

CHARTER of The
City of San Diego

ADOPTED MARCH 16th, 1889

[With Subsequent Amendments]



San Diego:
20th Century Press, 154 F St.
1915

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CHAPTER XX.—STATUTES OF 1889.

Senate Joint Resolution No. 5.

(Adopted March 16, 1889.)

Approving the Charter of the City of San Diego, in San Diego County, California, voted for and ratified by the qualified electors of said city at a special election held therein for that purpose on the second day of March, 1889.

WHEREAS, The City of San Diego, in San Diego County, is now and at all times herein referred to was, a city containing a population of more than ten thousand and not more than one hundred thousand inhabitants; and whereas, at a special election duly held therein on the fifth day of December, eighteen hundred and eighty-eight, according to law and to the provisions of section eight of article eleven of the Constitution of this State, a Board of Fifteen Freeholders, duly qualified, was duly elected in and by said city and by the qualified electors thereof, to prepare and propose a charter for said city, which Board of Freeholders did, within ninety days after said election, prepare and propose a charter for said city; and whereas, the same was, on the tenth day of January, eighteen hundred and eighty-nine, signed in duplicate by each and all of the members of said Board of Freeholders, and was, on the tenth day of January, eighteen hundred and eighty-nine, returned and delivered, one copy thereof to the Mayor of said City of San Diego, and the other copy thereof to the Recorder of San Diego County (within which said City is situated): and whereas, such proposed charter was then published in two daily newspapers of general circulation in said city, to-wit: in the "San Diego Daily Sun" and in "The Daily San Diegan," in each instance for twenty days, such publication having been commenced within twenty days after the completion of said proposed charter; and whereas, said charter was submitted (within not less than thirty days after the completion of said publication) by the legislative authority of said city, to-wit: by the City Council thereof, to the qualified electors of said city at a special election, previously duly called and thereafter held therein, on the second day of March, eighteen hundred and eighty-nine; and whereas, at said special election a majority of such qualified electors of said city voting at said special election did vote in favor of, and did ratify said charter so proposed, and the same is now submitted to the Legislature of the State of California for its approval or rejection as a whole, as provided for in said section eight of article eleven of the Constitution; and whereas, the said charter so ratified is in the words and figures following, to-wit:

art. I - Chap. I.

CHARTER Of the City of San Diego

PREPARED AND PROPOSED BY THE BOARD OF FIFTEEN FREE-HOLDERS ELECTED DECEMBER 5, 1888, IN PURSUANCE OF THE PROVISIONS OF SECTION 8, ARTICLE XI, OF THE CONSTITUTION OF THE STATE OF CALIFORNIA.

ARTICLE I.

BOUNDARIES, RIGHTS AND LIABILITIES, DIVISION INTO WARDS, AND ELECTIONS.

CHAPTER I. OF BOUNDARIES, RIGHTS, AND LIABILITIES.

Section 1. The municipal corporation now existing and known as "The City of San Diego" shall continue to be a municipal corporation under the same name, with the same boundaries that it now has, to-wit: All that tract of land known as the pueblo lands of San Diego, included in the survey made in July, eighteen hundred and fifty-eight, by J. C. Hayes, United States Deputy Surveyor-General for the State of California, according to the field notes of said survey by said Hayes, and also, all that portion of the Peninsula of San Diego, which lies north of a straight line drawn from the southwest corner of the pueblo lands of San Diego, westward to the Light House on Point Loma; and the municipal jurisdiction of said City of San Diego shall extend to said limits and boundaries and over the tide-lands and waters of the Bay of San Diego, and into the Pacific Ocean to the extent of one marine league from the shore.

Boundaries,
Rights, etc.

City may
sue and
be sued.

Hold them
estate and
convey.

Sec. 2. The said corporation shall have perpetual succession, may sue and defend in all Courts and places, and in all matters and proceedings whatever, and may have and use a common seal, and the same alter at pleasure, and may purchase, receive, hold and enjoy real and personal property, within and without the City of San Diego, and sell, convey and dispose of the same for the common benefit; receive bequests, donations and gifts of all kinds of property, within and without the City of San Diego, in fee simple or in trust for charitable or other purposes, and do all acts necessary to carry out the purposes of such gifts, bequests and donations, with power to manage, sell, lease, or otherwise dispose of the same in accordance with the terms of the gifts, bequests or trusts.

art. I - Chap. II & III

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Sec. 3. The said corporation shall be and continue vested with all the property rights and rights of action of every kind now belonging to the City of San Diego, and shall succeed to all the property of the present Board of Education of said city, and shall be subject to all the liabilities now existing against said city or against said Board.

Succeed to
certain
property.

CHAPTER II.—OF WARDS.

(Repealed 1915.)

CHAPTER III.—OF ELECTIONS.

Section 1. Elections to be held in said city for the purpose of electing the officers of said city, and for all other purposes, are of two kinds:

Elections.

First—General municipal elections.

Second—Special elections.

Sec. 2. General municipal elections shall be held in said city on the first Tuesday after the first Monday in April in each odd numbered year, for the purpose of electing all officers made elective by the terms of this Charter and for other purposes in this Charter provided.

Date of
General
Election.

Sec. 3. Special elections for all purposes designated in this charter shall be held on the days as fixed by the Common Council therefor, and shall in all respects, as far as may be, be conducted and held in accordance with the provisions of the laws of this state in effect at the time, excepting that in any election called for the purpose of electing any municipal officer, no ballot shall have any party designation, and the names of all candidates to be voted for each office respectively shall be placed in alphabetical order upon said ballot.

Special
Elections.

Sec. 4. All primary and general municipal elections for the nomination and election of municipal officers shall be conducted as follows:

Primary
Election.

All candidates for municipal offices to be elected at each general municipal election, shall be nominated by a primary election, and no names shall be placed upon the general ballot except those selected in the manner herein-after prescribed. The primary election for such nomination shall be held on the second Tuesday preceding the general municipal election and the polls shall be opened and closed at the same hours and in all respects other than as in this charter provided; said primary and general municipal elections shall be conducted in accordance with the laws of this state relating to general elections in force at the time of such election.

Any person desiring to become a candidate for any elective office, shall, at least fifteen days prior to said primary election, file with the city clerk a statement of such candidacy, in substantially the following form:

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State of California, }
County of San Diego, } ss.

Statement of Candidacy.

I, being duly sworn, say that I reside at street, in the City of San Diego, County of San Diego, State of California, and that I am a qualified voter therein and have been for more than two years last past, and that I am a candidate for the office of to be voted upon at the primary election to be held upon the Tuesday of (being two weeks before the municipal election), 19....., and I request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

(Signed)
Subscribed and sworn to before me this day of, 19.....

.....
Signature of officer.

Petition of Electors.

and shall at the same time file therewith a petition of at least fifty qualified electors, requesting such candidacy. Each petition shall be verified by one or more signers thereof before some officer competent to administer oaths, that the statements therein made are true and that each signature to the paper appended, to the personal knowledge of such affiant, is the genuine signature of the person whose name purports to be thereunto subscribed. All signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving his street and number. Within ten days from the date of filing such petition, the city clerk shall examine, and from the great register ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the Common Council shall allow him extra help for that purpose. If said petition shall be found insufficient, it shall be immediately returned to the person filing the same without prejudice to the filing of a new petition to the same effect, provided, that such new petition shall, if found to be sufficient by the city clerk, be filed with the city clerk at least three days before the day of said primary election. The said petition shall be substantially in the following form:

The undersigned, duly qualified electors of the City of San Diego, and residing at the places set opposite our respective names, do hereby request that the name of..... be placed on the ballot as a candidate for nomination for (name the office) at the primary election to be held in the City of San Diego, for the nomination of candidates to be voted for at the municipal election to be held in the City of San Diego, on the first Tuesday after the first Monday

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in April, 19..... (Inserting the year.)

We furthermore state that we know him to be a qualified elector and a man of good moral character, and in our opinion qualified for the duties of such office.

Name of elector. Number. Street.

.....
.....
.....

Immediately upon the expiration of the time to file the statements and petitions for candidacy, the city clerk shall cause to be published for three consecutive days in all the daily newspapers of general circulation published in said city, in proper form and in alphabetical order the names of the persons as they are to appear upon the primary ballot, and the said city clerk shall have the primary ballots printed with the names of all the candidates in alphabetical order under the name of the office for which they are candidates; and on the right of each name shall be a square. Under the name of the last candidate for the office, shall be printed, "Vote for one," except that under the caption, "For members of the Common Council," shall be the words "Vote for" (giving the number to be elected), and under the caption "For Members of the Board of Education" shall be the words "Vote for....." (giving the number to be elected).

Publication of names of Candidates.

The ballots shall have no party or other designation or mark whatever and shall be in substantially the following form:

- "Candidates for nomination for municipal offices for the City of San Diego, California.
- For Mayor Names of Candidates. SQUARE
- (Vote for one)
- For City Treasurer Names of Candidates. SQUARE
- (Vote for one)
- For members of the Names of Candidates. SQUARE
- Common Council (Vote for.....) (Giving number to be elected)
- For members of the Names of Candidates. SQUARE
- Board of Education (Vote for.....) (Giving number to be elected)

Form of Ballot.

All ballots printed shall be of precisely the same size, quality, tint of paper, kind of type and color of ink, so that, without the number it would be impossible to distinguish one ballot from another; and the names of all candidates printed upon the ballot shall be in type of the same size and style. A column may be provided on the right hand side for charter amendments or other questions to be voted upon at the municipal elections, as provided for under this charter.

Method of Conducting Election.

Having caused the ballot to be printed, the city clerk shall cause to be delivered at each polling place a number of such ballots equal to twice the number of votes cast in such polling precinct at the last general municipal election for Mayor. The persons who are qualified to vote at the general municipal elections shall be qualified to vote at such primary election. The law applicable to challenges at a general municipal election shall be applicable to challenges made at such primary election. The officers of election shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in each precinct for each of the candidates, and make return thereof to the city clerk upon proper blanks to be furnished by the said city clerk. On the first Thursday following said primary election, the Common Council shall canvass said returns so received from all the election precincts, and shall make and publish, at least once in all the daily newspapers published in said city, the result thereof. Said canvass by the Common Council shall be publicly made. The two candidates receiving the highest number of votes for each of the offices to be filled, except for the members of the Common Council and members of the Board of Education, shall be the candidates and the only candidates whose name shall be placed on the ballot for said office, *provided*, that, where more than one office of the same kind is to be filled, the candidates therefor, equal in number to twice the number of such offices, who receive the highest number of votes at the primary nominating election, shall be the candidates and the only candidates for such offices, whose names shall be printed upon the ballot to be used at such general or special election.

Half-inch spaces shall be left below the printed names of candidates for each office equal in number to the number to be voted for, wherein the voter may write the name of any person or persons for whom he may wish to vote.

Qualifications of Electors.

Sec. 5. The qualifications of an elector at any election held in said city in pursuance of this charter shall be the same as those prescribed by the laws of this State for electors at any general State election in force at the time of such election.

Great Register.

Sec. 6. It shall be the duty of the Board of Supervisors of the County of San Diego, when the great registers are printed, to provide for the printing of a sufficient number of such registers (in addition to the number required otherwise by law to be printed) for the general municipal and special elections to be held or likely to be held in the City of San Diego, and it shall be the duty of the County Clerk of said county to furnish such registers in sufficient numbers when so required to the authorities of the city.

Taking office.

Sec. 7. All officers elected at a general municipal election shall take office on the first Monday of May next following such election.

CHAPTER IV.—INITIATIVE, ETC.

Section 1. The Common Council shall have power to submit to the electors of said city at any election any question required to be so submitted by the constitution, the law, this charter, or by ordinance; *provided*, that in case such question is required by said constitution, law, charter, or ordinance to be submitted at a special or other particular kind of election, it shall be so submitted, and not otherwise.

Submitting Questions to Electors.

Sec. 2. Any proposed ordinance may be submitted to the Common Council by a petition signed by registered electors of the city equal in number to the percentages hereinafter required. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving his street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths, that the statements therein made are true, and that each signature to the paper appended is the genuine signature of the person whose name purports to be thereunto subscribed. Within ten days from the date of filing such petition the City Clerk shall examine and from the great register ascertain whether or not said petition is signed by the requisite number of qualified electors, and if necessary the Common Council shall allow him extra help for that purpose, and he shall attach to said petition his certificate showing the result of said examination. If, by the Clerk's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The Clerk shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be found to be sufficient, the Clerk shall submit the same to the Common Council without delay.

Initiative Proceedings.

Petition for Election.

Examination by City Clerk.

Certification.

Amending petition.

If the petition accompanying the proposed ordinance be signed by electors equal in number to fifteen per cent. of the entire vote cast for all candidates for Mayor at the last preceding general election at which a Mayor was elected, and contains a request that said ordinance be submitted forthwith to a vote of the people at a special election, then the Common Council shall either:

When fifteen per cent. of electors sign.

(a) Pass said ordinance without alteration within twenty days after the attachment of the Clerk's certificate of sufficiency to the accompanying petition (subject to a referendary vote under the provisions of section 2 of this Chapter); and if the ordinance shall be passed by the Common Council, but shall be vetoed by the Mayor, and on reconsideration shall fail of passage by the Common Council, then, within five days after determination that said ordi-

Council to pass Ordinance without alteration, or

nance shall have so failed of final adoption, the Common Council shall proceed to call a special election at which said ordinance, without alteration, shall be submitted to a vote of the people; or,

Call special election.

(b) Forthwith after the Clerk shall attach to the petition accompanying such ordinance his certificate of sufficiency, the Common Council shall proceed to call a special election at which said ordinance, without alteration, shall be submitted to a vote of the people.

When only five per cent. sign.

If the petition be signed by electors equal in number to at least five per cent. but less than fifteen per cent. of the entire vote cast for all candidates for Mayor at the last preceding general election at which a Mayor was elected, then such ordinance, without alteration, shall be submitted by the Common Council to a vote of the people at the next general municipal election that shall occur at any time after thirty days from the date of the Clerk's certificate of sufficiency attached to the petition accompanying such ordinance.

Form of ballots.

The ballots used when voting upon said proposed ordinance shall contain the words "For the ordinance" (stating the nature of the proposed ordinance) and "Against the ordinance" (stating general nature of the proposed ordinance). If a majority of the qualified electors voting on said proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the City; and any ordinance proposed by petition, or which shall be adopted by a vote of the people cannot be repealed or amended except by a vote of the people.

Majority Vote required.

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section; *provided*, that there shall not be held under this section of the charter more than one special election in any period of six months.

One or more ordinances may be submitted.

The Common Council may submit a proposition for the repeal of any such ordinance, or for amendments thereto, to be voted upon at any succeeding general city election; and should such proposition, so submitted, receive a majority of the votes cast thereon at such election, such ordinance shall be repealed or amended accordingly. Whenever any ordinance or proposition is required by this charter to be submitted to the voters of the City at any election, the City Clerk shall cause the ordinance or proposition to be printed, and he shall enclose a printed copy thereof in an envelope with a sample ballot, and mail the same to each voter, at least ten days prior to the election, but the Common Council may order such ordinance or proposition to be printed in the official newspaper of the City and published in like manner as ordinances adopted by the Common Council are required to be published, and may order that such publica-

How initiated ordinances may be amended or repealed.

Mailing sample ballots and propositions.

Publication.

tion shall take the place of the printing and mailing of the ordinance or proposition and of the sample ballot as first above provided.

When ordinances go into effect.

Sec. 3. No ordinance passed by the Common Council (except when otherwise required by the general laws of the State, or by the provisions of this charter, respecting street improvements, and except an ordinance for the immediate preservation of the public peace, health, or safety, which contains a statement of its urgency, and is passed by a two-thirds vote of the Common Council, but no grant of any franchise shall be construed to be an urgency measure, but all franchises shall be subject to the referendary vote herein provided), shall go into effect before thirty days from the time of its final passage and its approval by the Mayor; and if during said thirty days a petition signed by electors of the city equal in number to at least seven per cent. of the entire vote cast for all candidates for Mayor at the last preceding general election at which a Mayor was elected, protesting against the passage of such ordinance, be presented to the Common Council, the same shall thereupon be suspended from going into operation, and it shall be the duty of the Common Council to reconsider such ordinance, and if the same is not entirely repealed, the Common Council shall submit the ordinance as is provided in Section 2 of this Chapter, to the vote of the electors of the city, either at the next general election or at a special municipal election to be called for that purpose, and such ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of said Section 2, except as to the percentage of signers, and be examined and certified by the Clerk in all respects as is therein provided.

