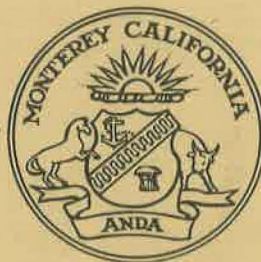


# CHARTER

## CITY OF MONTEREY

### CALIFORNIA



*Proposed by*  
BOARD OF FREEHOLDERS  
Elected October 28, 1924



Adopted March 9, 1925

As Amended May 13, 1935  
As Amended May 10, 1943  
As Amended May 11, 1953  
As Amended May 13, 1957  
As Amended May 10, 1965  
As Amended May 8, 1967  
As Amended May 11, 1971

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**CHARTER**  
**CITY OF MONTEREY**  
**CALIFORNIA**

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**Section 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.

**Section 2. BOUNDARIES:** The boundaries of the City of Monterey shall continue as now established until changed in some manner authorized by law.

**Section 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.

**Section 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.



**Section 5. ELECTIONS:** General municipal elections shall be held in said City on the second Tuesday 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 so far as the same may be applicable and except as herein otherwise provided. 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. *(Amended 1971)*

**Section 6. CANVASS OF RETURNS:** The Council of said City shall meet at its usual meeting place on the first Tuesday after any municipal election, duly canvass the returns and declare the results thereof and install the newly elected officers, if any.

**Section 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.

**Section 8. ELECTIVE OFFICERS:** Elective officers of the City of Monterey shall be a Mayor and four Councilmen. *(Amended 1953)*

**Section 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.

**Section 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 Tuesday 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 chief legislative officer of the City. 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.

The Council shall, from one of its members, elect a Mayor pro tempore who shall, during the absence or disability of the Mayor, exercise the powers and perform the duties of said office. In case of a vacancy in the office of the Mayor, the Mayor pro tempore shall act as Mayor until the vacancy in said office is filled as provided in this Charter. The Council shall determine the length of office of the Mayor pro tempore and may, without cause or notice, remove the Mayor pro tempore from office by the affirmative vote of three of its members. *(Amended 1971)*

**Section 11. THE COUNCIL:** The 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 Tuesday next succeeding the day of such election 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 constitution of the State including all powers now or hereafter granted by general law. (*Amended 1971*)

**Section 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 meetings shall be a regular meeting for all purposes. All legislative sessions of the Council, whether regular or special, shall be open to the public.

**Section 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.

**Section 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.

**Section 15. LEGISLATIONS:** 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.

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.

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

ordinance or resolution 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 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 days thereafter, or at any time 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 days before its adoption. In the case of an ordinance being amended before its adoption as amended, and where such amendment is made for the correction of clerical errors or omissions of form only, then such ordinance need not be republished.

Ordinances and resolutions need not be read either in whole or in part prior to their adoption except as may be otherwise required by ordinance or general law.

An ordinance shall take effect thirty 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 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 five thousand dollars (\$5,000.00), or for the acquisition, sale, lease in excess of five years, 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 penalties, shall be taken except by ordinance. Any lease, license or other similar interest for a term of five years or less including options in which the City is either grantor



or grantee shall be authorized by resolution.

No ordinance, or portion thereof, shall be repealed except by ordinance. No ordinance shall be revised, reenacted or amended by reference to its title only, but the ordinance 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, reenactment, amendment, or addition, shall be by ordinance only.

All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk. (*Amended 1971*)

#### **Section 16. CITY OFFICERS:**

- (a) **Chief Appointive Officers:** The chief appointive officers of the City shall be a City Manager, Assistant City Manager, City Clerk, City Attorney, Finance Director, Director of Public Works, Chief of Police, Fire Chief, Planning Director, Director of Parks and Recreation, and Librarian. 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 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.
- (b) **Powers and Duties of Appointive Officers:** The appointive officers shall have the following powers and duties, provided, however, that the Council or the City Manager may from time to time prescribe additional powers and duties of any appointed officer not in conflict with this section. All appointive officers, except the City Manager, shall be responsible to the City Manager for the conduct and performance of their offices.
  - (1) **City Manager:** Shall manage all other officers and employees of the City and shall be responsible for carrying out the policies and directives of the Council.
  - (2) **Assistant City Manager:** Shall have such duties and responsibilities as are delegated to him by the City Manager.

