

City of Albany

COUNTY OF ALAMEDA
STATE OF CALIFORNIA

Charter

Amended through November 4, 2008

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AMENDMENTS

February 4, 1971	Sec. 50 (c), (g), (dd), (e), (f), (l), (r) Sec. 49 (nn)
July 21, 1972	Sec. 49 (j), (d), (n), (k) Sec. 21
November 5, 1974	Sec. 38 (a) Sec. 49 (n) Sec. 4 A Sec. 4 B
April 13, 1976	Sec. 38 (a), (b), (c), (d), (e), (f) Sec. 50 (h), (i) Sec. 4
April 19, 1977	Sec. 50 (s) Sec. 30 (a), (b), (c), (d) Sec. 42 Sec. 33
November 6, 1978	Sec. 49 (j)
November 6, 1979	Sec. 50 (e)
April 21, 1981	Sec. 4 (a) Sec. 5 Sec. 8 Sec. 3.05 Sec. 16 Sec. 30 Sec. 17 Sec. 46 Sec. 33 Table of Contents Re-number charter sections
November 2, 1982	Sec. 3.09 Secs. 8.01 — 8.07
April 10, 1984	Sec. 9.04 (a)
April 21, 1986	Sec. 3.12, delete Health Officer Sec. 3.15, delete Public Library Sec. 9.01 (e)
April 10, 1990	Sec. 3.07, delete City Engineer and Street Superintendent Sec. 9.01 (b) Organization of Officers Sec. 9.01 (c) Pensions, To Whom and Amounts Sec. 9.01 (j) Meetings and Duties of Board
April 14, 1992	Sec. 9.01 (a) Trustees Who Shall Constitute Board of Trustees of Police and Fire Relief or Pension Fund Sec. 9.01 (b) Organization of Officers Sec. 9.01 (c) Pensions, To Whom and Amounts
June 7, 1994	Sec. 2.04 Meetings
November 8, 1994	Sec. 1.05 Municipal Affairs Sec. 1.06 Public Financing

	Sec. 1.07 Enterprises
	Sec. 1.08 Revenue Reduction Prohibited
	Sec. 1.09 Mandates Limited
	Sec. 1.10 Construction and Interpretation
	Sec. 5.01 Elections
	Sec. 7.01 General Laws Powers
	Sec. 7.03 Severability
November 5, 1996	Sec. 2.01 Legislative Department. The Council
	Sec. 2.04 Meetings
June 2, 1998	Sec. 3.23 Appointee Procedures
	Sec. 3.16 Planning and Zoning Commission
	Sec. 3.23 Appointee Procedures
	Sec. 8.01 Municipal Civil Service
November 6, 2001	Sec. 9.01 (a) Pensions for Members of Police and Fire Departments
June 6, 2006	Sec. 3.01 delete Chief of Police as Elected Official
November 4, 2008	Sec. 3.23 Appointee Procedures
	Sec. 2.01 Legislative Department. The Council
	Sec. 2.04 Meetings
	Sec. 2.08 Council Compensation
	Sec. 3.23 Appointee Procedures
	Sec. 4.03 Contract Work

CHAPTER I INTRODUCTORY

SECTION 1.01. NAME. The Municipal Corporation, now existing and known as the City of Albany shall remain and continue to be a body politic and corporate as at present, in name, in fact, and in law.

SECTION 1.02. BOUNDARIES. The boundaries of said City shall be the same as now established, with power and authority to change the same as provided by law.

SECTION 1.03. POWERS. Said City, by and through its Council and other officials, shall have and may exercise all powers necessary or appropriate to a municipal corporation and the general welfare of its inhabitants, which are not prohibited by the Constitution, and which it would be competent for this Charter to set forth particularly or specifically, including all powers now or hereafter granted to cities of the sixth class and the specification herein of any particular powers shall not be held to be exclusive or any limitation of this general grant of powers.

SECTION 1.04. GENDER. Whenever used in this Charter, the masculine gender includes the feminine and neuter. (Added, ratified, April 13, 1976)

SECTION 1.05. MUNICIPAL AFFAIRS. Without limiting in any manner the foregoing powers expressed in Section 1.03, and any authority which is enjoyed by a Charter city in the State of California, each of the powers, rights, and responsibilities described in this Charter is hereby declared to be a municipal affair, the performance of which is unique to the benefit and welfare of the citizens of the City of Albany. The electorate of the City of Albany is sincerely committed to the belief that local government has the closest affinity to the people governed, and firm in the conviction that the economic and physical independence of our local government will promote the health, safety, and welfare of all the citizens of this City of Albany. (Added, ratified, November 8, 1994)

SECTION 1.06. PUBLIC FINANCING. The City of Albany shall have the power to establish standards, procedures, rules, or regulations related to any public financing, including but not limited to the formation of assessment districts, benefit districts, maintenance and sewer agreements. (Added, ratified, November 8, 1994)

SECTION 1.07. ENTERPRISES. The City of Albany shall have the power to engage in any enterprise deemed necessary to produce revenues for the general fund or any other fund established by the City Council to promote a public purpose. (Added, ratified, November 8, 1994)

SECTION 1.08. REVENUE REDUCTIONS PROHIBITED. Any revenues raised and collected by the City of Albany shall not be subject to subtraction, retention, attachment, withdrawal or any other form of involuntary reduction by any other level of government. (Added, ratified, November 8, 1994)

