

CITY OF SACRAMENTO

CHARTER

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Article I. Introductory

§ 1 Name.

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

§ 2 Boundaries.

The boundaries of the City of Sacramento, as they exist on the effective date of this section, shall continue until changed in the manner authorized by law.

§ 3 Rights in succession.

The City of Sacramento, hereinafter termed the city, shall have, exercise and enjoy all the rights, immunities, powers, benefits, privileges and franchises now possessed, enjoyed, owned or held by it.

§ 4 Continuance of laws.

All lawful ordinances, resolutions, rules and regulations or portions thereof now in force and not in conflict or inconsistent herewith are continued in force until they have been duly repealed or amended.

§ 5 Offices.

The city council may establish departments, divisions, offices and positions of employment not established by this Charter or created thereunder and shall have the power to abolish, merge or consolidate same.

The city council may also provide for the performance by the County of Sacramento of all or any municipal functions which may now or hereafter be performed by said county, including municipal functions specifically provided for in this Charter. The city council may abolish the appropriate city departments, offices and employments when such municipal functions are to be provided by the County of Sacramento.

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Article II. Powers

§ 10 General powers.

The city shall have the right and power to make and enforce all the laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this Charter; provided that nothing herein shall be construed to prevent or restrict the city from exercising or consenting to, and the city is hereby authorized to exercise, any and all rights, powers and privileges heretofore or hereafter granted or prescribed by the general laws of the state including those specifically applicable to general law cities; provided, also that where the general laws of the state provide a procedure for the carrying out and the enforcement of any rights or powers belonging to the city, said procedure may be followed unless a different procedure is provided or required by the Charter, ordinance or resolution.

It is the intention of the people in adopting this section to take advantage of the provisions of Section 5 of Article XI of the Constitution of the State of California giving cities Home Rule as to municipal affairs.

§ 11 Water supply and meters.

The supply of water for the City of Sacramento for municipal and domestic purposes shall always be owned and controlled as a municipal utility and shall be administered by the city government. No water meters shall ever be attached to residential water service pipes; provided, however, that the city council in its discretion may regulate by meter the charges for water supply of all other water users.

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Article III. The City Council

§ 20 Powers.

All powers of the city shall be vested in the city council except as otherwise provided in this Charter.

§ 21 Composition.

The legislative body of the city shall be a city council of nine members, consisting of the mayor and eight other members. Each council member other than the mayor shall be nominated and elected by the electors of the district in which such person resides as provided in Article X.

§ 22 Districts.

The city is hereby divided into eight council districts, designed First through Eighth Districts, respectively. Council districts in existence upon the effective date of this Charter shall continue to exist until altered as provided in Section 24. The title of the office of each member of the council other than the mayor shall bear the number accorded the district of such member.

§ 23 District standards.

Council districts shall be as nearly equal in population as required under the Federal and State Constitutions. In establishing or changing the boundaries of districts, consideration shall be given to the following factors: topography, geography, cohesiveness, continuity integrity and compactness of territory, community of interests of the districts, existing neighborhoods and community boundaries.

§ 24 Reapportionment of districts.

- (a) Within six months after a regular United States census, the city council shall examine the boundaries of each council district for compliance with the population standard set forth in Section 23 and by ordinance shall modify the boundaries of districts, if necessary, to bring all district boundaries into compliance with said standard. The term a "regular United States census" shall mean a comprehensive population census which is held at regular intervals prescribed by Congress and produces population data equivalent to that described as "Block Data" in the 1970 decennial census.

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- (b) For purposes of this section the six-month period shall begin upon the availability of population data equivalent to that described as "Block Data" in the 1970 census.

§ 25 Redistricting.

District boundaries may be changed by ordinance, provided that any such revised district boundaries shall comply with the population standard set forth in Section 23 except that territory annexed or consolidated with the city shall at the time of such annexation or consolidation be added by ordinance to an adjacent district or districts pending the examination of district boundaries as provided in Paragraph (a) of Section 24.

§ 26 Terms of office.

Each member of the city council other than the mayor shall serve for a term of four years and until a successor qualifies.

§ 27 Qualifications of members.

Each member of the council or candidate therefore, other than for the office of mayor, at the date of candidacy and election or appointment, shall be an elector and a resident in such member's district for not less than 30 days preceding the date of candidacy and election or appointment, as the case may be, and must continue to reside in such district during the term of office, except that no boundary change under Section 24 or 25 shall disqualify a member from serving the remainder of the term. The term "elector" means a person who qualifies to vote at either a state election or federal election held in the State of California. "Date of candidacy" shall mean the date of filing nominating papers or equivalent declaration of candidacy.

§ 28 Vacancies.

A vacancy on the city council other than the office of the mayor shall be filled by special election to be called by the council as provided in Section 154 of this Charter, unless such vacancy occurs within one year of the next general election at which such office would normally be filled, in which case the vacancy shall be filled by appointment by a majority of the remaining members of the council. A person elected or appointed to fill a vacancy shall hold office for the unexpired term of the former incumbent.

Absence from five consecutive regular meetings of the city council, unless excused by resolution of the council, shall operate to

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vacate the seat of the mayor or council member so absent.

§ 29 Salary.

Each member of the council shall receive as salary the sum of twenty dollars for each council meeting attended; provided, that the total salary of each member of the council shall not exceed one hundred dollars in any one month.

§ 30 Rules, quorum and voting.

- (a) The city council shall determine its rules of procedure according to rules which it shall adopt.
- (b) A majority of the members of the council then in office shall constitute a quorum, except that a lesser number may adjourn from time to time and may compel attendance of absent members in a manner provided by ordinance or resolution.
- (c) The city council shall act only by ordinance, resolution or motion. Except as otherwise provided in the Charter, the affirmative vote of five council members of the council shall be necessary to pass any ordinance, resolution or motion. The council shall be a continuing body and no measure pending before such body shall abate or be discontinued by reason of the expiration of the term of office or removal of the members of said body or any of them.

§ 31 Meetings.

- (a) The city council shall hold regular meetings at such times and places as may be fixed by resolution, except that the council shall meet after 5 p.m. not less than one evening each week; provided, however, that the city council may, in its discretion, designate up to four weeks per year during which a regular council meeting need not be held.
- (b) All meetings of the city council and its committees shall be called and conducted in the manner prescribed by State laws regarding matters of statewide concern which are in effect at the time of the meeting.

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§ 32 Ordinances.

- (a) Every proposed ordinance shall be introduced in writing. The enacting clause of each ordinance enacted by the council shall be "Be it Enacted by the Council of the City of Sacramento." The enacting clause of each ordinance enacted by the initiative or referendum process shall be "Be it Enacted by the People of the City of Sacramento." Each ordinance shall contain a title which shall state in general terms the subject or subjects contained in the ordinance.
- (b) Except as otherwise provided elsewhere in this Charter, and with the exception of ordinances which take effect immediately upon adoption, ordinances shall be adopted in compliance with either the procedure set forth in Subsection (c) or Subsection (d) of this section.
- (c) The ordinance shall be first passed by the council for publication of title. At least six days shall elapse between the date the ordinance was passed for publication of title and the date it is adopted by the council. The title of the ordinance shall be published by printing said title in a newspaper of general circulation published within the City designated by the council as the official newspaper of the City, no later than the third day immediately preceding the date of the adoption of the ordinance. No part of any ordinance, or proposed ordinance, other than its title, need be published.
- (d) In lieu of the procedure set forth in Subsection (c) of this section, ordinances shall be published in the official newspaper of the City within ten days after adoption by the council.
- (e) Ordinances which take effect immediately upon adoption, may be adopted without compliance with Subsections (b), (c) or (d) of this section.
- (f) Except as otherwise provided in this Charter, each adopted ordinance shall become effective at the expiration of thirty (30) days after adoption or at any later date specified therein.
- (g) The following ordinances shall take effect immediately upon adoption or at such later dates, of less than thirty

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(30) days after adoption, as may be specified in the ordinances:

- (1) An ordinance calling for or otherwise relating to an election;
- (2) An ordinance adopted as and declared by the city council to be an emergency measure, containing a statement of the facts constituting such emergency, if adopted by the affirmative votes of at least six members of the council; provided, that no measure making a grant, renewal or extension of a franchise or other special privilege or regulating the rate to be charged for its service by a public utility, other than one operated by the city, may be so enacted; and
- (3) An ordinance adopted pursuant to a state law by virtue of which such ordinance shall be effective immediately.

(h) Nothing contained in this section shall be deemed to require an ordinance when an ordinance is not otherwise required. (Adopted November 4, 1980)

§ 33 Records.

The city council shall require the city clerk to keep a permanent public record of its proceedings showing all action considered and taken, motions and records, the text of ordinances and resolutions introduced or adopted and all amendments thereto proposed or adopted, and the vote of each council member regarding any matter before the city council or any committee thereof.

§ 34 Investigations.

The city council or any duly appointed committee of the members of the council may make investigations into the affairs of the city government and the conduct of any department, office, agency, officer or employee thereof, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails to obey a lawful order issued in the exercise of these powers by the city council or a committee of the council shall be guilty of a misdemeanor and punishable by fine or imprisonment, or both, in such amount and for such time as prescribed by state law for misdemeanors.

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§ 35 Limitation on future employment.

No member of the council during the term for which such person shall have been elected or appointed or for one year after such person ceases to hold office, shall be eligible for any appointive office or position in the city, carrying compensation, and created by this Charter, by ordinance or by resolution. An elective office which has been filled by appointment by reason of a vacancy in that office shall not be considered an appointive office under this section.

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Article IV. Mayor

§ 40 Mayor - Functions.

- (a) The presiding officer of the city council shall be the mayor.
- (b) The mayor:
 - (1) Shall be recognized as the official head of the city for the performance of all duties lawfully delegated to the mayor by this Charter, by action of the council or by other laws.
 - (2) Shall provide leadership within the community in the sense that the mayor shall have the primary, but not exclusive, responsibility of interpreting the policies, programs and needs of city government to the people, and as the occasion requires, may inform the people of any change in policy or program;
 - (3) Shall have the right but not the exclusive power to make recommendations to the city council on matters of policy and program that require council decisions;
 - (4) Shall be a member of the city council and shall be entitled to make and second motions on matters before the city council and vote on city council actions, but shall possess no veto power over actions of the city council;
 - (5) Shall be included within the terms "council" and "city council" used in this Charter unless otherwise expressly provided;
 - (6) May propose ordinances and resolutions which shall be considered by the city council;
 - (7) Shall appoint and may remove members of the boards and commissions and advisory agencies in accordance with Article XV except as otherwise provided in this Charter;
 - (8) Shall have and exercise such other powers and duties as provided in this Charter, the laws of the state,

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and ordinances and resolutions of the city.

§ 41 Mayor - Qualifications.

The mayor or candidate therefore, at the date of candidacy and election or appointment, shall be an elector and a resident of the city not less than 30 days prior to the date of candidacy and election or appointment, as the case may be, and shall continue to reside in the city during the term of office. The term "elector" shall have the meaning given in Section 27 of Article III. "Date of candidacy" shall mean the date of filing nomination papers or equivalent declaration of candidacy.

§ 42 Mayor - Election.

The mayor shall be elected from the city at large as provided in Section 152 of Article X of this Charter.

§ 43 Mayor - Term.

The term of office of mayor shall be four years, and until a successor qualifies.

§ 44 Mayor - Compensation and expenses.

The compensation and reimbursement of the mayor shall be established as provided in Section 29 of Article III of this Charter. In addition thereto, the mayor shall be entitled to an annual appropriation in the sum of eighteen hundred dollars (\$1800) for the purposes of entertainment and sundry expenses for which the mayor need furnish no vouchers.

§ 45 Vice-Mayor; Mayor Pro Tem.

At the first council meeting in January of each year, the city council shall elect one of its members, other than the mayor, to serve as vice-mayor during the ensuing calendar year.

During any absence of the mayor from the city or a meeting of the city council, the vice-mayor shall be the acting mayor until the mayor returns. In addition, if the mayor becomes incapable of acting as mayor and incapable of delegating duties, or if a vacancy exists in the office of mayor, the vice-mayor shall become the acting mayor.

In the event of the absence, vacancy in office or inability of both the mayor and vice-mayor to perform their duties, the council may

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appoint one of its members to serve as mayor pro tem. The mayor pro tem shall temporarily act in the capacity of an acting mayor. Any person serving as an acting mayor under this section shall continue to hold office as a member of the city council.

An acting mayor shall possess all powers of the office of mayor and shall be subject to all prescribed duties for such office.

§ 46 Mayor - Vacancy.

A vacancy in the office of the mayor shall be filled by special election to be called by the city council as provided in Section 154 of this Charter, unless such vacancy occurs within one year of the next general election at which the office of mayor would normally be filled, in which case the vacancy shall be filled by appointment by a majority of the members or the city council then in office. A person elected or appointed to fill a vacancy in the office of mayor shall hold office for the unexpired term of the former incumbent.

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Article V. City Manager

§ 60 City Manager - Appointment, qualifications and removal.

There shall be a city manager who shall be appointed by the city council. The city manager shall be selected solely on the basis of executive and administrative qualifications. The city manager shall be appointed by and shall serve at the pleasure of the city council.

§ 61 Functions.

The city manager shall be the chief executive officer of the city and shall be responsible for the effective administration of the city government. The city manager shall have the power and it shall be the city manager's duty:

- (a) To see that all laws and ordinances are enforced;
- (b) To administer and exercise supervision and control over all offices, departments and services of the city government under the jurisdiction and control of the city manager;
- (c) To act in an advisory capacity to the city council with respect to officials not under the jurisdiction and control of the city manager;
- (d) Except as otherwise provided in this Charter, to appoint all heads or directors of departments of the city and all subordinate officers and employees with power to discipline and remove any officer or employee so appointed, subject to the civil service provisions of this Charter; provided, further, that all officers and employees of the city appointed by the city manager who are exempt from the rules and regulations of the civil service board pursuant to Charter Section 83 may be suspended or removed at the pleasure of the city manager.
- (e) To make such recommendations to the mayor and city council as the city manager shall deem appropriate concerning the operation, affairs and future needs of the city;
- (f) To attend all regular and special public meetings of the city council with the right to participate in the dis-

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cussion of matters pending before the council but without the right to vote on such matters;

- (g) To see that all terms or conditions imposed in favor of the city or the people of the city in any contract, franchise, lease or permit are faithfully kept and performed; and upon knowledge of any violation thereof to notify the city council of such violation;
- (h) When authorized to do so by the provisions of this Charter or by ordinance or resolution, to execute, on behalf of the city all contracts, franchises, lease or permits or any other document requiring the execution of which is required by an officer of the city;
- (i) To keep the city council fully advised as to the operations, financial conditions and needs of the city;
- (j) To prepare the annual budget in accordance with Charter Section 111.
- (k) To perform such other duties consistent with this Charter as may be prescribed by the city council.

