

CHARTER

of the

City of Gilroy

Adopted January 8, 1960

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CHARTER OF THE CITY OF GILROY

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**THE CHARTER
OF THE
CITY OF GILROY**

We, the people of the City of Gilroy, State of California, do ordain and establish this Charter as the organic law of said City under the Constitution of said State.

ARTICLE I INCORPORATION AND SUCCESSION

Section 100. Name. The City of Gilroy, County of Santa Clara, State of California, shall continue to be a municipal corporation with the name, "City of Gilroy."

Section 101. Boundaries. The boundaries of the City of Gilroy shall continue as now established until changed in the manner authorized by law.

Section 102. Ordinances. All lawful ordinances, resolutions, rules and regulations, or portions thereof, in force at the time this Charter takes effect and not in conflict with or inconsistent herewith, are hereby continued in force until the same have been duly repealed, amended, changed or superseded by proper authority.

Section 103. Succession, Rights, Powers and Liabilities. The City of Gilroy shall continue to own, possess, control and exercise all rights, powers and property of every kind and nature owned, possessed, controlled or exercised by it at the time this Charter takes effect, not in conflict with or inconsistent herewith, and shall be subject to all its debts, obligations, liabilities and contracts.

Section 104. (Deleted by vote of the electors on November 7, 1995)

Section 105. Transfer of Records and Property. All records, property and equipment of any office, department or agency, or part thereof, all of the powers and duties of which are assigned to any other office, department or agency by or pursuant to this Charter, shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned. If part of the powers and duties of any office, department or agency or part thereof is assigned to another office, department or agency by or pursuant to this Charter, all records, property and equipment relating exclusively thereto shall be transferred and delivered to the office, department or agency to which said powers and duties are so assigned.

Section 106. Continuity of Agencies. Any agency provided for in this Charter with powers and duties substantially the same as those of an agency heretofore existing, shall be deemed to be a continuation of such agency, and shall exercise such powers and duties, and shall have power to continue any business, proceeding or other matter within the scope thereof. Any provision in any law, regulation, contract, grant or other document relating to such a formerly existing agency, so far as not inconsistent with the provisions of this Charter, shall apply to such agency as provided by this Charter.

ARTICLE II POWERS OF THE CITY

Section 200. General Powers. The City shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the Constitution of the State of California. It shall also have the power to exercise any and all rights, powers and privileges heretofore or hereafter established, granted or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise under the Constitution and laws of the State of California.

The enumeration in this Charter of any particular power shall not be held to be exclusive of, or any limitation upon, the generality of the foregoing provisions.

Section 201. Procedures. The City shall have the power and may act pursuant to any procedure established by any law of the State, unless a different procedure is established by this Charter or by ordinance.

Section 202. Contracts for Municipal Services. The City shall have the power to enter into a contract with any other City or County within the State, with a State department, or with any other public or private agency or firm for the performance of any function of the City.
(Amended by vote of the electors on November 7, 1995)

ARTICLE III FORM OF GOVERNMENT

Section 300. Form of Government. The municipal government established by this Charter shall be known as the "Council-Administrator" form of government.

ARTICLE IV THE COUNCIL

Section 400. Powers Vested in the Council. All powers of the City and the determination of all matters of policy shall be vested in the Council, subject to the provisions of this Charter and the Constitution of the State of California.

Section 401. Number and Method of Election. The Council shall consist of seven (7) members, including a Mayor and six (6) Councilmen, each of whom shall have the right to vote on all questions coming before the Council. The Mayor and Councilmen shall be elected at the General Municipal Election from the City at large.

Section 402. Term of Office. Except as otherwise provided in this Section, the Mayor and the members of the City Council shall hold office for a term of four (4) years from and after the first regular meeting following the certification of the City Council election by the duly authorized election official and continuing until their respective successors qualify. If, at any municipal election for members of the Council, there shall be no choice between candidates by reasons of two (2) or more candidates having received an equal number of votes, then the council shall proceed to determine the election of such candidates by lot. (Amended by vote of the electors on November 7, 1995)

Section 403. Eligibility. No person shall be eligible to be nominated for or to hold office as a member of the Council unless he or she is a resident and qualified elector of the City of Gilroy. The Council shall be the judge of the election and qualifications of its members as defined in this Section. (Amended by vote of the electors on November 7, 1995)

Section 404. Council Member to Hold No Other Office. No member of the Council shall hold any other public office or City employment except as is otherwise provided in this Charter. No member of the Council shall be appointed to any City position, office or employment during the term of office for which he was elected or appointed until one (1) year after the expiration of the term for which he was elected or appointed except to fill a vacancy in the office of Mayor. Nothing in this Section shall prevent a Councilman or the Mayor from resigning his office to accept either an elective or appointive office under the government of a county, state or of the United States, or any governmental agency, other than the City of Gilroy. Nor shall the provisions of this Section prohibit any such officer from being a Notary Public or a member of the armed services of this State or of the United States.

Section 405. Reimbursement. The members of the Council shall receive reimbursement for expenses incurred while performing official business of the City as authorized and approved by the Council.

Section 406. Vacancies. An elective office becomes vacant when the incumbent thereof dies, resigns, is removed from office under recall proceedings, is adjudged insane, convicted of a felony, or of an offense involving a violation of his official duties, or ceases to be a resident of

the City, or neglects to qualify within the time prescribed by the provisions of this Charter, or shall have been absent from the State without leave for more than sixty (60) consecutive days, or fails to attend the meetings of the body of which he is a member for a like period without being excused therefrom by said body.

A vacancy in an elective office, from whatever cause arising, shall be filled by appointment by the Council, such appointee to hold office until the first Tuesday following the next general municipal election and until his successor qualifies. At the next general municipal election following any vacancy, a successor shall be elected to serve for the remainder of any unexpired term.

The Council shall declare the existence of any vacancy. In the event the Council shall fail to fill a vacancy by appointment within thirty (30) days after such an office shall have become vacant, it shall forthwith cause an election to be held to fill such vacancy.

Section 407. Interference in Administrative Matters Prohibited. Neither the Council nor any of its members shall interfere with the execution by the City Administrator of his powers and duties, or order or request directly or indirectly, the appointment by the City Administrator, or by any of his subordinates, of any person to any office or employment, or his removal therefrom, except as provided in this Charter. Except for the purpose of inquiry, the Council and its members shall deal with the administrative branch of the City government solely through the City Administrator, or his designated deputy, and neither the Council nor any member thereof shall give orders to any subordinate of the City Administrator, either publicly or privately.

Section 408. Meetings of the Council. The Council shall provide for the time, place and manner of holding its meetings by ordinance, not inconsistent with the provisions of this Section. Copies of such ordinances shall be kept on file in the office of the City Clerk where they shall be available for public inspection. Except as is otherwise provided by the laws of this State, all meetings of the Council shall be open to the public, and all persons shall be permitted to attend any meeting thereof. The Council shall hold at least one (1) regular meeting each month.