Referendum petitions with seven per cent. of electors.

Council reconsider ordinance.

Repeal or submit to electors.

Sec. 4. The holder of any elective office of this municipality may be removed or recalled at any time by the electors; *provided*, he has held his office at least four months. The procedure to effect such removal or recall shall be as follows: A petition demanding the election of a successor to the person sought to be removed shall be filed with the City Clerk, which petition shall be signed by registered voters equal in number to at least twenty-five per cent. of the entire vote cast for Mayor at the last preceding general municipal election, and shall contain a statement of the grounds on which the removal or recall is sought, which statement is intended solely for the information of the electors. Any insufficiency of form or substance in such statement shall in no wise affect the validity of the election and proceedings held thereunder. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the

Recall proceedings.

Petition to be signed by twenty-five per cent. of electors.

street and number, if any. One of the signers of each such paper shall make oath before an officer competent to administer an oath that the statements therein made are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition, the clerk shall examine and from the records of registration ascertain whether or not said petition is signed by the requisite number of qualified voters, and if necessary the city council, board of trustees or other governing body shall allow him extra help for that purpose, and he shall attach to said petition his certificate showing the result of said examination. If by the clerk's certificate the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The clerk shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be found to be sufficient, the clerk shall submit the same to the city council, or board of trustees, or other governing body without delay, whereupon the council, or board of trustees or other governing body shall forthwith cause a special election to be held within not less than thirty-five nor more than forty days after the date of the order calling such election, to determine whether the voters will recall such officer; provided, that if a general municipal election is to occur within sixty days, the council may in its discretion postpone the holding of such election to such general election or submit such recall election at any such general election occurring not less than thirty-five days after such order. If a vacancy occur in said office after a recall petition is filed, the election shall nevertheless proceed as in this section provided. One petition is sufficient to propose the removal and election of one or more elective officials. One election is competent for the removal and election of one or more elective officials. Nominations for any office under such recall election shall be made in the same manner as are nominations for such office at general municipal elections. Upon the sample ballot there shall be printed in not more than two hundred words the reasons for demanding the recall of the officer set forth in the recall petition, and upon the same ballot in not more than two hundred words the officer may justify his course in office.

There shall be printed on the recall ballot, as to every officer whose recall is to be voted on thereat, the following question: "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?" following which question shall be the words "Yes" and "No" on separate lines, with a blank space at the right

Checking of petition.

Certificate.

Calling election.

When may be held with general election.

One petition may include more than one official.

Nominations, how made.

Arguments on ballot.

Form of ballot.

of each, in which the voter shall indicate, by stamping a cross (X), his vote for or against such recall. On such ballots, under each such question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person recalled, in case he shall be removed from office by said recall election; but no vote cast shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote "No," said incumbent shall continue in said office. If a majority shall vote "Yes," said incumbent shall thereupon be deemed removed from such office, upon the qualification of his successor. The canvassers shall canvass all votes for candidates for said office and declare the result in like manner as in a regular election. If the vote at any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be thereby declared elected, for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law.

No person who has been recalled or who has resigned from such office while recall proceedings were pending against him shall be appointed to any office within one year after such resignation or recall. The successor of any officer so recalled shall hold office during the unexpired term of his predecessor, subject to removal under the provisions of this section.

Sec. 5. It shall be the duty of the auditor in making up his estimate of the probable necessities of the city for each current fiscal year to include in such estimate an amount sufficient to defray the probable expenses of all such special elections as may be called under the initiative, referendum or recall provisions of this charter.

ARTICLE II.

LEGISLATIVE DEPARTMENT.

CHAPTER I.—OF THE COMMON COUNCIL.

Section 1. The legislative power of the City of San Diego shall be vested in a single legislative body, which shall be designated the Common Council.

Sec. 2. (a) The Common Council shall consist of five members, to be nominated and elected at large by the electors of the City of San Diego, and shall hold office for four years, except, that at the organization of the first Common Council elected after the adoption of this provision, the

Counting vote.

Majority sufficient.

When office declared vacant.

Disqualification of recalled official.

Special election expense.

Number of Councilmen.

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members thereof shall, by lot, determine that two of its members shall hold office for a term of two years.

Salary.

(b) The members of the Common Council shall receive as compensation the sum of two thousand dollars per annum, for each councilman, payable in equal monthly installments.

Official bonds.

(c) Each member of the Common Council must have been both an elector and an actual resident of the city at least two years next preceding his election, and shall give bond in the sum of \$5,000.00.

Legislative powers.

(d) The Common Council shall have, possess and exercise all the legislative, executive and judicial powers and functions held, possessed and exercised by the Common Council at the time this amendment is proposed by the said Common Council, except such executive functions as were then distributed into and among the following Departments:

- (1) Department of Finance, Ways and Means.
- (2) Department of Police, Health and Morals.
- (3) Department of Public Streets and Buildings.
- (4) Department of Fire and Sewers.
- (5) Department of Water, and excepting also the administrative functions pertaining to the harbor.

Manager of Operation.

(e) All executive and administrative powers relating or pertaining to the harbor, public streets, public buildings, sewer system, water system, and office of the City Engineer shall be vested in a department to be known as the Operating Department. The executive head of such department shall be known as the Manager of Operation. Said Manager shall be subject to recall in the same method as provided in this charter for the recall of elective officials.

May be recalled.

(f) The administrative functions now performed by the Police Department shall be vested in a department to be known as the Police Department. The executive head of such Department shall be known as the Superintendent or Chief of Police.

Police Department.

(g) The administrative functions of the Fire Department shall be vested in a department to be known as the Fire Department. The executive head of such department shall be known as the Superintendent or Chief Engineer of the Fire Department.

Fire Department.

(h) All other executive and administrative powers now exercised by the Common Council shall by majority vote of the Common Council be assigned to these departments, or to such other executive department as the Council may hereafter create. The executive head of any such additional department shall be known as the Superintendent of such department.

Distribution of other executive and administrative powers.

Council Manager and Superintendents and fix salaries.

(i) The Common Council shall appoint the Manager of Operation and the Superintendents of the other departments; define the powers and duties of the Manager of Operation and superintendents and fix their respective sala-

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ries and the salaries of their assistants. The Common Council may also remove such Manager of Operation and superintendents, alter their powers or duties (except such as are prescribed in this Charter), or change their salaries. Such appointments and removals shall be confirmed by the Mayor, except that such confirmation shall not be necessary when the appointment or removal has been made upon a vote of four-fifths of the members of the Common Council. The Mayor shall have power to make temporary appointments of such Manager of Operation or Superintendents, pending the failure of the Council for a period of ten days to make such appointments.

Mayor to confirm, when.

Temporary Appointments.

(j) Such Manager of Operation and superintendents shall be the executive heads of their respective departments and shall appoint and remove their assistants and employees, subject to such civil service regulations as this Charter may provide, except that provisions now contained in the Peoples' Ordinance No. 4979 and entitled, "An Ordinance reorganizing the San Diego Fire Department and providing for a Fireman's Relief and Pension Fund," shall continue in full force and effect. The appointment of members of the Fire Department and of the Police Department shall be confirmed by the Common Council.

Powers of Manager and Superintendents.

(k) The Common Council shall within five days after this amendment goes into effect create the administrative departments as herein provided and shall thereafter, as soon as practicable, appoint the Manager of Operation and superintendent of each department.

Administrative Departments.

(l) The Common Council shall appoint by majority vote a City Attorney and City Clerk.

City Attorney and Clerk.

Sec. 3. No person shall be eligible as a member of the Common Council who shall have been convicted of malfeasance in office, bribery, or any other infamous crime by the judgment of the court. Any such conviction during his term of office shall cause the forfeiture of his seat in said Common Council.

Eligibility as Councilmen.

Sec. 4. A majority of the members of the Common Council shall constitute a quorum, but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as said Common Council may prescribe.

Quorum.

Sec. 5. Said Common Council shall
1. Choose a Vice President annually from its own members, who may be removed by affirmative vote of not less than two-thirds of the members of said Common Council. In the absence of the President at any meeting or meetings of said Common Council, the Vice President shall preside and discharge the duties and exercise the powers of the President and shall retain his right to vote.

Vice President to be chosen.

2. Establish rules for its proceedings.
3. Keep a journal of its proceedings and allow the same

Rules.

Journal. to be published. The ayes and noes on any question shall, on the demand of any two members, be taken and entered therein.

Expulsion. 4. Have authority to punish its members for disorderly or contemptuous behavior in its presence, and to expel any member by the affirmative vote of not less than two-thirds of its members, specifying in the order of expulsion the cause thereof.

Witnesses. 5. Have power to compel the attendance of witnesses and production of papers pertinent to any business before said Common Council or any of its Committees.

Time of Meetings. Sec. 6. The Common Council shall hold regular meetings on Monday of each week at 10 o'clock a. m., or if that be a legal holiday then upon the next day at the same hour, and special meetings at such other times as it may appoint, or of which the president or a majority of the council, or the mayor may give notice. The meetings of the Common Council shall be public; a majority shall constitute a quorum and the affirmative vote of a majority shall be necessary to pass any ordinance or resolution.

How office is forfeited. Sec. 7. No member of said Common Council shall hold any other office, federal, state, county or municipal, except in the National Guard or as a notary public, or be an employee of said city, or of said Common Council, or be directly or indirectly interested in any contract with said city, or with or for any department or institution thereof; or advance money, or furnish material and supplies for the performance of any such contract; or furnish or become surety for the performance of any such contract. Upon taking office, each member shall make and file in the office of the City Clerk an affidavit that he will faithfully comply with and abide by all the requirements of this section. A violation of any of the provisions of this section shall cause a forfeiture of his office by an affirmative vote of not less than two-thirds of its members.

Legislation by Ordinance. Sec. 8. Every legislative act of said city shall be by ordinance. The enacting clause of every ordinance shall be: "Be it ordained, by the Common Council of the City of San Diego, as follows:"

Vote on measures. Two readings, exception. Sec. 9. No bill shall become an ordinance unless on its final passage at least a majority of all the members of the Common Council vote in its favor, and the vote be taken by ayes and noes, and the names of the members voting for and against the same be entered in the journal, and no ordinance shall be finally passed until it has been read at two separate meetings of the Common Council, unless by a two-thirds vote of the members of the Common Council present, it is put on its final passage at its first reading.

Ordinances, how amended. Sec. 10. No ordinance shall be revised, re-enacted, or amended by reference to its title; but the ordinance to be re-

vised or re-enacted, or the section thereof amended, shall be re-enacted at length, as revised or amended.

Sec. 11. When a bill is put upon its final passage and fails to pass and a motion is made to reconsider, the vote upon said motion shall not be acted on before the next meeting of the Common Council. No bill for the grant of any franchise shall be finally passed within thirty days after its introduction.

Reconsideration.

Franchise ordinances.

Sec. 12. No ordinance shall take effect until ten days after its passage, unless otherwise expressed in said ordinance.

When ordinances go into effect.

Sec. 13. Every bill, after it has passed, shall be signed by the President of the Common Council in open session in authentication of the passage. In signing such bill he shall call the attention of the Common Council to the bill and that he is about to sign it; and if any member so request, the bill shall be read at length for information as to its correctness as enrolled. If any member objects that the bill is not the same as when considered and passed, such objection shall be passed upon, and if sustained, the President shall withhold his signature and the bill shall be corrected and signed before the Common Council proceeds to any other business.

President to sign in open session.

Sec. 14. Every bill, which shall have passed the Common Council and been authenticated, as provided in the last section, shall be presented to the Mayor for his approval. The Mayor shall return such bill to the Common Council within ten days after receiving it. If he approve it, he shall sign it, and it shall then become an ordinance. If he disapprove it, he shall specify such objections thereto in writing. If he do not return it with his disapproval, within the time above specified, it shall take effect as if he had approved it. The objections of the Mayor shall be entered at large in the journal of the Common Council. Said Common Council shall, after five and within thirty days after such bill shall have been so returned, reconsider and vote upon the same; and if the same shall, upon a reconsideration, be again passed by the affirmative vote of not less than two-thirds of the members of said Common Council, the President thereof shall certify that fact on the bill, and when so certified the bill shall become an ordinance with like effect as if it had received the approval of the Mayor; but if the bill shall fail to receive, upon the first vote thereon, in said Common Council, an affirmative vote of two-thirds of the members, it shall be deemed finally lost. The vote on such recommendation shall be taken by ayes and noes and the names of the members voting for or against the same shall be entered in the journal of the Common Council.

Measures to go to Mayor.

Veto to be in writing, and entered on journal.

Reconsideration.

Passage over veto.

Vote to be entered in journal.

Sec. 15. All ordinances and resolutions shall be deposited with the Clerk, who shall record the same at length

Recording ordinances and resolutions.

Publication. in a suitable book. Ordinances of a general nature shall be published at least once in the city official newspaper.

(Sec. 16 of Chapter 1, Article II, repealed, January 26, 1909.)

Officers named by Mayor. Sec. 17. The members of the Board of Health, Cemetery Commission, Park Commissioners and Auditor, shall be appointed by the Mayor and confirmed by the Common Council.

City Clerk and Attorney. Sec. 18. The Common Council shall elect a City Clerk and City Attorney.

Auditing Committee. Sec. 19. The Auditing Committee shall consist of the Mayor, Vice President of the Common Council, City Attorney, and Auditor.

Vice president as Mayor pro tem. Sec. 20. When and so long as the Mayor is temporarily unable to perform his official duties, the Vice President of the Common Council shall act as Mayor pro tempore.

Vacancy in office of Mayor, how filled. Sec. 21. When a vacancy occurs in the office of the Mayor, it shall be filled for the unexpired term by the Common Council assembled for that purpose.

Vacancy in Council, how filled. When a vacancy occurs in the Common Council, it shall be filled by such Common Council until the next general city election.

Finance committee. Sec. 22. That the Common Council shall have the power to appoint from its members a committee, consisting of three, to be denominated "Finance Committee," and to fill all vacancies in said committee. Said committee shall have

Duties and powers. power to investigate the transactions and accounts of all officers having the collection, custody, or disbursement of public money or having the power to approve, allow, or audit demands on the treasury; shall have free access to any records, books, and papers in all public offices; shall have power to administer oaths or affirmations, and to examine witnesses, and compel their attendance before it by subpoena.

To report to Mayor. Said committee may visit any of the public offices, when and as often as it thinks proper, and make its examinations and investigations therein without hindrance. It shall be the duty of such committee, as often as once in every six months, to examine the official bonds of all city officers, and inquire into and investigate the sufficiency and solvency of the sureties thereon, and report the facts to the Mayor.

Investigation of bonds. Such report shall specify each bond, with the sureties and the amount for which each surety is bound, and state whether or not they are deemed sufficient and solvent. Upon such report the Mayor shall act so as to protect the city, and may require new bonds when necessary, and he may suspend the officer until a sufficient bond is filed and approved.

Committee to keep record. Such committee shall keep a record of its proceedings with the names of the witnesses examined, and a substantial statement of the evidence taken. If from the examination made by such committee, it shall appear that a misdemeanor in office, or a defalcation has been

Defalcation or misdemeanor.

committed by any officer, said committee shall immediately report to the Mayor, who, if he approve said report, shall forthwith suspend or remove such officer. Any police officer shall execute the process and orders of said committee.

(Sec. 23 of Chapter 1 of Article II, repealed, January 26, 1909.)

Sec. 24. In the construction of this charter, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent, or clearly repugnant to the context of the provisions of this charter:

Construction of Charter.