§ 62 Non-interference with City Manager.

No member of the city council shall directly or indirectly coerce or attempt to coerce the city manager relative to the appointment or removal of any city officer or employee which is made by the city manager, but prior to the making of any appointment or removal of any head or director of any department or division of the city, the city manager shall endeavor to advise the city council of his intention to do so.

The city council and its members shall deal solely and directly through the city manager with respect to the part of city government under the direction and supervision of the city manager; provided, that nothing herein shall limit the power of the city council, or members thereof, to do the following:

- (a) to conduct investigations as provided in Section 34 of this Charter, or
- (b) to contact officers and employees of the city for the purpose of inquiry or obtaining information that is a public record, or

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- (c) to contact officers and employees designated by the city manager for the purpose of advising said officers and employees of citizen complaints relating to the operation of city government.

§ 63 Removal of City Manager.

The city manager cannot be removed from office except by a vote of six members of the city council. The city manager shall not be subject to removal from office within twelve months of the date that the city manager first assumes the duties of office except for incompetence, malfeasance, misfeasance or neglect of duty. If the removal is proposed within the first twelve months, the city manager may demand written charges and a public hearing before the city council prior to the date upon which his removal becomes effective; but the decision of the city council shall be final, conclusive and binding upon the city manager, and pending such hearing the council may suspend the city manager from duty without loss of normal compensation.

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Article VI. Other Appointive Officers

§ 70 Appointive officers.

The following other city officers shall be appointed by the city council:

- (a) City Clerk;
- (b) City Attorney;
- (c) City Treasurer; and
- (d) Such other officers and employees of its own body as it deems necessary.

§ 71 City Clerk.

The city council shall appoint a city clerk who shall have custody of and shall be responsible for the official seal and records of the city. The city clerk shall act as secretary of the city council and all other boards, commissions and agencies of the city. The city council shall prescribe the qualifications, additional duties and compensation of the city clerk. The city clerk shall appoint subject to the civil service provisions of this Charter, such deputies and employees as the council may by resolution prescribe.

§ 72 City Attorney.

The city council shall appoint a city attorney and shall prescribe the qualifications, duties and compensation of such officer. The city attorney shall serve as legal counsel to the city government and all officers, departments, boards, commissions and agencies thereof and shall have such other powers and duties as may be prescribed by state law and by ordinance or resolution of the city council. In situations where the city attorney determines there is a conflict in representation by that office, the city council may authorize the retention of other legal counsel to represent one of the conflicting parties. The city attorney shall appoint all other members of the city attorney's office.

§ 73 City Treasurer.

The city treasurer shall be responsible for the deposit and investment of all funds of the city treasury not made subject to

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the control of others pursuant to this Charter. The city treasurer shall keep the city council fully advised as to the deposit and investment of funds subject to his control. The city council shall prescribe the qualifications, additional duties, and compensation of the city treasurer. The city treasurer shall appoint, subject to the civil service provisions of this Charter, such deputies and employees as the council may by resolution prescribe.

§ 74 Mayor's staff.

The mayor shall appoint such members of the mayor's staff, exempt from the civil service system, as may be provided by resolution. The compensation paid to such staff members shall be fixed by resolution of the council. The mayor's staff shall serve at the pleasure of the mayor.

§ 75 Method of suspension and removal of appointive officers and employees.

Every appointive officer appointed by the city council as provided in Section 70 of this article may be suspended or removed at the pleasure of the city council.

§ 76 Duty to inform council.

Each appointive officer specified in Section 70 shall have the duty to promptly and fully inform the city council of any act of misfeasance or malfeasance known to said appointive officer to have been committed by any officer or employee of the city if such act might significantly and adversely affect the finances or operations of the city. The city council, by ordinance or resolution, may further define the procedures and provisions determined to be necessary to implement and operate under this section.

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Article VII. Civil Service

§ 80 Creation of board.

The civil service board shall consist of five citizens of the city who shall have no connection with city government. The city council shall appoint said board members for five year terms. Board members in office on the effective date of this section shall continue in office during their unexpired terms unless removed as provided by law. Vacancies on the civil service board from whatever cause shall be filled by the city council for the unexpired term.

§ 81 Secretary.

The city manager shall appoint a director of personnel who shall serve as secretary of the civil service board. The director of personnel shall act as chief examiner and supervise all examinations, subject to the direction of the board. The director of personnel shall also perform such other duties as are prescribed by this Charter, by the city manager, by the civil service board or by ordinance or resolution of the city council.

§ 82 Power to administer oaths.

The secretary of the civil service board and such other employees in the civil service office authorized by the board by order duly entered in the minutes shall have the power and authority to take affidavits and administer oaths in all matters relating to civil service.

§ 83 Exemptions and classified service.

The officers and employees of the city who shall be exempt from the rules and regulations of the civil service board shall include:

- (a) Officers directly elected by the people;
- (b) Members of advisory boards and commissions;
- (c) The city manager, and any person or persons employed as assistant city manager, and confidential secretary;
- (d) Those officials of the city government responsible for the operation of a city department or division, along with those persons who may be employed as assistants to

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such officials; and

- (e) Those employees occupying positions in classes which are filled only on a part-time, seasonal, or limited term basis. The city council shall, by resolution, designate those classes of positions, employees in which shall be considered exempt from the rules and regulations of the civil service board, in accordance with the intent and meaning of this section.

§ 84 Examinations.

For the purpose of establishing eligible registers from which positions in the classified service shall be filled, it shall be the duty of the civil service board to conduct competitive examinations open to all persons who lawfully may be appointed to any position within the class for which such examinations are held, and who meet the minimum qualifications requisite to the performance of the duties of such position as established by the civil service board.

Positions in the higher classes shall be filled, as far as is practicable and consistent with the best interests of the service, by promotion following competitive tests of employees in lower classes holding permanent civil service status. The civil service board, shall, by rule, establish regulations for promotional eligibility, except that in the police and fire departments, all higher uniform positions in the classified service shall be filled from eligible registers established as a result of promotional examination only, and no such member shall be eligible for promotion to a higher class until that person has served at least three (3) years in such department and that in subsequent promotions the member must have held the rank from which that person is promoted for at least two (2) years.

All officers or employees shall be chosen or promoted, whenever a list of eligibles is furnished by the civil service board, from the three candidates standing highest on the list.

§ 85 Veterans' Preference.

- (a) Subject to the provisions of Paragraph (b) of this section, in all tests and examinations held by the civil service commission pursuant to the provisions of this Charter, any person who at the time of taking such test or examination has served in the armed forces of the United States in time of war and who received an honor-

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able discharge therefrom or who, after such service to the United States in time of war, has continued in such service or who has been released from active duty because of disability resulting from such service in time of peace or under other honorable conditions, as such persons are defined by state law in effect at that time and who has attained a percentage qualifying such applicant for any position under civil service regulations, shall be allowed an increase of ten points above the credit such applicant has attained in such examination.

- (b) (1) Any person who has previously received a veteran's preference on an examination for federal employment, or for employment with any public agency in California, and who, by virtue of the preference was certified and subsequently appointed to a position with the federal government or any public agency in California, shall not be entitled to a preference under this section.
- (2) No preference shall be granted under this section to any veteran who was discharged more than ten years prior to the final filing date stated on the examination announcement, or prior to the date on which an eligible list is established if no final filing date is stated on the announcement; provided, however, that veterans who are declared by the United States Veterans Administration to have a service connected disability of 30% or more at the time of taking such test or examination, if otherwise qualified for the preference provided for by subsection (a). shall be entitled to such preference without limitation as to the time during which such preference may be used.
- (3) No preference shall be granted under this section to any person who retired from the armed forces at or above the rank of major, or its equivalent.
- (4) The preference granted under this section shall not apply to promotions, or to promotional examinations.
(Adopted November 4, 1980)

§ 86 Record of efficiency.

Success in similar positions in the employ of the city shall be considered in estimating the standing of a candidate and to that

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end the board shall, wherever feasible, cause to be kept a record of efficiency of all city employees.

§ 87 Discriminations.

No person in the classified service or seeking admission thereto shall be appointed, promoted, demoted or discharged or in any way favored or discriminated against because of political opinions or affiliations or because of race, color or religious belief.

§ 88 Employee development programs.

Notwithstanding any other provision of this Charter, the civil service board may provide for the establishment of programs, including trainee programs, designed to attract and utilize persons with minimal qualifications, but with the potential for development, in order to provide career development opportunities for such persons, including but not limited to members of disadvantaged groups, handicapped persons, and veterans entitled to preference under Section 85 of this article. Such programs may provide for probationary and permanent appointment to the classified service upon the satisfactory completion of the training period prescribed by the civil service board. The civil service board shall provide for the establishment of such programs when requested to do so by the city council.

§ 89 Probations.

Appointment or promotion to office or employment in the classified service shall not be deemed complete until a period of probation has elapsed. The civil service board shall by rule establish a probationary period for each class in the classified service. A probationer may be discharged or reduced at any time within the probationary period and thereupon shall have no right to appeal under Section 92 of this Charter.

§ 90 Right of appeal.

If discharged after the expiration of said period, the employee so discharged may appeal in accordance with the provisions of Section 92 of this Charter.

§ 91 Disciplinary power.

The city manager or other official or board in whom is vested disciplinary or removal power shall be allowed full freedom in his or its action on such matters, it being the intent and spirit of

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this article to provide a fair and honest approach to municipal employment for every inhabitant of the city, but in no sense to handicap or curtail the responsible administrative officer in securing efficient service.

§ 92 Power and duties of the civil service board.

(a) It shall be the duty of the civil service board to:

- (1) Adopt and maintain the classification plan. The classification plan shall consist of classes of positions in the classified service defined by class specifications, including title, a description of duties and responsibilities and a statement of employment standards to be required of applicants for employment in each class. From time to time as it deems necessary, the board may establish additional classes and divide, combine, alter or abolish existing classes.

Each position in the classified service shall be allocated by the director of personnel to one of the classes established by the plan; provided, that whenever a new or additional position is authorized by the city manager, the director of personnel shall allocate each proposed position to an appropriate existing class or recommend the creation of new class to the civil service board.

When action is taken by the board to establish additional classes or to divide, combine, alter or abolish existing classes, or upon the reallocation of positions by the director of personnel, the civil service board shall determine the manner in which the incumbents of positions affected shall attain status.

- (2) Formulate rules and regulations covering the examination of applicants for positions in the classified service and the promotion of employees in the classified service, including rules for preparation of examination announcement notices, accepting applications, administering examinations, eligibility for promotion, seniority credits, establishing eligible registers and reinstatement lists, certification, appointment, probationary period, and any other matter necessary to the recruitment and

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selection of employees.

- (3) Hear appeals, upon written request from any employee in any city department in the classified service, who may be suspended without pay, demoted, dismissed, or otherwise disciplined by the appointing authority. The board shall define the manner, time, and place by which such appeal shall be heard and the judgment of the board shall be final.
 - (4) Hear appeals, upon written request, from any employee in any city department in the classified service, with reference to the allocation or re-allocation of his position by the director of personnel.
 - (5) Provide, by rule, for the interpretation and administration of ordinances affecting personnel, when specifically directed to do so by the city council; and to provide, by rule, for the regulation of any other matter pertaining to personnel administration not in contradiction with the provisions of this section.
- (b) The board, subject to budgetary approval of the city council, may employ or contract for hearing officers to hear appeals of the actions specified in Paragraphs (3) and (4) of Subsection (a) of this section and to prepare recommendations for the board. The board may adopt rules and regulations to implement this subsection.

§ 93 Employment as a result of annexation.

Notwithstanding any other provisions of this Charter, in the event that the service area of the City is increased by reason of a consolidation, merger, incorporation, annexation or contract, the city council may, by resolution, provide that some or all employees or special districts encompassed by the increased service area shall be deemed regular employees of the City of Sacramento, to serve for such limited periods of time as the city council determines appropriate under the circumstances. The city council shall have the power to impose such conditions prior to employment as it deems necessary, including but not limited to passage by the district employees of a physical examination to be administered by the city. The city council shall also by resolution or ordinance determine the terms and conditions of employment of such persons, including but not limited to probationary period, salary, senior-

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ity, retirement status, departmental and classification assignment, benefits, credits for accumulated special district benefits, bargaining unit status, and all other matters related to their employment. (Adopted November 2, 1982)

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Article VIII. Certain Departmental and
Personnel Provisions

§ 95 Organization of fire department.

The fire department shall consist of a chief of the department and such other employees as the city council may from time to time prescribe.

§ 96 Powers and duties of the fire chief.

The fire chief shall have control, management and direction of all members of the fire department in the lawful exercise of the chief's functions with full power to detail any of the members to such public service as the chief may direct. The chief shall recommend to the city manager members of the force for demotion or dismissal and can suspend and prefer charges against any officer or member.

§ 97 Vacancies above the grade of firefighter.

When a vacancy arises in the fire department above the grade of firefighter, the chief of the fire department may, with the approval of the city manager, assign a member of the department from the next lower rank to fill the position until such time as the absent member shall return or the vacancy be filled by appointment. The member so assigned shall, during the member's incumbency, receive the salary attached to the position thus temporarily held.

§ 98 Firefighters.

No member of the fire department shall be allowed, without the consent of the city council, to receive any money, gratuity or compensation for any service rendered as a firefighter.

The members of the fire department shall not engage in any other employment, work, profession, business or enterprise that is inconsistent, incompatible, in conflict with, or adversely affects the performance of their duties as firefighters, or that is inimical to the most effective performance of the mission of the Sacramento Fire Department or the best interests of the city.