- (3) **City Clerk:** Shall maintain all ordinances, resolutions and other records and documents delivered to him as may be required by law, ordinance or established procedure. He shall attend all sessions of the Council and keep a record of the proceedings. He shall maintain the corporate seal of the City and shall affix same with his signature to documents or records requiring authentication.
- (4) **City Attorney:** Shall be legal advisor to the Council and the officers and employees of the City when acting in their official capacities. Shall at all times be a member in good standing of the California State Bar Association.
- (5) **Finance Director:** Shall be the chief accounting officer of the City and shall prepare and maintain all financial records of the City. He shall act as treasurer and shall execute any documents in said capacity where required by ordinance or general law.
- (6) **Director of Public Works:** Shall be the administrator of the Department of Public Works. He shall also serve as City Engineer and Superintendent of Streets, and in said capacity shall execute all documents as required or empowered to do so by ordinance or general law. He shall at all times be a Civil Engineer registered to practice as such in the State of California.
- (7) **Chief of Police:** Shall administer the Police Department, and be responsible for the protection of life and property, for the enforcement of State and local law, for the provision of emergency public safety services, and for the provision of crime prevention.
- (8) **Fire Chief:** Shall administer the Fire Department, and be responsible for the protection of life and property, for the provision of emergency fire protection services and for the provision of community fire prevention.
- (9) **Planning Director:** Shall be responsible for preparing comprehensive plans for the City and the administration of the zoning ordinance and shall serve as secretary to the Planning Commission.
- (10) **Director of Parks and Recreation:** Shall administer the Department of Parks and Recreation and shall



be secretary to the Parks and Recreation Commission.

- (11) **Librarian:** Shall administer the library facilities and programs and shall serve as secretary to the Library Board of Trustees. (*Amended 1971*)

**Section 17. 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.

**Section 18. 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 of the provisions of any general law of the State relative to official bonds not inconsistent with this Charter shall be complied with.

**Section 19. OATH OF OFFICE:** Every officer of the City, before entering upon the duties of his office, shall take and subscribe the oath of office as provided for in the Constitution of the State and shall file the same forthwith with the City Clerk.

**Section 20. 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.

## **Section 21. APPOINTMENT AND REMOVAL OF OFFICERS AND EMPLOYEES:**

### **(a) Appointment of Officers and Employees:**

- (1) The Council shall appoint the City Manager by affirmative vote of three of its members.
- (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
  - (i) 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;

(ii) Said officer is given a public hearing on said proposed removal, which hearing may be informal;

(iii) 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 shall be**

(i) 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.

(ii) 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.

(iii) 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.

(iv) 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.

(v) 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.

(vi) 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 officers 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. *(Amended 1971)*

**Section 22. 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.

**Section 23. 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.

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 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 subject to such conditions and restrictions as may be imposed by ordinance. The salary of the City Manager and ex-officio City Purchasing Agent shall be fixed by ordinance.