(a) Whenever, hereafter, in this charter reference is made to the Board of Aldermen or to the Board of Delegates, or to both the Board of Aldermen and the Board of Delegates, or to each or both Boards of the Common Council, it is to be construed as referring to the Common Council, and whenever Officers or Committees of each or either, or both of said Boards are referred to, it is to be construed as referring to Officers or Committees of the said Common Council.

(b) Whenever, in this charter, reference is made to the Board of Public Works, the Board of Commissioners of the Police Department, or to the Board of Commissioners of the Fire Department, it is to be construed as referring to the Common Council; and whenever Officers or Committees or either of said Boards are referred to, it is to be construed as referring to Officers or Committees of the Common Council.

(c) Whenever, in this charter, powers and duties are vested in the Board of Public Works, the Board of Commissioners of the Police Department, or the Board of Commissioners of the Fire Department, all and every of such powers and duties are to be construed as vested in or required to be performed by the Common Council or the members of the Common Council, or by the proper department, by this charter created wherein the duties of any, either or all of said Boards shall be assigned to any of such departments as the appropriate department therefor.

Sec. 25. That all appointments made by the Mayor must be confirmed by the Common Council before they go into effect.

Confirmation of appointments.

That all portions of the said charter in conflict with the foregoing provisions be, and the same are hereby, repealed.

CHAPTER II.—OF THE POWERS OF THE COMMON COUNCIL.

Section 1. Subject to the provisions, limitations, and restrictions in this charter contained, the Common Council shall have power to pass ordinances:

Powers of Common Council.

1. To make and enforce within the limits of said city all such local, police, sanitary and other laws and regulations as are not in conflict with the general laws or this charter.

Enforce laws.

Streets. 2. To regulate and control the use of the streets, sidewalks, highways, roads, and public places for any and all purposes; to prevent encroachments upon and obstructions to the same, and require the removal of any encroachments or obstructions thereon.

Signs, etc. 3. To regulate and control the use of the streets and sidewalks for signs, sign posts, awnings, awning posts, drinking fountains, horse troughs, urinals, all posts for the suspension of electric wires; for traffic and sale therein; for exhibiting banners, placards, or flags in or across the same, or from houses or other buildings, and for all other purposes.

Cleaning and Sprinkling. 4. To regulate the cleaning and sprinkling of the streets, sidewalks, and gutters, and prevent the depositing of ashes, offal, dirt, rubbish, or garbage in the same.

Gas Mains, Poles, etc. 5. To regulate the opening of street surfaces for the laying of gas or water mains, of telegraph or telephone wires, for the building and repair of sewers; for the erection of gas or electric lights, or for any other use or purpose.

House numbers. 6. To regulate the numbering of houses and blocks and the naming of streets, public places and thoroughfares.

Beggars, etc. 7. In relation to street beggars, vagrants and mendicants and the exhibition and distribution of advertisements or hand-bills along the streets or in public places.

Disorderly conduct. 8. In relation to intoxication, fighting, quarreling, and vulgar language in the streets and other places, and in relation to carrying concealed weapons.

Drinking fountains. 9. In relation to the construction, maintenance, repair and removal of public fountains, for the use of persons and animals on the streets and in other public places.

Processions. 10. To regulate public assemblages and processions.

Riots, etc. 11. To restrain and prevent any riot, mob, noise, disturbance or disorderly assembly or amusement, dangerous to persons or property in any street, house or place.

Temporary R. R. tracks. 12. To permit the laying down of railroad tracks and running cars thereon, along any street or portion of a street, for the sole purpose of excavating and filling in a street or portion of a street or the adjoining land, for such limited time as may be necessary for such purpose and no longer.

Lighting, etc. 13. To provide for lighting the streets, squares, parks, and public places, buildings and offices; and for inclosing, improving and regulating public grounds.

Fire districts. 14. To establish fire districts and to determine the character of buildings that may be erected therein, and the nature of the materials to be used in the construction, alteration, or repair of such buildings, or in the repair or alteration of existing buildings within such limits.

Suppress immoral places. 15. To prohibit, suppress, regulate, or exclude from the city or certain limits thereof all houses of ill fame, pros-

titution, and gaming; to prohibit, suppress or exclude from the city, or certain limits thereof, all occupations, houses, places, pastimes, amusements, exhibitions and practices which are against good morals and contrary to public order and decency, or dangerous to public safety.

16. To regulate the manufacture, transportation, sale, disposition, storage, and use of fire arms, firecrackers, fireworks, petroleum, and all explosive and combustible material and substances; the manufacture of acids, and the maintenance of acid works, slaughter houses, brick kilns, tanneries, laundries, foundries, steam boilers, and factories using steam boilers, and all other manufactories, works, and occupations of every description that may effect the public safety, health or comfort, and to exclude them from certain limits.

Firecrackers, explosives, etc.

Slaughter houses, brick kilns, etc.

17. To protect the health, comfort and security of the inhabitants, and the safety and security of property and life; to exclude from certain limits hospitals, institutions, and places for the treatment of disease; or for the care of sick or insane persons; to regulate all noxious trades, and to restrict the prosecution thereof to such limits as may from time to time seem proper, or exclude them from said city; to make regulations for protection against fire, and to make such rules and regulations concerning the construction and use of buildings as may be necessary for the safety of the inhabitants; to provide for the examination, approval, or disapproval of the plans and specifications of all buildings about to be constructed, and to prevent the construction thereof contrary to the provisions of any ordinance; to provide for the examination of all buildings, and the removal thereof if found unsafe or constructed contrary to ordinance.

Protecting public health.

Inspecting buildings.

18. To authorize the establishment and maintenance of crematories, to regulate the same, and to exclude them from certain limits.

Crematories.

19. To declare what shall constitute a nuisance, and to provide for the abatement or summary removal of any nuisance.

Nuisances.

20. To regulate hackney carriages and public passenger vehicles, and fix the rates to be charged for the transportation of persons or personal baggage; to regulate all vehicles used for the conveyance of merchandise, earth, or ballast; to prescribe the width of the tires of all vehicles and the weight to be carried by said vehicles; and to regulate drivers, carriers, runners and solicitors.

Regulating transportation rates, etc.

21. To regulate the construction, repair, care, and use of markets and market places, and of places of public amusement and public assemblage.

Public markets.

22. To regulate the construction, repair and use of vaults, cisterns, areas, hydrants, pumps and sewers.

Vaults and cisterns.

Public pound. 23. To provide a public pound, and poundkeeper with necessary assistants and to fix the salary for the poundkeeper or necessary assistants; to prescribe fines for the redemption of animals duly impounded and to provide for the collection of such fines and their payment into the treasury; to prevent animals from running at large and to provide for impounding and killing them when found running at large; to provide that all sums collected for dog licenses as well as all fines collected for the violation of humane laws affecting animals and all sums paid into the city treasury for the redemption of impounded animals shall be set aside as a special fund to be used in supporting and maintaining the public pound.

Offices and equipment. 24. To provide suitable buildings, rooms, or accommodations for all courts, departments, boards, and officers, together with all necessary attendants, furniture, fuel, lights, and stationery for the convenient transaction of business.

Morgue. 25. To provide and maintain a morgue.

Detention of witnesses. 26. To provide for places for the detention of witnesses separate and apart from places where criminals, or persons accused of public offense are imprisoned.

Chain gang. 27. To regulate and provide for the employment on the streets and highways of said city of prisoners, and to make regulations requiring prisoners to be sentenced to such labor either in the chain gang or elsewhere, as the Common Council may deem expedient; to establish, maintain, and regulate and change, discontinue and re-establish city jails, prisons, and houses of correction, and other places of detention, punishment, confinement and reformation.

Jails, etc. 28. To purchase or acquire by condemnation such property as may be needed for public use.

Eminent domain. 29. To adopt, enter into, and carry out means for securing a supply of water for the use of the city, or its inhabitants or for irrigating purposes therein, and along the line of its water supply.

Supply of water. 30. To regulate the quality, capacity, and location of water and gas mains and fire plugs, and provide for and regulate the construction and repair of hydrants, fire plugs, cisterns, and pumps and such other appliances as may be used in the distribution of water or gas in the streets, public places and public buildings.

Gas mains. 31. To fix and determine the rate of compensation to be charged and collected by any person, company, or corporation in this city for the use of telephones; and to fix and determine the maximum rate or compensation to be charged by any person, company or corporation for gas, electric, or other illuminating power in said city.

Fire plugs. 32. To fix and determine in the month of February of each year, to take effect on the first day of July there-

Hydrants. Fix rates for tele- phones, gas, electricity, etc.

Water rates.

after, the rates or compensation to be collected by any person, company, or corporation in this city for the use of water.

33. To regulate and impose a license tax upon public amusements, shows, and exhibitions, pawn brokers, and railroad passenger cars; upon the manufacture, sale, transportation, or storage of any combustibles or explosives; upon astrologers, and fortune tellers who practice their profession for hire; upon billiard tables, bowling alleys, shooting galleries and other games or amusements kept or conducted for gain or hire; upon the sale at retail of tobacco, cigars, cigarettes, alcoholic and malt liquors; and upon all such other callings, trades, employments, business, and places not prohibited by law, that may require special police surveillance, or that may be prejudicial to public morals and the general welfare.

Fixing li- cense taxes.

34. To impose a license tax on dogs.

Dog license.

35. To provide for the collection of licenses and municipal revenue, and fix the amount thereof, and to license for regulation or revenue hawkers, peddlers, pawnbrokers, auctioneers, and also lunch, refreshment, coffee or tamale counters, stands, booths, sheds, or wagons when erected, located, placed, conducted, or doing business on any sidewalk, street, or alley in said city; also to license for regulation or revenue any other business or occupation conducted or carried on in the said city of San Diego.

Collection of licenses.

36. To prescribe fines, forfeitures, and penalties for the breach of any ordinance and for a violation of any provision of this charter, but no penalty shall exceed the amount of five hundred dollars or six months' imprisonment, or both.

Prescribe fines, etc.

37. To provide for the security, custody, and administration of all property of said city.

City property.

38. To make rules and regulations for the government of all servants, employees, officers, and departments, and to fix the fees and charges for all official services, and to fix salaries and wages not otherwise provided by general laws or by this charter.

Fix duties and salaries of employees.

39. To allow and order paid out of the various funds provided by this charter the sums respectively chargeable thereto, the allowance of which is not otherwise provided for.

Funds.

40. To allow and order paid out of the General Fund such sums, not to exceed five thousand dollars in any one fiscal year, as may be deemed necessary for the employment of special counsel.

Special Counsel.

41. To provide for the survey of streets and blocks of land within the limits of the city, and to declare such surveys official, and to compel all persons to conform to the streets as they are now or may be hereafter lawfully estab-

Official surveys.

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lished and declared official or otherwise dedicated.

Sewer and
drainage.

42. To provide in the annual tax levy for a special fund to be used in the construction of a general system of sewerage and drainage for said city.

Official
seals.

43. To provide a common seal for said city, and from time to time to alter and change the same; and, also, to provide for seals for the several departments, boards, and officers of said city, and for the police court, and for altering and changing the same.

Eminent
domain.

44. To open, close, straighten, or widen any street, road or highway; to open and lay out any new street or highway through public or private property, upon making compensation to all persons whose property may be taken therefor, or injuriously affected thereby, upon the conditions and in the manner by law and in this charter provided; and in like manner to establish and change the grade of any street, road or highway. But no compensation shall be allowed for damage to gas or water pipes, railway tracks, telegraph or telephone posts or wires, or other property or thing laid above, along, in, or under any street, highway, park, place, or other public property.

Railroad
franchises.

45. To allow any railroad company or corporation to enter said city, and make its way to the water front at the most convenient point for public convenience; but no exclusive right, franchise, or privilege shall be granted to such railroad company; and the use of all such rights, privileges and franchises shall at all times be subject to regulation by the Common Council. Every ordinance granting such right, privilege, or franchise, shall be upon the conditions that said company or corporation shall pave and keep in repair the street between the rails of each track, and also between the tracks, and for at least two feet on each side of the same, including switches, turnouts and sidetracks, and that said company or corporation shall allow any railroad company or corporation to which a similar right, privilege or franchise may be granted, to use in common with it the same track or tracks upon such terms as the Common Council may determine.

Appropriation by ordinance.

46. To make appropriations allowed by law or this charter; provided that appropriation of moneys out of public funds shall be made only by ordinance.

Trusts.

47. To provide for the execution of all trusts confided to said city.

Sale and
lease of
pueblo
lands.

48. (a) That all pueblo lands owned by the City of San Diego lying and being situated north of the north line of the San Diego river be, and the same are hereby reserved from sale until the year 1930, provided, however, that at any time should it be desired to sell any part or portion of such pueblo lands prior to the year 1930, the sale thereof may be authorized by an ordinance duly passed by the Common Council and ratified by the electors of the City

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of San Diego at any special or general municipal election; and provided further, that if at any time it should be desired to lease any part or portion of such public lands prior to the year 1930, the leasing thereof may be authorized by an ordinance duly passed by the Common Council, provided that no lease so authorized shall be for a longer period of time than fifteen years. The Common Council shall levy annually, in addition to all other taxes provided for in this charter, two cents on each one hundred dollars valuation of property for the purpose of improving said pueblo lands herein reserved from sale.

Tax levy for
improvements.

(b) The Common Council may provide for the sale and conveyance or lease of all other lands now or hereafter owned by said city not dedicated or reserved for public use; but all leases and sales shall be made at public auction after publication of notice thereof for at least three (3) weeks. No lease shall be made for a longer term than two years except by ordinance passed by an affirmative vote of two-thirds of the members of the Common Council.

Sale or lease
of other
city
property.

49. To provide for the sale, at public auction, after advertising for five days, of all personal property unfit or unnecessary for the use of said city.

Condemned
property.

50. To provide for the purchase of property levied on under execution in favor of said city; but the amount bid on such purchase shall not exceed the amount of the judgment and costs.

Purchasing
property.

51. To incur an indebtedness exceeding the revenue for any fiscal year in case of great public calamity or danger, such as earthquakes, conflagrations, pestilence, invasion, or any other great or unforeseen emergency. The ordinance for such purpose must be passed by the affirmative vote of two-thirds of the members of said Common Council, and be approved by the Mayor. Before or at the time of incurring such indebtedness, provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within forty years from the time of contracting the same. No such indebtedness shall be incurred without the assent of two-thirds of the qualified electors of said city, voting at an election held for that purpose.

Emergency
indebted-
ness.

Provision
for pay-
ment.

Two-thirds
vote of
elec. ~~res.~~

52. The Common Council shall have charge, superintendence, and control of all public work of every kind, where not otherwise provided for in this charter, to be done for the City, or for any board or department thereof, and also of the furnishing of all labor, work, materials and supplies for said City. This charge, superintendence and control of public work shall be subject, however, to such ordinances as the Common Council may from time to time adopt.

Public
works.

(Sec. 2 of Chapter 2 of Article II, repealed, January 26, 1909.)

Rules and regulations.

Sec. 3. The Common Council shall have power to make all rules and regulations necessary to carry into execution all powers vested by this charter or by law, in said city, or in any department or officer thereof.

(Sec. 4 of Chapter 2 of Article II, repealed January 26, 1909.)

Wharf franchises.

Sec. 5. The Common Council shall not grant any franchise for the construction of any wharf into the Bay of San Diego, except in the manner following, viz: In addition to the requirements under the general laws, each and every ordinance granting such franchise must receive the vote of at least two-thirds of the members of each Board, and shall provide that work shall commence within six months, and be prosecuted continuously, and shall be completed within one year thereafter. Said time shall not be extended for any cause, and unless so completed the franchise shall be forfeited.

Right to amend or modify.

Sec. 6. Every grant of a franchise, right or privilege, shall be subject to the right of the majority of the electors of said city, voting at any election, at any time thereafter to repeal, change or modify the said grant, and every ordinance making such grant shall contain a reservation of such right to repeal, amend or modify said ordinance.

No exclusive franchise.

Sec. 7. No exclusive franchise or privilege shall be granted for laying pipes or other conduits, under any of the public streets or through any public place for the use of any telegraph, telephone or other mode of transmitting intelligence or electric or any motive power.

Granting special aid.

Sec. 8. The Common Council shall make no appropriations in aid of any corporation, person, or society, unless expressly authorized by this charter or the laws of the state.