A special meeting may be ordered at any time by the Mayor whenever in his opinion the public business may require it, or upon the written request of any three (3) members of the Council. Whenever a special meeting shall be called, written notice of such meeting shall be delivered personally or by mail by the City Clerk to each member of the Council and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered at least twenty-four (24) hours before the time of such meeting as specified in the notice. The notice and order shall specify the time and place of the special meeting, and the business to be transacted. No other business shall be considered at such meetings by the Council.

Section 409. Citizen Participation. Within the established rules for the conduct of its official proceedings, no citizen shall be denied the right personally, or through counsel, to present grievances or offer suggestions for the betterment of municipal affairs at any regular meeting of the Council.

Section 410. Quorum. A majority of the entire membership of the Council shall constitute a quorum to do business, but a less number may adjourn from time to time. In the absence of all

of the members of the Council from any meeting, The City Clerk may declare the same adjourned to a stated day and hour.

Section 411. Rules and Procedures. The Council shall establish rules for the conduct of its proceedings and to preserve order at its meetings. It shall cause a record of its proceedings to be maintained which shall be open to public inspection.

Section 412. Administering Oaths: Subpoenas. Each member of the Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Council. The Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoena or the refusal to testify upon other than constitutional grounds shall constitute a misdemeanor and shall be punishable in the same manner as violations of this Charter are punishable.

ARTICLE V THE MAYOR

Section 500. Political Position. It is the intent of this Article that the Mayor shall be the political leader within the community and the Council to facilitate the determination, expression and interpretation of City policies and programs and to assist the Council in the informed, vigorous and effective exercise of its powers of decision. Political leadership shall be concerned with the general development of the community and the general level of City services and activity programs.

Section 501. Powers and Duties. The Mayor shall be recognized as the official head of the City for all political, representative and ceremonial purposes, by the courts for the purposes of serving civil processes, and by the Governor for military purposes. In time of public danger or emergency, he may direct the administration of the City government through the City Administrator.

The Mayor shall be charged with the duty of making recommendations to the Council on all matters of policy and program which require Council decision, provided, that if he recommends any increases in the City budget, he shall recommend the method of financing such expenditures; and provided further, that if he proposes curtailments of services, such recommendations and his reasons therefore shall be specific. The Mayor shall have the primary, but not exclusive, responsibility for interpreting the policies, programs and needs of the City government to the community. He may also, on his own account, inform the community on any matters of policy or program which he believes the welfare of the community makes necessary.

It shall be the duty of the Mayor to represent the Council in its relationships with civic groups within the City, and by direction of the Council, he shall represent the City in its relationships with other governmental agencies on matters of policy and program.

The Mayor shall preside at meetings of the Council and shall have a vote as a member of the Council. He shall have no power to veto any ordinance or resolution adopted by the Council.

The Mayor shall have authority to preserve order at all Council meetings and to remove or cause the removal of any person from any meeting of the Council for disorderly conduct, to enforce the rules of the Council, and to determine the order of business under the rules of the Council.

The Mayor shall exercise such other powers and perform such other duties as may be prescribed by the Council, not inconsistent with this Charter.

Nothing in this Section shall be construed in any way as an infringement or limitation on the powers and duties of the City Administrator as chief administrative officer and head of the administrative branch of the City government as prescribed in other sections of this Charter. The Mayor shall possess only such authority over the City Administrator and the administrative branch as he possesses as one member of the Council.

Section 502. Mayor Pro Tempore. At the first meeting of the Council following the election or appointment of a member to the Council, the Council shall elect one of its members as Mayor Pro Tempore who shall act as Mayor during the absence or inability of the Mayor to act. In the case of the temporary absence or disability of both the Mayor and the Mayor Pro

Tempore, the Council shall elect one of its members to act as Mayor Pro Tempore.

Section 503. Vacancy. If a vacancy occurs in the office of Mayor, the Council shall forthwith appoint a member of the Council to fill such vacancy who shall serve until the next municipal election, when a Mayor shall be elected to serve for the unexpired term or the succeeding term as the case may be.

ARTICLE VI LEGISLATION

Section 600. Method of Action. When so provided by this Charter, or by law, the rights and powers conferred upon the Council shall be exercised by ordinance. Each act of the Council establishing a fine or other penalty, or granting a franchise, shall be by ordinance.

Section 601. Adoption of Ordinances. Each ordinance shall be introduced in writing. With the sole exception of ordinances which take effect upon adoption, referred to in this Article, no ordinance shall be adopted by the Council on the day of its introduction, nor within six (6) days thereafter, nor at any time other than a regular or adjourned regular meeting, nor until such ordinance shall have been published as required by this Charter. At the time of the introduction of an ordinance, it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by the unanimous vote of the Councilmen present. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a regular or adjourned regular meeting held not less than six (6) days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

Section 602. Emergency Ordinances. Any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five (5) affirmative votes.

Section 603. Vote Required. No ordinance or resolution shall be passed or become effective without receiving the affirmative votes of at least four (4) members of the Council.

Section 604. Roll Call Vote. A roll call vote shall be taken upon the passage of all ordinances and resolutions and be entered upon the journal of the proceedings of the Council. Upon request of any member, a roll call vote shall be taken and recorded on any vote. Whenever a roll call vote of the Council is in order, the Clerk shall call the names of the members in alphabetical order except that the name of the Presiding Officer shall be called last. All members present shall be required to vote.

Section 605. Enacting Clause. The enacting clause of all ordinances shall be substantially as follows: "The Council of the City of Gilroy does ordain as follows."

Section 606. Signature and Attestation. All ordinances and resolutions shall be attested by the City Clerk and when required by law, shall be signed by the Mayor.

Section 607. Publication of Ordinances. The City Clerk shall cause at least the title and a summary of each proposed ordinance, with the exception of those ordinances which take effect upon adoption referred to in this Article, to be published in a newspaper of general circulation in the City at least three (3) days prior to its adoption. The City Clerk shall cause at least the title

and a summary of each ordinance which takes effect upon adoption to be published at least once in the official newspaper of the City within fifteen (15) days after its adoption.

Section 608. Effective Date of Ordinances. No ordinance adopted by the Council shall become effective until thirty (30) days from and after the date of its adoption, except the following, which shall take effect upon adoption:

- (a) An ordinance calling or otherwise relating to an election;
- (b) An improvement proceeding ordinance adopted under some law or procedural ordinance;
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property;
- (d) An emergency ordinance adopted in the matter provided for in this Article;
- (e) An ordinance annexing areas to the City; or
- (f) An ordinance providing for a tax levy or appropriation for the usual current expenses of the City.

Section 609. Amendment of Ordinances. The amendment of any section or sections of an ordinance or code section may be accomplished solely by the reenactment of such section or sections at length, as amended.

Section 610. Codification of Ordinances. The Council shall cause to be classified and codified under appropriate heads all general ordinances in force and cause the same to be printed in book, pamphlet, or looseleaf form for the use of the City, its officers and the public.