SECTION 1.09. MANDATES LIMITED. No person, whether elected or appointed, acting on behalf of the City of Albany, shall be required to perform any function which is mandated by any other level of government, unless and until funds sufficient for the performance of such function are provided by said mandating authority and such functions are approved by the appropriate administrative or legislative authorization with the City of Albany. (Added, ratified, November 8, 1994)

SECTION 1.10. CONSTRUCTION AND INTERPRETATION. The language contained in this Charter is intended to be permissive rather than exclusive or limiting and shall be liberally and broadly construed in favor of the exercise by the City of Albany of its powers to govern with respect to any matter which is a municipal affair. (Added, ratified, November 8, 1994)

CHAPTER II CITY COUNCIL

[Effective until December 10, 2010, Section 2.01 shall read as follows:]

SECTION 2.01. LEGISLATIVE DEPARTMENT. THE COUNCIL. The legislative body of said City shall consist of five (5) persons elected at large, which body shall be known as the Council.

The members of the Council shall be elected by the qualified voters of said City at a general Municipal Election to be held therein every even-numbered year as hereinafter provided. At the meeting when the election results of a general Municipal election are presented to the Council as being duly canvassed and certified by the county, the qualified persons shall then be inducted into office. A person elected to the City Council shall hold office for a period of four (4) years from the day of their induction and until their successors are elected and qualified. A person elected, unless otherwise removed from office, is entitled to serve a four-year term from the date of induction.

The Council as thus newly constituted shall then elect one of its members as its presiding officer, who shall have the title of Mayor. The Council shall also designate one of its members as Vice-Mayor. The Vice-Mayor shall perform the duties of the Mayor during his or her absence or disability. The officials so chosen shall hold their respective offices subject to the pleasure of the Council.

Each member of the Council shall receive a compensation of Five Dollars (\$5.00) for each meeting attended, provided, however, that a councilmember shall not receive more than Twenty-Five Dollars (\$25.00) in any one month, except as otherwise provided by Section 46 of this Charter. Members of the Council shall not be eligible to any other office or employment with the City, other than as in this Charter expressly provides.

No person not an elector of the City shall be eligible to hold office as a member of the City Council, and no person shall be eligible for nomination for such office without having been a resident of the city for thirty (30) days immediately preceding nomination. (Amended, ratified, April 13, 1976; November 5, 1996; November 4, 2008)

[Effective December 10, 2010, Section 2.01 shall read as follows:]

SECTION 2.01. LEGISLATIVE DEPARTMENT. THE COUNCIL. The legislative body of said City shall consist of five (5) persons elected at large, which body shall be known as the Council.

The members of the Council shall be elected by the qualified voters of said City at a general Municipal Election to be held therein every even-numbered year as hereinafter provided. At the meeting when the election results of a general Municipal election are presented to the Council as being duly canvassed and certified by the county, the qualified persons shall then be inducted into office. A person elected to the City Council shall hold office for a period of four (4) years from the day of their induction and until their successors are elected and qualified. A person elected, unless otherwise removed from office, is entitled to serve a four-year term from the date of induction.

The Council as thus newly constituted shall then elect one of its members as its presiding officer, who shall have the title of Mayor. The Council shall also designate one of its members as Vice-Mayor. The Vice-Mayor shall perform the duties of the Mayor during his or her absence or disability. The officials so chosen shall hold their respective offices subject to the pleasure of the Council.

Members of the Council shall not be eligible to any other office or employment with the City, other than as in this Charter expressly provides.

No person not an elector of the City shall be eligible to hold office as a member of the City Council, and no person shall be eligible for nomination for such office without having been a resident of the city for thirty (30) days immediately preceding nomination. (Amended, ratified, April 13, 1976; November 5, 1996; November 4, 2008)

SECTION 2.02. LIMITATION ON TERMS. Any person who shall have served two (2) successive terms as a member of the Council shall be ineligible to serve again in the office until an intervening period of two (2) years has elapsed. For the purposes hereof, any person who serves as a Councilmember for two (2) years or more of an unexpired term, or two (2) years or more of an elected term, shall be considered to have served a term. (Amended, ratified, November 5, 1974; April 21, 1981)

This section shall be implemented as of May, 1981. (Added, ratified, April 21, 1981)

SECTION 2.03. PLACE ON BALLOT. The order of names and candidates for council shall be determined by lot, conducted by the City Clerk, and the names placed on the ballot as determined by the said lot drawing. (Added, ratified, November 5, 1974)

SECTION 2.04. MEETINGS. The regular meetings of the Council shall be held on the first and third Mondays of each month, at a time set by resolution or ordinance passed by the City Council, except in case Monday is a holiday, in which event the Council may select another day for the meeting during that week. But any regular meeting may be adjourned to a date certain, which adjourned meeting shall be a regular meeting for all purposes. Special meetings may be called in a manner consistent with the laws of the State of California.