50-year franchises.

Sec. 9. Every franchise or privilege to construct or operate street or interurban railroads upon any public street, highway or public property, hereafter proposed to be granted by said common council, shall be granted for a period of not greater than fifty (50) years; upon the terms and conditions as follows, and not otherwise:

Advertisement of applications.

An applicant for any franchise or privilege above mentioned shall file an application therefor with said Common Council, and thereupon said Common Council shall in its discretion advertise the fact of said application, together with a statement that it is proposed to grant the same, as applied for or as changed by said Common Council, in the official newspaper of said city. Said advertisement must state that bids will be received for such franchise and that it will be awarded to the highest bidder, and the same must be published in such newspaper once a day for ten successive days. The full publication must be com-

pleted not less than twenty days nor more than thirty days before any further action can be taken thereon. Calling for bids.

The publication must state the character of the franchise or privilege proposed to be granted, the term for which it is granted, and, the route to be traversed; that sealed bids therefor will be received up to a certain hour and day named therein, and that the successful bidder and his assigns must, during the life of said franchises, pay to the said city two per cent (2%) of the gross annual receipts of the person, partnership or corporation to whom the franchise is awarded, arising from its use, operation or possession. No percentage shall be paid for the first five (5) years succeeding the date of the franchise, but thereafter such percentage shall be payable annually; and in the event said payment is not made, said franchise shall be forfeited; provided, further, that if the franchise be a renewal of a right already in existence the payment of said percentage of gross receipts shall begin at once.

2 per cent of gross receipts.

In case the franchise granted shall be an extension of an existing system of street railroad, then the gross receipts shall be estimated to be one-half of the proportion of the total gross receipts of said system which the mileage of such extension bears to the total mileage of the whole system, and said estimate shall be conclusive as to the amount of the gross receipts of said extension.

Said advertisement shall also contain a statement that the said franchise will be struck off, sold and awarded to the person, firm or corporation who shall make the highest cash bid therefor; provided, only, that at the time of the opening of said bids any responsible person, firm or corporation present or represented may bid for said franchise or privilege, a sum not less than ten per cent above the highest sealed bid therefor, and said bid so made may be raised not less than ten per cent by any other responsible bidder, and said bidding may so continue until finally said franchise shall be struck off, sold, and awarded by said Common Council to the highest bidder therefor in gold coin of the United States. Each sealed bid shall be accompanied with cash or a certified check, payable to the treasurer of said city, for the full amount of said bid, and no sealed bid shall be considered unless said cash or check is enclosed therewith and the successful bidder shall deposit, at least, ten per cent of the amount of his bid with the clerk of said city before the franchise shall be struck off to him. And if he shall fail to make such deposit immediately, then and in that case, his bid shall not be received, and shall be considered as void, and the said franchise shall then and there be again offered for sale to the bidder who shall make the highest cash bid therefor, subject to the same conditions as to deposit, as above mentioned. Said procedure shall be had until said franchise is struck off,

Competitive bidding.

Check to accompany sealed bids.

Procedure.

sold, and awarded to a bidder who shall make the necessary deposit of at least ten per cent of the amount of his bid therefor, as herein provided. Said successful bidder shall deposit with the clerk of said city, within twenty-four hours after the acceptance of his bid, the remaining ninety per cent of the amount thereof, and in case he or it shall fail to do so, then the said deposit theretofore made, shall be forfeited, and the said award of said franchise shall be void, and the said franchise shall then and there, by said Common Council, be again offered for sale to the highest bidder therefor, in the same manner, and under the same restrictions as hereinbefore provided, and in case said bidder shall fail to deposit with the clerk of said city, the remaining ninety per cent of his bid, within twenty-four hours after its acceptance, the award to him of said franchise shall be set aside, and the deposit theretofore made by him shall be forfeited, and no further proceedings for a sale of said franchise shall be had unless the same shall be readvertised and again offered for sale, in the manner hereinbefore provided.

Award, when void.

Re-advertisement.

Work to construct railroads along or upon any public street or highway, a franchise for which shall have been granted in accordance with the terms of this section, shall be commenced in good faith within not more than four months from the granting of any such franchise, and if not so commenced within said time said franchise so granted shall be declared forfeited, and shall be completed within not more than three years thereafter, and if not so completed within said time said franchise so granted shall be forfeited; *provided*, that for good cause shown the Common Council may by resolution extend the time for completion thereof, not exceeding three months.

When construction shall commence and be completed.

Paving, etc., along tracks.

The owner of the franchise or privilege shall plank, pave or macadamize the entire length of the street, used by his or its track, between the rails, and for two feet on each side thereof, and between the tracks, if there be more than one, whenever ordered to do so by said Common Council, and shall keep the same constantly in repair, flush with the street, and with good crossings.

Speed regulation.

The said Common Council shall have power to regulate the rate of speed, and pass ordinances to protect the public from danger or inconvenience in the operation of such roads, and the rates of fare and charges for transporting passengers and goods thereon shall be subject to the regulation by said Common Council.

Two companies using same tracks.

Two or more lines of street railway, operated under different managements, may by lease or contract, use the same street or tracks upon such terms as may have been agreed upon between the companies operating such railways; and two lines of street railway operated under different managements may be permitted to use the same

street or tracks for a distance of five blocks without such lease or contract, upon payment of an equal portion for the construction of the tracks and appurtenances used by said railways jointly; but in no case shall a company owning or operating one line of street railway be permitted to condemn the right to occupy and use the same street or tracks for a distance of more than five blocks consecutively.

The successful bidder for any franchise or privilege struck off, sold, and awarded under this section shall file a bond running to said city, with, at least, two good and sufficient sureties, to be approved by said Common Council, in a penal sum by it to be prescribed and set forth in the advertisement for bids, conditioned that such bidder shall well and truly observe, fulfill and perform each and every term and condition of such franchise, and that in case of any breach of condition of such bond, the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages, and shall be recoverable from the principal and sureties upon said bond. Said bond shall be filed with said Common Council within five days after such franchise is awarded, and upon the filing and approval of such bond, the said franchise shall, by said Common Council, be granted by ordinance to the person, firm or corporation to whom it has been struck off, sold, or awarded, and in case that said bond shall not be so filed, the award of such franchise shall be set aside, and any money paid therefor shall be forfeited, and said franchise shall, in the discretion of said common council, be readvertised, and again offered for sale in the same manner, and under the same restrictions, as hereinbefore provided.

Bond required.

No clause or condition of any kind shall be inserted in any franchise or grant offered or sold under the terms of this section, which shall directly or indirectly restrict free and open competition in bidding therefor, and no clause or provision shall be inserted in any franchise offered for sale, which shall in any wise favor one person, firm or corporation, as against another, in bidding for the purpose thereof.

No bidder to be favored.

Sec. 10. All claims for damages against the city must be presented to the Common Council and filed with the Clerk within six months after the occurrence from which the damages arose.

Claims for damages.

Sec. 11. No expenditure, debt, or liability shall be made, contracted, or incurred during any fiscal year that cannot be paid out of the revenues provided for such fiscal year. Except as otherwise authorized in this charter, the city shall not, nor shall the Common Council, the Board of Education, or any Board, department, or officer, incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for it for such fiscal year. All contracts, indebtedness, or lia-

Incurring of indebtedness.

bilities incurred contrary to the provisions of this section shall be void, and shall not be paid out of the Treasury, or constitute, or be the foundation of any claim, demand, or liability, legal or equitable, against said city. The words expenditure, indebtedness, and liability herein used, shall include official salaries and the pay of all employees of said city, or of any of its departments.

Income of fiscal year.

Sec. 12. No part of the income or revenue provided for any particular fiscal year shall be applied in payment of any indebtedness or liability incurred during any previous fiscal year, the sinking fund and the interest upon the bonded debt alone excepted.

No preferred demands.

Sec. 13. Except as otherwise authorized in this charter, the Common Council, Board of Education, or any other Board, department, committee, or officer, shall not give one demand preference over another in the authorization, allowance, or approval thereof; but demands shall be acted upon in the order in which they are presented.

Auditor's certificate.

Sec. 14. All ordinances or resolutions, appropriating money or for the incurring of indebtedness or liability against the Treasury, introduced in either Board of the Common Council, or in the Board of Education, or other department or authority, must, before being passed, be presented to the Auditor, and until he certifies in writing upon such ordinance or resolution that such appropriation can be made or indebtedness incurred without the violation of any of the provisions of this charter, no further action shall be had upon the same. (118 Cal. 524, 593.)

Invalid claims.

Sec. 15. Neither the Common Council, nor any officer, Board, department, or authority shall allow, make valid, or in any manner recognize any demand against the city which was not at the time of its creation a valid claim against the same, nor shall they or any of them, ever allow or authorize to be paid any demand which, without such action, would be invalid, or which shall then be barred by any statute of limitation, or for which said city was never liable.

Official advertising.

Sec. 16. All official advertising of the City of San Diego shall be done by contract. Immediately after the organization of the City Government under this charter, and every two years thereafter, the Clerk of the Common Council must publish a notice in a daily newspaper of said city, for ten days, calling for proposals to do all of the advertising of said city, including the delinquent tax list. Said notice must state:

Maximum rates to be charged.

1. That the maximum rate that will be allowed for such advertising will be as follows: For each one thousand ems of type, set solid, if the publication is made three times or less, two dollars and twenty-five cents; if the publication is made five times, two dollars and fifty cents; if the publication is made ten times, three dollars; if the publication is

made fifteen times, three dollars and twenty-five cents; if the publication is made twenty-one times, three dollars and fifty cents; if the publication is made thirty times, four dollars and fifty cents. For the completed publication of the delinquent tax list, set solid, four dollars per one thousand ems. Any single notice less than one thousand ems to be considered one thousand ems.

2. That unusual head lines, and other artifices to increase space will not be allowed.

3. That the bidder must be the responsible publisher of a newspaper in said city having a bona fide daily circulation, and which has been regularly published in said city for at least two years immediately preceding his bid. The award of said advertising shall in all cases be made to the lowest responsible bidder. The newspaper to which the award of advertising is made shall be known and designated as the "city official newspaper." No Board, department, officer, or authority shall make any publication which is not expressly authorized by this charter; and all publications so authorized shall be made in the city official newspaper, exclusively, unless otherwise expressly provided in this charter; provided, that if no qualified bidder shall be willing to publish said advertising for the maximum rates herein specified, then such publication shall not be required, and publication by posting at the place of meeting of the City Council for the number of days required shall be deemed sufficient. (Stat. 1897, p. 89, 90.)

Advertising only in official paper.

ARTICLE III.

EXECUTIVE DEPARTMENT.

Chapter I—Of the Mayor.

Section 1. The Mayor shall be the chief executive officer of the city. He shall be elected by the qualified voters of the city at each general election and his term of office shall be two years. The Mayor shall also be ex-officio President of the Common Council and as such President shall have a voice but not a vote in its proceedings. The powers and duties of the Mayor as President of the Common Council shall not be construed in any manner to conflict with or limit his powers in the capacity of Mayor.

Chief executive.

President of Council.

Sec. 2. The Mayor shall vigilantly observe the official conduct of all public officers, and take note of the fidelity and exactitude, or the want thereof, with which they execute their duties and obligations, especially in the collection, administration and disbursement of the public funds and property; and the books, records and official papers of all departments, Boards, officers, and persons in the employ or service of the city, shall at all times be open to his inspection and examination. He shall take special care to see that the

Shall observe conduct of public officials.

CHARTER OF THE CITY OF SAN DIEGO

books and records of the said departments, Boards, officers, and persons are kept in legal and proper form; and any official defalcation, or wilful neglect of duty, or official misconduct which he may discover, or which shall be reported to him, shall be laid by him before the Common Council, City Attorney, or District Attorney, in order that the public interests shall be protected, and the person in default proceeded against according to law. He shall, from time to time, give the Common Council information in writing relative to the state of the city, and shall recommend such measures as he may deem beneficial to its interests.

City expert.

Sec. 3. He shall see that the laws of the State and the ordinances of the city are observed and enforced. He shall appoint a competent person or persons, expert in matters of bookkeeping and accounts, to examine the books, records, conditions, and affairs of every department, Board, or officer, at least once in every year, and enforce such examination. Any person refusing to submit to, or to permit such examination, or purposely delaying or impeding the same, may be suspended from office by the Mayor, and removed for malfeasance in office. He shall have a general supervision over all the departments and public institutions of the city, and see that they are honestly, economically, and lawfully conducted. He shall take all proper measures for the preservation of public order and the suppression of all riots and tumults, for which purpose he is authorized and empowered to use and command the police force; and if such police force is insufficient, it shall be his duty to call upon the Governor for military aid, in the manner provided by law, in order that such riots or tumults may be properly and effectually suppressed.

Counting city cash.

Sec. 4. He shall, at least once in three months, together with a majority of the Auditing Committee, count the cash in the City Treasury, including as cash the balance found by them to be standing in the bank depository to the credit of the Treasurer at the time of said counting, and see that it corresponds with the books of the Treasurer and Auditor.

City contracts.

Sec. 5. He shall see that all contracts and agreements with the city are faithfully kept and fully performed; and to that end shall cause legal proceedings to be commenced and prosecuted in the name of the city, against all persons or corporations failing to fulfill their agreements or contracts, either in whole or in part. It shall be the duty of every officer and person in the employ or service of the city, when it shall come to his knowledge, that any contract or agreement with the city or any officer or department thereof, or relating to the business of any office, has been or is about to be violated by the other contracting party, forthwith to report to the Mayor all facts and information with-

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in his possession concerning such matter; and a wilful failure so to do shall be cause for removal of such officer or employee, as in case of malfeasance in office. The Mayor shall give a certificate on demand to any person reporting such facts and information, that he has done so, which certificate shall be evidence in exoneration from a charge of neglect of such duty.

Incompetent employee, how removed.

Sec. 6. When any person shall furnish to the Mayor a statement in writing, under oath, to the effect that he has cause to believe, and does believe, that any deputy, clerk or employee under any officer or in any department, is incompetent or inefficient, or that there are more deputies, clerks, or employees under any officer or in any department than are necessary, the Mayor shall at once investigate the matter, after notice to such deputy, clerk, or employee and his principal, or the head of the department; and if the Mayor find the same to be true, he shall suspend or remove such deputy, clerk, or employee.

Appointments.

Sec. 7. The Mayor shall appoint all officers whose election or appointment is not otherwise specially provided for in this charter or by law. He shall have power to remove for cause any person holding office by his nomination or appointment; and in case of such removal shall give written notice thereof, stating the cause, to the person removed, and shall immediately notify the Common Council of his action and the reasons therefor.

May call special sessions.

Sec. 8. The Mayor may call special sessions of the Common Council, or of either Board thereof, and shall communicate to them in writing when assembled the objects for which they have been convened; and their action at such sessions shall be confined to such objects.

Vice president of council as mayor pro tem.

Sec. 9. When and so long as the Mayor is temporarily unable to perform his official duties, the Vice President of the Common Council shall act as Mayor pro tempore. When a vacancy occurs in the office of Mayor, it shall be filled for the unexpired term by a majority vote of the Common Council, and any person possessing the necessary qualifications may be chosen Mayor. A member of the Common Council, during the term for which he shall be elected or appointed, shall be eligible to fill such vacancy.

Successor to mayor.

Sec. 10. The Mayor shall not receive for any public service rendered by him during his term of office any other or greater compensation than the salary allowed him as Mayor.

Perquisites.

Sec. 11. The Mayor shall appoint the Chief of Police, which appointment shall become effective only upon the confirmation of the Common Council. The removal of the Chief of Police shall be by the Mayor, if confirmed by a majority of the Common Council, or by the Common Council alone by a two-thirds vote.

Appointment of Chief of Police.

Art. III - Chap. II and III

CHAPTER II.—OF THE CITY CLERK.

City Clerk.