The city council shall have the exclusive and non-delegable authority and duty to define, interpret and implement the terms of this section by resolution and such definition and interpretation

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shall be final and conclusive. The process and procedure followed by the city council in so defining, interpreting and implementing this section shall be by unilateral legislative action not subject to and expressly excluded from any meeting and conferring procedure with employee organizational representatives that is or may be provided for under any other law. In the event a court or administrative body of competent jurisdiction renders a final judgment or order invalidating this paragraph or any part thereof then the terms and provisions of this section as hereinabove provided shall be null and void and this section shall thereupon on the effective date of such final judgement or order and thereafter read as follows:

No member of the fire department shall be allowed, without the consent of the city council, to receive any money, gratuity or compensation for any service rendered as a firefighter. The members of the fire department shall not follow any other profession, calling or business, but shall devote their entire time to the performance of their duties, nor shall they be allowed pay for any period during which they shall absent themselves from public duty, except as in this Charter provided.

§ 99 Organization of police department.

The police department shall consist of a chief of police, a police force and all such other officers, clerks, employees and attaches as the city council may from time to time prescribe.

§ 100 Powers and duties of the chief of police.

The chief of police shall have control, management and direction of all members of the police department in the lawful exercise of the chief's functions with full power to detail any of the members to such public service as the chief may direct. The chief shall recommend to the city manager members of the force for demotion or dismissal and can suspend and prefer charges against any officer or member.

§ 101 Vacancies above the grade of police officer.

When a vacancy arises in the police department above the grade of police officer, the chief of the police department may, with the approval of the city manager, assign a member of the department from the next lower rank to fill the position until such time as the absent member shall return or the vacancy be filled by appointment. The member so assigned shall, during the member's incum-

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bency, receive the salary attached to the position thus temporarily held.

§ 102 Police officers.

It shall be the duty of each member of the police force to be acquainted with the provisions of this Charter, with all ordinances of the city and with all laws of the state defining public offenses and regulating criminal proceedings.

No member of the police force shall be allowed to receive, without the consent of the city council, any money, gratuity or compensation for any service rendered as an officer.

The members of the police force shall not engage in any other employment, work, profession, business or enterprise that is inconsistent, incompatible, in conflict with, or adversely affects the performance of their duties as police officers, or that is inimical to the most effective performance of the mission of the Sacramento Police Department or the best interests of the city.

The city council shall have the exclusive and non-delegable authority and duty to define, interpret and implement the terms of this section by resolution and such definition and interpretation shall be final and conclusive. The process and procedure followed by the city council in so defining, interpreting and implementing this section shall be by unilateral legislative action not subject to and expressly excluded from any meeting and conferring procedure with employee organizational representatives that is or may be provided for under other law. In the event a court or administrative body of competent jurisdiction renders a final judgment or order invalidating this paragraph or any part thereof then the terms and provisions of this section as hereinabove provided shall be null and void and this section shall thereupon on the effective date of such final judgment or order and thereafter read as follows:

No member of the police force shall be allowed to receive, without the consent of the city council, any money, gratuity or compensation for any service rendered as an officer except rewards which have been publicly offered for the apprehension and conviction of criminals. The members of the police force shall not follow any other profession, calling or business, but shall devote their entire time to the performance of their official duties, nor shall they be allowed pay for any period during which they shall absent themselves from public duty, except as in this Charter provided. It shall be the duty of

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each member of the police force to become acquainted with the provisions of this Charter, with all ordinances of the city and with all laws of the state defining public offenses and regulating criminal proceedings.

§ 103 Salaries of employees.

The annual compensation of the employees of the city shall be fixed by resolution of the city council. All salaries shall be paid not less frequently than semimonthly and shall be in full compensation for all duties and services performed by such employees of the city.

§ 104 Number of employees.

The city council by resolution shall fix the number of employees to be employed, from time to time, in the offices, departments and divisions of the city.

§ 105 Rewards.

The city council may, on notice from the city manager, reward any city employee for conduct which is heroic or meritorious. The form or amount of such reward shall be discretionary with the city council, but shall not exceed in any one instance one month's salary.

§ 106 Vacancies in certain cases.

If any employee of the city shall be convicted of a felony or malfeasance in office or be absent for one month from the city without leave, that office shall immediately become vacant, and the vacancy shall be filled as in this Charter provided.

§ 107 Vacations.

All employees of the City of Sacramento shall be entitled to vacation allowances on the following basis:

- (a) During the first calendar year of employment, and after the completion of at least six (6) months of service, employees shall be entitled to a vacation allowance on a pro-rata basis of ten (10) working days per year for the number of months worked prior to the beginning of the first calendar year.
- (b) Upon the completion of one calendar year and continuing

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thereafter through the fifth calendar year of employment, all employees shall be entitled to a vacation allowance of ten (10) working days per year.

- (c) Upon the completion of five calendar years and continuing thereafter through the fifteenth calendar year of employment, all employees shall be entitled to a vacation allowance of fifteen (15) working days per year.
- (d) Upon the completion of fifteen calendar years of employment and continuing thereafter, all employees shall be entitled to a vacation allowance of twenty (20) working days per year; provided, further, that such employees so qualified to receive twenty (20) working days of yearly vacation allowance shall have the option, to be exercised not later than the first day of December in each year, to receive pro-rata payment for five (5) days of such vacation in lieu of using such five (5) days for vacation purposes.

For the purpose of this section, the first calendar year shall be considered to be the period between January 1 and December 31 next following the employee's original date of appointment. For the purpose of computing vacation time, each employee shall be considered to work not more than five (5) days each week. Vacation time shall not be earned when an employee is absent from duty without pay, except that there shall be no reduction in the yearly vacation allowance if such time absent from duty without pay does not exceed ten (10) days per year.

Upon termination of employment for any reason, after completion of at least six (6) months of service, an employee entitled to receive vacation allowance shall be paid in a lump sum for all unused accumulated vacation time. All vacation shall be taken at such time as the executive head of the department in which such officer or employee may be serving shall direct.

Any city employee in the Reserve Corps, Naval Reserve, Marine Corps, or National Guard of the United States Army and Navy, when called for the annual period of intensive training, shall be permitted to participate therein and shall not suffer loss of pay through such absence nor shall such period devoted to said training be construed as the annual vacation of such employee but said employee shall have in addition thereto, the usual vacation period or pay allotted to city employees.

The civil service board shall by rule define and interpret

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the terms of this section and such definition and interpretation shall be conclusive; shall by rule provide for the regulation and accumulation of vacations; shall by rule define those categories of temporary employment in which employees shall not be entitled to earn vacation allowance; and shall by rule provide for the method of computation of accumulated or unused vacation allowance for employees leaving city service.

§ 108 Longevity pay.

All regular full-time employees of the City of Sacramento, meeting such requirements as may be established by the city council to carry out the provisions of this section, shall be entitled to receive longevity pay on the following basis:

- (a) Upon completion of twenty (20) years of service, an employee shall receive yearly thereafter a lump sum of \$100 in addition to said employee's regular compensation; said amount to be paid during the month of July of each year next succeeding the completion of said twenty (20) years of service; and
- (b) Upon completion of twenty-five (25) years of service, an employee shall receive yearly thereafter a lump sum of \$200 in addition to said employee's regular compensation and in addition to the longevity allowance described in paragraph (a) preceding, said amount to be paid during the month of July of each year next succeeding the completion of said twenty-five (25) years of service.

No deductions for retirement system contributions shall be made from any amount paid to an employee for longevity, and such longevity pay shall be excluded from an employee's earnings when computing retirement allowances.

The city council shall, by ordinance, adopt rules and regulations for employee eligibility and administration of the provisions of this section.

§ 109 Employee defined.

As used in this article, the term "employee" shall include any officer of the city other than the mayor, members of the council and appointive members of city boards and commissions.

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Article IX. Fiscal Administration

§ 110 Fiscal year.

The fiscal year for the city shall be determined by ordinance enacted by the city council.

§ 111 Budget.

Each department, office and agency of the city shall provide in the form and at the time directed by the city manager all information required by the city manager to develop a budget conforming to modern budget practices and procedures as well as specific information which may be prescribed by the council. Not later than 60 days prior to the commencement of each fiscal year or such greater period as the council may prescribe, the city manager shall prepare and present to the city council, in such form and manner as it may prescribe, budget recommendations for the next succeeding fiscal year. Following public budget hearing, the city council shall adopt by resolution a budget of proposed expenditures and appropriations necessary therefore for the ensuing year, failing which the appropriations for current operations of the last fiscal year shall be deemed effective until the new budget and appropriation measures are adopted. The budget may be amended during the fiscal year in accordance with the procedure established by the council.

§ 112 Levy of property tax.

Not later than the date set by state law for this purpose, the city council shall by resolution fix the rate of property tax to be levied and levy the tax upon all taxable property in the city. Such rate shall be adequate to meet all obligations of the city for the fiscal year, taking into account estimated revenue from all other sources. Should the city council fail to fix the rate and levy taxes within the time prescribed, the rate for the last preceding fiscal year shall thereupon be automatically effective, and a tax at such rate shall be levied upon all taxable property in the city for the current fiscal year.

§ 113 Cash pool operations.

Municipal obligations may be financed by cash pool operations and utilization of a warrant or check system. Except for those funds restricted by bond indentures, state or federal law, other sections of this Charter or specific conditions of the legislation creating them, temporary transfers between funds are permitted.

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§ 114 Funds.

The city council shall create, reduce or eliminate such funds as are required for proper accounting and fiscal management, or required as a condition of receiving funds from any other government, or to fulfill any bonded or other contractual obligation of the city.

§ 115 Accounting system.

The city manager shall establish and maintain a system of financial procedures, accounts and controls for the city government and each of its departments, offices and agencies which shall conform to generally accepted principles of accounting which shall be adequate to account for all monies on hand and for all income and expenditures in such detail as will provide complete and informative data concerning the financial affairs of the city and as will be readily susceptible to audit and review.

§ 116 Receipts and expenditures.

All monies received by the city shall be deposited in the city treasury, and no monies shall be disbursed from the treasury without the approval of the city manager or of another officer duly authorized by him. No expenditure of city funds shall be made except for the purposes and in the manner specified by an appropriation of the city council; nor shall any disbursement be made unless obligations are properly supported by accounting evidence, sufficient money is available in the city treasury and there is an adequate unencumbered appropriation balance in the proper account classification.

§ 117 Annual audit.

The city manager upon approval of the city council shall engage each year an independent certified public accountant who shall examine and report to the council on the annual financial statement of the city. The accountant shall have free access to the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds, and of such other officers, employees, or departments as the city council may direct. The accountant shall submit an audit as soon as practicable after the closing of the books for the fiscal year for which he is engaged. Copies of such audit reports shall be filed with the city council, and shall be available for public inspection and review.

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§ 118 Official bonds.

The city council shall determine by ordinance which officers and employees shall be subject to group or individual bonds to insure the faithful performance of official duties, shall fix the amount of such bonds and shall provide payment of the premium of such bonds by the city.

§ 119 Revenue bonds.

The city council may issue revenue bonds for any lawful purpose in such manner and upon such terms and conditions as it may fix and establish by the provisions of a procedural ordinance.

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Article X. Elections

§ 150 Election code.

The city council shall adopt an election code ordinance, providing an adequate and complete procedure to govern city elections, including the nomination of candidates for all elective offices. All elections provided for by this Charter, for choice of officers, shall be conducted in the manner prescribed by said election code ordinance or as said code is hereafter amended.

§ 151 Nominations.

Nominations of candidates for all elective offices shall be made in the manner prescribed by the election code ordinance.

§ 152 Elections.

- (a) The general city election shall be held on the first Tuesday after the first Monday in November of each odd-numbered year, and the primary city election shall be held on the sixth Tuesday before the date of the general city election of the same year, or, if either of these days falls on a legal holiday other than an election holiday, then the election shall be held on the next succeeding day which is not a legal holiday. All other elections which may be held under this Charter shall be known as special elections.
- (b) At the primary election, there shall be chosen by the voters of each council district with a council member whose term expires at the end of or during the same year as the election, two candidates for the office of council member from that district. When the term of office of mayor expires at the end of or during the same year as the election, there shall be chosen by the voters of the entire city at the primary election two candidates to fill the office of mayor. Notwithstanding any other provision in this Charter to the contrary, in the event that any candidate for nomination to the office of council member or the mayor shall receive a majority of the votes cast for all the candidates for nomination for such seat or office at such primary election, the candidate so receiving such majority of all votes shall be deemed to be, and declared by the city council to be, elected to such office.

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- (c) At the general election, the voters of each council district in which a primary election was held shall select from among the two candidates chosen at the primary election in each district one candidate to succeed to the office of the council member whose term expires at the end of or during the same year as the election.

§ 153 Taking office.

All elected officials shall take office the fourth Tuesday following the first Monday in the month of November in the year of their election, and their terms of office shall commence on said date.
(Adopted November 4, 1980)

§ 154 Special elections to fill vacant offices.

A special election to fill a vacancy in office of the mayor or council member shall be called by the city council as soon as said vacancy occurs, but in no event later than 14 days following the date upon which said vacancy occurs.

The special election to fill said vacant office shall be held on the next regular election date following the date upon which said election is called at which time permits said election to be lawfully held, or at an earlier date as may be fixed by the city council. The candidate receiving the greatest vote in said election shall be elected to fill said vacant office.

As used in this section, the term "regular election date" means the primary municipal election date for council elections and any election date specified in Section 2500 of the Elections Code of the State of California as the same now reads or may be hereafter amended.

§ 155 Application of general law.

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

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Article XI. Initiative, Referendum, Recall

§ 160 General.

The powers of the initiative, referendum and the recall of elected municipal officers are hereby reserved to the electors of the city. The provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended, governing the initiative and referendum and the recall of municipal officers in cities shall be applicable insofar as the same are not in conflict with this Charter; provided, however, that the number of signatures which shall be required for the exercise of the power of initiative shall be as provided in Section 161.

§ 161 Initiative.

To initiate proceedings for the exercise of the power of the initiative, either of the following provisions shall apply as is applicable:

- (a) If the petition is signed by duly qualified electors of the city equal in number to at least fifteen percent (15%) of the registered voters of the city, and contains a request that the proposed ordinance be submitted immediately to a vote of the people at a special election, the city council shall either adopt said ordinance within fifteen (15) days after it is presented to the city council by the city clerk, or immediately call a special election at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.
- (b) If the petition is signed by duly qualified electors of the city equal in number to at least ten percent (10%) of the registered voters of the city, and the ordinance petitioned for is not required by Subsection (a) to be, or for any reason is not, submitted to the voters at a special election, and is not adopted without alteration by the city council, then the proposed ordinance, without alteration, shall be submitted by the city council to the voters at the next primary or general municipal election at which said proposition may appear regularly on the ballot or at the next statewide primary or general election into which a special city election may be lawfully consolidated, whichever is the first to occur.