All meetings of the Council shall be convened in the Council Chambers of the City Hall but may thereafter be adjourned to such other location as may be selected by the Council. All meetings of the Council shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet at the City Hall, the meetings may be held for the duration of the emergency at such place as is designated by the Mayor, or, if the Mayor should fail to act, by four (4) members of the Council. (Amended, ratified, August 7, 1952; April 21, 1981; June 7, 1994; November 5, 1996; November 4, 2008)

SECTION 2.05. QUORUM. A majority of the Council shall constitute a quorum for the transaction of any business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

The affirmative vote of a majority of the Council shall be necessary to adopt any ordinances, resolutions or claims against the City, which vote shall be taken by ayes and noes and entered upon the record.

SECTION 2.06. ORDINANCES. All proposed ordinances introduced in the Council shall be in printed or typewritten form. The enacting clause of all ordinances passed by the Council shall read as follows: "The Council of the City of Albany does ordain as follows": The enacting clause of all ordinances initiated by the people shall read as follows: "The people of the City of Albany do ordain as follows":

No ordinance shall be passed by the Council on the day of its introduction, nor within five (5) days thereafter. A proposed ordinance may be amended or modified between the time of its introduction and the time of its passage, providing its general scope and original purpose is retained. All ordinances shall be signed by the Mayor and attested by the City Clerk, and shall be published at least once in an official newspaper of the City of Albany, of general circulation, or posted at three (3) public places within the City, before becoming effective; provided, any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing the reasons for its urgency, may be introduced and passed at one and the same meeting, and, if passed by a four-fifths vote, shall become effective immediately.

The Council, by resolution, shall designate three (3) public places within the City of Albany where said ordinances may be posted. (Ratified February 20, 1940)

SECTION 2.07. MAYOR. The Mayor shall be the executive head of the City. In case of riot,

insurrection or extraordinary emergency, he shall assume general control of the City government and all of its branches, and be responsible for the suppression of disorders and the restoration of normal conditions. In the name and on behalf of the City, he shall sign all contracts, deeds, bonds and other legal instruments in which the City is a party. He shall represent the City in all ceremonial functions of a social or patriotic character where it is desirable or appropriate to have the City represented officially thereat.

SECTION 2.08. COUNCIL COMPENSATION. Effective December 15, 2010, each member of the City Council shall receive the amount of three hundred dollars (\$300.00) per month in salary as authorized for general law cities by Government Code Section 36516(a), or as the same may be amended from time to time. (Ratified November 4, 2008)

CHAPTER III ADMINISTRATIVE

SECTION 3.01. OFFICERS AND EMPLOYEES. All officers and department heads, except as otherwise provided, shall be appointed by the City Council and shall hold office at the pleasure of the City Council. The City Treasurer and City Attorney shall be elected from the City at large, and shall hold office for four (4) years and until their successors are elected and qualified. The Council shall establish by ordinance the administrative offices of the City and shall designate the department heads of the City. The City Council shall be empowered to create, abolish, or reorganize departments and divisions as necessary for the proper administration of the City business, but not inconsistent with other sections of this Charter. (Amended, ratified, August 16, 1967; May 29, 1968; April 15, 1975; April 13, 1976; April 21, 1981; November 6, 2001)

SECTION 3.02. APPOINTMENT OF OFFICERS, EMPLOYEES, MEMBERS OF BOARDS AND COMMISSIONS – LIMITATIONS. No person who shall be the wife, husband, father, mother, son, daughter, stepson, stepdaughter, son-in-law, daughter-in-law, grandson, granddaughter, brother or sister of a member of the City Council shall be eligible for appointment to any office, job, board, or commission which shall be appointive by the Council of the City of Albany. (Added, ratified February 14, 1961)

SECTION 3.03. OFFICIAL BONDS. The Council shall determine which officers shall give bonds for the faithful performance of their official duties, and fix the amount of said bonds. Such officers, before entering upon their official duties, shall execute a bond to the City in the penal sum required, which bond shall include any other offices of which they may be ex-officio or by appointment incumbent. Said bonds shall be approved by the Council and filed with the City Clerk, except that of the City Clerk, which shall be filed with the Mayor.

SECTION 3.04. OATH OF OFFICE. Every officer shall take the constitutional oath of office and subscribe thereto before entering upon the performance of his official duties.

SECTION 3.05. ADMINISTRATIVE OFFICER. The Administrative Officer shall be the administrative head of the government of the City. As such, the Administrative Officer shall be responsible to the Council for the efficient implementation of its policy and effective administration of all the affairs of the City government which the office controls. Any action, determination or omission of the Administrative Officer or staff shall be subject to review by the Council, but no individual Councilmember or the Mayor shall overrule, change or modify any such action, determination or omission except by affirmative vote of at least three (3) members of said Council at a duly constituted session.

The Administrative Officer shall advise and make recommendations to the Council concerning any conditions or governmental situations which need Council direction or policy determination.

The Administrative Officer will insure that the Council as a whole or as individuals are permitted timely and complete freedom of access to requested information.

The Administrative Officer shall be chosen on the basis of executive and administrative qualifications, as defined by ordinance. (Added, ratified, April 21, 1981)

SECTION 3.06. CITY CLERK. There shall be a City Clerk. It shall be the Clerk's duty to keep a full, true and correct record of the proceedings of the Council and other books and accounts as are now required by law for clerks of cities, and may be required by resolution or ordinance of the Council. All powers, except as in this Charter otherwise provided, now or hereafter conferred upon the clerks of cities by law, shall be exercised by the City Clerk. The Clerk shall have such other powers and perform such other duties as may be prescribed by resolution or ordinance.