Section 1. The Common Council, in joint session, shall elect a City Clerk, who shall hold office for two years from the date of his election, unless sooner removed by resolution. His duties shall be to keep the corporate seal and all books, papers, records, and other documents belonging to the city, the custody of which is not in this charter otherwise provided for; to attend all meetings of the Common Council and keep a journal of its proceedings, all its by-laws, ordinances and resolutions, and perform such other duties relating to his office as the Common Council and this charter shall direct. He shall have power to take affidavits and administer oaths in all matters relating to the business of the city, and shall make no charge therefor. The City Clerk shall have power to appoint a deputy, who shall, under his direction, have the same powers, and perform the same duties as the City Clerk. The compensation of the City Clerk and his deputy shall be fixed by ordinance by the Common Council.

Duties.

Powers.

Chief deputy.

CHAPTER III.—OF THE AUDITOR AND ASSESSOR.

Auditor and Assessor.

Section 1. The Auditor shall be appointed by the Mayor, subject to confirmation by the Board of Delegates. He shall be ex-officio Assessor. As Assessor he shall perform all the duties prescribed by this charter, or by law, for assessing property in the city for purposes of taxation, and in relation to street improvements.

Record of Demands.

Sec. 2. As auditor he shall number and keep a record of all demands allowed by the Auditing Committee, showing the date of approval, amount, the name of the original holder, the number, on what account, and out of what fund payable. He shall be required to be constantly acquainted with the exact condition of the treasury. He shall, on the first Monday of each month, or oftener if required, report to the Mayor the condition of each fund in the treasury. He shall keep a complete set of books for the city, in which shall be set forth in a plain and business-like manner, every money transaction of the city, so that he can at any time tell the exact condition of the city's finances. He shall make an annual report showing the source from which the city's revenue was derived and how expended. He shall issue all licenses and turn the same over to the Tax Collector for collection, and shall draw and sign all warrants on the Treasurer, except as otherwise in this charter provided. He shall have power to make affidavits and administer oaths necessary in the transaction of all city business.

Must know condition of treasury.

Duties.

List of employees.

Sec. 3. He shall keep publicly posted in his office a list of all persons receiving salaries or wages from the city, with the amount of monthly salary or wages received by each opposite his name, which list shall be revised and

Art. III - Chap. IV and V.

corrected by him monthly, and be at all times open to public examination.

Sec. 4. He shall perform such other duties as this charter or the Common Council may direct; and may appoint such regular and temporary deputies, both as Auditor and Assessor, as the Common Council may authorize, whose compensation may be fixed by ordinance.

Sec. 5. The term of office of the Auditor shall be four years.

Term of office.

Sec. 6. Whenever, in the judgment of the Common Council, it shall be for the best interests of the city, the offices of Auditor and Assessor may be made separate, and the salary of each of said officers shall be fixed by the Common Council, and where separated, the Assessor shall be appointed by the Mayor, subject to confirmation by the Board of Delegates, and hold his office for the term of four years from the time of such appointment.

Separation of office, how accomplished.

CHAPTER IV.—OF THE TREASURER AND TAX COLLECTOR.

Section 1. The Treasurer shall be ex-officio Tax Collector. As Tax Collector he shall perform the duties in this charter and by the general laws of the State provided. As Treasurer he shall receive and pay out all moneys belonging to the city, and shall keep an account of all receipts and expenditures, under such rules and regulations as may be prescribed by ordinance, and shall do all things required of him by this charter or any ordinance of said city. He shall not pay out any moneys belonging to the city except upon legal demands, allowed and audited in the manner provided by this charter, or authorized by law.

Treasurer and Tax Collector.

Sec. 2. The Treasurer shall be elected in the same manner and at the same time as the Mayor, and shall hold office for two years.

Term of office.

CHAPTER V.—OF THE CITY ATTORNEY.

(Sec. 1 of Chapter 5 of Article III, repealed, January 26, 1909.)

Sec. 2. It shall be the duty of the City Attorney to prosecute, in behalf of the people, all criminal cases arising upon violations of the provisions of this charter and city ordinances, and to attend to all suits, matters, and things in which the city may be legally interested; provided, that the Common Council shall have control of all litigation of the city, and may employ other attorneys to take charge of any such litigation, or to assist the City Attorney therein. He shall give his advice or opinion in writing whenever required by the Common Council, Mayor, or other city officers, and shall do and perform all such things touching his office as by the Common Council may be required of him. He shall approve by endorsement in writing, the form of all official or other bonds required by this charter, or by ordin-

City Attorney of.

Approval of form of bonds.

art. III - Chap. VI, VII, VIII

ance of the Common Council, before the same are submitted to the proper authorities for final approval, and no such bonds shall be finally approved without such approval by the City Attorney. He shall approve in writing the drafts of all contracts before the same are entered into on behalf of the city.

Contracts.

CHAPTER VI.—OF FEES AND COLLECTIONS.

Section 1. All fees and other moneys received or collected by any officer, agent, or employee of the city shall be paid by such officer, agent or employee each month, or as much oftener as the Common Council may require, into the City Treasury for the use of the city; and no payment of salary shall be made to any officer, agent, or employee who shall be in receipt of money payable to the city, until he shall have taken and filed with the Auditor an affidavit that he has paid into the City Treasury all fees or other moneys theretofore received by him or collected; except that the Assessor may retain his fees for collection of personal property tax.

Fees and collections.

Personal tax fees.

CHAPTER VII.—OATH OF OFFICE.

Section 1. Every officer provided for in this charter shall, before entering upon the discharge of the duties of his office, take, subscribe, and file with the City Clerk the following oath: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of California and that I will faithfully discharge the duties of the office of _____ to the best of my ability."

Oath of office to be taken.

CHAPTER 7½—OF CITY PLAYGROUNDS.

Section 1. There shall be created a board of five (5) commissioners, to be known as the board of playground commissioners.

City Playground Commission.

Sec. 2. The members of the board of playground commissioners shall be appointed by the mayor, subject to a confirmation by a majority of the council. All such appointments shall be made so that not more than three of said commissioners shall be of the same sex. The members of said board shall serve without compensation, and shall hold office for four years, and until their successors are appointed and qualify. If any vacancy occur, the mayor shall fill the same for the unexpired term, subject to confirmation by a majority of the council.

Appointment by Mayor.

Term of office.

Sec. 3. The board of playground commissioners shall organize by electing a president and a secretary, each of whom shall hold office for one year, and until his successor is elected. The board shall maintain an office for the transaction of business. Said board shall hold regular meetings at least once a month.

Organization.

art. III - Chap. VII

Sec. 4. All appointments, suspensions and removals of employees of the children's playgrounds and recreation centers, shall be made by the board of playground commissioners, subject to such civil service regulations as are now, or may hereafter be in force.

Appointments.

Sec. 5. All children's playgrounds and recreation centers and the design, construction, maintenance and use of all buildings and improvements thereon shall be under the exclusive control and management of the board of playground commissioners.

Control of playgrounds and recreation centers.

Sec. 6. The board of playground commissioners may, for and on behalf of the city of San Diego, receive donations, legacies or bequests for the improvement or maintenance of said playgrounds, or for the acquisition of new playgrounds, and all moneys derived from such donations, legacies or bequests shall unless otherwise provided by the terms thereof, be deposited in the treasury of the city of San Diego to the credit of the playground fund. The same may be drawn therefrom and paid out only in the manner as is provided in the charter for the payment of money from other funds. If the moneys derived from such gifts, bequests or legacies shall at any time exceed in amount the sum necessary for immediate expenditure on said playgrounds, the board may invest all or a part of the surplus in interest-bearing bonds of the United States or of the State of California, or of any county, municipality or school district thereof. As to all of such property the board of playground commissioners shall be deemed and considered to be a special trustee thereof for the city of San Diego.

Donations and Legacies.

Sec. 7. The council shall have power, by ordinance, to set aside for playground purposes, any lands now or hereafter owned or controlled by the city, and not held for or devoted to, any public use.

Setting aside city lands.

Sec. 8. The council shall for the acquisition, development and maintenance of children's playgrounds, appropriate annually, not less than two cents, nor more than five cents, on each one hundred dollars of assessed valuation, as a special tax independent of the general tax levied, and the amount so appropriated shall be credited to the playground fund.

Tax levy to be made.

Sec. 9. Said board of playground commissioners shall have power to employ and fix the compensation of such employees as may be necessary for the proper care and improvement of said playgrounds, to expend the moneys appropriated by the council, or receive from any other source, for the purpose of managing and improving said playgrounds and recreation centers.

Employees.

Sec. 10. The board of playground commissioners shall have further powers and perform such other duties as may be granted or imposed by ordinance.

Other powers.

art. III - Chap. VIII and IX

CHAPTER VIII.—OF OFFICIAL BONDS.

Official
bonds.

Section 1. All salaried officers of this city, other than Mayor and members of the Common Council, must, before they can enter upon the discharge of their official duties, give approved bonds conditioned for the faithful performance of such duties, with two or more sureties, which sureties shall be freeholders within this State and residents thereof, and worth the sums for which they become liable on such bonds over and above all just debts and liabilities in unincumbered property, situated within this State, which is not exempt from execution and forced sale; *provided*, that no official, deputy, clerk, or employee of the said City of San Diego shall be accepted as a surety upon any bond or undertaking to be executed to said City, or for the protection of said City. All official bonds must be approved by the Auditing Committee in open session.

Approved by
Auditing
Committee.

The amounts of all official bonds shall be fixed by the Common Council by ordinance.

Sureties.

The sureties on such bonds shall accompany the same with an affidavit that they are each freeholders within this State, and residents thereof, and are each worth the sum for which they become liable as specified in such bond over and above all their just debts and liabilities, exclusive of property exempt from execution; *provided*, that any corporation, with a paid up capital of not less than one hundred thousand dollars, incorporated under the laws of the State of California, or any other State of the United States, for the purpose of making, guaranteeing, or becoming a surety upon bonds or undertakings required or authorized by law, or which by the laws of the State where it was originally incorporated has such powers, and which shall have complied with all the requirements of the law, of the State of California, regulating the formation or admission of these corporations to transact such business in the State of California, may become and may be accepted as security or as sole and sufficient surety upon any such undertaking or bond, or upon any other undertaking or bond required by any law or by any provision of this charter, or by any ordinance of the City for the benefit of such City, if approved and accepted by the Auditing Committee, or by the Board, or officer, or department authorized to approve such bonds, and the sureties thereon, shall be subject to all the liabilities and entitled to all the rights of natural persons who act as sureties; *provided*, that no such corporation shall be accepted in any case as surety whenever its liabilities shall exceed its assets.

Bonding
companies.

CHAPTER IX.—OF OFFICIAL SALARIES.

Section 1. The annual salaries of the officers and the compensation of the employees of the city shall be as follows:

art. III - Chap. X, Art. V Ch. II.

By Ordinance No. 6008, adopted in 1915, the Common Council re-adjusted salaries as follows: Mayor, \$2400.00; Auditor and Assessor, \$1800.00; Treasurer and Tax Collector, \$3000.00; City Attorney, \$6000.00; City Engineer, \$3600.00; Chief of Police, \$3000.00; Chief of Fire Department, \$3000.00; City Clerk, \$2400.00.

CHAPTER X.—OF SUPORDINATE APPOINTMENTS AND REMOVALS.

Section 1. The Common Council shall have power to provide by ordinance for the appointment, by the different departments and officers, of such number of clerks, employees, and deputies as may be necessary to transact the business of such departments and officers, and also to provide the terms of service and fix the compensation of such clerks, employees, and deputies, anything in this charter contained to the contrary notwithstanding; and the Common Council shall have power to order their discharge whenever their services are no longer needed; *provided*, that this section shall not apply to the Board of Library Trustees, nor to the Board of Park Commissioners, or to the officers, deputies, clerks, and employees of the said Board of Library Trustees, or the said Board of Park Commissioners.

Appoint-
ments and
Removals by
Council.

Exceptions.

ARTICLE IV.

(Article IV repealed. Stats. 1901, p. 880.)

ARTICLE V.

(Chapter 1 of Article V repealed. January 26, 1909.)

CHAPTER II.

The mode and manner for the improvement of streets, lanes, alleys, places or courts in this city, where an assessment is levied for the payment of any part or portion of the expense thereof, shall be as prescribed by the general law of the State of California, relative to the improvement of streets, lanes, alleys, places or courts in municipalities, in force at the time proceedings were taken for the improvement of the same. (Stats. 1901, p. 880.)

Improvement
of streets.

CHAPTER III.

(Chapter III of Article V repealed. Stats. 1901, p. 880.)

CHAPTER IV.

That the mode and manner of laying out, opening, ex-

Opening or closing streets.

tending, widening, straightening or closing, in whole or in part, any street, square, lane, alley, court or place within said city, where an assessment is levied upon property for the purpose of paying any part or portion of the expense thereof, shall be in accordance with the provisions of the general laws of the State of California, relative to laying out, opening, extending, widening, straightening, or closing in whole or in part, any street, square, lane, alley, court or place within municipalities, in force at the time proceedings therefor were taken. (Stats. 1901, p. 880.)

(Chapter V of Article V repealed January 26, 1909.)

(Chapter VI of Article V repealed, Stats. 1901, p. 880.)

CHAPTER VII.—OF THE CITY PARKS AND PLAZAS.

Park Commissioners.

Section 1. That there shall be a Board of Park Commissioners, consisting of three members, to be appointed by the Mayor with the approval of the Board of Delegates, from among the qualified electors of said city, and they shall hold office for four years, provided, that the terms of office of the Commissioners first appointed shall commence on the first Monday in May, 1905.

Organization.

Sec. 2. Immediately upon their appointment they shall elect a President and Secretary from among their number and so classify themselves that one of their number shall go out of office in two years, one in three years, and one in four years.

Control of Parks, etc.

Sec. 3. All parks, plazas, and squares now open and dedicated to the public use, or which may hereafter be opened or dedicated to the public use, shall be under the exclusive control and management of said Board of Park Commissioners, with power to lay out, regulate and improve the same.

Superintendent, powers and duties.

Sec. 4. Said Board of Park Commissioners may appoint a Superintendent of Parks, whose duty it shall be to see that the ordinances of the Common Council and the rules of the Park Commissioners are enforced, and who shall perform such other duties relating to said parks, plazas, and squares as may be required of him by said Board of Park Commissioners or by ordinances passed by the Common Council. Said Board of Park Commissioners shall also have power to employ and fix the compensation of such employees as may be necessary for the proper care and improvement of said parks, plazas, and squares; to expend the moneys appropriated by the Common Council or received from any other source, for the purpose of managing and improving said parks, plazas and squares.

Other Employees.

Sec. 5. That the said Common Council shall levy annually, in addition to all other taxes provided for in this charter, not less than eight cents nor more than twelve

Tax Levy.

cents on each one hundred dollars valuation of property for the purpose of maintaining and improving said parks, plazas and squares.

Rules and Regulations.

Sec. 6. The said Board of Park Commissioners shall have power to pass and adopt such rules and regulations as it may deem necessary for the regulation, use, and government of said parks, plazas, and squares.

Report to Mayor.

Sec. 7. The members of said Board of Park Commissioners shall serve without compensation and shall make a semi-annual report to the Mayor.

CHAPTER VIII.—OF THE HARBOR AND WHARVES.

Harbor and Wharves. Rules Governing.

Section 1. The Common Council shall, unless otherwise prescribed by the laws of the State, exercise control and management of the harbor and water front of the City of San Diego, and shall by ordinance establish such rules and regulations as shall prevent any encroachment upon the tidal area of the same.

Construction of Wharves.

Sec. 2. The construction of all wharves which may be built by the city, and all repairs on the same, or other work done on the water front by the said city, shall be performed by the Board of Public Works, after proceedings had in the manner and form prescribed for the construction, improvement, or repair of public buildings.

Tolls, Dockage, etc.

Sec. 3. The Common Council shall, by ordinance, regulate the tolls for wharfage, dockage, and other charges, and provide for the regulation of berths and landing of all steamers, sail vessels, barges or other water craft, and shall exercise such other control not herein specified as may not be inconsistent with the laws of the United States and of the State of California.

CHAPTER IX.—OF CEMETERIES.

Cemetery Commission.

Section 1. There shall be a Cemetery Commission, consisting of three members, to be appointed by the Mayor, with the approval of the Board of Delegates, from among the qualified electors of the city, and they shall hold office for four years.