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- (c) The total number of registered voters of the city shall be determined according to the county clerk's last official report of registration to the Secretary of State.

§ 162 Referendum.

All ordinances which may be passed by the city council shall be subject to referendum, whenever the use of the initiative or referendum is permitted by state law applicable to cities.

§ 163 Recall.

The holder of any elective office may be recalled, in the manner provided by state law applicable to cities, by the electors after such person has held office six months.

§ 164 Elections code.

The city council may include procedural provisions in the elections code ordinance consistent with this article.

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Article XII. Board of Education

§ 170 Organization.

The government of the Sacramento City Unified School District shall be vested in a board of education consisting of seven members who shall be nominated and elected from the district at large. Except as otherwise provided herein, the board of education shall be elected in accordance with, shall possess the powers prescribed by and shall be subject to the limitations contained in Article IX of this Charter, as said article read on June 7, 1976.

§ 171 Elections; compensation; vacancies; resident requirements; terms of office.

- (a) The members of the board of education shall be elected for a term of four years, three to be elected at a regular election and four to be elected at the next regular election. Each member of the board shall receive the sum of \$20.00 per meeting attended not to exceed the sum of \$100.00 per month.
- (b) Vacancies in the board of education from whatever cause shall be filled by the remaining members of the board of education for the remainder of the unexpired term. If the remaining members fail to agree, the vacancy shall be filled as provided by general law.
- (c) Members of the board shall be residents of the Sacramento City Unified School District.

§ 172 Qualification.

Candidates for election to the board of education shall be qualified electors of the district at the time of the filing of their nomination papers.

§ 173 Election by general laws.

On or after January 1, 1980, all other provisions of this article shall have no force and effect and the election, term of office, qualification and compensation of the board of education of the Sacramento City Unified School District shall be governed by the Education Code and general laws of the state of California.

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Article XIII. Franchises, Licenses, Permits,
Leases and Sales

§ 180 Franchises, licenses, permits.

The city council shall have authority to grant or issue franchises, licenses and permits for the transaction of business of the providing of services, or for the use of public streets or other public places. The city council shall provide by ordinance uniform procedures for the granting or issuing thereof, the taxes, charges, fees or other compensation to be paid therefore and the penalties for the violation thereof.

§ 181 Leases, sales.

The city council shall have authority to lease or sell real and personal property owned or controlled by the city in accordance with such uniform procedure as it shall adopt by ordinance, provided, however, that no lease of real property shall be for a term in excess of 55 years or for such longer term as may be allowed by general state law.

§ 182 Right to acquire.

No franchise grant shall be construed to impair or affect the right of the city, acting pursuant to law, to acquire the property of the grantee either by purchase or through the exercise of the right of eminent domain.

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Article XIV. Public Contracts and Supplies

§ 200 Ordinance governing purchasing and contracts - Duty of chief administrative officer or representative.

The city manager, or his designated representatives, shall purchase, or contract for the purchase of, goods, equipment, materials, supplies, services, or for the undertaking of any public project in the manner prescribed by ordinance enacted by the city council, except as otherwise provided herein.

§ 201 Same - Requirements of competitive bidding for public projects.

Any ordinance adopted to implement Section 200 of this article shall provide, in the case of a contract for the undertaking of any public project, where the amount therefor equals or exceeds the amount set by said ordinance, that said contract will be open to competitive bidding and that the procedures for such bidding shall include the public advertisement thereof and an award to the lowest responsible bidder.

§ 202 Same - Requirements of competitive bidding for supplies, etc.

Any ordinance adopted to implement Section 200 of this article shall provide, in the case of any purchase or contract for goods, equipment, materials and supplies, except materials and supplies as defined in Section 204 of this article, where the amount therefore equals or exceeds the amount set by said ordinance, that said purchase or contract will be open to competitive bidding, and that the procedures for such bidding shall include the public advertisement thereof and an award to the lowest responsible bidder.

§ 203 Same - Rights of city council.

Notwithstanding any provision of this article to the contrary, the council may do any of the following: reject any and all bids received for any purchase or contract; readvertise for new bids after such rejection; provide for the suspension of competitive bidding for any contract or purchase upon a finding by a two-thirds (2/3) vote that such action is in the best interests of the city; provided that any work required by the city may be performed by city employees.

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§ 204 Same - Public project defined.

As used in this article, public project means:

- (a) A project for the erection, improvement, and remodeling of public buildings and works.
- (b) Work in or about streams, bays, water fronts, embankments, or other work for protection against overflow.
- (c) Street, sewer or water work except maintenance or repair.
- (d) Furnishing supplies or materials for any such project.

§ 205 Same - Competitive bidding under state law.

The provisions of this article shall not apply to any contract entered into pursuant to or under any special assessment proceeding wherein competitive bidding proceedings are specified by laws of the State of California.

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Article XV. Boards, Commissions and Agencies

§ 230 Boards and Commissions - Creation and appointments.

The city council shall provide by ordinance for such boards and commissions as may be required by law or deemed desirable, shall prescribe their functions, and may prescribe qualifications and conditions of service on such boards and commissions, including compensation and reimbursement for expenses, terms of office, method of appointment and removal. Except as otherwise expressly provided in this Charter, the mayor shall appoint all members of boards and commissions, subject to the concurrence of a majority of the city council.

§ 231 Functions of boards and commissions.

Except as otherwise provided in this Charter, the authority and functions of boards and commissions shall be specified by ordinance or resolution, consistent with applicable federal and state law.

§ 232 Removal of members of boards and commissions.

For good cause, neglect of duty or misconduct in office, a member of a city board or commission who has been appointed for a specified term by the city council or by the mayor with the approval of the city council, may be removed from office during such term by the city council. Such member may be removed only after such member has been given a copy of the charges against such member at least ten days prior to a hearing to be held on the charges. At the hearing the member shall have an opportunity to be heard in person or by counsel.

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Article XVI. Miscellaneous Provisions

§ 250 Continuing provisions of former charter.

- (a) The city council shall adopt ordinances to continue in effect, without substantial modification, the following provisions of the Charter of the City of Sacramento as the same existed on the date immediately preceding the adoption of this article:

Section 264. E. B. Crocker Art Gallery.

Section 265. Ann Land Memorial Fund.

Section 266. William Land Park Fund.

- (b) Ordinances required to be adopted under this section shall be adopted as soon as possible on or immediately following the effective date of this article.
- (c) Ordinances required to be adopted under this section may be amended from time to time to conform same to any order or judgment of a court of competent jurisdiction.
- (d) Except as otherwise provided herein, ordinances adopted under this section shall continue in full force and effect unless repealed or amended by ordinance submitted to and approved by the electorate of the city.

§ 251 Conflicts of interest.

The city council by ordinance shall adopt regulations as the council, in its sole discretion determines to be appropriate, governing conflicts of interest applicable to city officers and employees, members of boards and commissions, and elected officials and candidates for elective office of the city. The council shall not be required to negotiate or meet and confer with officers, employees or employee organizations regarding the adoption of such regulations.

§ 252 Severability.

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

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§ 253 Injury in performance of duty.

Except as hereinafter provided, any city employee who is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his duties, shall be entitled to such medical, surgical, and hospital treatment, including nursing, medicines and medical and surgical supplies and apparatus as may be required on account of such injury or illness, the same to be provided by the city. Such employee shall become entitled during the period of such temporary disability, regardless of his period of service with the city, to leave of absence while so disabled without loss of salary, in lieu of temporary disability payments, if any, which would be payable under Division 4 of the Labor Code of the State of California, for the period of such disability, but not exceeding one year, or until such earlier date as he is retired upon a retirement allowance. Compensation and benefits payable to or on behalf of the employee under this section, shall be reduced, in the manner fixed by the city council, by the amount of any compensation and benefits payable to or on behalf of said employee under Division 4 of the Labor Code of the State of California. Compensation and benefits paid under this section shall be considered as in lieu of compensation and benefits payable to or on account of said employee under said state law and shall be in satisfaction and discharge of the obligation of the city to pay such compensation and benefits under such state law. The benefits provided in this section shall be limited to full-time officers and employees of the city and, except as provided herein, shall not be extended to persons employed by the city on a seasonal, limited-term, part-time or substitute basis, or elective officers or appointive members of city boards and commissions. The city council, by ordinance enacted by two-thirds of all members thereof, may permit employees of the city, other than full-time officers and employees of the city, to receive all or a portion of the compensation and benefits provided to full-time officers and employees by the provisions of this section.

§ 254 Effective date.

All amendments to this Charter contained within the ballot proposition which approved the enactment of this article shall take effect on January 1, 1978, except as otherwise expressly provided in this Charter. The term "effective date" as used in this article shall mean January 1, 1978, and the term "this Charter" as used in this article shall mean the City Charter, as amended on the effective date.

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Article XVII. Sacramento City Employees' Retirement System

§ 371 Effective date.

At the time this article and amendments to this Charter are submitted to the electors of the city, they are intended to take effect on January 1, 1977. In the event that this article and such amendments are adopted by the electors of the city, but for any reason are not filed with the Secretary of State on or prior to January 1, 1977, then, in such event, they shall be effective on the first day of the month next following the date they are filed with the Secretary of State. (Adopted November 2, 1976)

§ 372 Duty to provide retirement system.

Subject to and consistent with the provisions of this article, the council shall provide, by ordinance or ordinances, for the implementation and maintenance of the retirement plan created by Section 399 for officers and employees of the city. Said plan and plans continued pursuant to Section 374, excluding any plan provided for by contract with the Public Employees' Retirement System, shall be administered as the Sacramento City Employees' Retirement System.

The city council may enter into a contract with the Board of Administration, Public Employees' Retirement System (PERS) for participation in that system of the city and any or all employees eligible for membership in PERS who enter city employment on or after the effective date of the contract and who were not employed by the city prior to such effective date. Such contract may be amended from time to time by the council.

The council, if it enters into such contract, is authorized to take any action on behalf of the city required or permitted under the Public Employees' Retirement Law. Any person who becomes a member of PERS pursuant to the provisions of this section or any contract made pursuant to the authority of this section shall not be a member of the Sacramento City Employees' Retirement System for any purpose. (Adopted November 2, 1976)

§ 373 Modifications of system.

The city council shall secure an actuarial report of the probable cost and effect to the system, its members and the city, of any proposed change in the contribution rates or benefits under the retirement system, or under any contract with PERS before enacting

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an ordinance or resolution relating to changes in the contribution rates or benefits under the retirement system or changes in any contract with PERS or before voting to submit to the electorate any proposed Charter amendment or ordinance providing for such changes. Prior to enacting any ordinance pursuant to Section 400, defining or redefining the term "compensation," the city council shall secure an actuarial report of the probable cost and effect to the system, its members and the city resulting from the enactment of any such ordinance. (Adopted November 2, 1976)

§ 374 Duty to continue existing system.

The council shall provide, by ordinance or ordinances, for the continuance, as part of the retirement system, of all employee retirement plans in operation upon the effective date of this article. Except as otherwise specifically provided in this article, no such plan, or any provision thereof, shall be modified or amended except through the adoption of an ordinance approved by a majority of the voters voting upon such proposition at a general municipal election or a special municipal election called for such purpose. Allowances existing in favor of or on account of retired employees of the city at the time of the adoption of this article shall be continued in force in accordance with the provisions under which said allowances were made. Except as provided in Section 379, nothing in this article shall be construed as changing the status of members of such existing plans or the benefits thereunder. Notwithstanding any other provision in this article, the council shall provide by ordinance for continuation of the benefits of transferred members (as defined in former Charter Section 359 and 360) pursuant to former Charter Section 359 through 366; provided, however, that any such transferred member shall have the right to elect in the manner provided by Section 401 to have his rate of contribution, as required by former Charter Section 365, based upon the rate of contribution for members of the plan established by Charter Section 399.

The council shall enact an ordinance or ordinances prescribing the conditions by which any member of the system retired for service or disability under the provisions of former Charter Sections 173, 175.13 or 302 may make an election to receive a reduced retirement allowance during the member's lifetime in order that the member's surviving spouse may receive a continuation allowance. The provisions of said ordinance or ordinances shall substantially conform to the provisions of Charter Section 435a, provided that no continuation allowance shall be payable unless one would otherwise be payable under the provisions of the Charter which apply to the member and provided further that the continuation allowance under

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former Charter Section 173 shall be two-thirds of the member's reduced allowance. (Adopted November 2, 1976; Amended September 25, 1979)

§ 375 Actuarial assumption for "equal shares retirement plan."

The ordinance or ordinances enacted by the council under Section 374, providing for the continuance of the "equal shares retirement plan" created by former Charter Section 302, shall provide that the board shall direct the actuary in making the actuarial investigations and evaluations required by former Charter Section 300 for purposes of determining members' contribution rates to assume in addition to all other actuarial assumptions:

- (1) That all persons who enter the employ of the city on or after the effective date of this article and who would have been eligible for membership in the "equal shares retirement plan" under former Charter Section 302 and ordinances enacted thereunder before the effective date of this article, are members of the "equal shares retirement plan" if they would have remained in the employ of the city, and,
- (2) That no person who was a member of the "equal shares retirement plan" on the effective date of this article made the election provided by Section 401. (Adopted November 2, 1976)

§ 376 City contributions for liability under prior plans.

The adoption of this article shall not alter or modify the liability of the city, the retirement system, or its members, for retirement plans which were in existence upon the effective date of this article, nor shall it alter or modify the method of funding such plans as prescribed in former Charter Sections 167 to 175.29 and Sections 290 to 367, except as provided in Sections 374, 375 and 379. (Adopted November 2, 1976)

§ 377 Validation of former Charter sections granting increased pensions to retired persons.

All provisions of former Charter Sections 173.2, 173.3, 173.4 and 173.5 of this Charter granting increased retirement allowances to or on account of retired members of the Sacramento City Employees' Retirement System shall be continued as an ordinance of the city and shall continue in effect until otherwise repealed by subsequent amendment of this Charter. The provisions of former Charter

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Section 175.29 shall be continued in effect as an ordinance of the city, but only insofar as necessary to continue in effect cost of living adjustments and the funding of such adjustments which have been made under said section and were in effect prior to July 1, 1970. (Adopted November 2, 1976)

§ 378 City employees transferred to Sacramento County.

