of the city clerk and ex officio assessor, the collector, and of the council, insofar as said duties and functions apply to the assessing, collecting and equalization of real and personal property taxes, may be performed by the County of Monterey. (As amended May 13, 1957.)

Sec. 50. Annual tax levy.

The council must finally adopt, not later than its first regular meeting in August, an ordinance levying upon the assessed valuation of all property in the city, a rate of taxation sufficient to raise the amounts estimated to be required in the annual budget as herein provided, less the amounts estimated to be received from fines, licenses, and other sources of revenue. The council shall then deliver the assessment roll to the auditor, who shall thereupon compute and carry out the amount of the tax so levied on each parcel of property contained in the assessment roll. The corrected list for each such tax shall be the assessment roll of said tax for said year, and

it shall be certified by the auditor as being the assessment roll of said city. (As amended May 11, 1953.)

Sec. 51. Limit of tax levy.

The tax levy authorized by the council to meet the municipal expenses for each fiscal year shall not exceed the rate of two dollars on each one hundred dollars of the assessed valuation of the real and personal property within the city, except as this Charter otherwise provides. The money collected from such levy shall be placed in the general fund of the city, and may be apportioned as determined by the council.

The foregoing limitation shall not apply in the event of any great necessity or emergency, in which case it may be temporarily suspended for any one fiscal year if authorized by ordinance adopted by the vote of the electors of the city.

Sec. 52. Special tax levy.

The council shall have the power to levy and collect taxes in addition to the taxes herein provided for municipal purposes, sufficient to pay and maintain the sinking fund for the bonded indebtedness of the city.

Sec. 53. Tax liens.

All taxes and assessments levied, 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 of each year, and may be enforced by actions to foreclose such liens in any court of competent jurisdiction, 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 sold to the city in like case and manner, and with like effect and right of redemption, as it may be struck off and sold to the state when offered for sale for county taxes; and the council shall have power to provide by ordinance for the procedure to be followed in such sales to the city and redemption thereafter.

Sec. 54. Payment of city moneys.

Money shall be drawn from the treasury only upon warrants as herein prescribed. Every demand against the city, from whatever source including the free public library, when allowed by the council or proper board, shall be signed by the president and clerk of such body and a warrant, numbered and dated the same as the demand, issued and signed by the same officers, and both must, before the warrant can be paid, be presented to the auditor, who shall satisfy himself whether the money is legally due and its payment authorized by law. If he allows it he shall endorse upon the warrant the word "Allowed" and the date of such allowance, and sign his name thereto. No demand shall be allowed, approved, audited or paid unless it shall specify each item of the claim and the date thereof.

Provided, however, that warrants for salaries fixed by ordinances, of officers and offices specifically created by this Charter shall be allowed by the auditor and paid regularly from the treasury without the necessity of any demand therefor or approval thereof as in this section prescribed for other claims, and at such time, not in conflict with this Charter, as may be prescribed by ordinance.

Sec. 55. 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 city moneys. Whenever an act shall be passed by the legislature of the state providing for uniform municipal accounts or reports, the city authorities shall be governed thereby.

Sec. 56. Newspaper advertising and printing.

The council shall advertise bi-annually in each even-numbered year for the submission of sealed proposals or bids, from all newspapers of general circulation in the city, for the publication of all ordinances and other legal notices and matters required to be published. The newspaper to which such contract is awarded shall be known and designated as the "official newspaper." The rates for publishing public notices shall not exceed the customary rates charged for publishing

legal notices of a private character, Contracts for advertising shall be awarded to the lowest, responsible bidder. (As amended May 13, 1957.)

Sec. 57. Counting the city's money; safety deposit boxes.

The mayor, city clerk and city manager, shall together count the money and other securities in the treasury at least once every three months, and ascertain if the amounts on hand tally with the amounts that should be in the treasury according to the books of the city. They shall make a written report thereof to the council at its first regular meeting thereafter.

No safety deposit vault maintained by the city shall be opened except in the presence of at least two officers of the city, one of whom shall be the city treasurer or his deputy and the other shall be the city manager or his deputy. (As amended May 10, 1965.)