Organization.

Sec. 2. Immediately upon their appointment they shall elect a President and Secretary from among their number, and so classify themselves that one of their number shall go out of office in two years, one in three years, and one in four years.

Powers and Duties.

Sec. 3. Said Commission shall exercise a general supervision of the cemeteries of the city, but their duties shall especially consist in the entire control and management of Mount Hope Cemetery. All moneys derived from the sale of lots, and all fees coming into their hands as such Commission, shall be held in trust to be expended as may be deemed advisable by them for maintaining, beautifying and improving said grounds.

Superintendent.

Sec. 4. The said Commission may appoint a Superintendent and such other employees as may be necessary to carry into effect the provisions of this chapter, and may remove or suspend from office said Superintendent and other employees when they may deem proper.

Report.

Sec. 5. The members of said Board shall serve without compensation, and shall make a semi-annual report to the Mayor.

ARTICLE VI.

DEPARTMENT OF FINANCE.

CHAPTER I.—OF REVENUE AND TAXATION.

Revenue and Taxation.

Section 1. On or before the first Monday of April in each year the Auditor shall prepare and transmit to the Common Council, accompanied with the estimates and reports of each department which he shall require to be delivered to him from the heads of each department on or before the twentieth of March in each year, an estimate of the probable necessities of the city for the current fiscal year, giving the amount required to meet the Interest and Sinking Fund for any and all outstanding bonded debts, together with the amount needed for salaries and probable wants of all the departments of the municipal government in detail, and showing the necessities of each of the several funds to be provided for in the treasury. The estimate shall also show, as nearly as may be, what amount of income and revenue is likely to accrue to the treasury, and be collected from fines, licenses, and all other sources of revenue, exclusive of tax upon property, and shall give an estimate of what amount will be required to be levied and raised by tax upon all property in the city in order to meet the necessities of such fiscal year, said estimates to be based upon, where practical, the resources and expenditures of the preceding fiscal year; and, at the same time, the Auditor shall also report to the Common Council the balance on hand in each fund.

Estimates to be Submitted.

Income and Revenue to be shown.

Report on balances.

Time for Council to fix Tax Rate.

Sec. 2. The Common Council shall, on or before the second Monday of May in each year, by ordinance, fix the rate of taxes to be levied, and levy the taxes upon all taxable property, both real and personal, in the city, necessary to raise sufficient revenue to carry on the different departments of the municipal government for the current fiscal year; provided, that the rate of taxes so levied shall not exceed in any year ninety cents for each one hundred dollars upon the assessment roll, except for the payment of the principal and interest of the bonded debt of the city, or tax for maintenance and improvement of public parks, or other special tax voted by the people, or for school purposes.

Levy for Library.

Sec. 2b. The Common Council shall levy annually, in addition to all other taxes provided for in this charter, not less than four cents, nor more than six cents, on each

one hundred dollars valuation of property, for the purpose of supporting and maintaining the public library. Said levy shall be sufficient in any event to realize six thousand dollars.

Levy for Playgrounds.

Sec. 2d. The Common Council shall levy annually, in addition to all other taxes provided in this charter, not less than one cent, nor more than two cents, on each one hundred dollars valuation, for the purpose of supporting and maintaining the public playgrounds of the city.

Equalization of Assessments.

Sec. 3. Except as in this charter otherwise provided, the assessment of property taxable in the city for municipal purposes, the equalization of assessments and collection of taxes, and the sale of property for unpaid taxes, and the redemption of property sold for taxes, shall be made in the same manner and with like effect as now or may be hereafter provided by law for the assessment of property, equalization of assessments, levy and collection of taxes, and sale of property for unpaid taxes for State and county purposes and redemption thereof; and all provisions of law applicable to such assessments, equalization, levy, collection, and sale for State and County purposes, are hereby applied to and shall be the law governing such assessments, equalization, levy, collection, and sale for municipal purposes; and the respective officers of the city shall have, possess and perform the same powers and duties, in all matters concerning revenue and taxation for municipal purposes, as are or may be by law conferred or imposed upon county officers in matters concerning revenue and taxation for State and County purposes; and to that end—

First—All powers and duties so by law conferred or imposed upon the County Assessor, are hereby imposed and conferred upon the City Assessor.

Second—All powers and duties so by law conferred upon or imposed upon the Board of Supervisors are hereby conferred and imposed upon the Common Council and its constituted committees.

Third—All powers and duties so by law conferred or imposed upon the District Attorney are hereby conferred and imposed upon the City Attorney.

Fourth—All powers and duties so by law conferred or imposed upon the County Tax Collector are hereby imposed and conferred upon the City Tax Collector.

Fifth—All powers and duties so by law conferred or imposed upon the County Treasurer are hereby conferred and imposed upon the City Treasurer.

Sixth—All powers and duties so by law conferred or imposed upon the County Clerk and County Auditor, respectively, are hereby conferred and imposed upon the City Clerk and City Auditor, respectively.

Sec. 4. It shall be the duty of the City Assessor to prepare between the first day of January and the first day of

April in each year, and present to the City Clerk, with his certificate of its correctness, a roll of the real and personal property within the city taxable for State and County purposes, with a true valuation thereof, which said assessment roll shall conform as near as practicable, when not inconsistent with the provisions of this charter, to the assessment roll required by law to be made by the County Assessor for State and County purposes; *provided*, that he must exact from each person a statement, under oath, setting forth specifically all the real and personal property owned by such person, or in his possession, or under his control, at 12 o'clock M. on the first day of January in each year; such statement shall be in writing and conform, as near as practicable, to the provisions of section three thousand six hundred and twenty-nine of the Political Code of the State of California. The Assessor must be present at all sessions of the Board of Equalization mentioned in this chapter, and furnish to said Board such information as may be required, and perform such other services in reference to the assessments of property in the city or otherwise appertaining to his office, as the Common Council, by ordinance or resolution may require. During the session of the Board of Equalization the Assessor shall enter upon the assessment roll any property in such city not previously assessed. In the assessment and listing of property for taxation, and in the collection of tax upon personal property not secured by lien upon real estate, he shall have and may exercise the same powers as are conferred by law upon County Assessors, and receive therefor the same fees; *provided*, that all railway property situated within the city, the value and assessment of which is fixed by the State Board of Equalization, as required by section thirty-six hundred and sixty-five of the Political Code of this State, shall be assessed for taxation purposes within the city, at the amount of assessment as fixed by said Board; and whenever in October of each year, as by law required, the Board of Supervisors of San Diego County shall transmit to the Common Council a copy of its order stating and declaring the assessed value of such railway lying within the city, the Common Council shall direct the City Clerk to record said order in its journals of proceedings, and said Clerk shall, on the first Monday of January in each year, furnish the City Assessor with a certified copy of such order so recorded, and said Assessor must enter said certified copy in and upon the assessment roll of the then fiscal year, and extend the value in accordance therewith, which value shall be the assessment of such railway property for taxation purposes for the said fiscal year.

Fiscal year. Sec. 5. For taxation, assessment, and all other purposes, the fiscal year shall begin on the first day of January. (Stats. 1895, p. 128.)

Sec. 6. That the term "real" and "personal" prop-

erty, as used in this charter, shall have the same meaning as the same terms used in the revenue laws of this State; and all property subject to taxation, as aforesaid, shall be assessed, at its full cash value, which, in the judgment of the Assessor, it has at 12 o'clock noon on the first day of January, and the lien of the annual city tax levy shall attach at said hour. The description of the lots, blocks, additions, and subdivisions in any assessment shall be deemed to refer specifically to the official map of such lot, block, addition or subdivision on file in the public office where the same is on file, with the same effect as if such description specifically described such map.

In the assessment of property, advertisement, and sale thereof for taxes, initial letters, abbreviations, and the figures may be used to designate lots, blocks, or parts thereof, additions or subdivisions; and such other abbreviations may be used when approved by the Common Council; *provided*, that a written or printed explanation of all abbreviations used appears on the page of the assessment roll or book where the assessment is made in which such abbreviation is used.

Sec. 7. The Assessor must make the abstract of mortgages, etc., which stand of record unsatisfied at twelve o'clock M. on the first day of January, in manner as provided in section three thousand six hundred and seventy-eight of the Political Code. Should any such abstract or list be found to contain any instrument relating to lands situated partly within and partly without the city, it shall be the duty of the Assessor to determine the proportion of valuation of such instrument to be assessed in the city and assess the same accordingly.

Sec. 8. A committee of the Common Council selected as in this charter provided shall constitute a Board of Equalization, and shall after the Assessor shall have completed and handed in his assessment roll to the City Clerk, and after five days' notice published in the official newspaper of this city, hold meetings to hear and determine all complaints respecting the valuation of property as fixed by the Assessor in such roll; *provided, however*, that before raising any assessment, the Board shall notify the person interested by letter deposited in the postoffice or express, post paid, and addressed to such person, at least three days before action taken, of the day fixed when the matter will be investigated. Any member of said Board shall have power to administer oaths and affirmations in the matters before said Board, and the sessions of said Board shall be held from time to time, as in its notice specified, for the period of two weeks, and no longer.

Sec. 9. Within three days after the Board of Equalization shall have completed their duties, the City Clerk must deliver to the Auditor the assessment roll so equalized,

Real and personal property.

Descriptions of property.

Abbreviations authorized.

Abstract of Mortgages.

Meetings of Board of Equalization.

Extension of
Assessment
Roll.

with all changes and corrections made by the Board of Equalization entered therein, and accompany the same with his affidavit, as provided in section three thousand six hundred and eighty-two of the Political Code of California, and said Auditor shall add up the columns of valuation, and enter the total valuation of each description of property in the roll, and the total value of all property assessed and listed thereon; and thus equalized and added up, the Auditor shall, on the first Monday of May thereafter, deliver to the Common Council. As soon as the Common Council have declared and levied the taxes, in any year, as in section two provided, the City Auditor shall carry out, in a separate money column in the list, the amount of taxes assessed against each individual, firm, company, corporation, or unknown owner, and add and put down the aggregate of all taxes as shown by the list; and as thus carried out, the Auditor shall certify to its correctness, and on or before the first Monday of June thereafter deliver it to the City Tax Collector, and shall charge him with the amount of taxes so footed up, and take his receipt therefor.

Delivery to
Tax
Collector.

Sec. 10. The annual tax levied as hereinbefore provided shall become due and payable on the first Monday in June of each year, and all persons paying such taxes before the first day of July, following, shall be entitled to a deduction of five per cent. upon the total tax paid by them; and all persons so paying said tax between the first days of July and August of each year, shall be entitled to a deduction of three per cent. upon the total tax paid; and all persons so paying said tax between the first days of August and September of each year, shall be entitled to a deduction of two per cent. upon the total tax paid; and all persons paying such tax between the first days of September and October of each year shall be entitled to a deduction of one per cent. upon the total tax paid; all persons paying such tax between the first day of October and the fourth Monday in November, shall pay the full tax as levied, and upon the fourth Monday, in each November, at six o'clock p. m., all unpaid taxes are delinquent, and the Tax Collector must then collect for the use of the city an addition of five per cent.

Taxes due.

Discounts.

When
delinquent.

Publication
of Tax
Notice.

Collection
of taxes.

Sec. 11. The Tax Collector, on receiving the assessment roll, certified by the Auditor, shall give notice by publication in the city official newspaper that city taxes are payable, when and where the same can be paid, and set forth in said notice the full wording of the preceding section relative to deductions, and also state when such taxes will become delinquent; said notice shall be published within three days after the receipt of said roll, and be published in each issue of said paper for the period of thirty days; and said Collector shall proceed at once to collect the taxes specified in said roll, allowing the deduction mentioned in

the preceding section, and pay the same over to the City Treasurer monthly, taking his receipt therefor.

Sec. 12. On the second Monday in December of each year the City Tax Collector must deliver to the City Auditor a complete delinquent list of all persons and property then owing taxes; and in the list so delivered must be set down in numerical or alphabetical order all matters and things contained in the assessment roll and relating to delinquent persons or property, and shall at the same time make a statement to said Auditor, under oath, showing—

Delinquent
taxes.

First—All moneys collected by him on account of property tax between the first Monday in June and the first day in July.

Second—All moneys so collected between July first and August first.

Third—All moneys so collected between August first and September first.

Fourth—All moneys so collected between September first and October first, and shall file with the Auditor the Treasurer's receipts for such moneys and take the Auditor's receipt therefor.

Sec. 13. The Auditor must carefully compare such delinquent list with the assessment roll, and if satisfied that it contains a full and true statement of all taxes due and unpaid, he must foot up the total amount of taxes so remaining unpaid, credit the Tax Collector therewith, and also credit the Collector with the reductions allowed taxpayers in section ten, as ascertained by and from the sworn statement of the Collector and Treasurer's receipts filed as provided in the preceding section, and make a final settlement with him of all taxes charged against him on the assessment roll.

Delinquent
list.

Sec. 14. After settlement with the Tax Collector, as prescribed in the preceding section, the Auditor must charge the Tax Collector with the amount of taxes due on the delinquent tax list, with the five per cent added thereto, and within three days thereafter deliver the list, duly certified, to such Tax Collector.

Sec. 15. On or before the first Monday in January of each year the Tax Collector must publish the delinquent list, which must contain the names of the persons and a description of the property delinquent, and the amount of taxes and costs due, opposite each name and description, with the taxes due on personal property, added to taxes on real estate where the real estate is liable therefor, or the several taxes are due from the same person. The said list must be appended, and with it published a notice that unless the taxes delinquent, together with the costs and percentage, are paid, the real property upon which such taxes are a lien, will be sold at public auction, and designating therein the time and place of such sale, which must take

Publication
by Tax
Collector.

art. VI. Chap. I

art. VI. Chap. I

place in or in front of the City Collector's office, and not less than twenty-three nor more than twenty-eight days from the first publication.

Copy of List to be filed with City Clerk.

Sec. 16. Said list must be published once a week for three consecutive weeks in the city official newspaper or supplement thereto, and when such publication is completed, and before commencing the sale, the Tax Collector must file with the City Clerk a copy of the publication, with his affidavit attached thereto, that it is a true copy of the same, that the publication was made in said newspaper, or a supplement thereto, stating its name and place of such publication, and the date of each appearance; such affidavit shall be prima facie evidence of all the facts therein stated.

Penalties and Costs.

Sec. 17. The Tax Collector must collect, in addition to the taxes due on the delinquent list, and five per centum added thereto, fifty cents on each lot, piece or tract of land, separately assessed, and on each assessment of personal property, which must go to the city.

Sale of property delinquent.

Sec. 18. On the day and hour fixed for the sale, all the property delinquent, upon which the taxes of all kinds, penalties, and costs have not been paid, shall, by operation of law and the declaration of the Tax Collector, be sold to the City of San Diego, and said Tax Collector shall make an entry "sold to the city" on the delinquent assessment list opposite the tax (and a duplicate certificate of sale shall be delivered to the City Auditor and filed by him in his office, and a like certificate shall be filed in the office of the City Clerk), and said Tax Collector shall be credited with the amount thereof in his settlement with the Auditor; provided, that on the day of sale the owner or person in possession of any property offered for sale for taxes due thereon, may pay the taxes, penalties, and costs due.

Entry.

Certificate.

The Tax Collector must make out in duplicate a certificate of delinquent tax sale for each piece or tract of land sold, dated on the day of sale, stating (when known) the name of the person assessed, a description of the land sold, that it was sold for delinquent taxes to the city, and giving the amount and year of the assessment, and specifying when the city will be entitled to a deed. A redemption of the property sold may be made by the owner or any person in interest within five years from the date of the sale to the city, or at any time prior to the entry or sale of said land by the city, in the manner provided by law for the redemption of property sold to the State for State and county taxes, at the time such redemption is made; provided, that the estimate for such redemption must be made by the City Auditor instead of the County Auditor, and the receipt for money paid for such redemption must be given by the City Treasurer instead of the County Treasurer, and upon the production of such receipt and estimate, the

Tax Collector's credit. Owner's rights.

Duplicate Certificates.

Contents of.

How redeemed.