The city council shall enact an ordinance or ordinances prescribing the conditions according to which any and all employees of the city, who are members of the Sacramento City Employees' Retirement System and who, on or after January 1, 1963, are transferred to and become employees of Sacramento County and members of the Sacramento County Employees' Retirement System, as part of any consolidation of city functions with, or transfer of city functions to, Sacramento County, may retain their membership in the Sacramento City Employees' Retirement System. The provisions of said ordinance shall substantially conform to the provisions of former Charter Section 175.27 with such modifications as are necessary to make the provisions of said section applicable to the transferred employees. This section shall not apply to any employee of the city who becomes a member of this system after the effective date of any reciprocity agreement entered into pursuant to former Charter Section 367. (Adopted November 2, 1976)

§ 379 Cost-of-living adjustment.

The city council shall enact an ordinance or ordinances prescribing the conditions according to which, as of July 1 of each year, every monthly allowance payable to or on account of a member of this system whose retirement or death as a member of this system occurred prior to July 1 of the preceding year shall be increased or decreased by a percentage of the allowance then being received. Such percentage shall approximate, to the nearest one-tenth of one percent, the percentage of annual increase or decrease, if any, in the cost of living during the whole of the preceding calendar year by reference to the current U. S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index for the San Francisco-Oakland area (or the Sacramento area, in the event the Index is established for the Sacramento area), for the whole of the preceding calendar year; provided that such increase or decrease shall not exceed three percent of any allowance in any year, regardless of the percentage of change in cost of living; and provided further that no allowance shall be reduced below the amount payable at death or retirement.

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In addition to the increase provided in the preceding paragraph, the city council shall enact an ordinance or ordinances prescribing the conditions according to which, as of July 1 of each year, every monthly allowance payable to or on account of a member of this system whose retirement or death as a member of this system occurred on or after July 1 of the preceding year shall be increased or decreased by a percentage of the allowance then being received. For each whole month of the preceding fiscal year during which a member was retired or for each whole month of the preceding fiscal year after the member's death, such percentage shall approximate one-twelfth of the percentage of annual increase or decrease (to the nearest one-tenth of one percent), if any, in the cost of living during the whole of the preceding calendar year by reference to the current U. S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index for the San Francisco-Oakland area (or the Sacramento area, in the event the Index is established for the Sacramento area), for the whole of the preceding calendar year; provided that such increase or decrease shall not exceed three percent of any allowance in any year, regardless of the percentage of change in cost of living; and provided further that no allowance shall be reduced below the amount payable at death or retirement. The provisions of this paragraph shall apply only to members whose retirement or death occurred on or after July 2, 1979.

The amount of any monthly allowance payable to a survivor or beneficiary upon death of a retired person shall be the amount which would be payable as of the date of death had payment of such allowance begun on the date of retirement, and shall thereafter be adjusted in accordance with this section.

The amount of any cost of living increase or decrease in any year which is in excess of the maximum annual allowance adjustment of three percent provided in this section shall be accumulated from year to year and included in the computation of increases or decreases in succeeding years. The provisions of this paragraph shall be applied to the allowance of individual beneficiaries by classes based upon the fiscal year in which the member retired or died, so that each allowance shall have applied to it only such increase or decrease as shall have accumulated during or after the fiscal year in which the member retired or died. No allowance shall be reduced by operation of this section below the amount payable at the time of retirement.

Increases in allowances payable pursuant to this section shall be funded by contributions of the members subject to this section and contributions of the city. The individual member's contribution shall be at the rate of 6.7% of his contributions (excluding

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additional contributions under Section 404). The city's contribution shall be determined by the board in accordance with its funding policy in Section 385 at a rate required to fund the cost of increases under this section and former Charter Section 354 not provided by member contributions. The board shall provide for transfer to members' accounts under this section of the portion of accumulated contributions under former Charter Section 354 which were made by members thereunder becoming subject to this section.

The council shall provide by ordinance for the continuation of benefits provided by former Charter Section 354 for members of this system who have elected to receive the benefits provided by former Charter Section 354. The provisions of said ordinance shall substantially conform to the provisions of former Charter Section 175.29 and shall include the provisions of the second paragraph of this section; provided, however, that in fixing the rates for member contributions the board shall assume that all persons who are members of this system or are members of PERS and are in the employ of the city would continue to make contributions and receive benefits under former Charter Section 354. (Adopted September 27, 1977; amended September 25, 1979)

§ 380 General definitions.

The following words and phrases as used in this article and ordinances enacted thereunder, unless a different meaning is plainly required by the context, shall mean:

"Board" shall mean the Administration, Investment and Fiscal Management Board created by Section 381 of this Charter.

"Charter" shall mean the Charter of the City of Sacramento.

"Commission" shall mean the Retirement Hearing Commission created by Section 388 of this Charter.

"Council" or "city council" shall mean the council of the City of Sacramento.

"Former Charter section" shall mean a section of this Charter as said section read on the date immediately preceding the date on which said section was repealed.

"Member" shall mean any person who is a member of the retirement system.

"Miscellaneous Member," or "miscellaneous officer or employee"

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shall mean any officer or employee who is a member of the retirement system and is not a safety member as defined in this section.

"Retirement system" or "system" shall mean Sacramento City Employees' Retirement System referred to in Sections 372 and 374.

"Safety Member" shall mean a member whose employment is, or was, as an officer or employee of the police or the fire departments of the city, whose principal duties consist of either active law enforcement or full-time firefighting and fire prevention, respectively. "Safety member" does not include those persons employed in duties of clerical, communication, identification, repair, or other nature even though such persons may be subject to occasional call, or are occasionally called upon to perform duties within the scope of active law enforcement or full-time firefighting and fire prevention.

"Surviving spouse" shall mean the widow of a male member or the widower of a female member.

Words used in the masculine gender shall include the feminine and neuter genders and the singular shall include the plural and the plural the singular. (Adopted November 2, 1976)

§ 381 Administration, Investment and Fiscal Management Board.

The retirement system shall be managed by the Administration, Investment and Fiscal Management Board which shall consist of the following persons:

- (a) The city manager or his designated representative;
- (b) The city controller, or his designated representative;
- (c) The city treasurer, or his designated representative;
- (d) A resident of the city not connected with the government thereof, appointed by the city council, who is qualified by training and experience in the management and investment of funds; and
- (e) A resident of the city not connected with the government thereof, appointed by the city council.

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A majority of members of the board shall constitute a quorum. Action by the board shall require the affirmative vote of three members, except that a lesser number may adjourn from time to time.

The terms of office of the two city resident board members described in Subparagraphs (d) and (e) shall be as follows: the person described in Subparagraph (d) shall be appointed for an initial term of four years and thereafter for a term of three years, or until that member's successor is appointed; the person described in Subparagraph (e) shall be appointed for an initial term of two years and thereafter for a term of three years, or until that members's successor is appointed. (Adopted November 2, 1976)

§ 382 General powers.

Subject to the provisions of Sections 388 and 391, the board shall have full authority under the Charter and such general ordinances as may be lawfully adopted by the city council to maintain and manage retirement plans of this system, including but not limited to the adoption of investment standards, the fixing of contribution rates, the administration and investment of funds, the selection of investment advisor's, the crediting of interest, any action required of it by the Charter and any action relating to the fiscal management of the system except those matters directly pertaining to claims for benefits, and claims for refunds under Charter Section 436, filed with the retirement system manager.

All references to the "retirement board" or "board" in former Charter Section 167 to 175.29, inclusive (and ordinances enacted to maintain and implement the retirement plans created by said sections) and former Charter Sections 290 to 367, inclusive (and ordinances enacted to maintain and implement the retirement plans created by said sections) shall mean the administration, investment and fiscal management board; provided, however, nothing herein shall divest the retirement hearing commission of the appellate powers granted to it by Section 388 of this Charter; and when said commission has jurisdiction by virtue of an appeal having been lawfully taken to the commission, all references to the "retirement board" or "board" in such former Charter sections and ordinances shall mean the retirement hearing commission. It is further provided that nothing herein shall divest the retirement system manager of the powers granted to him by Section 391 of this Charter; and when said manager has jurisdiction by reason of a claim for benefits having been lawfully filed with him, all references to the "retirement board" or "board" in such former

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Charter sections and ordinances shall mean the retirement system manager.

The board may adopt rules and regulations consistent with this article to implement and carry out its provisions. (Adopted November 2, 1976).

§ 383 Administration and investment of funds.

The board shall have exclusive control of the administration of such fund or funds as may come into the possession of the system, provided that all investments shall be investments permissible by law for investment of trust funds (as provided in Section 2261 of the Civil Code) and shall conform to general investment standards approved by the city council. The board shall adopt general investment standards which the city council shall either approve or disapprove. The board shall employ and obtain advice and services from professional financial advisors, expert in their respective fields, such as investment counsel, trust companies or trust departments of banks, in regard to the management and investment of the funds in the system. Nothing contained in this article shall be construed to prevent the board from administering, managing and investing the funds of the system as a single fund. (Adopted November 2, 1976)

§ 384 Actuarial investigation.

The board shall use the services of a consulting actuary to advise it on matters relating to funding and administration of the system and to make actuarial evaluations.

On or before the effective date of this article and on or before January 1, 1980, and on or before January 1 of every third year thereafter, the board shall establish contribution rates for the next succeeding three-year period (with the exception of the period between the effective date of this article and January 1, 1980, which may be less than three years). Said contribution rates shall be those recommended by the actuary for the system in the actuarial report accepted by the board (except where the board rejects a report) as hereinafter set forth.

The actuary for the system either shall be an enrolled actuary under the Employee Retirement Income Security Act of 1974 ("ERISA") or any succeeding law and a member of the American Academy of Actuaries, or shall meet such experience and other requirements as are approximately equivalent to those applicable to an enrolled actuary under ERISA and to a member of the American Academy of

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Actuaries.

The actuary for the system shall carry out such evaluations of the costs of the system as are required to estimate the contribution rates required to fund the system. Such evaluation shall be made not less frequently than every three years. The actuary shall present to the board an evaluation report covering the findings of each such evaluation, which report shall be accepted by the board or rejected as hereinafter provided.

The board may reject an evaluation report of the actuary of the system in its sole discretion. In the event that the board should reject an evaluation report of the actuary for the system, the board shall forthwith appoint a new actuary for the system. If the new actuary for the system shall be unable to complete his report by the date when revised contribution rates are required to become effective or if the board should reject the new actuary's report, then the rejected evaluation report by the former actuary for the system shall determine the contribution rates until the board subsequently accepts an evaluation report from a new actuary for the system. The board may determine that the contribution rates adopted pursuant to the new actuary's report shall be retroactive to the date when revised contribution rates were required to become effective.

No actuarial method or assumption to be used in any actuarial study of the system shall be adopted by the board unless the actuary retained by the board recommends such method or assumption. No method shall be used in any actuarial evaluation of the system unless such method is a widely used, sound, and of well-recognized actuarial method which is used to establish the cost of pension plan benefits and expenses.

The actuary for the system shall develop the actuarial assumptions to be used in evaluating the costs of the system. To the extent deemed appropriate by the actuary, actuarial assumptions shall be based on the experience of the system. The actuary shall use his best judgment in interpreting prior experience of the system, similar experience elsewhere, trends, and opinions in his development of such actuarial assumptions. Each actuarial assumption shall represent as realistic an appraisal of relevant future experience (including expected inflation) at the time the assumption is made, and all assumptions considered together shall be such that their use shall permit the actuary to make an estimate of costs which he believes to be a reasonable one. The actuary shall submit in his report a full discussion of all assumptions used in the actuarial evaluation.

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The board shall direct the actuary to determine the amount and character of all unfunded liability of the system using widely used, sound, and well-recognized actuarial methods and shall direct the actuary to determine the contribution rates according to Section 385. Neither terminal funding cost method nor the current funding (pay-as-you-go) cost method is an acceptable method, and neither of such methods shall be recommended by the actuary or adopted by the board; provided, however, this section shall not apply to the funding of benefits for service rendered prior to April 1, 1935, or to the funding of benefits provided pursuant to the retirement plans created by former Charter Sections 173, 175, 175.1, 175.13 and to benefits payable to transferred employees as provided in Section 374 of this Charter. (Adopted November 2, 1976)

§ 385 Funding.

It shall be the policy of the board to set rates which shall:

- (a) Cause the city to pay the unfunded city costs of the system as of January 1, 1977, based upon an actuarial evaluation as of June 30, 1976, over a period ending on June 30, 2007;
- (b) Cause the city to amortize any increases or decreases in the estimated city costs of the system which occur after June 30, 1976, over periods of time ending on the latter of June 30, 2007, or ten (10) years after the dates such increases or decreases were incurred;
- (c) Cause the city to make such city contributions as may be required to amortize liabilities described in (a) or (b) preceding as a level percentage of total payroll;
- (d) Cause the city to begin to make the city contributions described in Subparagraph (a) beginning on January 1, 1983, and to make contributions beginning on January 1, 1977, such that the city contributions for the six (6) succeeding calendar years will be expected to increase each year uniformly as a percentage of total payroll from the amount actually contributed by the city in fiscal year 1976-77 to that estimated as required under Subparagraph (c) for the calendar year following January 1, 1983, and later; and,

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- (e) Cause the city to comply with any applicable federal law relating to minimum funding of this system, notwithstanding any provision in this section to the contrary. (Adopted November 2, 1976)

§ 386 Accounting.

As nearly as practicable, the accounting system for the retirement system shall conform to generally accepted accounting principles. The board shall cause the funds of the retirement system to be accounted for according to membership in, and funds contributed to, each plan in the system. Accumulated contributions of members shall be accounted for according to individual members' accounts. In accounting for contributions under this plan and the "equal shares retirement plan" created by former Charter Section 302, the city's contributions for safety members and for miscellaneous members shall be accounted separately by group. The accounting system shall account separately for accumulated contributions of all retired and deceased members held for payment of annuities to or on account of such members and city contributions held for payment of pensions to or on account of such members. (Adopted November 2, 1976)

§ 387 Interest.