The City Clerk shall be appointed by the Council. The Council shall establish, by ordinance, the qualifications for the position of City Clerk. (Amended, ratified, August 16, 1967; April 13, 1976)

SECTION 3.07. RESERVED. (Deleted, ratified, April 10, 1990)

SECTION 3.08. CITY TREASURER. There shall be a City Treasurer. It shall be his duty to receive and safely keep all monies and securities belonging to the City coming into his hands. He shall pay out the same only in the manner prescribed by ordinance of the Council. (Amended, ratified August 7, 1952)

SECTION 3.09. SAFETY SERVICE DEPARTMENTS.

(a) There is hereby created a Police Department which shall be administered by the Chief of Police. The department shall consist of such sworn and non-sworn personnel whose ranks, duties, and compensation are set forth by the City Council through ordinance or resolution.

(b) There is hereby created a Fire Department which shall be administered by the Fire Chief. The department shall consist of such personnel whose ranks, duties, and compensation are set forth by the City Council through ordinance or resolution.

(c) The Fire and Police Departments may not be consolidated, except upon a vote of the electorate. (Added, ratified November 2, 1982.)

SECTION 3.10. CITY ATTORNEY. There shall be a City Attorney. The qualifications for the City Attorney shall be established by the City Council, which qualifications shall be established within ninety (90) days from ratification. The City Attorney shall be the legal advisor of the Council, and all other City officials on matters appertaining to their official duties. He shall draft all ordinances, resolutions, contracts or other legal documents or proceedings required by the Council, or other officials, except as may be otherwise provided, and shall perform such other legal services from time to time as the Council may require. He shall attend all meetings of the Council unless excused therefrom by the Council or the Mayor. (Amended, ratified, April 21, 1981)

SECTION 3.11. CITY TAX COLLECTOR. There shall be a Tax Collector. The City Treasurer shall be ex-officio Tax Collector and perform the duties and possess the powers of this office, which shall be prescribed by resolution or ordinance of the Council. (See also Section 3.18(a))

SECTION 3.12. RESERVED. (Deleted, ratified, April 21, 1986)

SECTION 3.13. CHIEF OF POLICE. There shall be a Chief of Police. The qualifications for the Chief of Police shall be established, by ordinance, by the City Council, which qualifications shall be established within ninety (90) days from ratification. He shall be the head of the Police Department of the City, and shall have all the powers that are now or may hereafter be conferred upon sheriffs and other peace officers by the laws of the State. It shall be his duty to preserve the public peace, and to suppress riots, tumults and disturbances. His orders shall be promptly executed by the police officials, or watchmen of the City, and every citizen shall lend him aid when requested for the arrest of offenders, the maintenance of public order, or the protection of life and property.

He shall execute and return all process issued to him by legal authority. He shall perform the duties of a regular patrolman and have authority, and it is hereby made his duty, to arrest persons violating any law of the State or ordinance of this City. Those arrested for violating City ordinances may, before or after trial, be confined in the County Jail of Alameda County or in the City Prison of the City of Albany. He shall have such other powers and duties appertaining to his office as may be prescribed by the Council or rules of the Police Department. (Amended, ratified, January 26, 1935; July 21, 1972)

SECTION 3.14. CHIEF OF THE FIRE DEPARTMENT. There shall be a Fire Chief appointed by the Council. He shall be head of the Fire Department of the City, and shall have charge of and supervision over all matters relating to the prevention and extinction of fires, and of all measures necessary to guard and protect all property impaired thereby. (Amended, ratified, January 26, 1935)

SECTION 3.15. RESERVED. (Deleted, ratified, April 21, 1986)

SECTION 3.16. PLANNING AND ZONING COMMISSION. There shall be a Planning and Zoning Commission, consisting of five (5) members who shall serve without compensation. Each member of the Council shall have the power to appoint one member of the Commission, subject to ratification of appointment by the City Council. The Planning and Zoning Commission shall have the power and be required to (a) recommend to the Council the adoption, amendment or repeal of the master plan or any part thereof for the physical development of the City and (b) exercise such functions with respect to land subdivision, planning and zoning as may be presented by ordinance or resolution. (Amended, ratified, August 7, 1952; April 15, 1975; June 2, 1998)

SECTION 3.17. DEPUTIES. All officers shall have the power to appoint their own deputies when the same are necessary, subject, however, to the confirmation of the Council.

SECTION 3.18. ADDITIONAL DUTIES OF OFFICERS. Besides the duties herein specified, all officers and Boards shall perform such other appropriate duties as may be prescribed by ordinance or the general laws.