Section 611. Violation and Penalty. The Council may make the violation of its ordinances a misdemeanor which may be prosecuted in the name of the People of the State of California, and may prescribe punishment for such violation by a fine or by imprisonment, or by both such fine and imprisonment. Such violations may also be redressed by civil action. (Amended by vote of the electors on November 5, 1996)

**ARTICLE VII
THE CITY ADMINISTRATOR**

Section 700. City Administrator. There shall be a City Administrator who shall be the chief executive officer and head of the administrative branch of the City government. He shall be chosen on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practices with respect to the duties of his office as hereinafter set forth. He shall have at least one (1) year's experience as the administrative head of a city, or three (3) years' experience as assistant administrative head of a city of comparable or larger size, or equivalent training and experience in municipal administration.

No member of the Council shall be eligible for appointment to the office of City Administrator during the term for which he shall have been elected or appointed nor within one (1) year thereafter.

Section 701. Appointment and Removal. The Council shall appoint the City Administrator for an indefinite term and may remove him by a resolution adopted by at least four (4) affirmative votes. At least thirty (30) days before removing him, the Council by at least four (4) affirmative votes shall adopt a resolution of intention to consider the discharge of the City Administrator, which resolution shall set forth the reasons for considering his removal. The City Administrator may reply in writing within one (1) week thereafter, and at his request, he shall be granted an opportunity to speak in his own behalf at the next regular meeting of the Council. At least thirty (30) days after the adoption of the resolution of intention, and after a public hearing, if one be requested, and after a full consideration of the matter, the Council may adopt a resolution of removal. The resolution stating the reasons for considering the removal of the City Administrator may provide for the suspension of the City Administrator from duty but, in any case, shall cause him to be paid forthwith any unpaid balance of his salary and his full salary for the next calendar month following the date of the adoption of the resolution.

Before voluntarily resigning the position, unless waived by the Council, it shall be the duty of the City Administrator to give the Council at least thirty (30) days' notice in writing of his intention to resign, stating the reasons therefore.

Section 702. Compensation. The City Administrator shall be paid a salary commensurate with his responsibilities as chief executive officer of the City which salary shall be established by the Council.

Section 703. Powers and Duties. The City Administrator shall be responsible to the Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities and duties, the City Administrator shall have power and be required to:

(a) Take a continuing interest in the effectiveness and economy of all administrative arrangements throughout the City;

(b) Insure that administrative activities with which two (2) or more departments are

concerned are effectively coordinated;

(c) Appoint, suspend, discipline and/or remove, subject to the provisions of this Charter, all officers and employees of the City except that department heads shall be appointed and removed with the consent of the Council. This sub-section shall not apply to those department heads and officers whose appointment is vested by this Charter in the Council. The City Administrator may authorize the head of any department or office to appoint or remove subordinates in such office;

(d) Prepare the budget annually, submit it to the Council, and be responsible for its administration after its adoption;

(e) Prepare and submit to the Council as of the end of the fiscal year a comprehensive report on the finances and administrative activities of the City for the preceding year;

(f) Make and execute contracts on behalf of the City involving budgeted or appropriated expenditures of One Thousand and Five Hundred and no/100ths (\$1,500.00) Dollars or less.

(g) Establish a centralized purchasing system for all City offices, departments and agencies;

(h) Keep the Council advised of the financial condition and future needs of the City and make such recommendations on any matter as may to him seem desirable;

(i) See that the laws of the State pertaining to the City, the provisions of this Charter and the ordinances of the City are enforced;

(j) Submit a monthly report to the Council covering significant activities of City agencies, offices and departments under his supervision any significant changes in administrative rules and procedures promulgated by him;

(k) Submit special reports in writing to the Council in answer to any requests for information when requested of him by the Council; and

(l) Perform such other duties consistent with this Charter as may be required of him by the Council.

Section 704. Participation in Official Proceedings. The City Administrator shall be accorded a seat at the Council table and at all meeting of boards and commissions and shall be entitled to participate in their deliberations but shall not have a vote. He shall attend all regular and special meetings of the Council unless physically unable to do so or unless he has received prior approval for such absence from the Council.

Section 705. City Administrator Pro Tempore. The City Administrator shall appoint, subject to the approval of the Council, one of the other officers or department heads of the City to serve as City Administrator Pro Tempore during the temporary absence or disability of the City Administrator. If the City Administrator fails to make such an appointment, the Council shall designate an officer of the City to serve as City Administrator Pro Tempore during the absence or disability of the City Administrator.

ARTICLE VIII OFFICERS AND EMPLOYEES

Section 800. City Administrative Organization. The Council shall provide by ordinance, not inconsistent with this Charter, for the organization, conduct and operation of the several offices, departments and other agencies of the City. It may further provide by ordinance for the creation of additional departments, divisions, offices and agencies or for their alteration or abolition or for their assignment and reassignment to departments. Each new department so created shall be headed by an officer as department head who shall be appointed and removed by the City Administrator with the consent of the Council. Subject to the provisions of this Charter, the Council shall provide by ordinance or resolution for the number, titles, qualifications, powers, duties and compensation of all officers and employees.

The Council by ordinance may assign additional functions or duties to officers, departments or other agencies established by this Charter, but shall not discontinue or assign to any other office, department, or any other agency any function or duty assigned by this Charter to a particular office, department or agency. When the positions are not incompatible, the Council may combine in one person the powers and duties of two (2) or more offices.

The City Administrator, within the earliest practicable time following the effective date of this Charter, shall cause to be prepared and submitted to the Council, and the Council, by ordinance, shall adopt an administrative code. Such code shall provide for a complete plan of administrative organization of the City government, and provide for the powers, duties, responsibilities, obligations and procedures of the officers and employees of the City, including rules and regulations of the City departments adopted by ordinance. Such code may be adopted by reference.

Rules and regulations governing administrative procedures of the City government, such as those covering personnel, budgeting, accounting and purchasing methods, shall be included in the administrative code. The code shall be amended by ordinance as necessary or advisable to keep it up to date. Sufficient copies shall be available for all officers of the City and other interested citizens.

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

Section 801. Enumeration. The officers of the City shall consist of the Mayor, the Councilmen, the City Administrator, the City Attorney, the City Clerk, members of boards and commissions and such other officers, assistants, deputies and employees as the Council may provide.

Section 802. Appointment and Removal. The City Attorney and City Clerk shall be appointed by and may be removed by the affirmative votes of at least four (4) members of the Council. Except as otherwise provided in this Charter, all other officers and employees of the City except department heads, shall be appointed by the City Administrator and shall serve at his pleasure.

Section 803. City Clerk: Powers and Duties. The City Clerk shall have the power and be required to:

(a) Attend all meetings of the Council and be responsible for the recording and maintaining of a full and true record of all the proceedings of the Council in books that shall bear appropriate titles and be devoted to such purpose;

(b) Maintain separate books, in which shall be recorded respectively all ordinances and resolutions with the certificate of the Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published in accordance with this Charter;

(c) Maintain separate books, in which a record shall be made of all written contracts and official bonds;

(d) Keep all aforementioned books properly indexed and open to public inspection when not in actual use;

(e) Be the custodian of the seal of the City;

(f) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of the official records;

(g) Have charge of all City elections;

(h) Be responsible for the publication of all official advertising of the City; and

(i) Perform such other duties consistent with this Charter as may be required of him by the Council.