Sec. 58. General laws applicable.

All general laws of the state applicable to municipal corporations now or hereafter enacted, and which are not in conflict with the provisions of this Charter or the ordinance of the city hereafter enacted shall be applicable to the city. The council may adopt and enforce ordinances which in relation to municipal affairs shall control as against general laws of the state.

Sec. 59. Official records.

All books and records of every office and department shall be open to the inspection of any citizen during business hours, subject to proper rules and regulations for the efficient conduct of the business of such department; provided, that the records of the police department shall not be subject to such inspection except by permission of the proper police authorities.

All officers and boards shall deliver to their successors all papers, books, records, archives, and other properties pertaining to their respective offices or departments, in the possession or control of any such officer or department and the council shall provide adequate means for their safe-keeping.

Sec. 60. Interference with or by city manager.

No member of the council shall in any manner, directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the city manager in the making of any appointment or the purchase of supplies, or attempt to exact any promise relative to any appointment from any candidate for city manager, or discuss, directly or indirectly, with any such candidates, the matter of appointments to city officers or employments. Any violation of the foregoing provisions of this section shall constitute a misdemeanor and shall work a forfeiture of the office of the offending member of the council, who may be removed therefrom by the council or by any court of competent jurisdiction.

Neither the city manager, nor any appointive officer or employee of the city, shall take any active part in securing, or shall contribute money toward, the nomination or election of any elective candidate for municipal office.

Sec. 61. Leases of city property.

In every lease of city property for a term of over five years, the basic amount of the rental shall be fixed by the council, and the lease shall provide that such amount shall in no event be lowered during the term thereof. Provision shall be made in all such leases for a revision of the amount of the rental at stated periods of not less than three nor more than five years each during the term of any such lease, and that such revision shall be made by a board of appraisers consisting of one appraiser appointed by the council and one appraiser appointed by the lessee. Any increase in the amount of any such rental agreed upon by said appraisers shall bind their principals. In the event of their failure to agree upon the amount of such increase within twenty days from and after their appointment, said two appraisers may appoint a third appraiser as a member of said board and the determination of the majority shall be final and conclusive and binding upon all concerned. Should the two appraisers appointed by the council and lessee, respectively, fail for thirty days from and after their appointment to agree upon the amount of the increase of the rental or to appoint a third appraiser, in any case, then upon the petition in writing of either party to any such lease, the presiding Superior Court Judge of Monterey County is hereby

empowered to appoint the third appraiser upon such board. In the event that the council demands a revision of the amount of the rental set forth in any such indenture of lease, as herein provided, the lessee shall within ten days from and after receiving notice in writing of such demand, appoint its appraiser as in this section provides, and forthwith notify the council in writing of such appointment; provided, that should the lessee fail for said period last named to make and give notice of such appointment as aforesaid, then upon application of the lessor, said presiding Superior Court Judge of Monterey County is hereby empowered to make the same, and the determination of such board so constituted shall bind and be conclusive upon all parties to the lease; provided, further, that in no case, shall any such board of appraisers be authorized to lower the amount of the basic rental fixed by the council.

All such leases shall provide, also, that the council may terminate the same at its pleasure and repossess the premises therein described upon three months' notice thereof and upon paying to the lessee the market value of any improvements made or put upon said premises by the lessee, or prior lessees. The market value of such improvements shall be determined by a board of appraisers appointed as aforesaid, and the determination of such board shall be binding on all parties in interest; provided however, that the council shall not terminate any such lease or repossess any such premises except for a public use and purpose; provided further, that no lease of city property shall be made for a term of more than fifty years. (As amended May 10, 1965.)

Sec. 62. Inventory of city property.

At the time for preparing and submitting the budget, as prescribed by this Charter, a complete inventory of all personal property belonging to the city shall be prepared and filed with the city clerk, and such inventory shall be submitted to the council by the city manager at the time of the submission of the annual budget. Such inventory shall be prepared under the direction of the city manager, and all chief officials and department heads of the city shall be responsible for making and transmitting to the city manager a full and correct inventory of all city personal property in their possession or under their control.

Sec. 63. Public library and board of library trustees.