(a) The Council may, by ordinance, consent to, or provide by contract, or in any other manner, for the transfer to the County of Alameda of any or all of the tax assessing and tax collection functions and services provided for by charters or ordinances of the City of Albany, or by State law, rule or regulation, and for the assumption, enforcement, observance, and performance thereof by Alameda County officers and employees, including, but not limited to (a) the assessment of City property for City taxes; (b) the equalization and correction of assessments; (c) the collection, payment, and enforcement of taxes and special assessments, including delinquent taxes; (d) the redemption of property from sale or other penalties for non-payment of City taxes or special assessments; and (e) the City shall at or about the time tax bills are delivered by the County, cause to be distributed to all property owners of the City of Albany, a breakdown of funds of the tax rate of the City of Albany. Any and all powers, duties and functions of the City so transferred to the County pursuant to this section shall, to the extent of their assumption, performance, observance and enforcement by the County, be deemed or suspended and not a duty of the City for the duration of such transfer. The City has, and the Council shall reserve, in any agreement with the County, the right to terminate any transfer made pursuant to this section and to reassume any or all of the transferred functions. This section shall be paramount to any Charter provision in conflict therewith. (Amended, ratified, June 15, 1966; April 13, 1976)

SECTION 3.19. OFFICIAL RECORDS. All books and records of every office and department shall be open to the inspection of any citizen during business hours, subject to the proper rules and regulations for the efficient conduct of the business of such department or office, provided, the records of the police department shall not be subject to such inspection except by permission of the proper police authorities.

Copies or extracts, duly certified from said books and records open for inspection, shall be given by the officer having the same in custody to any person demanding the same and paying or tendering ten cents (\$.10) per page, except in instances where the Council prescribes a lower charge, for such copies or extracts, and the additional sum of twenty-five cents (\$.25) for certifying.

All officers and Boards shall deliver to their successors all papers, books, documents, records, archives and other properties pertaining to their respective offices or departments, in this possession or under their control. (Amended, April 19, 1977)

SECTION 3.20. CONTINUING OFFICERS AND EMPLOYEES. Until the election or appointment and induction into office of the officers and employees in this Charter provided for, the present officers and employees shall without interruption, continue to perform the duties of their respective offices and employments for the compensation provided by the existing ordinances.

SECTION 3.21. CONTINUING ORDINANCES IN FORCE. All lawful ordinances, resolutions, and regulations in force at the time this Charter shall take effect and not inconsistent with its provisions, are hereby continued in force until the same

shall have been duly amended, repealed or superseded.

SECTION 3.22. CONTINUING CONTRACTS IN FORCE. All vested rights of the City shall continue and shall not in any manner be affected by the adoption of this Charter; nor shall any right, liability, pending suit or prosecution, either in behalf of or against the City, be affected by the adoption of this Charter. All contracts entered into by the City prior to the taking effect of this Charter shall be continued and perfected hereunder.

SECTION 3.23. APPOINTEE PROCEDURES.

a. Except as otherwise provided in this Charter, all members of commissions, boards, committees, task forces, or any other similar bodies, who are appointed by the Mayor or by individual Council members, shall serve for a term lasting until the next general municipal election, except that appointees shall serve for an interim term of up to forty-five (45) days after certification of the election until reappointed or replaced, whichever is sooner. This requirement includes those ratified by the City Council as a whole. In the case of appointments made by the Council as a whole, and where the Mayor or individual Council members do not make nominations, the terms shall extend until the next general municipal election, unless otherwise established by ordinance or resolution. In the event a Council member ceases to serve a full term for any reason, the appointees of that Council member may be replaced or re-appointed by the successor Council member and the new appointee shall serve until the next general municipal election. The City Council may establish by ordinance or resolution provisions for the orderly transition between terms of appointees after the election or appointment of Council members. The City Council may establish a committee, commission, board, task force, or other advisory body with a time frame of less than two (2) years. In such case, the term of the appointees shall coincide with the time frame established by the City Council.

Procedures and policies for appointment, renewal, terms and qualifications of appointees, not inconsistent with this Charter, may be established by ordinance or resolution of the Council.

b. The City Council shall establish by ordinance or resolution a policy, to be applied equally to all appointees, for automatic removal due to excessive absenteeism, conviction for a felony, or for failure to maintain a residence in Albany unless Council specifically provides for nonresident members.

c. Any other removal shall be only for cause and then only by a majority vote of the City Council. Appointees shall be notified of such cause, in writing, at least twenty-one (21) days prior to the vote of the City Council. (Added, ratified, November 5, 1996; Amended, ratified, June 2, 1998; June 6, 2006; November 4, 2008)

CHAPTER IV FISCAL AND TAXATION

SECTION 4.01. EXPERT ACCOUNTANT. The Council shall employ an expert certified public accountant, established in public practice, and qualified and experienced in municipal audits and examination, to annually investigate the transactions and accounts of all officers or employees having the collection, custody or disbursement of public money or property, or the power to approve, allow or audit demands on the City Treasury. (Ratified January 16, 1945)

SECTION 4.02. COMPENSATIONS. The Council shall fix by resolution or ordinance the compensation of all officers, also the compensation of all deputies, assistants and employees of the City.

SECTION 4.03. CONTRACT WORK. As used in this section, "public project" means:

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

The City Council shall by ordinance set threshold limits for the requirements for formal competitive bidding and shall establish such other procedures as are necessary for undertaking the completion of any public projects.

It shall be unlawful to split or separate into smaller work orders or projects any public work project for the purpose of evading the provisions of this section requiring public work to be done by contract after competitive bidding.

The notice inviting bids shall set a date for the opening of bids. The first publication or posting of the notice shall be at least ten (10) days before the date of the opening of bids. Notice shall be published at least twice, not less than five (5) days apart, in a newspaper of general circulation published in the City, or if there is none, it shall be posted in at least three (3) public places in the City that have been designated by ordinance as the places for posting public notices. The notice shall distinctly state the project to be done.