Section 804. City Attorney: Powers and Duties. The City Attorney shall have the power and be required to:

(a) Represent and advise the Council and all City officers in all matters of law pertaining to their offices;

(b) Represent and appear for the City in any or all actions and proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee or former City officer or employee in any or all actions and proceedings in which any such City officer or employee is concerned or is a party, for any action arising out of his employment or by reason of his official capacity;

(c) Attend all meetings of the Council and give his advice or opinion in writing whenever requested to do so by the Council or by any of the boards or officers of the City;

(d) Approve the form of all bonds given to and all contracts made by the City, endorsing his approval thereon in writing;

(e) Prepare all proposed ordinances, contracts and other legal instruments for the City;

(f) Prosecute on behalf of the City all cases for violation of the Charter, City ordinances and other City laws and regulations;

(g) Perform such other legal duties consistent with this Charter as may be required of him

by the Council; and

(h) Upon vacating the office, surrender to his successor all books, papers, files and documents pertaining to the City's affairs.

To become eligible for appointment as City Attorney, the appointee shall have been admitted to practice as an attorney at law before the Supreme Court of the State of California, and shall have been engaged in the practice of law for at least two (2) years immediately prior to his appointment.

The Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.

Section 805. Compensation. The compensation of all City officers and employees, except as otherwise provided in this Charter, shall be by salary to be fixed by ordinance or resolution. No officer or employee shall be allowed any fees, perquisites, emoluments, rewards or compensation for the performance of his official duties aside from the salary or compensation as fixed by the Council, but all fees received by him in connection with his official duties shall be paid by him into the City treasury. The provisions of this Section shall not preclude officers and employees from being reimbursed for actual and necessary expenses incurred while performing official business of the City when said expenses have been authorized or approved by the Council or the City Administrator.

Section 806. Oath of Office. Each officer of the city, before entering upon the duties of his office, shall take the oath of office as provided for in the Constitution of this State, and shall file the same with the City Clerk.

Section 807. Administering Oaths. Each department head and his deputy shall have the power to administer oaths and affirmations in connection with any official business pertaining to his department.

Section 808. Official Bonds. The Council shall fix by ordinance the nature, amount and terms of the official bonds of all officials or employees who are required by ordinance to qualify for such bonds; provided, however, that all officers and employees having custody or control of public funds shall be required to be bonded. All bonds shall be executed by a responsible corporate surety, shall be approved as to form by the City Attorney and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City.

Section 809. Financial Interests Prohibited. The provisions of Article 4, Chapter, 1, Division 4, Title 1 of the Government Code of the State of California as the same now exists or may hereafter be amended, relating to prohibitions applicable to specified officers, shall apply in the City.

Section 810. Nepotism. The council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the third degree of any member of such Council, nor shall any department head or other officer having appointive power appoint any relative of a member of the Council or himself within such degree to any such

position.

Section 811. Discrimination. Except as otherwise provided by the general laws of this State heretofore or hereafter enacted, no person employed by the City or seeking employment therewith shall be employed, refused employment, promoted, demoted, disciplined or discharged or in any way favored or discriminated against because of political opinion or affiliations or membership in a lawful employees association, or because of race or religious belief.

ARTICLE IX BOARDS AND COMMISSIONS

Section 900. Boards and Commissions: Intents and Purposes. Except as otherwise provided in this Article, the appointive boards and commissions established by or pursuant to this Charter are intended to serve as advisory bodies to the Council and the City Administrator in carrying out their respective duties. Membership on such bodies shall be representative of the entire community insofar as that is possible, and members on such boards shall be willing to serve as a civic responsibility. No member of any advisory board or commission shall hold any paid office or employment in the City government. In order to be eligible for appointment to any board or commission, a person shall be a qualified registered elector of the City. In addition to those boards and commissions herein provided, the council may create by ordinance such advisory boards or commissions as in its judgment are required and may grant them such powers and duties as are consistent with the provisions of this Charter. In addition, the Council by motion adopted by at least four (4) affirmative votes, or the City Administrator with the consent of the Council, may appoint from time to time such temporary committees as are deemed advisable to render counsel and advice to the appointing authorities on any designated matters or subject within the jurisdiction of such authorities.

Any vacancies in any board or commission, from whatever cause arising, shall be filled by appointment by the Council except as otherwise provided in this Article. Upon a vacancy occurring leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term. The provisions of Section 1770 of the Government Code of the State of California as they now exist or may hereafter be amended shall govern the existence of a vacancy except that if a member of a board or commission absents himself from three (3) consecutive regular meetings of such board or commission, unless by permission of such board or commission expressed in its official minutes, his office shall become vacant and shall be so declared by the Council.

Section 901. Appropriations. The Council shall include in the annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of such boards and commissions.

Section 902. Appointments: Terms. The members of each of such boards or commissions shall be appointed by the Council. They shall be subject to removal by motion of the Council adopted by at least four (4) affirmative votes. Unless otherwise provided by ordinance, the members thereof shall serve for a term of four (4) years and until their respective successors are appointed and qualified. No person shall serve more than two (2) consecutive full terms on the same board or commission. No person who has served two (2) consecutive full terms on any board or commission shall be eligible for reappointment to the same board or commission until four (4) years after the expiration of his second term.

The members first appointed to such boards and commissions shall so classify themselves by lot that the term of one of each of their number shall expire each succeeding January first. Where the total number of members of a board or commission to be appointed exceeds four (4), the

classification by lot shall provide for the pairing of terms to such an extent as is necessary in order that the terms of at least one, and not more than two (2) members, shall expire in each succeeding year. Their successors shall be appointed for a full term.

Section 903. (Deleted by vote of the electors on November 5, 1996)

Section 904. Meetings: Chairmen. As soon as practicable following their original appointment, and following the first day of January of each year thereafter each of such boards and commissions shall organize by election one of its members to serve as presiding officer at the pleasure of such board or commission. Each board or commission shall hold regular meetings at least once each month and such special meetings as such board or commission may require. Except as is otherwise provided by the laws of this State, all proceedings shall be open to the public. Whenever a special meeting of any board or commission shall be called, written notice of such meeting shall be delivered personally or by mail by the City Clerk or Secretary of the board or commission to each member of the board or commission and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered at least twenty-four (24) hours before the time of such meeting as specified in the notice. The order shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings.

Unless otherwise required by the laws of this State, recommendations by any board or commission may be made by majority vote. The affirmative vote of a majority of the entire membership of such board or commission shall be necessary for it to take final action.

Unless otherwise provided, the City Administrator shall provide a secretary for the recording of the minutes of each of such boards and commissions who shall keep a record of its proceedings and transactions. Each board or commission may prescribe its own procedural rules and regulations which shall be consistent with this Charter and copies of which shall be kept on file in the office of the City Clerk or with the Secretary of the board or commission, where they shall be available for public inspection. Each board or commission shall have the same power as the council to compel the attendance of witnesses, to examine them under oath, to compel the production of evidence before it and to administer oaths and affirmations in any investigation or proceeding pending before it. (Amended by vote of the electors on November 5, 1996)

Section 905. Compensation. The members of boards and commissions shall serve without compensation for their services as such but shall receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have been authorized by the Council.