There shall be a board of library trustees consisting of five members to be appointed by the mayor with the approval of three members of the city council. No person shall be eligible for appointment to the board of library trustees unless he shall have been a resident and elector of the City of Monterey for at least three years next preceeding his appointment provided that trustees in office at the time of adoption of this charter amendment shall continue to hold office until the expiration of their terms. Terms of library trustees shall be four years, two of which shall start July 1, 1954, and end June 30, 1958, and three of which shall start July 1, 1956, and end June 30, 1960.

The board of library trustees shall have the following powers, duties and responsibilities:

(a) To select all books, magazines, periodicals, recordings, films, pictures, photographs, programs received through electronic media, documents, or any other cultural items for circulation from or study in, the Monterey Public Library.

(b) To make and enforce such by-laws, rules and regulations as it may deem necessary for the administration of the Monterey Public Library program.

(c) To appoint and remove the librarian, who shall be the department head, and any such other library personnel as may be necessary for the operation of the library program.

(d) To perform such additional duties and have such additional powers as may be prescribed by ordinance.

There shall be maintained a library trust fund which shall consist of the present library trust fund together with all gifts, devises or bequests received for the use of the library hereafter and all miscellaneous revenues of the library, except fines. Expenditures from said fund shall be made by the council for such library purposes as are requested by the library board and as are in conformity with the conditions of any such gifts, devises or bequests.

Sec. 63½. Municipal cemetery board; powers and duties.

The council is authorized to create by ordinance a municipal cemetery board to control, manage, improve and beautify Cemetary El Encinal and other public cemeteries of the city,

and to prescribe in such ordinance the qualifications, terms, powers and duties of said members and said board, respectively.

Sec. 64. Continuing boards and commissions.

All boards and commissions of the city existing under the provisions of the preceding Charter, with the powers and duties now prescribed for them, respectively, and with such additional powers and duties as may hereafter be prescribed by ordinance, consistent with the provisions hereof.

Sec. 65. Continuing ordinances in force.

All lawful ordinances, resolutions, and regulations, in force at the time this Charter takes effect and not inconsistent with its provisions, are hereby continued in force until the same have been duly amended, repealed, or superseded.

Sec. 66. Vacations.

Vacations of all officers and employees shall be as prescribed by ordinance. (As amended May 11, 1953.)

Sec. 67. Moneys received from the sale of cemetery lots.

All moneys received from the sale of lots in Cemetary El Encinal, owned by the city, shall be expended for cemetery purposes of said city only.

Sec. 68. Repealed.

Sec. 69. Equipment.

The City of Monterey is hereby empowered to supply all officers and employees thereof with the tools, equipment, books, records, and other personal property, necessary to properly discharge the duties of their respective offices and employments, and it shall be discretionary with the council or city manager to acquire or purchase the same for any office or employment to which they have, respectively, the appointing power.

Sec. 70. Resignations.

No candidate for any city office or employment shall be required to tender his resignation in writing, or otherwise, to any person at or prior to, his appointment and qualification, and no resignation in writing, or otherwise, shall be valid or binding unless filed, within three days from and after the execution thereof, in the office of the city clerk.

Sec. 71. Payment of salaries.

The salaries of all officers and employees of the city shall be paid out of the general fund until such time as the council shall create a salary fund therefrom, in which event such salaries shall be paid from the salary fund.

Sec. 72. Official seal.

The official seal of the city prescribed therefor by the preceding Charter of the city shall continue to be the official seal of the city under this Charter.

Sec. 73. Zoning system.

The City of Monterey is hereby declared to be primarily a residential city and the council shall have power to establish such zoning system within the city as may in its judgment be most beneficial, and in such zoning systems may prohibit the erection or maintenance of any class or classes of buildings within certain areas, and may classify and reclassify the zones established. The council may also prescribe the character of materials and method of construction of buildings erected within any zone area, and may establish set-back lines as it may consider necessary and proper.

Sec. 73½. Repealed.**Sec. 74. Administering oaths; subpoenas.**

Every elective officer and every chief appointive official, including all members of boards and commissions provided for in this Charter, or by ordinance, shall have the power to administer oaths and affirmations, and every such board and commission shall have power to issue subpoenas, to compel by

subpoena the production of books, papers and documents, and to take and hear testimony concerning any matter or thing pending before such board or commission.