In its discretion, the Council may reject any bids presented and readvertise. If two (2) or more bids are the same and the lowest, the Council may accept the one it chooses. If no bids are received the Council may have the project done without further complying with this section.

After rejecting bids, the Council may pass a resolution by a four-fifths vote of its members declaring that the project can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market. Upon adoption of the resolution, it may have the project done in this manner stated without further complying with this section.

If there is a great public calamity, as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for a national or local defense, the Council may pass a resolution by a four-fifths vote of its members declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property. Upon adoption of the resolution, it may expend any sum required in the emergency without complying with this section. (Amended, ratified, April 19, 1977; April 21, 1981; November 4, 2008)

SECTION 4.04. PUBLIC IMPROVEMENTS AND STREET WORK. All public improvements, including the improving, widening, or opening of streets or highways may be done under and in pursuant of the general laws of the State, or procedure ordinance adopted by the Council or the electors, and the whole or any portion of the cost thereof paid out of the City Treasury or assessed on the property benefited.

SECTION 4.05. GRANTING OF FRANCHISES. Any person, firm or corporation furnishing the City or its inhabitants with transportation, communication, terminal facilities, water, light, heat, gas, power, refrigeration, storage, garbage or rubbish removal, or any other public utility or service, or using the public streets, ways, alleys, or places for the operation of plants, works, or equipment for the furnishing thereof, or traversing any portion of the City, for the transmitting or conveying of any such service elsewhere, may be required by ordinance to have valid and existing franchises therefor.

The Council is empowered to grant by ordinance, subject to referendum, any such franchise to any person, firm or corporation, whether operating under an existing franchise or not. The Council may prescribe the terms and conditions of any

such grant. It may also provide, by procedural ordinance, the method of procedure and the terms and conditions of such grants or the making thereof, subject to the provisions of this Charter.

No new franchise or the renewal of an existing franchise shall be granted except upon condition that a sum equivalent at least to two percent (2%) of the gross annual receipts of the utility derived from the sale within the City of the utility service for which the franchise is awarded, shall be paid to the City. (Amended, ratified, August 7, 1952)

SECTION 4.06. BUDGET. Not later than June 1st, an officer designated by the Council shall submit to the Council an estimate of the expenditures and revenues of the City departments for the ensuing year. This estimate shall be compiled from detailed information obtained from the several departments in such form as the Council may prescribe.

Sufficient copies of such estimate shall be prepared and submitted that there may be copies on file in the office of the Council for inspection by the public unless the Council shall publish the same in a newspaper.

After duly considering the estimate and preparing the budget, the Council shall pass an ordinance or resolution levying the annual tax. (Amended, ratified, April 19, 1977; April 21, 1981)

SECTION 4.07. BOND ISSUES. Money may be borrowed by the issue and sale of bonds, pledged on the credit of the City, for any purpose authorized by law, including the construction and equipment of schools. No ordinance providing for the issue of bonds shall be passed without the submission of the bonding proposition to the electors of the City at a regular or special election and the approval of a two-thirds majority of those voting thereon. No bonds shall be issued, excepting bonds for school purposes, on the credit of the City which shall increase such bonded indebtedness of the City beyond fifteen percent (15%) of the assessed valuation of the property in the City subject to direct taxation, as shown by the last preceding valuation for City taxes. Every ordinance for the issue of bonds shall provide for a tax levy for each year to meet the annual serial installments of principal and interest, and such amounts shall be included in the tax levy for each year.

SECTION 4.08. FISCAL YEAR. The fiscal year shall begin with the first day of July of each year and end with the last day of June of the following year.

SECTION 4.09. TAXATION. Except as otherwise herein provided, the Council, by ordinance, shall provide a system for the assessment, levy, collection and equalization of taxes, which, as nearly as may be, shall conform to the system provided by the general laws of the State; provided that all sales for delinquent taxes shall be made to the City of Albany. Should the Council fail to fix the tax rate within the time prescribed, then the tax rate of the previous year shall constitute the rate for the current year.

SECTION 4.10. TAX LIMIT. The amount of the annual tax levy, exclusive of such tax as may be necessary to pay the City's cost of any pension plan for City employees, and exclusive of the tax to pay the interest on and maintain the sinking funds of any indebtedness of the City, and exclusive of the tax to pay for the maintenance, acquisition and improvement of parks, squares, public grounds, schools and public libraries shall not exceed the rate of one dollar (\$1.00) on each one hundred dollars (\$100.00) valuation of the property assessed. The foregoing limitation shall not apply in the event of any great necessity or emergency, in which case it may be temporarily suspended, provided no increase over said limit shall be made in any fiscal year, unless authorized by ordinance adopted by vote of the people. (Amended, ratified, June 15, 1966)

CHAPTER V ELECTIONS

SECTION 5.01. ELECTIONS. General Municipal Elections shall be held in the City to coincide with the State General Election.