Section 906. Planning Commission: Established: Powers and Duties. There shall be a Planning Commission consisting of seven (7) members. The City Administrator, the City Attorney and such other officers as the Council shall designate, or their representatives, shall meet with the Planning Commission and may participate in the discussions but shall not have a vote. The Planning Commission shall have the power and duty to:

- (a) Recommend to the Council after a public hearing thereon the adoption, amendment or

repeal of a master plan or any part thereof, or the adoption, amendment or repeal of a precise plan for the physical development of the City, as such terms are defined by Chapter 3, Title 7, of the Government Code of the State of California;

(b) Annually review and recommend to the City Administrator and Council the five year Capital Improvement Budget;

(c) Exercise such functions with respect to land use, including but not limited to planning, zoning, subdivisions, public building, parks, streets and housing, as may be prescribed by ordinance, not inconsistent with the provisions of this Charter;

(d) Recommend to the Council for adoption and implementation plans for the clearance, rehabilitation, redevelopment or renewal of sub-standard areas within the City;

(e) Recommend to the Council for adoption and implementation such plans as are designed to promote the most beneficial and orderly growth and development of the City; and

(f) Perform such other duties as may be prescribed by the Council not inconsistent with the provisions of this Charter. (Amended by vote of the electors on November 5, 1996)

Section 907. Personnel Commission: Established: Powers and Duties. There shall be a Personnel Commission consisting of five (5) members none of whom, while a member of the Commission, or for a period of one (1) year after he/she has ceased for any reason to be a member, shall be eligible for appointment to any salaried office or employment in the service of the City.

The Personnel Commission shall have the power and duty to:

(a) Act in an advisory capacity to the City Council, City Administrator and/or the Human Resources Director in the preparation, installation, revision and maintenance of a full-time employee position classification plan and the Human Resources Rules and Regulations;

(b) Hear appeals of any officer or employee having regular full-time status in any office, position or employment in the Competitive Service pertaining to suspension, demotion, dismissal or disciplinary action as provided in the Human Resources Rules and Regulations or Memorandums of Understanding.

(c) Perform such other duties relating to personnel matters as may be prescribed by the Council not inconsistent with the provisions of this Charter. (Amended by vote of the electors on November 5, 1996)

Section 908. Library Commission: Established: Powers and Duties. There shall be a Library Commission consisting of five (5) members appointed by the Council which shall have

the power and duty to:

- (a) Act in an advisory capacity to the Council and the City Administrator in all matters pertaining to public libraries located in or serving Gilroy;
- (b) Provide a public forum for community concerns regarding library issues;
- (c) Act in an advisory capacity to the Santa Clara County Library System regarding the Gilroy branch, and to any other public library system serving Gilroy, in regard to service levels, library hours, building uses, and long-range planning;
- (d) Be a liaison between the City and any public library system serving Gilroy;
- (e) Encourage and coordinate a fund-raising committee of Gilroy residents duly appointed by the Council to develop and implement fund-raising activities to subsidize public libraries in and for Gilroy;
- (f) Recommend to the City Administrator and Council the uses of any monies, donations of personal property or real estate designated for the Library; and
- (g) Perform such other duties pertaining to any City of Gilroy Library or any Gilroy branch of the Santa Clara County Library System or other public library system serving Gilroy as may be prescribed by the Council not inconsistent with the provisions of this Charter. (Amended by vote of the electors on November 7, 1995)

Section 909. Arts and Culture Commission: Established: Powers and Duties.

There shall be an Arts and Culture Commission consisting of seven (7) members which shall have the power and duty to:

- (a) Act in an advisory capacity to the Council and the City Administrator in all matters pertaining to art, literature, music, and other cultural activities;
- (b) Formulate and recommend to the Council and the City Administrator a program relating to art, literature, music, and other cultural activities for the inhabitants of the City of Gilroy which will contribute to the utilization and enjoyment of their leisure time and which will promote the public appreciation, education, and development of cultural activities in the community;
- (c) Encourage and coordinate a fund-raising committee of Gilroy residents duly appointed by the Council of Gilroy to develop and implement fund-raising activities to support the arts and culture in and for the City of Gilroy; and
- (d) Perform such other duties relating to the arts and cultural matters as may be prescribed by the Council not inconsistent with the provisions of this Charter. (Added by vote of the electors on November 7, 1995)

Section 911. Recreation and Parks Commission: Established: Powers and Duties.

There shall be a Recreation and Parks Commission consisting of seven (7) members, which shall have the power and duty to:

- (a) Act in an advisory capacity to the Council and the City Administrator in all matters pertaining to recreation and parks;

- (b) Consider the provisions of the annual budget for recreation and park purposes during the process of the preparation of the budget and make recommendations with respect thereto to

the City Administrator and the Council;

(c) Formulate and recommend to the Council and the City Administrator a recreation and parks program for the inhabitants of the City which will contribute to the attainment of general recreational objectives for children and adults of the City, promote and stimulate public interest therein, and to that end, solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein;

(d) Formulate and recommend to the Council and the City Administrator policies for the acquisition, development and improvement of parks and playgrounds and for the planning, care and removal of trees and shrubs in all parks, playgrounds and streets;

(e) Recommend to the Council and the City Administrator as to the acceptance or rejection of offers of donations of money, personal property or real estate to be used for recreation and park purposes; and

(f) Perform such other duties relating to recreation and park matters as may be prescribed by the Council not inconsistent with the provisions of this Charter.

**ARTICLE X
PERSONNEL SYSTEM**

Section 1000. Competitive and General Service. The Administrative Service of the City shall be divided into the General Service and the Competitive Service.

(a) The General Service shall comprise the following offices and positions:

- (1) All elective offices;
- (2) All members of boards and commissions;
- (3) The City Administrator and his deputies, if any, the City Clerk, the City Attorney and his deputies, if any, and the head of each department;
- (4) Persons employed for a special or temporary purpose; and positions of any class or grade exempted from the competitive service for a maximum period of six (6) months in any calendar year;
- (5) Persons employed to render professional, scientific, technical or expert services of an occasional or exceptional character;
- (6) Part time positions or employments, school crossing guards, and voluntary personnel.

(b) The Competitive Service shall consist of all positions in the City Administrative Service which are not in the General Service.

Section 1001. Merit Principle. All appointments to and promotions within the Administrative Service of the City shall be based upon merit and fitness which shall be ascertained by means of recognized personnel selection techniques. The Council shall establish by ordinance a personnel merit system for the selection, employment, classification, advancement, suspension and discharge of those appointive officers and employees who are included in the Competitive Service by the provisions of this Charter. Appointments and promotions in the Competitive Service of the City shall be made from eligible lists to be established by examination in accordance with personnel rules and regulations adopted in the manner provided in this Charter.