At least annually, the board shall review the net investment earnings of the system on invested funds and shall determine the annual interest rate which shall be used in determining the amount of interest to be credited to contributions of the city, contributions of members and contributions of retired members. Said interest rate shall bear a reasonable relationship to the net rate of return from investments by the system as determined by the board.

Upon determining the rate of interest to be credited, the board shall periodically cause such interest to be credited to such contributions. Any difference between net investment earnings of the system and the interest credited to contributions shall be credited to such fund or funds of the retirement system as may be determined by the board. (Adopted November 2, 1976)

§ 388 Retirement hearing commission.

There is hereby created a retirement hearing commission which shall have jurisdiction only to hear appeals as hereinafter described. Any person who has a direct financial interest who is adversely affected by a decision of the retirement system manager

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with respect to such person's claim for benefits, or claim for a refund pursuant to Charter Section 436, shall have the right to appeal to the retirement hearing commission.

Prior to the retirement hearing commission acting upon any appeal filed with it, the commission shall refer said appeal to an independent hearing officer. Such hearing officer shall hear the matter and make a recommendation to the commission, which recommendation shall include proposed findings of fact and a proposed decision. The commission, after reviewing the record, the proposed findings of fact and proposed decision, and taking such additional evidence as may be necessary, may adopt, modify or reject the proposed findings of fact and proposed decision.

All hearing officers shall be provided by the Office of Administrative Hearings of the State of California, or its successor in interest; provided, however, that if the Office of Administrative Hearings and its successors cease to exist, the commission, with the consent of the city council, shall prescribe rules for selecting hearing officers.

The costs of securing hearing officers shall be borne by the city.

The city council shall by ordinance prescribe procedures to be followed by the retirement hearing commission in matters relating to its duties. The commission, with the approval of the city council, may contract to obtain such services and advice as are necessary to carry out its duties pursuant to the Charter. (Adopted November 2, 1976)

§ 389 Membership.

The commission shall consist of the following persons:

- (a) The city manager, or his designated representative;
- (b) The city controller, or his designated representative;
- (c) A resident of the city, not a member of the board, not connected with the government of the city;
- (d) A safety member employed by the police department;
- (e) A safety member employed by the fire department;
- (f) A member of the system who is not a safety member employed by the police or fire department; and

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- (g) A member of the civil service board.

A majority of members of the commission shall constitute a quorum. Action by the commission shall require the affirmative vote of four members, except that a lesser number may adjourn from time to time. (Adopted November 2, 1976)

§ 390 Selection of members.

Members of the commission other than the city manager or his designated representative and the city controller or his designated representative, shall be selected as follows:

- (a) The city resident member of the commission shall be appointed by the city council;
- (b) The civil service board member shall be selected by and shall serve at the pleasure of that board; and
- (c) Each employee member shall be selected under procedures established by the city council by and from persons in the active, non-retired members of the group which he shall represent.

The terms of office of the members, other than the city manager or his designated representative, the city controller or his designated representative, and the civil service board representative, shall be for fixed terms of four (4) years and until their successors are selected. Those members serving a fixed term upon the retirement board in existence on the day preceding the effective date of this section shall serve as members of the commission until the expiration of their respective current four-year terms of membership on the retirement board and until their respective successors are selected. (Adopted November 2, 1976)

§ 391 Retirement system manager.

The city manager shall appoint a retirement system manager who shall serve as secretary of the board and secretary of the commission. Subject to the provisions of Section 388, the retirement system manager shall have full authority under the Charter and such general ordinances as may be lawfully adopted by the city council to determine when and to what extent members may receive or may continue to receive benefits of any type or kind

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under the retirement system. All claims for benefits payable by the Sacramento City Employees' Retirement System, and claims for refunds under Charter Section 436, shall be filed with the retirement system manager. The city council shall by ordinance prescribe procedures to be followed by the retirement system manager in matters relating to his duties.

The retirement system manager, with the approval of the city council, may contract to obtain such services and advice as are necessary to carry out his duties pursuant to the Charter. (Adopted November 2, 1976)

§ 392 Legal counsel.

The city attorney shall serve as the legal counsel for the board, the commission and the retirement system. (Adopted November 2, 1976)

§ 393 Costs.

All usual, normal and reasonable costs of administering the retirement system, including actuarial fees and costs, shall be borne by the city. When an agreement is entered into by the board with professional financial advisors, such as investment counsel, trust companies, or trust department of banks in regard to the management and investment of the funds in the system, any fee stipulated in such agreement to be paid to such financial advisors shall not be considered a cost of administration but shall be considered as a charge against the assets of the retirement system to be apportioned among the fund or funds of the retirement system as determined by the board. In addition, any other ordinary costs incurred in regard to the management and investment of the funds in the system, including, but not limited to, brokers' fees, attorneys' fees, insurance, taxes, and property management fees, shall not be considered a cost of administration but shall be considered as a charge against the assets of the retirement system to be apportioned among the fund or funds of the retirement system as determined by the board. (Adopted November 2, 1976)

§ 394 Social Security Coverage.

The city council shall enact an ordinance or ordinances prescribing the conditions according to which any and all employees of the city, other than safety members of the system and employees of the police and fire departments who would be safety members of the system if they were not members of PERS, may be covered under the Old Age, Survivors, Disability and Health Insurance provisions of

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the Social Security Act. The provisions of any ordinance or ordinances applicable to miscellaneous members of the system shall substantially conform to the provisions of former Charter Section 175.12.5 with such modifications as are necessary to make the provisions of said section applicable to miscellaneous members of the "equal shares retirement plan" and the Section 399 Plan. (Adopted November 2, 1976)

§ 395 Reciprocity with other governmental retirement systems.

The city council may, subject to the provisions of Section 373 of this article, enact ordinances and enter into agreements concerning reciprocity with the retirement systems of other governmental entities.

The ordinance may provide for a modification of rights and benefits of a member of the system because of membership in a reciprocal system similar to and under the same conditions as those provided under the County Employees' Retirement Law of 1937 and the Public Employees' Retirement Law because of membership in two or more retirement systems established by or pursuant to such laws. The ordinance shall be filed with each board administering a reciprocal system and shall become effective upon the adoption of a resolution of such administering board accepting the city system as a reciprocal system. Such modification shall apply only to a member whose termination and entry into employment occurred after such effective date.

As a condition precedent to his eligibility to receive reciprocal benefits under this section, the ordinance may require a member of the system to relinquish any benefits to which he would be entitled under ordinances enacted pursuant to Section 378 of this article. The ordinance shall provide that the provisions of Section 378 of this article shall not be applicable to any employee of the city who becomes a member of this system after the effective date of any reciprocity agreement entered into pursuant to former Charter Section 367.

A reciprocal system, for purposes of this section, means retirement system established under the County Employees Retirement Law of 1937, the Public Employees' Retirement System, a retirement system of a city whose retirement ordinance contains the provisions authorized by this section, or a retirement system of a city or city and county established by its charter and providing for modification of rights and benefits similar to and under the same conditions as those provided for under this section. (Adopted November 2, 1976)

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§ 396 Dissolution of marriage.

Notwithstanding any provision in this system to the contrary, whenever a benefit payable to the surviving spouse under this system terminates or is reallocated because of the remarriage of the spouse, the termination or reallocation of the benefit shall be only for the period of remarriage, and in the event that the surviving spouse resumes the status of an unmarried person, the benefit shall be fully reinstated or reallocated, as the case may be, to the surviving spouse for said unmarried periods. (Adopted November 2, 1976)

§ 397 Discharge of adverse claims.

Notwithstanding the provisions of Section 5105 and 5125 of the Civil Code of the State of California, whenever any payment of benefits or refund is made by the system to or on account of a member, such payment shall fully discharge this system from all adverse claims thereto unless, before such payment or refund is made, the retirement system manager has received written notice by or on behalf of some other person that such person claims to be entitled to such payment or refund. (Adopted November 2, 1976)

§ 398 Execution, etc.

No right of a person to any benefit or refund under this article and no funds of the retirement system shall be subject to execution, garnishment, attachment, or any other process whatsoever, and no such right or funds shall be assignable. (Adopted November 2, 1976)

§ 399 Section 399 retirement.

There is hereby created a new retirement plan to be known as the "Section 399 Plan." (Adopted November 2, 1976)

§ 400 Section 399 Plan; Specific definitions.

The following words and phrases as used in this plan, unless a different meaning is plainly required by the context, shall mean:

"Accumulated contributions" shall mean contributions made by a member plus interest credited thereon as determined by the board. "Accumulated contributions" shall not include "additional contributions," as that term is used in Section 404.

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"Allowance" shall mean any benefit payable in periodic payments, consisting of an annuity and a pension.

"Annuity" shall mean payments for life or years derived from a member's accumulated contributions.

"Benefit" shall include "allowance," "retirement allowance," "disability retirement allowance" and "death benefit." "Benefit" specifically does not include a refund specified in Section 436.

"Child" shall mean and include a natural or adopted child of a member.

"Compensation" as distinguished from benefits under Division 4 of the Labor Code of the State of California, shall mean all remuneration whether in cash or by other allowances made by the city for service qualifying for credit under this article, as may be determined by the city council by ordinance; provided, however, that "compensation" does not include remuneration paid for overtime, remuneration paid as a credit for accumulated sick leave, or payments paid by the system in lieu of disability retirement allowance under Section 421; and provided, further, that no remuneration paid to the member shall be considered to be compensation for purposes of determining benefits under this plan unless the member and the city have made contributions with respect to each payment of remuneration in the manner provided in Sections 403 and 405.

"Compensation earnable" shall mean the compensation as determined by the retirement system manager, which would have been earned by the member had he worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him during such period and at the rate of pay attached to such positions. The computation for any absence of a member shall be based on the compensation earnable by him at the beginning of the absence and that for the time prior to entering the service of the city shall be based on the compensation earnable by him in the position held by him in such service.

"Continuation allowance" shall mean any allowance payable after the death of the member.

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"Final compensation" means the highest average annual compensation earnable by a member during any period of three consecutive years during his membership in the system, or if his membership is of a lesser period, it shall mean the average annual compensation earnable by the member during such period. For the purposes of this article, periods of service separated by breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for such breaks. If a break in service did not exceed six months in duration, time included in the break and compensation earnable during such time shall be included in computation of final compensation. If a break in service exceeded six months in duration, the first six months thereof and the compensation earnable during those six months shall be included in computation of final compensation, but time included in the break which is in excess of six months and the compensation earnable during such excess time shall be excluded in computation of final compensation.

"Member of the plan" shall mean any member of this system who is a member of the "Section 399 Plan" created by Section 399.

"Military service" shall be defined by the city council, in accordance with the Military and Veterans Code to include only such service which the Military and Veterans Code requires the city to provide credit for service for the purpose of computing retirement benefits.

"Parent" shall mean the adoptive, but if there is no adoptive parent who exists or existed, then the natural father or mother of the member.

"Pension" shall mean payments for life or years derived from contributions made by the city.

"This plan" shall mean the "Section 399 Plan" created by Section 399. (Adopted November 2, 1976)

§ 401 Section 399 Plan - optional membership.

Except as provided in any contract entered into by the council pursuant to Section 372, any person commencing employment with the city on or after the effective date of this article shall be a member of the Section 399 Plan. Membership in this retirement plan shall be limited to full-time officers and employees of the city and, except as provided herein, shall not include persons employed by the city on a seasonal, limited-term, part-time or substitute

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basis, or elective officers or appointive members of city boards and commissions. The city council, by ordinance enacted by two-thirds of all members of the council, may authorize persons employed by the city on a seasonal, part-time or substitute basis to become members of this plan on such terms and conditions as it deems reasonable.

Any member of the "equal shares retirement plan" created by former Section 302 of this Charter, while still in the employ of the city, may elect to become a member of the Section 399 Plan under the conditions hereinafter set forth. Such election shall be exercised by making an individual affirmative irrevocable election to become a member of this plan rather than to retain membership in the "equal shares retirement plan."

The election shall be made not sooner than the effective date of this article nor later than three hundred sixty (360) days after said effective date. The retirement system manager shall prescribe rules, regulations and procedures relating to the exercise of said election not inconsistent with the provisions of this section. (Adopted November 2, 1976)

§ 402 Funds in prior plans.

Any contributions deducted from compensation of persons who were members of the retirement system under any prior retirement plan, excepting any cost-of-living plans, who become members of this retirement plan, plus any interest which has been credited on account of such members' contributions, shall be transferred to the members' accounts under this plan and shall be used to fund the annuity portion of benefits under this plan.

Contributions made by the city to prior retirement plans, excepting any cost-of-living plans, as determined by the board, for persons who become members of this plan pursuant to Section 401 shall be accounted for separately and shall be used, with other city contributions under this plan, to fund the pension portion of benefits under this plan. (Adopted November 2, 1976)

§ 403 Member contributions.

- (a) The contribution rate for each member of this plan, excluding the contribution rate for cost-of-living benefits pursuant of Section 379, shall be:

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SAFETY MEMBERS

<u>Age at entry into system</u>	<u>Rate of Contribution (%)</u>
20 and under	7.86
21	8.09
22	8.32
23	8.55
24	8.78
25	9.01
26	9.24
27	9.47
28	9.70
29	9.93
30	10.16
31	10.39
32	10.62
33	10.85
34	11.08
35	11.31
36	11.54
37	11.77
38	12.00
39	12.23
40	12.46
41	12.69
42	12.92
43	13.15
44	13.38
45	13.61
46	13.84
47	14.07
48	14.30
49 and over	14.53

MISCELLANEOUS MEMBERS

<u>Age at entry into system</u>	<u>Rate of Contribution (%)</u>
20 and under	6.45
21	6.54
22	6.65
23	6.75
24	6.84

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25	6.94
26	7.04
27	7.14
28	7.24
29	7.34
30	7.44
31	7.54
32	7.63
33	7.73
34	7.83
35	7.93
36	8.03
37	8.12
38	8.22
39	8.32
40	8.42
41	8.52
42	8.62
43	8.72
44	8.82
45	8.91
46	9.01
47	9.11
48	9.21
49	9.31
50	9.41
51	9.50
52	9.60
53	9.70
54 and over	9.80

- (b) There shall be deducted from each payment of compensation made to a member of this plan a sum equal to the applicable rate based upon his age at entry into the system as specified above multiplied by the amount of such compensation. The sum so deducted shall forthwith be paid to the retirement system and shall be credited to the individual account of the member. Except as otherwise provided in this article, the above amounts together with interest credited thereon, and any amounts transferred pursuant to Section 402, shall be applied to provide the annuity portion of the benefits under this plan.
(Adopted November 2, 1976)

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§ 404 Additional contributions.