If any person so subpoenaed neglects or refuses to appear, or to produce any book, paper or document, as required by such subpoena, or shall refuse to testify before any such board or commission, or to answer any question which a majority of any such body shall decide to be proper or pertinent, he shall be deemed in contempt and any such board or commission shall have the power to take the proceedings in respect thereto provided by the general laws of the state. The chief of police must, on request of any member of such board or commission, detail a police officer or officers to serve such subpoena.

Sec. 75. Monthly financial reports.

All officers charged by the preceding Charter of the city or by ordinance with submitting monthly financial reports to the council, shall submit the same in duplicate, and upon their approval by the council, one of each of such duplicate reports shall be posted forthwith in the office of the city clerk in such manner as to be readily accessible to the public, and shall remain so posted until the approval by the council of the next succeeding financial report when the same procedure shall be followed in relation thereto. The council, in addition to such posting, may, in its discretion, cause any of such reports to be published at any time.

Sec. 76. Approving illegal claims.

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

Sec. 76½. Claims against the city for personal injury and damages.

The general laws of the State of California shall apply to any claim for damages or injury against the City of Monterey

or any of its officers or employees. (As amended May 13, 1935; May 10, 1965.)

Sec. 77. Publication of Charter and ordinances.

The council, within one year after the first general municipal election held under the provisions of this Charter, and from time to time thereafter, shall cause all ordinances of the city in force at such time to be classified under appropriate heads and indexed, and to be published in book form either together with, or separately from this Charter. Such publication may include such provisions of the preceding Charter and of the constitution and general laws of the state as to the council may seem desirable.

Sec. 78. When Charter effective.

This Charter shall go into effect upon its approval by the legislature.

All elective officers in office at the time this Charter becomes effective shall hold and perform the duties of their respective offices in accordance with the provisions of this Charter until their successors are elected and qualified.

WHEREAS, The City of Monterey is a city containing a population of more than three thousand five hundred inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States; and

WHEREAS, on the 28th day of October, 1924, at a special municipal election duly held in said city on that day under and pursuant to the provisions of Section 8 of Article XI of the Constitution of the State of California, the electors of said city did choose and elect J. Alves, E. J. Burns, O. P. Colburn, John L. Colwell, G. O. DeWitt, P. J. Dougherty, W. G. Hudson, C. J. Krieger, Horace Langdon, Henry Little, Carmel Martin, C. A. Metz, George McDonald, E. G. McMenamin, and J. K. Oliver, who were and are all electors of said city and eligible as candidates, under said election, as a board of fifteen freeholders to prepare and propose a new charter for the government of said city; and

WHEREAS, the result of said election was duly declared by the legislative body of said city, to wit: The Council thereof, on the 31st day of October, 1924, and all of said electors

thereafter duly qualified as such freeholders in accordance with law; and

WHEREAS, the said Board of Freeholders, in pursuance of said provisions of the Constitution of the State of California, and within one hundred and twenty days after the result of said election was so declared, has prepared the foregoing Charter in time, form and manner, as prescribed by said provisions;

NOW THEREFORE, said Board of Freeholders does now propose said foregoing Charter as and for the charter of the City of Monterey, and does hereby fix the 9th day of March, 1925, as the date for holding a special municipal election in said city at which the said proposed charter shall be submitted to the electors thereof for their ratification and adoption.

IN WITNESS WHEREOF, the undersigned freeholders hereunto set our hands at the City of Monterey in the State of California, this 22nd day of December, 1924.

P. J. DOUGHERTY, President of said Board of Freeholders.

J. ALVES, Secretary of said Board,

E. J. BURNS,

O. P. COLBURN,

JOHN L. COLWELL,

G. O. DEWITT,

W. G. HUDSON,

C. J. KRIEGER,

HORACE LANGDON,

HENRY LITTLE,

CARMEL MARTIN,

C. A. METZ,

GEORGE MAC DONALD,

E. G. McMENAMIN,

J. K. OLIVER.