Section 1002. Personnel Rules and Regulations. The Council shall implement the personnel system by adopting rules and regulations governing its administration which shall at least include the items set forth in Section 907 (B) of this Charter.

Section 1003. Suspension, Demotion and Dismissal. An officer or employee holding a regular position in the Competitive Service may be suspended without pay, demoted or removed from his position for malfeasance, misconduct, incompetence, inefficiency, or for failure to perform the duties of his position or to observe the established rules and regulations in relation thereto, or to cooperate reasonably with his superiors or fellow employees, but subject to the right to a hearing before the Personnel Commission in the manner set forth herein.

Upon his request an officer or employee suspended, demoted or removed shall be given in writing the reasons for his suspension, demotion or removal. He shall be allowed a reasonable

time for answering the same and may demand a public hearing upon the charges before the Personnel Commission. Such hearings shall be held in accordance with procedures established therefore.

The findings and recommendations of the Personnel Commission with respect to hearings shall be transmitted to the appointing authority for final decision.

Section 1004. Prohibitions.

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

(b) No officer or employee of the City and no candidate for any City office shall, directly or indirectly, solicit any assessment, subscription or contribution, whether voluntary or involuntary, for any municipal political purpose whatever from anyone on an eligible list or holding any position in the Competitive Service.

(c) Sec. 1. Declaration of Policy. It is hereby declared to be the policy of the City of Gilroy that strikes by firefighters and police officers pose an imminent threat to public health and safety and should be prohibited, and that a method should be adopted for peacefully and equitably resolving disputes that might otherwise lead to such strikes.

Sec. 2. Prohibition Against Strikes. No City of Gilroy police officer or firefighter employee, employee union, association or organization shall strike or engage in such concerted economic activity against the City of Gilroy. Disputes unresolved by negotiations should be resolved by the arbitration procedure set forth herein. Any such employee who fails to report for work without good and just cause during said negotiations or who aids, abets or encourages strikes, or other such economic activity against the City of Gilroy during such time shall be subject to disciplinary action, including, but not limited to termination from the City of Gilroy employment, subject to the provisions of this Charter, the City's Personnel Rules and Regulations and lawful procedures.

Sec. 3. Obligation to Negotiate in Good Faith. The City, through its duly authorized representatives, shall negotiate in good faith with the recognized fire and police department employee organizations on all matters relating to the wages, hours, and other terms and conditions of the City employment including the establishment of procedures for the resolution of grievances submitted by either employee organization over the interpretation or application of any negotiated agreement including a provision for binding arbitration of those grievances. Unless and until agreement is reached through negotiations between the City and the recognized employee organization for the fire or police department or a determination is made through the arbitration procedure hereinafter provided, no existing benefit or condition of employment for the members of the fire department or police department bargaining unit shall be eliminated or changed.

Sec. 4. Impasse Resolution Procedure. All disputes or controversies pertaining to wages, hours, or terms and conditions of employment which remain unresolved after good faith

negotiations between the City and either the fire or police department employee organization shall be submitted to a three-member Board of Arbitrators upon the declaration of an impasse by the City or by the recognized employee organization involved in the dispute.

Representatives designated by the City and representatives of the recognized employee organization involved in the dispute, controversy or grievance shall each select one arbitrator to the Board of Arbitrators within three (3) days after either party has notified the other, in writing, that it desires to proceed to arbitration. The third member of the Arbitration Board shall be selected by agreement between the two arbitrators selected by the City and the employee organization, and shall serve as the neutral arbitrator and Chairman of the Board. In the event that the arbitrators selected by the City and the employee organization cannot agree upon the selection of the third arbitrator within ten (10) days from the date that either party has notified the other that it has declared an impasse, then either party may request the State of California Conciliation Service to provide a list of seven (7) persons who are qualified and experienced as labor arbitrators. If the arbitrators selected by the City and the employee organization cannot agree within three (3) days after receipt of such list on one of seven (7) to act as the third arbitrator, they shall alternately strike names from the list of nominees until only one name remains and that person shall then become the third arbitrator and Chairman of the Arbitration Board.

Any arbitration convened pursuant to this article shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure.

At the conclusion of the arbitration hearings, the Arbitration Board shall direct each of the parties to submit, within such time as the Board may establish, a last offer of settlement on each of the issues in dispute. The Arbitration Board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms with those factors traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of public and private employment including, but not limited to, changes in the average consumer price index for goods and services, the wages, hours, and other terms and conditions of employment of other employees performing similar services, and the financial condition of the City and its ability to meet the cost of the award.

After reaching a decision, the Arbitration Board shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the Arbitration Board shall not be publicly disclosed and shall not be binding until ten (10) days after it is delivered to the parties. During that ten day period, the parties may meet privately, attempt to resolve their differences, and by mutual agreement amend or modify any of the decisions of the Arbitration Board. At the conclusion of the ten day period, which may be extended by mutual agreement between the parties, the decision of the Arbitration Board together with any amendments or modifications agreed to by the parties shall be publicly disclosed and shall be binding upon the parties. The City and the recognized employee organization shall take whatever action is necessary to carry out and effectuate the award.

The expense of any arbitration convened pursuant to this article, including the fee for the services of the Chairman of the Arbitration Board, shall be borne equally by the parties. All other

expenses which the parties may incur individually are to be borne by the party incurring such

expenses. (Section (C) added by Charter Amendment November 8, 1988.)

Section 1005. (Deleted by vote of the electors on November 7, 1995)

Section 1006. Appointments from Competitive Service to General Service. In the event an officer or employee of the City holding a position in the Competitive Service is appointed to a position in the General Service, and should subsequently be removed or resign therefrom, he shall revert to his former position in the Competitive Service without loss of any rights or privileges and upon the same terms and conditions as if he had remained in said position continuously.

ARTICLE XI
FISCAL ADMINISTRATION

Section 1100. Fiscal Year. Unless otherwise provided by ordinance, the fiscal year of the City shall begin on the first day of July of each year and end on the thirtieth day of June of the following year.

Section 1101. Budget: Preparation and Submission. At least thirty (30) days prior to the beginning of each fiscal year, the City Administrator shall submit to the Council a proposed budget for the ensuing fiscal year. The budget shall provide a complete financial plan for the budget year. It shall include the following:

- (a) An itemized statement of estimated income and revenues from all sources for the year which the budget is to cover;
- (b) An itemized statement of the proposed expenditures recommended by the City Administrator for each office, department, or agency for the year which the budget is to cover;
- (c) The probable amount required to be levied and raised by property taxation; and
- (d) Such other information as the City Administrator may deem essential, or as the Council may require.