The ordinance implementing this plan shall provide a right to any member of the plan to elect, in accordance with rules adopted by the board, to make contributions in excess of contributions required to be made to the system to provide a benefit in addition to those otherwise provided in this article. The making of such contributions shall not increase the city's contributions to the retirement system. Such additional contributions shall be credited to the member's account and shall be treated as other contributions of the member. No member shall be required or permitted to make additional contributions to the cost-of-living plan, if any, which may be applicable to such member, and no cost-of-living increases shall be made in respect to any annuity which may be paid as a result of a member's additional contributions.

Upon application, the board shall furnish to any member information concerning the nature and amount of annuities or other benefits which may be obtained under the ordinance from additional contributions. The board may by rule provide for refund of additional contributions made by a member, with interest credited thereon. A member may, at any time, in writing, authorize the board to apply any additional contributions standing to his credit as payment of any contributions required to be made by such member. (Adopted November 2, 1976)

§ 405 City contributions.

Subject to and consistent with the other provisions of this article, the city shall contribute such sums of money as may be required to fund this plan. The total contributions, with interest thereon, made by the city, and any amounts transferred pursuant to Section 402, shall be applied to provide the pension portion of the benefits under this plan. Pursuant to Sections 384 and 385, the board shall direct the actuary to determine the appropriate contribution rates for the city. (Adopted November 2, 1976)

§ 406 Computation of service.

The following time served shall be included by the retirement system manager in the computation of the service to be credited to a member of this plan for the purpose of determining whether such member qualifies for retirement and for the purpose of calculating benefits, but only if withdrawn accumulated contributions based on such time served have been deposited or are redeposited in the retirement system:

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- (1) Time during which a member is a member of the retirement system and during and for which such member is entitled to receive compensation because of service as an employee of the city.
- (2) Time during which a member is absent in military service from employment by virtue of which he is a member of this plan.
- (3) Time served as a safety member shall be credited upon a change in service category of such member which causes him to become a miscellaneous member; provided, that the accumulated contributions standing to the credit of such member, including amounts redeposited by him, shall be adjusted by refund to the member or by payment by the member in the manner provided by the retirement system manager to bring the amount of said accumulated contributions to the amount which would have been credited to him had the member been a miscellaneous member throughout the period of his service as a safety member at the compensation he received as such a safety member. For all purposes thereafter, the member shall be a miscellaneous member.
- (4) Time served as a miscellaneous member shall be credited upon a change in service category of such a member which causes him to become a safety member; provided, that the accumulated contributions standing to the credit of such member, including amounts redeposited by him, shall be adjusted by refund to the member or by payment by the member in the manner required by the retirement system manager to bring the amount of said accumulated contributions to the amount which would have been credited to him had the member been a safety member throughout the period of his service as a miscellaneous member at the compensation he received as a miscellaneous member. For all purposes thereafter, the member shall be a safety member.
- (5) Time served prior to April 1, 1935, determined and credited as prescribed by the council for other members of the system. (Adopted November 2, 1976)

§ 407 Age of voluntary and mandatory retirement for service by safety members.

Any safety member of this plan who has completed at least five (5)

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years of service in the aggregate and attains the age of fifty (50) years may voluntarily retire for service under such uniform procedures as may be prescribed by ordinance enacted by the council. Safety members of this plan shall be mandatorily retired on the first day of the month next following the date on which they attain the age of sixty (60) years. (Adopted November 2, 1976)

§ 408 Service retirement benefits for safety members.

A safety member of this plan shall receive a service retirement allowance equal to the percentage of his final compensation set forth in the following table opposite his age at retirement taken to the preceding completed quarter year and multiplied by the number of years of service with which he is credited at retirement:

SAFETY MEMBERS

PERCENTAGE OF FINAL COMPENSATION

Age of Retirement	Exact	1/4	1/2	3/4
50	1.7500	1.7825	1.8150	1.8475
51	1.8800	1.9125	1.9450	1.9775
52	2.0100	2.0425	2.0750	2.1075
53	2.1400	2.1725	2.2050	2.2375
54	2.2700	2.3025	2.3350	2.3675
55 and over	2.4000			

(Adopted November 2, 1976)

§ 409 Age of voluntary and mandatory retirement for service by miscellaneous members.

Any miscellaneous member of this plan who has completed at least five (5) years of service in the aggregate and attains the age of fifty (50) years may voluntarily retire for service under such uniform procedures as may be prescribed by ordinance enacted by the council. Miscellaneous members of this plan shall be mandatorily retired on the first day of the month next following the date on which they attain the age of sixty-five (65) years. (Adopted November 2, 1976)

§ 410 Service retirement benefits for miscellaneous members.

A miscellaneous member of this plan shall receive a service retirement allowance equal to the percentage of his final compensa-

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tion set forth in the following table opposite his age at retirement taken to the preceding completed quarter year and multiplied by the number of years of service with which he is credited at retirement:

MISCELLANEOUS MEMBERS

PERCENTAGE OF FINAL COMPENSATION

Age of Retirement	Exact	1/4	1/2	3/4
50	1.1000	1.1325	1.1650	1.1975
51	1.2300	1.2625	1.2950	1.3275
52	1.3600	1.3925	1.4250	1.4575
53	1.4900	1.5225	1.5550	1.5875
54	1.6200	1.6525	1.6850	1.7175
55	1.7500	1.7825	1.8150	1.8475
56	1.8800	1.9125	1.9450	1.9775
57	2.0100	2.0425	2.0750	2.1075
58	2.1400	2.1725	2.2050	2.2375
59	2.2700	2.3025	2.3350	2.3675

60 and over 2.4000
(Adopted November 2, 1976)

§ 411 Maximum service retirement allowance.

In no event shall the service retirement allowance of any member of this plan exceed seventy-five percent (75%) of his final compensation. (Adopted November 2, 1976)

§ 412 Exemptions from mandatory retirement age.

Upon the recommendation of the city manager, the city council may extend for periods of one (1) year each and not to exceed a total of five (5) years, the mandatory retirement age of any member of this plan who is exempt from the rules and regulations of the civil service board under Section 43 of this Charter and resolutions adopted thereunder. (Adopted November 2, 1976)

§ 413 Retirement for industrial disability.

Any member of this plan who becomes incapacitated for the performance of his duty by reason of any bodily injury or physical illness caused by or incurred in performance of his duty shall be retired on an industrial disability retirement if the incapacity of the member is of an extended and uncertain duration. (Adopted November 2, 1976)

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§ 414 Industrial disability retirement benefits.

If a member of this plan who is entitled to industrial disability retirement benefits is not qualified for voluntary service retirement, he shall receive an industrial disability retirement allowance equal to fifty percent (50%) of his final compensation. If such member is qualified for voluntary service retirement, he shall receive a disability retirement allowance of an amount equal to the service retirement allowance he would have received if he had elected to retire from service on the date when he is ordered retired for industrial disability, or a disability retirement allowance equal to fifty percent (50%) of his final compensation, whichever amount is greater. (Adopted November 2, 1976)

§ 415 Retirement for ordinary disability.

Any member of this plan who becomes incapacitated for performance of his duty by reason of a bodily injury or physical or mental illness and who has completed ten (10) years of service in the aggregate shall be retired on an ordinary disability retirement allowance if the incapacity of the member is of an extended and uncertain duration and the member is not entitled to an industrial disability retirement. (Adopted November 2, 1976)

§ 416 Ordinary disability retirement benefits for safety members.

If a safety member of this plan who is entitled to an ordinary disability retirement allowance is not qualified for voluntary service retirement, he shall receive an ordinary disability retirement allowance equal to one and one-half percent (1 ½%) of his final compensation for each year of service, but in no event shall said allowance be less than twenty-five percent (25%) of his final compensation. If any such safety member is qualified for voluntary service retirement, he shall receive an ordinary disability retirement allowance of an amount equal to the service retirement allowance he would have received if he had elected to retire for service on the date when he is ordered retired for disability, or an ordinary disability retirement allowance equal to twenty-five (25%) of his final compensation, whichever amount is greater. (Adopted November 2, 1976)

§ 417 Ordinary disability retirement benefits for miscellaneous members.

If a miscellaneous member of this plan who is entitled to ordinary disability retirement allowance is not qualified for voluntary

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service retirement, he shall receive an ordinary disability retirement allowance equal to one and one-half percent (1 ½%) of his final compensation for each year of service. In no event shall said allowance be less than twenty-five percent (25%) of his final compensation nor shall said allowance, if it exceeds twenty-five percent (25%) of his final compensation, be greater than the service retirement allowance to which he would have been entitled if he had remained in the continuous employ of the city until attaining the age of fifty (50) and immediately retired upon attaining said age with the same final compensation as is used to compute his disability allowance under this section. If any such miscellaneous member is qualified for voluntary service retirement, he shall receive an ordinary disability retirement allowance of an amount equal to the service retirement allowance he would have received if he had elected to retire from service on the date when he is ordered retired for disability, or an ordinary disability retirement allowance equal to twenty-five percent (25%) of this final compensation, whichever amount is greater. (Adopted November 2, 1976)

§ 418 Procedures to initiate disability retirement.

The retirement of any member of this plan for industrial or ordinary disability may be initiated by the retirement system manager, by recommendation of the city manager, at the request of the member, or at the request of the guardian or conservator of the estate of the member. (Adopted November 2, 1976)

§ 419 Time for filing application for disability retirement.

Any retirement for disability shall be initiated within such time periods as may be prescribed by ordinance or ordinances enacted by the city council. (Adopted November 2, 1976)

§ 420 Consideration of disability retirements.

The city council may by ordinance prescribe procedures to be followed by the retirement system manager, hearing officers and commission in the consideration of matters relating to the granting or denying of disability retirements. (Adopted November 2, 1976)

§ 421 Transfer, reassignment, etc., to other employment in lieu of disability retirement.

When the retirement system manager finds, on medical advice, that a member of this plan is entitled to a disability retirement allowance, if the retirement system manager further finds that such

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member is capable of performing other duties in the service of the city, the member shall not be entitled to a disability retirement allowance if the city manager, in accordance with any applicable civil service procedures, offers and such member accepts a transfer, reassignment, or other change to a position with duties within such member's capacity to perform with his disability.

If the rate of compensation of such member in the new position is less than the rate of compensation of such member in the position from which he was disabled, the retirement system, in lieu of paying a full disability retirement allowance, shall pay such member, as a partial disability retirement allowance, the difference between the rate of compensation of such member in the new position and the rate of compensation of the position from which he was disabled. In the event that the rate of compensation of such member in the new position is increased from time to time, said partial disability retirement allowance shall be decreased by the amount of such increase until such partial disability retirement allowance equals zeros and is discontinued. In no event shall the retirement system pay a partial disability retirement allowance which exceeds the full disability retirement allowance to which the member is entitled.

If a new position cannot be arranged at the time of eligibility for full disability retirement allowance, the full disability retirement allowance to which the member is entitled under this plan shall be paid until such time as a new position is available and accepted.

If a full disability retirement allowance is paid and the member later accepts such a new position, the period while on such disability retirement shall not be considered as breaking the continuity of service and his rate of contribution shall be based on the same age as his age was on the date of disability. If the member was a safety member of this plan, at the time disabled, and is transferred to a position which would otherwise require him to become a miscellaneous member of this plan, he may elect, in accordance with procedures established by the city council, to retain his membership as a safety member of this plan while performing the duties of his new position. The contribution rate of a member who so elects shall be based upon the contribution rate applicable to a safety member of this plan.

Nothing in this section shall be construed to require a member to accept reassignment or transfer in lieu of the full disability retirement allowance.

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A member who receives a partial disability retirement allowance, as provided in this section, shall remain an active member of this system while receiving such partial disability retirement allowance. No cost of living adjustment shall be made to any partial disability retirement allowance.

Notwithstanding any other provision of this Charter to the contrary, the civil service board shall adopt reasonable rules and regulations to implement the provisions of this section insofar as it requires procedures to allow the city manager to effectuate a transfer, reassignment or other change of position as herein provided. (Adopted November 2, 1976)

§ 422 Employment by city after retirement.

No member of this plan retired for service or retired for disability shall thereafter be employed by the city unless he re-enters city service in accordance with procedures prescribed by the civil service board. (Adopted November 2, 1976)

§ 423 Employment after disability retirement.

Should any member of this plan retired for disability engage in a gainful occupation prior to attaining the age of which he would have been entitled to voluntarily retire for service, the retirement system manager shall reduce the pension portion of such member's monthly retirement allowance so that the resultant retirement allowance when added to the average gross amount earned monthly by him in such occupation, will not exceed the greater of the following:

- (a) The amount of his final compensation, or
- (b) The amount of the compensation earnable by a person holding the position in the same salary step which such member held at the time of his retirement, or if the position has been abolished, the maximum compensation earnable by the person holding such position immediately prior to its abolition.

The reduction provided for in this section shall not exceed the amount of the pension portion of the retirement allowance and shall terminate when such member attains the age of eligibility for voluntary services retirement. (Adopted November 2, 1976)

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§ 424 Determination of continuance of disability.

The retirement system manager may require any member of this plan retired on a disability retirement allowance and under the applicable age of voluntary service retirement to undergo medical examinations from time to time without cost to the member. The examination shall be made by a physician or surgeon appointed by the retirement system manager, provided that said examination shall be performed within a reasonable distance of the member's home. Upon the basis of such examination, the retirement system manager shall determine whether the member is still physically or mentally incapacitated for service with the city in the position held by him when retired for disability. (Adopted November 2, 1976)

§ 425 Refusal to submit to medical examination.

If the retirement system manager requests any member of this plan who is receiving a disability retirement allowance and who is under the minimum age of qualification for voluntary service retirement to undergo a medical examination, and such member refuses to do so, then his retirement allowance shall be suspended until he submits to such medical examination within three (3) months from the time his allowance is suspended, then his disability allowance shall be cancelled. In the event the member does submit to such medical examination within said three (3) month period, then, in the event the retirement system manager determines that such member is still disabled, then the disability retirement allowance shall be reinstated as of the date of the medical examination. (Adopted November 2, 1976)

§ 426 Determination that member not incapacitated.