Except to the extent otherwise provided by ordinance hereinafter enacted, all elections shall be in accordance with the provisions of the Elections Code of the State of California, as the same now exists or hereafter be amended, for the holding of elections in cities so far as the same are not in conflict with this Charter. (Amended, ratified, August 7, 1952; April 13, 1976; November 8, 1994)

SECTION 5.02. VACANCIES. A vacancy in any elective office, other than that of an elective member of the Board of Education, from whatever cause arising, shall be filled by appointment by the Council; such appointee to hold office until the next general municipal election, when a successor shall be chosen by the electors for the unexpired term; provided, that if the Council fails to agree or for any other reason does not fill such vacancy within thirty (30) days after the same occurs, then such vacancy shall be filled by the Mayor; provided, however, that if for any reason the seats of a majority of the Council shall become vacant, then the City Clerk shall call a special election at once to fill the vacancies for the unexpired terms, and the same shall be conducted substantially in the manner provided for general municipal elections.

If any officer of the City shall remove from the City or absent himself therefrom for more than sixty days consecutively without the permission of the Council, or shall fail to qualify, or shall resign, his office shall thereupon become vacant.

SECTION 5.03. PROVIDING FOR ELECTION OF OFFICERS MADE ELECTIVE BY THIS CHARTER. Within thirty (30) days after this Charter takes effect, the City Council shall call an election, to be held within thirty (30) days thereafter, for the election of a City Attorney, a City Judge, and a Chief of Police who shall hold office until the third Monday in April, 1930, and until their successors are elected or appointed and qualify.

CHAPTER VI BOARD OF EDUCATION

SECTION 6.01. BOARD OF EDUCATION.

(a) The control of the School Department shall be vested in a Board of Education which shall consist of five (5) members elected at large by the qualified voters of the City at a general municipal election to be held therein every even-numbered year in the same manner and time as for the members of the Council. They shall serve for a term of four (4) years and until their respective successors qualify.

No person not an elector of the City shall be eligible to hold office as a member of the Board of Education, and no person shall be eligible for nomination for such office without having been a resident of the City for thirty (30) days immediately preceding nomination.

Three members of the Board of Education shall be elected at the regular Municipal Election as herein provided in 1954 and two (2) members thereof at such election in 1956 and thereafter in similar rotation each even-numbered year.

Not more than thirty (30) days after this section becomes effective, the Board of Education shall appoint a successor to replace the member of the City Council serving on the Board of Education. The term of this appointee shall expire at the next regular Municipal Election. (Amended, ratified, August 7, 1952; November 5, 1974)

(b) Regular meetings of the Board shall be held at such times as the Board may prescribe, provided that at least one regular meeting shall be held in each calendar month. All meetings of the Board shall be open to the public.

(c) The Board shall have the entire management of the public schools of the City and, in addition to the powers and duties prescribed by the provisions of this Charter, shall have 25 all the powers that are now, or may hereafter be, conferred and discharge the duties imposed by law upon City Boards of Education.

(d) Inspection of accounts by City. Deleted. (Ratified July 2, 1970)

(e) The Board shall make such rules and regulations governing its meetings and procedure as may seem proper. A majority of the Board shall constitute a quorum, but the affirmative vote of three members shall be necessary to authorize the payment of public money or the election of a superintendent, principals, teachers and all officers and employees who the Board is authorized to elect or appoint.

(f) Any vacancy of the Board shall be filled by the vote of a majority of the Board until the next general city election for Municipal Officers, when a member shall be elected to fill the unexpired term.

In the event that three (3) or more such vacancies exist at one time, sufficient vacancies shall be filled by the appointment by the County Superintendent of Schools to make a majority of such Board to act and fill the remaining vacancies. Each such appointed member shall hold office until the next general City Election for Municipal Officers, when a member shall be elected to fill the unexpired term.

If any member of the Board of Education shall remove from the City or absent himself therefrom for more than sixty (60) days consecutively without permission of the Board of Education, or shall fail to qualify, his office shall thereupon become vacant. (Amended, ratified, August 7, 1952; February 18, 1969; July 2, 1970; April 13, 1976)

SECTION 6.02. LIMITATION OF TERMS. Any person who shall have been elected to two (2) successive terms as a member of the Board of Education shall be ineligible to serve again in that office until an intervening period of two (2) years has elapsed. Election to an unexpired term pursuant to Section 6.01 (f) of this Charter shall constitute election to a term as a member of the Board. This section shall not operate to create a vacancy or vacancies on the Board as constituted on the effective date of this section. (Added, ratified, April 15, 1975)

SECTION 6.03. PLACE ON BALLOT. The order of names of candidates for the Board of Education shall be determined by lot, conducted by the City Clerk, and the names placed on the ballot as determined by the said lot drawing. (Added, ratified, April 15, 1975)

CHAPTER VII RELATION TO STATE LAW

SECTION 7.01. GENERAL LAWS POWERS. In addition to the power and authority granted by the terms of this Charter and the Constitution of the State of California, the City of Albany shall have the power and authority to adopt, make, exercise and enforce all legislation, laws and regulations, and to take all actions and to exercise any and all rights, powers, and privileges heretofore or hereafter established, granted or prescribed by any law of the State of California or by any other lawful authority. In the event of any conflict between the provisions of this Charter and the provisions of the general laws of the State of California, the provisions of this Charter shall control. The Council may adopt and enforce ordinances which, in relation to municipal affairs, shall control as against the general laws of the State. (Amended, ratified, November 8, 1994)

SECTION 7.02. WHEN CHARTER EFFECTIVE. This Charter shall go into effect upon its approval by the Legislature.

SECTION 7.03. SEVERABILITY. If any provision of this Charter should be held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law. (Added, ratified, November 8, 1994)

CHAPTER VIII CIVIL SERVICE

SECTION 8.01. MUNICIPAL CIVIL SERVICE.