Estimate by Auditor. Clerk's duties.

City Clerk shall write upon the proper certificate as filed in his office the word "Redeemed," giving the date, and by whom redeemed. The Auditor's fee for such estimate shall be two dollars, paid in advance, but the City Clerk shall receive no fee for marking the certificate redeemed. The Auditor's fee, as herein provided, as well as the amount to redeem, shall be paid to the Treasurer by the person redeeming, and such fee shall be apportioned to the salary fund of the city. If the property is not redeemed within five years from the date of the sale thereof to the city, the Tax Collector of said city, or his successor in office, must make to the city a deed to the property, reciting in the deed substantially the matters contained in the certificate, and that no person has redeemed the property during the time allowed for its redemption.

Fees.

Apportionment.

Deed on failure to redeem.

(Sections 19, 20, 21, 22, 23, 24, 25, 26 and 27 of Chapter I of Article 6 repealed, January 27, 1905.)

Sec. 28. The matters required by section twenty-one to be recited in the certificate of sale must be substantially recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that,

What deed must show.

First—The property was assessed as required by law.
Second—The property was equalized as required by law.

Third—The taxes were levied in accordance with law.
Fourth—The taxes were not paid.

Fifth—At a proper time and place the property was sold, as prescribed by law, and by the proper officer.

Sixth—The property was not redeemed.
Seventh—The person who executed the deed was the proper officer.

Eighth—Where the real estate was sold to pay taxes on personal property, that the real estate belonged to the person liable to pay the tax.

Sec. 29. Such deed duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all other proceedings, from the assessment by the Assessor, inclusive, up to the execution of the deed, and conveys to the grantee the absolute title to the lands described therein, free from all encumbrances.

Sec. 30. The assessment roll, or delinquent list, or a copy thereof certified by the City Auditor, showing unpaid taxes against any person or property, is prima facie evidence of the assessment, the property assessed, the delinquency, the amount due and unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with.

Evidence of Assessment.

Sec. 31. On the third Monday in March, in each year, the Tax Collector must attend the office of the Auditor with the delinquent list, and the Auditor must then carefully compare the list with the assessment of persons and property

Final settlement between Tax Collector and Auditor.

CHARTER OF THE CITY OF SAN DIEGO

not marked "Paid" on the assessment roll, and when taxes have been paid, must note the fact in the appropriate column in the assessment roll. The Auditor must then administer to the Tax Collector an oath, to be written and subscribed in the delinquent list, that every person and all property assessed in the delinquent list on which taxes have been paid, either by sale for taxes, or otherwise, has been credited in the list with such payment. The Auditor must then foot up the amount of taxes remaining unpaid, and credit the Tax Collector with the amount, together with the five per cent. thereon, and have a final settlement with him; and the delinquent list must remain on file in the Auditor's office.

Sec. 32. The Common Council is hereby authorized and empowered to adopt an ordinance authorizing the City of San Diego to avail itself of the provisions of any act of the legislature of the State of California, now existing, or which may hereafter be enacted, whereby the duties of the City Assessor, the City Tax Collector and the City Treasurer of said city, or any or either of them, are authorized to be performed by the County Assessor, County Tax Collector or the County Treasurer of the County of San Diego, and to provide in such ordinance that the duties of the City Assessor may be performed by the County Assessor and that the duties of the City Tax Collector may be performed by the County Tax Collector, and the duties of the City Treasurer may be performed by the County Treasurer of the said County of San Diego, State of California, and upon the taking effect of such ordinance, the offices of City Assessor, City Tax Collector and City Treasurer, or either of them, shall cease to exist and said offices, or either of them, may be declared to be abolished.

The Common Council shall have the power to provide by such ordinance a system for the assessment, levy and collection of all taxes of said city not inconsistent with the provisions of this section or the laws of the State of California, in reference to the assessment, levy and collection of the State and County Taxes, to the end that the duties of the Assessor of said city may be performed by the Assessor of said county, and the duties of the Tax Collector of said city may be performed by the Tax Collector of said county, and the duties of the City Treasurer may be performed by the County Treasurer of said county in manner and form as is now, or may hereafter be provided by the general laws of the State of California.

And the said Common Council is hereby authorized and empowered by such ordinance to change the fiscal year of said City of San Diego from the first day of January to such other time as the said Common Council shall elect, and the said Common Council shall have power to provide by taxation for sufficient revenue to meet and carry on the necessary expenses of the different departments of the municipal

Consolidation of County and City Offices.

CHARTER OF THE CITY OF SAN DIEGO

government of said city for the period of time from the end of the fiscal year as it stands before such change was made to the beginning of the new fiscal year as changed by such ordinance.

And the said Common Council is hereby authorized and empowered by such ordinance to make all such provisions as said Common Council may deem necessary to carry into effect the provisions of this section according to its true intent and meaning for the purpose of consolidating the offices of City Assessor, City Tax Collector and City Treasurer, or of either of them, with the offices of County Assessor, County Tax Collector and County Treasurer, respectively, and to have said county officers perform the duties heretofore performed by said city officers.

CHAPTER II.—OF FINANCIAL ADMINISTRATION.

Section 1. There is hereby created an Auditing Committee, which shall consist of the Mayor, President of the Board of Aldermen, President of the Board of Delegates, City Attorney and Auditor. The Mayor shall be Chairman of this Committee, the Auditor shall be Secretary of the same, but in the absence of either at meetings of the committee, a temporary Chairman and Secretary can be chosen by the committee to act. The Auditing Committee shall hold stated meetings once in each month, and can adjourn from time to time. It shall be the duty of this committee to examine, allow, and order paid, or reject and disallow all claims, demands, and bills of whatever nature (except monthly salaries of city officers, as fixed by this charter), which may be presented against the city, and the Auditor shall not draw a warrant for any bill unless the same has been approved by a majority of the whole Auditing Committee. Three members of this committee shall constitute a quorum for the transaction of business, but a less number can meet and adjourn from time to time.

Sec. 2. All demands, bills, and claims which may arise against the city, including the payroll of all employees of the city, whether under regular monthly salary or not (except salaries of city officers fixed by this charter), shall be duly verified as hereinafter provided, and be filed with the Secretary of the Auditing Committee, who shall file and number the same in the order of presentation, and refer the same to the Auditing Committee for action, whose duty it shall be to allow or reject the same, in whole or in part, and if allowed, designate the particular fund from which they are to be paid, and endorse upon the back of each bill the date of its allowance or rejection, the amount allowed for, and also the section of the charter, number of ordinance, number of contract, resolution, or order under which the said bill or demand was authorized or contracted for. These endorsements to be verified by the signatures of the Chair-

Duties of Auditing Committee.

Meetings.

Quorum.

Demands to be Verified.

Secretary of Auditing Committee.

Restrictions of Allowances.

man and Secretary of the Committee. No demand upon the treasury shall be allowed by the Auditing Committee in favor of any officer or other person, or any of their assigns, who is in any manner indebted to the city, without first deducting therefrom the amount of such indebtedness, or in favor of any officer or other person, or his assigns, having the collection, care, custody, or control of public funds, unless accounts of such officer or other person have been passed, approved and allowed as is or may be required by law; nor in favor of any officer or other person or his assigns who has neglected to make any oath required by law, ordinance, or other regulation of the Common Council; nor in favor of any officer, or his assigns, who has failed, to the knowledge of the Auditing Committee, to do any duty imposed upon him by law, or ordinance, or other regulation of the Common Council.

Sec. 3. All demands, bills and claims against said city shall be made out in the following form and subscribed and sworn to before the Auditor, or some other officer authorized to administer oaths, to-wit:
City of San Diego,

Claims,
Form of.

TO _____ Dr.

Assigned to _____

	Dollars.	Cts.
To sundries as per items attached.....		

State of California, }
County of San Diego, } ss.
City of San Diego. }

_____ being duly sworn, says: That the foregoing account is a correct, legal, and true claim against said city for the full amount for which the same is presented, and the items therein contained were furnished to said city; that the said amount, accrued as set forth therein, is due, and no part of the same has been paid.

Subscribed and sworn to before me, this _____ day of _____, 18____, Auditor.
_____, Deputy.

Claims
Itemized.

Which bill must be accompanied by a detailed statement of items, which shall be attached thereto and made a part thereof.

Records of
Committee.

Sec. 4. The Secretary of the Auditing Committee shall attend all meetings of said committee and keep a correct record and journal of the proceedings of the committee.

Apportionment of
Moneys.

Sec. 5. The Auditor, in addition to all other duties imposed upon him, shall apportion all moneys paid into the treasury of the city, in accordance with the annual tax levy and ordinances of the city imposing and apportioning license taxes, fines, etc., and draw all warrants upon the treasury

ury for salaries as fixed by the charter, and for all demands and bills as allowed and ordered paid by the Auditing Committee. He shall keep a cash book, which shall show at all times the amount of moneys received into the treasury, by whom paid in, and on what account, and show all moneys paid out, giving number and date of warrant paid, and show the balance of cash in the treasury. He shall keep in ledger form a just and correct account with the various funds of the city, and shall, on or before the tenth day of each month, submit to the Common Council by filing with the City Clerk an abstract of his accounts with said funds for the preceding month, which shall show the numbers and dates of warrants drawn upon said funds, the amounts thereof, the names of the parties receiving the same, and whether for labor or material furnished, the balances of cash in each fund, and shall show the amount of moneys received into and paid out of the treasury during said month, which abstract and statement must be subscribed and sworn to by said Auditor. The Auditor shall also keep a registry of all bills, claims, and demands which are filed with him as Secretary of the Auditing Committee, which shall be in the following form:

Warrants.

Record
Books.

Reports to
Council.

REGISTER OF BILLS PRESENTED

Date Presented..	No. of Bill.....	Name Assigned to	Amount.....	Date Allowed....	No. of Warrant..	Fund Drawn upon	Date Rejected....	Remarks.....
.....

The Auditor shall also keep a warrant book, from which all warrants must be issued, said book to contain stubs to all warrants issued, giving the number, date, amount, to whom, upon what fund, and for what said warrants are drawn, and said warrants shall be numbered, commencing with each fiscal year, from "one" up.

Warrant
Book.

Sec. 6. The Auditor shall issue all licenses to the Tax Collector, and for that purpose shall keep license books from which to issue such licenses, said book to contain stubs to all licenses issued, which shall show the number of each license issued and the amount, and he shall charge such Collector with the licenses so issued; and shall monthly, have a settlement with the Tax Collector on account of same,

Licenses.

giving said Collector credit for all licenses unsold and returned, and for moneys paid into the Treasury on account of licenses sold.

Auditor's
Liability.

Sec. 7. The Auditor and his bondsmen shall be jointly, severally, and personally responsible and liable for any damage resulting to the city on account of any illegal or fraudulent claim for which a warrant may be issued.

City
Treasurer's
Duties.

Sec. 8. The City Treasurer shall, in addition to all other duties imposed upon him, keep like cash and book accounts, and ledger accounts as required to be kept by the Auditor, and shall make reports to the Common Council on the tenth days of March and September, in each year, of all moneys received into and paid out of the various funds of the city. The Treasurer shall, on the first Monday of August, December, and April of each year, transmit to the Auditor a full statement under oath showing the full amount of taxes, per centage, interest, and costs received by him on account of redemption of property sold to the city on account of taxes, and also show the amount of Auditor's fees on account of same which he has received. The Auditor, upon receiving such statement, shall forthwith apportion said amounts to the various funds in accordance with the tax levy of the then fiscal year, except the Auditor's fees, which shall be apportioned to the Salary Fund, and also excepting the percentage and costs, which shall be apportioned to the General Fund, and a statement of this apportionment shall be filed with the Treasurer, and the Treasurer shall forthwith cover said moneys into the Treasury, and receipt to the Auditor for the same. The Treasurer shall keep a book in which he shall enter all warrants paid by him, showing the numbers and amounts; this book shall be known as the "Paid Warrant's Book." On the first day of each month the Treasurer shall turn over to the Auditor all warrants paid by him during the preceding month; the Auditor and Treasurer shall carefully compare the warrants so turned over with the entries upon the "Paid Warrant's Book," and if satisfied that the same are correct as entered in said book, the Auditor shall receipt to the Treasurer for said paid warrants by writing his receipt therefor in said book immediately following the month's entry of such warrants. Upon payment of any warrant the Treasurer shall cancel the same by stamping upon its face the word "Paid" in bold capital letters, followed by date of payment. The Treasurer shall issue receipts in duplicate to all persons paying money into the Treasury, one of which receipts must forthwith be filed with the Auditor.

Reports.

Statement in
re Redemp-
tions.

Record
books.

Sec. 9. The following funds are hereby established:

Funds.

1. "Fire Department Fund," upon which all warrants must be drawn for Fire Department supplies and expenses whatsoever.

2. "Salary Fund," from which all salaries of city officers and their deputies, including regular policemen, must be paid.

3. "Police Department Fund," from which must be paid all expenses of the Police Department, except salaries of regular policemen.

4. "Street Fund," from which must be paid all expenses for street repairs, street sprinkling and cleaning, highway and bridge repairs, and all other street improvements not otherwise provided for in this charter.

5. "Harbor and Wharf Fund," from which must be paid all expenses for wharf building and repairs, and for all harbor improvements.

6. "Sewer and Drainage Fund," from which all expenses for sewer and drainage construction and repairs must be paid.

7. "School Fund," from which must be paid all salaries of teachers in the city public schools, and all expenses of such schools, together with all expenses of repairs to school buildings, school furniture, and other necessary expenditures by the Board of Education, including the erection of school buildings and purchase of sites therefor.

8. "Street Light Fund," from which must be paid all sums for lighting the city by electric light, gas, etc.

9. "Park Improvement Fund," from which must be paid all expenses for park and boulevard improvements, such as construction and building of drives, boulevards, and planting of trees, and other improvements.

10. "Public Health Fund," from which must be paid all expenses of the Health Department, including scavengers, and all expenses of disposing of garbage, etc.

11. "Library Fund," from which must be paid all expenditures made and ordered by the Board of Library Trustees and the San Diego Public Library.

12. "Public Building Fund," from which all expenditures for public buildings of the city (other than school buildings) must be paid.

13. "Office Fund," from which all expenditures for furniture, fuel, stationery, books, etc., furnished to the city officers and departments must be paid.

14. "General Fund," from which must be paid appropriations and general expenses not payable from other funds.

15. "Special Election Fund," from which shall be paid the expenses of all special elections. Transfers of money from the General Fund to the Special Election Fund shall be made at such times and in such amounts so that there shall stand at all times to the credit of the Special Election Fund moneys sufficient to defray the expense of at least two special elections.

Special
Election
Fund.

The Common Council may from time to time establish such other Funds as they may deem necessary, and shall establish and continue in force all Interest Funds, Bond Funds, Bond Redemption Funds, and other funds now or hereafter established for the payment for all interest upon, and the payment of all bonded indebtedness of said city; and the percentage of each annual tax levy shall be named for each fund, and the whole amount of taxes and revenue of the city apportioned to said several funds accordingly; and no transfer shall be made from one fund to another except as otherwise provided in this charter, unless by vote of the Common Council, by ayes and noes, recorded in the journals of proceedings; and in no case shall any moneys be transferred from the School Fund or Library Fund to any other fund. The Common Council shall by ordinance determine and designate to what funds shall be apportioned all moneys arising from the levy of all license taxes in the city; *provided*, that none of such moneys shall be apportioned to either the School Fund, Library Fund, or to any of the Bond Funds, Interest Funds, or Bond Redemption Funds of the city.

Transfers.

Apportionment of License Tax Moneys.

Apportionment of fines.

Collection of Money.

Indebtedness, Restrictions on.

Sec. 10. All moneys arising from fines imposed and collected under the city ordinances, shall be apportioned and paid into the following funds of the city: One-half thereof to the Police Department Fund and the other half into the Street Fund.