If the retirement system manager determines, after considering medical advice, that a member of this plan retired on a disability retirement allowance is not physically or mentally incapacitated for service in the office or department of the city where he was employed and in the position held by him when retired for disability, he shall be eligible to re-enter the city service and his disability retirement allowance shall be cancelled forthwith upon such re-entry. If such a member eligible to re-enter city service does not re-enter city employment within thirty (30) days of the date when employment is made available to him, his disability retirement allowance shall be permanently cancelled, and an amount which is the actuarial equivalent of his annuity at cancellation, based on an ordinary life, but not to exceed the amount of his accumulated contributions at the time of his retirement for

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disability, shall be credited to his individual account and shall be refunded to him. Notwithstanding any other provision of the Charter to the contrary, the civil service board shall adopt rules and regulations establishing reasonable procedures for the re-entry of such members. (Adopted November 2, 1976)

§ 427 Re-entry into city service.

If, under the provisions of Section 426, a member of this plan who is retired for disability is determined by the retirement system manager to be no longer incapacitated and re-enters the service of the city, his disability retirement allowance shall cease immediately upon such re-entry. Upon re-entry into city service such member shall be a member of this plan, and his age at the time of his original entry into the system shall be the age upon which his rate of contribution upon re-entry is computed, and shall receive credit for his aggregate service as it existed at the time of his disability retirement. The city council may provide by ordinance that any person who re-enters city service pursuant to former Charter Section 326 may elect to become a member of this plan. Such ordinance shall generally provide for a procedure similar to Section 401. (Adopted November 2, 1976)

§ 428 Cancellation or retirement allowance for other than re-entry into city service.

If the retirement allowance of any member of this plan who is retired for disability is cancelled for any cause other than re-entrance into city service, and if such member does not re-enter city service, an amount which is the actuarial equivalent of his annuity at cancellation, based on a disabled life, but not to exceed the amount of his accumulated contributions at the time of his retirement for disability, shall be credited to his individual account and shall be refunded to him. (Adopted November 2, 1976)

§ 429 Industrial death allowances.

If a member of his plan shall die before retirement by reason of an injury received in, or illness caused by the performance of his duty, then, commencing the next day following the date of death, an industrial death allowance shall be paid to the surviving spouse throughout the life of the surviving spouse or until the surviving spouse remarries. If the member, at the time of death, was qualified for voluntary service retirement, but had not retired, the industrial death allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such industrial

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death allowance shall not be less than an amount equal to fifty percent (50%) of his final compensation. If death occurs prior to qualification for voluntary service retirement, the industrial death allowance payable shall be an amount equal to fifty percent (50%) of his final compensation. (Adopted November 2, 1976)

§ 430 Continuation of benefits after death of retired member.

In the event no allowance is payable under Section 429, and in the event that a member of this plan dies either after qualification for voluntary service retirement or after retirement for service or for disability, then either one-half of the retirement allowance to which such member would have been entitled if the member had retired at the time of death or one-half of his retirement allowance, as the case may be, shall be continued throughout life, or until remarriage, to his surviving spouse. (Adopted November 2, 1976)

§ 431 Death benefit upon death in service, etc., when death not compensable under Section 429, 430 and 433.

If any member of this plan shall die before retirement, and, if no allowance is payable under Sections 429, 430 or 433, and if such member dies either no later than the last day for which he receives compensation, or within four (4) months after the last day for which the member receives compensation, or while such member is physically or mentally incapacitated for the performance of the duties of such member and in case of such incapacity, if such incapacity has been continuous from such last day for which the member received compensation to the date of death, then, a death benefit shall be paid to the member's surviving spouse, or if there is no surviving spouse, to the designated beneficiary of such member, or if none, or if the designated beneficiary has died, or is otherwise ineligible, then to the estate of such member. Such death benefit shall be a sum equal to one-twelfth (1/12) of the compensation earnable by such member during the twelve (12) months immediately preceding death multiplied by his completed years as a member of the system not to exceed six (6) plus his accumulated contributions. (Adopted November 2, 1976)

§ 432 Death benefit after retirement.

Upon the death of a member after retirement and regardless of the cause of death, the sum of five hundred dollars (\$500) shall be paid to his designated beneficiary, or if none, or if the designated beneficiary has died, or is otherwise ineligible, then to the estate of such member. (Adopted November 2, 1976)

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§ 433 Alternative beneficiary.

If there is no surviving spouse entitled to an allowance under Sections 429 or 430, or, if a surviving spouse ceases to be eligible for an allowance under Sections 429 or 430 by reason of death or remarriage of such surviving spouse, and in the event that, at the time such surviving spouse becomes ineligible for such allowance, every child of the deceased member of his plan has not reached the age of eighteen (18) years, then, the allowance which would have been paid to such surviving spouse under Section 429 or 430 shall be paid to such child of the deceased member under eighteen (18) years of age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen (18) years. If, at the time the member of this plan dies, there is no surviving spouse or child of such member eligible for the allowance under Section 429 or 430, then, if there is a parent of such member dependent upon such member for support, such dependent parent shall receive an allowance equal to the allowance payable under Section 429 or 430, if such allowance would otherwise be payable to a surviving spouse or child of such member. In the event any allowance is payable under this section, such allowance shall be deemed to be the allowance under this section and under Sections 429 and 430 for purposes of determining what other benefits, if any, are payable. (Adopted November 2, 1976)

§ 434 Optional death benefit.

In the event of the death of a member of this plan after qualification for, but before service retirement, an eligible surviving spouse may elect to receive a benefit equal to that provided in Section 431 in lieu of any continuation allowance which might be payable to such surviving spouse; provided, however, that such election must be made prior to the first payment of any continuation allowance which may be payable to such surviving spouse. If, at the time the member of this plan dies, there is no eligible surviving spouse of such member, then the guardian of the estate of any child of such member who may be eligible for a continuation allowance under this plan may elect to receive a lump sum benefit equal to that provided in Section 431 in lieu of any other continuation allowance which might be payable to such child; provided, however, that such election must be made prior to the first payment of any continuation allowance which may be payable to such child; provided, further than if there is more than one guardian who may

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make the election, then all guardians must so elect, and, in the event all guardians do not so elect, then the continuation allowance shall be paid to each child as his respective interest appears. If, at the time the member of this plan dies, there is no surviving spouse or child eligible for any continuation allowance under this plan, then, if there is a dependent parent entitled to a continuation allowance under this plan, such dependent parent may elect to receive a lump sum benefit equal to that provided in Section 431 in lieu of any continuation allowance which might be payable to such dependent parent; provided, however, that such election must be made prior to the first payment of any continuation allowance which may be payable to such parent; provided, further, that if there are two dependent parents who may make the election, in the event both dependent parents do not so elect, then the continuation allowance shall be paid to each parent as his respective interest appears. (Adopted November 2, 1976)

§ 435 Date of marriage.

No continuation allowance shall be paid under this plan to a surviving spouse unless such surviving spouse was married to the member prior to the date of the injury, or onset of the illness, which illness or injury results in death before retirement, or if death occurs after retirement, unless such surviving spouse was married to the member at least one year prior to the date the member retired. This section shall not apply to any optional allowance under Section 443. (Adopted November 2, 1976)

§ 435a Optional continuation allowance for surviving spouse.

Notwithstanding the provisions of Section 435, the council shall enact an ordinance or ordinances prescribing the conditions according to which any member retired for service or disability may irrevocably elect to receive a reduced retirement allowance during such member's lifetime in order that the member's surviving spouse may receive a continuation allowance, provided that the member was married at the time of retirement, is married to a different spouse at the time of death, was married to such different spouse at least two years prior to the date of death and the surviving spouse would otherwise qualify for a continuation allowance. The surviving spouse's continuation allowance shall be one-half of the member's reduced retirement allowance. The ordinance or ordinances shall provide that the election shall be made within sixty days after the date the retired member remarries or within thirty days after the enactment of the ordinance, in the case of a retired member who on the effective date of this section has been married to a different spouse than at the time of retirement for more than sixty days.

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The ordinance or ordinances shall further provide that the reduction in the member's allowance shall be made by the retirement system manager and shall be calculated on an actuarial basis so that the reduction in the member's allowance is actuarially equivalent to one-half of the continuation allowance which the surviving spouse will receive. The reduction shall become effective on the date of election. A member may make only one election under this section. This section shall not apply to persons electing an optional allowance under Charter Section 443.

It is the intent of this section that one-half of the cost of the continuation allowance which the surviving spouse is to receive will be borne by the member in the form of the reduction in the member's allowance. The reduction in the member's allowance shall be calculated on an actuarial basis. (Adopted September 25, 1979)

§ 436 Refund of contributions upon termination of employment.

Except as otherwise provided in Section 428, should any member of this plan cease to be employed by the city, through any cause other than death or retirement, all of his accumulated contributions shall be refunded to him. Upon mailing or other delivery of a warrant for the refund of contributions, his membership in the system, and any right to any other benefit, shall cease. (Adopted November 2, 1976)

§ 437 Election to take deferred retirement.

Any member described in Section 436 who has completed at least five (5) years of service in the aggregate shall have the right to elect, within ninety (90) days after said termination of service, or if the termination was by lay-off, and if such a member is continuously laid off for a period of one hundred eighty days (180), then within ninety (90) days after the one hundred eightieth (180) day, to allow his accumulated contributions to remain in the retirement system for purposes of obtaining a deferred retirement. Failure to make such election shall be deemed an irrevocable election to withdraw his accumulated contributions. If said member elects to allow his accumulated contributions to remain in the retirement system he may revoke said election at any time prior to deferred retirement and receive a refund of his accumulated contributions in the manner provided by Section 436. (Adopted November 2, 1976)

§ 438 Deferred service retirement.

A member of this plan whose membership continues under Section 437

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is subject to the same age requirements for service retirement that apply to other members. After the qualification of such member for deferred service retirement by attaining the applicable age for voluntary service retirement, he shall be entitled to receive a retirement allowance based upon his age at the time of retirement and service standing to his credit at the time of cessation of employment with the city in the same manner as other members. (Adopted November 2, 1976)

§ 439 Deferred disability retirement.

A member of this plan whose membership continues under Section 437 and who becomes disabled by reason of a bodily injury or physical or mental illness may retire for disability. If said member is qualified for voluntary service retirement, he shall receive a disability retirement allowance of an amount equal to the deferred service retirement he would have received if he had elected to retire from service on the date when he is ordered retired for disability. If said member is not qualified for voluntary service retirement, then such member shall receive a disability retirement allowance equal to one and one-half percent (1½%) of final compensation multiplied by the number of years of service of such member; provided, however, that in no event shall said disability retirement allowance exceed the service retirement allowance to which said member would be entitled if said member had retired at age 50. In the event the retirement system manager finds prior to the member's qualification for voluntary service retirement that such member is no longer so incapacitated, the allowance provided in this section shall be cancelled. The rights of the member thereafter shall be those provided under Section 428. (Adopted November 2, 1976)

§ 440 Continuation of benefits after death of member retired under Section 437.

Upon the death of a member who has retained membership in this plan under Section 437, after qualification for voluntary service retirement or after retirement for service or after retirement for disability, either one-half of the retirement allowance to which he would have been entitled had he retired at the time of his death or one-half of his retirement allowance, as the case may be, shall be continued throughout life or until remarriage, to his surviving spouse. The provisions of Section 396, 433, 434 and 435 shall be application to the allocation or reallocation of said benefits. (Adopted November 2, 1976)

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§ 441 Death benefit upon death when death not compensable under Section 440.

If any member who has retained membership in this plan under Section 437, shall die before retirement and if no allowance is payable pursuant to Section 440, a death benefit shall be paid to his surviving spouse, or, if there is no surviving spouse, to the member's designated beneficiary, or if none, or if the designated beneficiary has died, or is otherwise ineligible, then to the member's estate, in an amount equal to one-twelfth (1/12) of the compensation earnable by him during the twelve (12) months immediately preceding the date of his cessation of employment with the city multiplied by his completed years as a member of the system not to exceed six (6), plus his accumulated contributions. (Adopted November 2, 1976)

§ 442 Service retirement benefits for members attaining mandatory retirement age and not otherwise entitled to benefits.

Any member of this plan who has attained the mandatory retirement age applicable to such member and who has not completed at least five (5) years of service in the aggregate shall be entitled to retire for service. The retirement allowance of such a member shall be computed in the same manner as any other member. (Adopted November 2, 1976)

§ 443 Optional allowances.

At the date of retirement for service or retirement for disability:

- (a) If a member of this plan has no spouse, child or dependent parent who would qualify for the continuance of an allowance after the death of said member, such member may elect before the first payment of the retirement allowance to receive the actuarial equivalent of his allowance, partly in a lesser allowance to be received by the member throughout life and partly in other benefits payable after such member's death to another person or persons, or
- (b) If a member of this plan has a spouse or child or dependent parent who would qualify for the continuance of an allowance after the death of said member, such member may elect before the first payment of the retirement allowance to receive the actuarial equivalent of the portion of his spouse, child or dependent parent, as the

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case may be, upon his death, partly in a lesser allowance to be received by the member throughout life and partly in other benefits payable after such member's death to another person or persons including his spouse, child or dependent parent, as the case may be.

An election under this section shall be subject to all the conditions prescribed by ordinance to govern similar elections by other members of the retirement system. (Adopted November 2, 1976)

§ 444 Worker's compensation offset.

Any allowance payable to, or on account of, a member of this plan by reason of any bodily injury or physical illness caused by or incurred in performance of his duty, or payable on account of a member's death by reason of any injury received in, or illness caused by, the performance of his duty, shall not be cumulative with benefits under Division 4 of the Labor Code of the State of California awarded to, or on account of, a member as a result of the same injury, illness or death. Any such allowance shall be reduced, in the manner fixed by the council, by the amount of benefits, other than medical benefits, payable to or on account of the member under Division 4 of the Labor Code of the State of California; provided, however, that in no event shall the annuity portion of any such allowance be reduced by the amount of benefits payable to, or on account of, the member under Division 4 of the Labor Code of the State of California. (Adopted November 2, 1976)

§ 445 Conflicting Charter provisions.

Any section or part of any section in this Charter, insofar as it should conflict with the sections of this article or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of these sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. (Adopted November 2, 1976)