(a) There shall be a Municipal Civil Service, hereinafter referred to as the Classified Service. Membership in the Classified Service is defined in Section 8.05(a) of this Chapter. There shall be a Civil Service Board, hereinafter referred to as the Board, to administer the Classified Service.

(b) The City Council is authorized to pass ordinances pertaining to the Civil Service System. Ordinance provisions affecting the Classified Service shall require a four-fifths (4/5) vote of the City Council, and shall include not less than one (1) public hearing on the subject matter of the ordinance.

(c) There shall be a Board consisting of five (5) members who serve without compensation. Each member of the City Council shall have the right to make one (1) appointment.

(d) No officer, employee, or member of another Board, Commission, or City Council shall be eligible for appointment to the Civil Service Board. (Amended, ratified, January 26, 1935; February 1, 1945; April 15, 1975; November 2, 1982; June 2, 1998)

SECTION 8.02. ORGANIZATION.

(a) The Civil Service Board shall choose one (1) member to serve as Chairperson.

(b) The City Council shall provide a person to serve as a secretary and administrative assistant to the Civil Service Board.

(c) Procedures for organization of the Board, any employees thereof, and duties not hereinafter specified, may be established by resolution. (Added, ratified, November 2, 1982)

SECTION 8.03. POWERS AND DUTIES.

(a) The Board shall formulate rules and regulations governing the selection, promotion, reinstatement, re-employment, transfer, of all persons who are in the Classified Service in accordance with any ordinance adopted and/or amended by the City Council.

(b) The Civil Service Board shall hold written, oral, and any such other examinations as may be appropriate for applicants for employment, promotion, re-employment, reinstatement, or transfer, and shall maintain records and certified lists as appropriate. If any open examination is held, the Board shall give reasonable preference to existing City employees within the same department, provisions of Section 8.04(a) of this Chapter notwithstanding.

(c) There shall be a Hearing Board. The Hearing Board shall hear disputes related to members of the Classified Service, the exact nature and severity of such disputes to be defined by ordinance. Members of the Civil Service Board have the authority to serve as members of the Hearing Board. (Added, ratified, November 2, 1982)

CHAPTER IX PENSIONS

SECTION 9.01. PENSIONS FOR MEMBERS OF POLICE AND FIRE DEPARTMENTS.

(a) TRUSTEES WHO SHALL CONSTITUTE BOARD OF TRUSTEES OF POLICE AND FIRE RELIEF OR PENSION FUND. The Mayor of the City of Albany, the City Treasurer, the City Clerk, and one (1) Pension Plan member, active or retired, each from the Police and Fire Departments, appointed by the Mayor upon the recommendation of the Pension Plan members from their respective service, hereby constitute the Board of Trustees of the Police and Fire Relief or Pension Fund of the Police and Fire Departments of the City of Albany, County of Alameda, State of California, which Board shall be known as the "Board of Police and Fire Pension Fund Commissioners."

In the event that the regular members of the Board are unable to attend a meeting, alternates shall be permitted to attend and to vote on matters as if they were regular members. The City Council shall appoint another member of the Council to serve as an alternate for the Mayor. The City Council shall appoint alternates for the City Clerk or the City Treasurer, after recommendations from the City Clerk and the City Treasurer are submitted to the Council. Department heads or deputies from departments other than the Police or Fire Department may be appointed. All alternates may serve for a period of up to one (1) year, unless again appointed.

Alternates for the Police and Fire Departments regular members are to be appointed by the Mayor upon recommendation of the Pension Plan members.

If no Pension Plan members are able to sit on the Board as a regular member or alternate, a member from the active Civil Service Employees of the Police and Fire Departments shall be appointed by the Mayor upon the recommendation of the Pension Plan members to sit on the Board as that respective department's representative. (Ratified, January 7, 1955; Amended, ratified, April 10, 1984; Amended, ratified, April 14, 1992; Amended, ratified, June 2, 1998)

(b) ORGANIZATION OF OFFICERS. They shall organize as such Board annually at the first meeting after a General Municipal Election or on the equivalent date in years when no municipal election takes place, by choosing one of their number as Chairperson. The Board shall appoint a person to serve as secretary and administrative assistant to the Pension Board. Said Board of Trustees shall have charge of and administer said fund, order payments therefrom in pursuance of the provisions of this law. They shall report annually, in the month of June, to the City Council of the City of Albany, the condition of the Police and Fire Relief and Pension Fund, and the receipts and disbursements on account of the same, with a full and complete list of the beneficiaries of said fund and the amounts paid them. (Amended, ratified, April 10, 1990)

(c) PENSIONS, TO WHOM AND AMOUNTS. Whenever any person at the taking effect of this act, or thereafter, shall have been duly elected, appointed or selected, and sworn, and have served for thirty (30) years, or more, in the aggregate as a member, in any capacity or any rank, whatever, of the regularly constituted Fire or Police Department of the said City of Albany, County of Alameda, State of California, said Board shall, upon the application of such person, order and direct that such person be retired from further service in such Police or Fire Department, shall cease, and such person so retired shall thereafter, during his lifetime, be paid from such fund a yearly pension equal to two-thirds (2/3) of the amount of the average.