Section 1102. Budget: Public Hearing. Upon receipt of the proposed budget from the City Administrator, the Council shall proceed to consider the proposed budget and may increase, decrease or omit any item or insert new items therein. Before adopting the budget, the Council shall fix the time and place for holding a public hearing on the proposed budget and shall cause a notice thereof to be published not less than ten (10) days prior to said hearing by at least one (1) insertion in the official newspaper of the City. Copies of the proposed budget shall be available for inspection by the public in the office of the City Clerk at least ten (10) days prior to said hearing. At the time and place so advertised, or at any time and place to which such public hearing shall from time to time be adjourned, the Council shall hold a public hearing on the proposed budget at which interested persons desiring to be heard shall be given such opportunity.

Section 1103. Budget: Further Consideration And Adoption. After the conclusion of the public hearing, the Council shall further consider the proposed budget and make any revisions thereto that it may deem advisable; provided, however, that if it shall increase the total proposed expenditures, the Council shall also increase the total anticipated revenues, but not beyond the reasonably anticipated revenues, so that the same, together with reasonably expected surpluses will at least equal such total expenditures. Thereafter, but prior to the beginning of the ensuing fiscal year, the Council shall adopt the budget with revisions, if any. Upon final adoption, the budget shall be in effect for the ensuing fiscal year. A copy of the adopted budget, certified to by the City Clerk, shall be placed on file in the office of the City Clerk where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for use of all officers, offices, departments and other agencies of the City and for use by civic organizations.

Section 1104. Budget: Appropriations. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several offices, agencies and departments for the respective objects and purposes therein specified. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered, except as otherwise provided by this Charter.

At any meeting after the adoption of the budget the Council may amend or supplement the budget so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available revenue not appropriated in the budget.

No officer, department or agency of the City shall, during any fiscal year, expend or incur any obligation to expend money for any purposes not authorized by or in excess of the amounts appropriated by any budget, as amended, for a given classification or expenditure.

Section 1105. Tax System. Unless otherwise provided by ordinance, the City shall use, for the purpose of municipal ad valorem property taxation, the County system of assessment and tax collection as such system is now provided by law or may hereafter be amended and insofar as such provisions are not in conflict with this Charter.

Section 1106. Tax Levy. Except as prohibited by state law, the Council shall determine the amount of money required to be raised by ad valorem municipal property taxation and shall fix the ad valorem municipal tax rate each year and certify the same to the County authorities if the County system of ad valorem assessment and tax collection is used by the City. (Amended by vote of the electors on November 7, 1995)

Section 1107. Independent Audit. The Council shall employ at the beginning of each fiscal year an independent certified public accountant who shall audit the books, records, and accounts of all officers and employees of the City who receive, administer or disburse public funds, and such other officers, employees, departments and agencies as the Council may direct. Such audit shall be made at such times as may be prescribed by the Council but shall be at least annually.

As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such independent accountant to the Council. Three (3) copies of the audit shall be placed on file in the office of the City Clerk where they shall be available for public inspection.

Section 1108. Bonded Debt Limit. The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of fifteen (15%) per cent of the total assessed valuation for purposes of City taxation of all the real and personal property within the City, exclusive of any indebtedness that has been or may hereafter be incurred for the purposes of acquiring, constructing, extending or maintaining municipal utilities for which purpose a further indebtedness may be incurred by the issuance of bonds, subject only to the provisions of the State Constitution and of this Charter.

Section 1109. Contracts for Public Projects. Every project involving an expenditure of City monies of more than the amount set forth in Section 37902 of the Government Code of the State of California as it now exists or hereafter may be amended shall be let by contract to the

lowest responsible bidder after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least seven (7) days before the time for opening bids.

The Council may reject any and all bids, if deemed excessive or unsatisfactory and readvertise for bids, or provide for the work to be procured in the open market, but in no case of open market procurements shall the price paid be higher than the responsible low bid rejected.

The Council, without advertising for bids, following the adoption of a resolution declaring that the project can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market, may have the project done in the manner stated without further complying with the provisions of this section.

(Note to Section 1109. California Government Code Section 37902 was repealed by Stats. 1982, c. 465, p. 1914, section 8, and was incorporated into California Public Contract Code Section 20162.)

Section 1110. Requirements of Bids. All bids or proposals shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in the State of California, made payable to the City. Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein, or if no amount be so specified, then in an amount not less than ten per cent (10%) of the aggregate amount of the bid.

No person, firm or corporation shall be allowed to make or file or be interested in more than one bid or proposal for the same work. If it appears that the same person, firm or corporation is interested in more than one bid or proposal, all such bids or proposals shall be rejected.

The security accompanying the accepted bid or proposal shall be held by the City Clerk until the contract has been entered into, whereupon said security shall be returned to said bidder. All securities accompanying the unsuccessful bids or proposals shall be returned to the proper parties.

If the successful bidder neglects or refuses to enter into the contract within the time specified in the notice inviting bids or specifications referred to therein, the security shall be declared forfeited to the City and shall be collected and paid into its general fund.

Section 1111. Contracts for Official Advertising. The Council shall contract annually for the official advertising of the City for the ensuing fiscal year. In the event there is more than one daily newspaper of general circulation in the City, the Council shall advertise for sealed bids for the work. The advertisement shall set forth distinctly and specifically the work contemplated to be done. The Council shall let the contract for such official advertising to the lowest responsible bidder publishing a daily newspaper of general circulation in the City which has been in existence at least one year at the time of awarding the contract; provided, however, that the Council may reject any and all bids and readvertise in its discretion.

Section 1112. Actions Against the City. No suit shall be brought on any claim for money or damages against the City or any officer, employee, board or commission thereof until a verified demand for same has been presented as herein provided and rejected in whole or in part. If rejected in part, suit may be brought to recover the whole. Except in those cases where a shorter time is otherwise provided by law, all claims for damages against the City must be

presented to the City Clerk within ninety (90) days after the occurrence, event or transaction from which the damages allegedly arose, and shall set forth in detail the name and address of the claimant, the time, date, place and circumstances of the occurrence and the extent of the injuries or damages received; all other claims or demands shall be presented within ninety (90) days after the last item of the account or claim accrued.

In all cases such claims shall be approved or rejected in writing and the date thereof given. Failure to complete the action approving or rejecting any claim or demand within sixty (60) days from the day the same is filed with the City Clerk shall be deemed a rejection thereof.

ARTICLE XII
SCHOOL SYSTEM

Section 1200. Effect of Charter. The organization, government and administration of the public school system in the City of Gilroy shall not be affected by the adoption of this Charter, but shall continue in existence as is now or hereafter prescribed by the Education Code of the State of California.

ARTICLE XIII FRANCHISES

Section 1300. Authority to Require Franchises. Any person, firm or corporation furnishing the City or its inhabitants with any public utility or public utility service, or using the public streets, ways, alleys or places, as the same now or may hereafter exist, in connection therewith, may be required by ordinance to have a valid and existing franchise.

Section 1301. Franchise Terms, Conditions and Procedures. The Council, by ordinance, shall prescribe the terms and conditions under which franchises will be granted, subject to the provisions of this Charter, and the procedure for granting franchises; provided, however, that such procedural ordinance or ordinances shall make provisions for the giving of public notice of franchise applications, for protests against the granting of such franchises and for public hearings on such applications. Until the adoption of such a procedural ordinance the method provided by any law of the State relative to the granting of a franchise of the character of that for which application is being made, shall apply.