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:

- (a) To see that all ordinances are enforced.
- (b) 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.
- (c) To exercise general supervision over all privately owned public utilities operating within the City so far as the same are subject to municipal control.
- (d) 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.
- (e) To attend all meetings of the Council unless excused therefrom by three members thereof or by the Mayor.
- (f) 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.
- (g) To keep the Council advised as to the needs of the City.
- (h) To devote his entire time to the business and interests of the City.
- (i) To have general supervision over all City property including public buildings, parks and playgrounds.
- (j) 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.
- (k) 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 and/or City Clerk. (Amended 1971)

**Section 24. 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 Council. The City Manager pro tem need not have the qualifications of the City Manager. (Amended 1953)

**Section 25. DISPOSITION OF CITY MONEY:** 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 Finance Director thereof and thereupon pay the same forthwith into the treasury on order of the Finance Director 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. (Amended 1971)

**Section 26. 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. As part of the annual audit, the money and securities in the City treasury shall be verified. (Amended 1971)

**Section 27. RESIDENTIAL QUALIFICATION:** All members of City boards, commissions, Council appointees and chief appointive officers shall be residents, or become residents, of the City of Monterey within three months after such appointment. (Amended 1971)

**Section 28. 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. (Amended 1965)

**Section 29. CONTRACT WORK:** In the erection, improvement and repairs 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 five thousand dollars (\$5,000.00), 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. 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, readvertise 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 may be 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.

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 it 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.

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. (*Amended 1971*)

**Section 30. 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 procedural 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 benefitted.

**Section 31. 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 percent 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.

**Section 32. 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 therefor as provided in this Charter and by general law.

**Section 33. 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.

**Section 34. 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. (*Amended 1971*)

**Section 35. 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.

**Section 36. 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.

**Section 37. COUNTY COLLECTION OF TAXES:** The Council is hereby authorized to contract with the County of Monterey for the collection by the County of all taxes on real and personal property, assessments, liens or other levies made by the City. (*Amended 1971*)

**Section 38. ANNUAL TAX LEVY:** The Council must finally adopt, not later than at 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 amount 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. (*Amended 1971*)

**Section 39. 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 (\$2.00) on each one hundred dollars (\$100.00) 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.

**Section 40. 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.

**Section 41. 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.

**Section 42. PAYMENT OF CITY MONEYS:** Money shall be drawn from the treasury only upon warrants as herein prescribed. No demand shall be allowed, approved, audited or paid unless it shall specify each item of claim and the date thereof. The Finance Director shall satisfy himself whether the money is legally due and its payment authorized by law. Specific rules pertaining to signature requirements shall be established by ordinance.

Provided, however, the warrants for salaries fixed by ordinances of officers and offices specifically created by this Charter shall be allowed by the Finance Director and paid regularly from the treasury without the necessity of any demand therefor or approval thereof as in this section prescribed for claims, and at

such time not in conflict with this Charter as may be prescribed by ordinance. (*Amended 1971*)

**Section 43. 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.

**Section 44. 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. (*Amended 1957*)

**Section 45. 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.

**Section 46. 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 safekeeping.



**Section 47. 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 offices 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.

**Section 48. 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 provided, 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. (*Amended 1965*)

**Section 49. 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.

**Section 50. 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 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 preceding 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.

**Section 51. 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.

**Section 52. 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.

**Section 53. VACATIONS:** Vacations of all officers and employees shall be as prescribed by ordinance. (*Amended 1953*)

**Section 54. MONEYS RECEIVED FROM THE SALE OF CEMETERY LOTS:** All moneys received from the sale of lots in Cementerio El Encinal owned by the City shall be expended for cemetery purposes of said City only.

**Section 55. 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.

**Section 56. 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.

**Section 57. 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.

**Section 58. 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 system 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.



**Section 59. 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 the 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.

**Section 60. 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.

**Section 61. 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.

**Section 62. 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.  
(Amended 1965)

**Section 63. 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 which the Council may seem desirable.

**Section 64. 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. De Witt, P. J. Dougherty, W. G. Hudson, C. J. Krieger, Horace Langdon, Henry Little, Carmel Martin, C. A. Metz, George McDonald, E. G. McMenemy, 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. DE WITT,

W. G. HUDSON,

C. J. KRIEGER,

HORACE LANGDON,

HENRY LITTLE,

CARMEL MARTIN,

C. A. METZ,

GEORGE MAC DONALD,

E. G. McMENAMIN,

J. K. OLIVER