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

Section 1302. Term of Franchise. Every franchise shall state the term which it is granted, which, unless it be indeterminate as provided for herein, shall not exceed 25 years.

A franchise grant may be indeterminate; that is to say, it may provide that it shall endure in full force and effect until the same, with the consent of the Public Utilities Commission of the State of California, shall be voluntarily surrendered or abandoned by its possessors, or until the State of California, or some municipal or public corporation, thereunto duly authorized by law, shall purchase by voluntary agreement or shall condemn and take, under the power of eminent domain, all property actually used and useful in the exercise of such franchise and situate within the territorial limits of the State, municipal or public corporation purchasing or condemning such property, or until the franchise shall be forfeited for non-compliance with its terms by the possessor thereof.

Section 1303. Eminent Domain. No franchise grant shall in any way, or to any extent, impair or affect the right of the City to acquire the property of the grantee either by purchase or through the exercise of the right of eminent domain, and nothing herein contained shall be construed to contract away or to modify, or to abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to any public utility.

Section 1304. Duties of Grantee. By its acceptance of any franchise hereunder, the

grantee shall covenant and agree to perform and be bound by each and all of the terms and conditions imposed in the grant, or by procedural ordinance and shall further agree to:

(a) Comply with all lawful ordinances, rules and regulations theretofore or thereafter adopted by the Council in the exercise of its police power governing the construction, maintenance and operation of its plants, works or equipment;

(b) Pay to the City on demand the cost of all repairs to public property made necessary by any of the operations of the grantee under such franchise;

(c) Indemnify and hold harmless the City and its officers from any and all liability for damages proximately resulting from any operations under such franchise;

(d) Remove and relocate without expense to the City any facilities installed, used and maintained under the franchise if and when made necessary by any lawful change of grade, alignment or width of any public street, way, alley or place, including the construction of any subway or viaduct, or if the public health, comfort, welfare, convenience, or safety so demands; and

(e) Pay to the City during the life of the franchise a percentage, to be specified in the grant, of the gross annual receipts of the grantee within the limits of the City, or such other compensation as the Council may prescribe in the grant.

Section 1305. Exercising Rights Without Franchise. The exercise by any person, firm or corporation of any privilege for which a franchise is required, without possessing a valid and existing franchise therefore, shall be a misdemeanor and shall be punishable in the same manner as violations of this Charter are punishable and each day that such condition continues to exist shall constitute a separate violation.

Section 1306. Article Not Applicable to the City. Nothing in this Article shall be construed to apply to the City, or any department thereof, when furnishing any public utility or service.

Section 1307. Preservation of Rights. Nothing contained in this Article shall be construed to affect or impair any rights, powers or privileges relating to franchises vested in, possessed by or available to the City by virtue of previous Charter provisions.

ARTICLE XIV ELECTIONS

Section 1400. General Municipal Elections. A general municipal election shall be held on the regular election date established by the Election Code of the State of California, as it now exists or may hereafter be amended, in each odd-numbered year, commencing with the year 1975, for the election of officers and for such other purposes as the Council may prescribe. (Charter Amendment, November 4, 1974.)

Section 1401. Special Municipal Elections. All other municipal elections which may be held by authority of this Charter, or by any law, shall be known as Special Municipal Elections.

Section 1402. Procedure for Holding Elections. Unless otherwise provided by ordinances hereafter enacted, all elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exists or may hereafter be amended, for the holding of elections in cities, insofar as the same are not in conflict with this Charter.

Section 1403. (Deleted by vote of the electors on November 7, 1995)

Section 1404. Initiative, Referendum and Recall. The powers of the initiative, the referendum and the recall of elected municipal officers are hereby reserved to the electors of the City. Unless otherwise provided by ordinances hereafter enacted, the provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended governing the initiative, the referendum and the recall of municipal officers shall be applicable insofar as the same are not in conflict with this Charter.

**ARTICLE XV
GENERAL PROVISIONS**

Section 1500. Effective Date of Charter. For the purpose of nominating and electing the first Mayor and the first Councilmen, the provisions of the Charter shall become effective when the concurrent resolution of the Legislature approving this Charter is filed with the Secretary of State. For all other purposes, it shall become effective at 8:00 o'clock P.M. on the first Tuesday following the date of the election of the first Mayor and first Councilmen.

Section 1501. (Deleted by vote of the electors on November 7, 1995)

Section 1502. Validity of Charter: Severability. If any provision of this Charter, or the application thereof to any person or circumstance is held invalid, the remainder of the Charter and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 1503. Definitions. Unless the provisions or the context otherwise require, as used in this Charter:

- (a) "Shall" is mandatory, and "may" is permissive;
- (b) "City" is the City of Gilroy, and "department", "board", "Commission", "agency", "officer" or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of Gilroy;
- (c) "Council" is the City Council of the City of Gilroy;
- (d) A "member of the Council" means any one of the seven (7) members of the Council, including the Mayor;
- (e) A "Councilman" means any one of the members of the Council other than the Mayor;
- (f) "County" is the County of Santa Clara;
- (g) "State" is the State of California; and
- (h) "Newspaper of general circulation within the City" is as defined by Section 6000 of the Government Code of the State of California.

Section 1504. Violations. The violation of any provision of this Charter shall be deemed a misdemeanor and be punishable upon conviction by a fine of not exceeding Five Hundred and no/100ths Dollars (\$500.00) or by imprisonment for a term of not exceeding six (6) months or by both such fine and imprisonment.

Section 1505. Amendments to Charter. Amendments to this Charter shall be proposed and submitted to the electors of the City in the manner provided by the Constitution of the State of California.

We certify that the foregoing is a full and exact copy of the Charter submitted to the electors.

IN WITNESS WHEREOF, we have hereunto set our hands and hereunto affixed the official seal of the City of Gilroy, this 8th day of January, 1960.

SIG SANCHEZ
Mayor of the City of Gilroy

G. B. CARR
City Clerk of the City of Gilroy

and

WHEREAS, The proposed Charter, as adopted and ratified, now is fully submitted to the Legislature of the State of California for approval or rejection as a whole without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California, now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefore and concurring therein,

That the said Charter of the City of Gilroy, as proposed to and adopted and ratified by the electors of the City, as hereinabove fully set forth, is hereby approved as a whole, without alteration or amendment, as the Charter of the City of Gilroy.

ASSEMBLY CONCURRENT RESOLUTION NO. 4

Adopted in Assembly February 1, 1960

Arthur A. Ohnimus, Chief Clerk of the Assembly

Adopted in Senate February 3, 1960

J. A. Beck, Secretary of the Senate

This resolution was received by the Secretary of State this 8th day of February 1960, at 9:00 o'clock A.M.

Walter C. Stutler, Assistant Secretary of State

Ralph M. Brown, Speaker of the Assembly

Hugh M. Burns, President of the Senate, pro tempore

Attest: Frank M. Jordan, Secretary of State
By Walter C. Stutler, Assistant Secretary of State