Sec. 11. All officers of the city who collect moneys on account of taxes, licenses, fines, and from other sources which belong to the city, except moneys collected by the Treasurer on account of redemption of property sold to the city for taxes, must make monthly settlements therefor on or before the first Monday in each month, and to that end, shall make a statement to the Auditor, subscribed and sworn to before him, showing from what sources the same are collected and the total amount collected, and forthwith pay said amount to the Treasurer and take his receipt therefor, in duplicate, one of which receipts must be filed with the Auditor. The Auditor, upon filing the Treasurer's receipt, must forthwith apportion the money so paid in to the several funds to which it belongs, and file with the Treasurer his statement of such apportionment.

Sec. 12. The Common Council must not for any purpose contract debts or liabilities, except in pursuance of law, nor shall such indebtedness or liabilities exceed, in any fiscal year, the income and revenue provided for such year, without the assent of two-thirds of the qualified electors of the said city, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness, provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness, as it falls due, and also to constitute a sinking fund

for the payment of the principal thereof on or before maturity, which shall not exceed forty years from the time of contracting the same, and proceed in accordance with the general law of the State of California, in force at the time proceedings are taken for the incurring of such indebtedness, providing how bonded debts may be created. Any indebtedness or liability incurred contrary to this provision shall be void; and all contracts, authorizations, allowances, payments, and liabilities to pay, made or attempted to be made in violation of this provision shall be absolutely void, and shall never be the foundation or basis of a claim against the treasury of said city; and all officers of said city are charged with notice of the condition of the city treasury, and extent of the claims against the same.

Bonded Indebtedness.

(Stats. 1901, p. 880.)

Sec. 13. Whenever the Common Council shall determine that the public interest or necessity demands the acquisition, construction, or completion of any municipal buildings, bridges, sewers, water works, water rights, reservoir sites, rights of way for pipes, aqueducts, flumes or other conduits, or any other property or appliances suitable or proper for supplying said city or its inhabitants with water, or other municipal improvements, the cost of which will be too great to be paid out of the ordinary annual income and revenue of said city, the said Common Council may contract bonded indebtedness for said purposes, or any of them, and the proceedings taken for incurring such indebtedness shall be in accordance with the mode and manner prescribed by the provisions of the general laws of the State of California, relative to incurring bonded indebtedness by municipalities, in force at the time such proceedings are taken. Said Common Council may also contract bonded indebtedness for any other purpose authorized by this charter or the general law of the State of California; *provided*, that the proceedings taken therefor shall be in accordance with the provisions of the general law in force at the time such proceedings are taken.

Bonds for Municipal Improvements.

Proceedings to Issue Bonds.

(Stats. 1901, p. 880.)

Sec. 14. The Auditing Committee, or a special committee appointed by the Common Council for that purpose, shall have the right and power, separately or collectively, and with the aid of an accountant selected by the Mayor, to examine the books of the Treasurer at any and all times, and shall have the right to inspect and count all public moneys under the Treasurer's control or on deposit elsewhere.

Auditing Committee may examine Treasurer's books.

Sec. 15. Whenever it shall be determined by the legislative body of said city that the public interest of said city demands the acquisition, construction, or completion

Art. VII

Special Tax for Municipal Improvements.

Question to be submitted to electors.

Two-thirds vote necessary.

Ordinance calling a special election.

Tax levy to include special tax resulting from bond issue.

Balance Transfer of.

School system.

of any municipal improvement, including bridges, water works, water rights, sewers, light or power works or plants, buildings for municipal use, fire apparatus, and street work, or other work, property, or structures necessary or convenient to carry out the purposes, objects, and powers of the city, the cost of which will be too great to be paid out of the revenues of the city, to be levied during the fiscal year or years during which said improvement is proposed to be made, a special tax not to exceed the sum of twenty cents on each one hundred dollars may be levied on the property assessed for the purpose of taxation within said city, which said rate of taxation may be in addition to the annual rate of taxation allowed by law to be levied thereon. Before said tax shall be levied by the said legislative body of said city, the question of the levy of such tax shall be submitted to the voters of said city at any general or special municipal election, or at a special election to be held for that purpose, and if two-thirds of the votes cast for the proposition of levying such tax shall be in favor of the levy thereof, then the levy shall be made, otherwise the taxes shall not be levied. Upon the ballots used at such election the proposition to be voted shall be stated in appropriate words, and the same arranged so that the voter may indicate his choice upon the proposition. If a special election is held, the same shall be held as are other elections within the city. At least two weeks before such election is held, the said legislative body of said city shall adopt an ordinance calling and providing for the same wherein it shall be stated:

First—The nature of the proposed improvement for the cost of which the special tax shall be levied.

Second—The total amount of money to be raised for such improvement.

Third—The rate of taxation to be levied.

At the time fixed by law for the levying of taxes within said city, the legislative body thereof shall include the special tax herein provided for, which shall be the rate specified in the ordinance calling said election. Nor shall it be levied for a longer period of years than shall be sufficient to raise the amount of money specified in said ordinance. The proceeds for such special tax shall be set apart in a special fund, and shall only be expended for the purpose of making the improvements stated in said ordinance; *provided*, any balance left, after such improvement shall have been fully completed and paid for, shall be transferred to the general fund of said city.

ARTICLE VII.

EDUCATIONAL DEPARTMENT OF THE BOARD OF EDUCATION.

Section 1. The school system of the City of San Diego shall include primary, grammar, and high schools, and such

Art. VIII

evening schools, technical schools, and parental schools as now are established, or may hereafter be established by the Board of Education of said city in the San Diego School District under the General School Laws of the State of California. The boundaries of said San Diego School District shall be those now established or that may hereafter be established by and under the General School Laws of the State of California.

Sec. 2. The government of the San Diego School District shall be vested in a Board of Education, composed of five persons, who shall be elected by the electors of the City of San Diego, at large, at the same time and in the same manner as other municipal officers, and each of whom shall have been for two years a resident of said city, who shall be styled member of the Board of Education. They shall serve four years, or until their successors are elected and qualified.

Except that at the organization of the first Board of Education, elected after the adoption of this provision, the members thereof shall, by lot, determine that two of its members shall hold office for a term of two years. Any vacancy in the body shall be filled by the Board until the next general City Election for municipal officers, when a member shall be elected to fill the unexpired term.

Sec. 3. The duties and powers of the Board of Education shall be such as are now, or may hereafter be enjoined and conferred on Boards of Education in City and School Districts by the laws of the State of California.

Sec. 4. The members of the board of education shall each receive as compensation the sum of six hundred dollars (\$600.00) per annum, in monthly installments.

ARTICLE VIII.—SAN DIEGO PUBLIC LIBRARY.

The public library and reading room shall be governed and controlled by a Board of three Trustees, who shall be appointed by the Mayor from among the qualified electors of said city, subject to the approval of the Board of Delegates, and they shall hold office for four years; *provided*, that the terms of the Trustees first appointed shall commence on the first Monday in May, 1905.

Immediately upon their appointment they shall elect a President from among their number and so classify themselves that one of their number shall go out of office in two years, one in three years, and one in four years.

The Common Council of said city shall make an annual tax levy sufficient to raise at least six thousand dollars for the purpose of supporting and maintaining said public library.

In all other particulars said library and reading room shall be governed and controlled by the provisions of the

Boundaries.

Board of Education, How elected.

Qualifications.

Term.

Organization.

Duties and powers.

Salary.

Library Board.

Term of office.

Tax Levy.

Library, how governed.

Act of the Legislature of the State of California, entitled, "An Act to establish free public libraries and reading rooms," approved April 28th, 1880; and the powers and duties of said Board of Trustees shall be as in said Act prescribed.

ARTICLE IX.

(Chapters 1 and 2 of Article IX repealed. January 26, 1909.)

CHAPTER III.—OF THE BOARD OF HEALTH.

Board of Health.

Section 1. There shall be established by ordinance a Board of five persons, three at least of whom shall be practising physicians, and graduates of some reputable school of medicine. The members of this Board shall serve without pay, and their term of office shall be four years, except that at the organization of the first Board of Health appointed after the adoption of this provision, the members thereof shall, by lot, determine that two of its members shall hold office for a term of two years.

Term of office.

(No Sec. 2)

Sec. 3. The Board shall elect one of their number President, who shall hold office for one year. The Health Officer's clerk or assistant shall act as Secretary of said Board.

President and Secretary.

Health Office.

Sec. 4. The Common Council shall provide a suitable office for said Board of Health, to be known as the "Health Office," in which the meetings of the Board shall be held at least once a month, or whenever requested by the President, or three of its members.

Health Officer and other Employees.

Sec. 5. Said Board shall appoint and remove at pleasure a Health Officer, and such other subordinate officers as from time to time may be deemed necessary by the Common Council. The Health Officer shall act as City Physician when required by the Board. He shall be the executive officer of the Board, and see that all ordinances relating to the sanitary affairs of the city, and the rules and regulations of the Board, are enforced.

Fix salary.

Sec. 6. The Board shall fix the salary of the Health Officer and other employees, subject to the approval of the Common Council.

Duties of Health Officer.

Sec. 7. The Health Officer shall visit the public institutions of the city and the public schools once in each quarter, investigate the sanitary conditions of the same, and make quarterly reports of such examinations to the Board of Health. He shall also make to the Board for publication, an annual report of the affairs of his office, including mortuary and other sanitary statistics. He shall also furnish for publication a monthly report of the mortuary and other sanitary statistics of the city.

Sec. 8. Whenever the Health Officer shall certify to the Board of Health that any building, or part thereof, is

from any cause unfit for human habitation, said Board may issue an order, to be affixed conspicuously on the building, and where practicable to be served on the owner, agent, or lessee, requiring all persons to vacate such building or apartment at and until such time as the Board may determine.

Condemned Structures.

Sec. 9. Whenever a case of smallpox, yellow fever, Asiatic cholera, or other infectious disease is reported to the Health Officer, he shall immediately visit the premises where the person is, and forthwith cause to be displayed a quarantine flag in a conspicuous place on said premises, and post upon the doorway a placard, setting forth the fact that infectious disease exists therein.

Contagious Diseases.

Sec. 10. The Health Officer shall immediately report to the City School Superintendent and Superintendent of Public Library the names and residence of every person sick of the diseases in section nine enumerated, or any other contagious or infectious disease he may deem dangerous to the public health.

Reports to School and Library Authorities.

Sec. 11. It shall be the duty of the City School Superintendent, and Superintendent of the Public Library, when so notified, to refuse admittance to the public schools or library to any member of a household in which any of the aforesaid diseases are found, until advised by the Health Officer that there is no longer any danger from contagion.

Their duties.

Sec. 12. Every physician in the city shall immediately report to the Health Officer, in writing, every patient he shall have sick of typhus, ship or yellow fever, Asiatic cholera, smallpox, diphtheria or scarlatina and shall report every death occurring from such diseases immediately; also, every householder in said city shall forthwith report to the Health Office the name of every inmate of his or her house whom he or she shall have reason to believe to be sick of typhus, ship or yellow fever, cholera, smallpox, diphtheria, or scarlatina, and any death from such diseases occurring at his or her house.

Duties of Physicians.

Sec. 13. The Health Officer shall keep a record of all births, deaths, interments, and cremations occurring in said city.

Records to be kept.

Sec. 14. All physicians and midwives in said city shall report to the Health Officer on or before the fourth day of each month, all births and deaths occurring in his or her practice during the previous month; a failure to make such report shall be deemed a misdemeanor.

Births and deaths to be reported.

Sec. 15. The Board of Health may locate, establish, and maintain pest houses, and discontinue and remove the same whenever and wherever necessary for the preservation of the public health. Said Board may appoint and remove at pleasure such physicians and nurses (whose compensation shall be fixed by the Common Council by ordinance) for said pest houses as may be necessary to maintain

Pest House.

the efficiency of the same; and may cause to be removed thereto and kept therein any person affected with any contagious or infectious disease.

Removal of Sick.

Sec. 16. No person shall remove a patient affected with any contagious or infectious disease from any house or place, within the city limits, to any other house or place, without the written permission of the Health Officer.

Market Inspector.

Sec. 17. The Board may, whenever they deem it necessary, appoint and remove at pleasure a Market Inspector, and such other inspectors as may be necessary for the preservation of the public health, whose compensation shall be fixed by the Common Council.

CHAPTER IV.—OF QUARANTINE.

Quarantine.

Section 1. The Board of Health may proclaim such quarantines and establish and declare such quarantine districts and stations as may in their judgment be necessary for the preservation of the public health, and may appoint and remove at pleasure a Quarantine Officer.

Port of San Diego.

Sec. 2. All vessels arriving off the Port of San Diego from ports which have been legally declared infected ports, and all vessels arriving from where there is prevailing, at the time of departure, any contagious, infectious, or pestilential disease, are subject to quarantine, and must be by the master, owner, pilot, or consignee reported to the Quarantine Officer without delay. No such vessel must cross a line drawn as prescribed by the Board of Health until the Quarantine Officer has boarded the same and given the order required by law.

Powers of Board of Health.

Sec. 3. The Board of Health shall make rules and regulations relating to the disposition of the sick and deceased arriving on any ship or vessel, and also for the recovery of all expenses and charges incurred in their treatment or burial.

As to Trains and Depots.

Sec. 4. The Board may, when deemed necessary, require all railroad cars or other public conveyances, before the same shall stop at any depot or station in the city, to stop at any location selected and established for quarantine purposes, and to leave all such persons, with their stores and baggage as in the opinion of the Health Officer shall be deemed proper, on account of the existence, or general report, of contagious and infectious diseases.

Rules to be strictly enforced.

Sec. 5. The Board of Health shall make such rules and regulations for the government of the quarantine or the health of the city as from time to time the public health may require, and the physicians or health officers in charge of any quarantine station or place shall have power to enforce such regulations as may be necessary for the proper management thereof, and it shall be the duty of all persons in quarantine, and all agents, officers, policemen, or others employed by the

city in and about said quarantine station or places to carry out and obey the same.

Disinterments.

Sec. 6. It shall be unlawful to disinter or exhume from a grave, vault, cemetery, or other burial place within the city limits, or to deposit therein the body of any deceased person, without having first caused to be filed at the Health Office a certificate signed by a legally qualified physician or Coroner, setting forth as nearly as possible the name, age, sex, color, place of birth, occupation, date, locality, and cause of death of such decedent, and obtained from the Health Officer a written permit for burial or other purposes.

Death and Burial records.

Sec. 7. The Health Officer shall prepare a book of blank permits in proper form, containing stubs, on which, as well as in the permit, shall be entered a record giving the name, age, sex, nativity, social condition, cause of death, place of burial, and destination of remains to be transported or removed.

Sec. 8. The Common Council must, by ordinance or otherwise, provide for the enforcement of such orders and regulations as the Board of Health may adopt and the Council approve, providing, also, for all expenses incurred in carrying out the suggestions of the Board. In addition to the powers in this article enumerated, the Health Officer and members of the Board of Health may administer oaths on business connected with the department, and shall have such other powers and authority as may be prescribed by ordinance of the Common Council, or by general laws.

Enforcing orders of Health Board.

ARTICLE X.

MISCELLANEOUS PROVISIONS.

Section 1. Every officer shall hold his office, unless suspended or removed, until the expiration of the term for which he was elected or appointed, and until his successor is elected or appointed, and qualified; and where no other period is prescribed, the term of such officer shall not exceed two years. An officer shall be deemed to have "qualified" when he has taken the oath of office and filed the same, together with his official bond, if a bond is required, as herein provided.

Tenure of Office.

Qualification.

Sec. 2. Every officer, deputy and clerk, except where otherwise provided in this charter or by ordinance, must have been, at the time of his election or appointment, both an elector of the city, and an actual resident therein for one year next preceding his election or appointment.

Clerks and Deputies.

Sec. 3. No member of either Board of the Common Council, and no officer or employee of the city shall be or become, directly or indirectly, interested in, or in the performance of any contract, work, or business with or for the city; or in the purchase or lease of any real estate, or other property, belonging to or taken by said city, or which shall

Prohibitions as to contracts, etc.

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be sold for taxes or assessments, or by virtue of legal process at the suit of said city. If any persons in this section designated shall, during the time for which he was elected or appointed, acquire an interest in any contract with, or work done for said city, or any department or office thereof, or in any franchise, right, or privilege granted by said city, unless the same shall be devolved upon him by law, he shall forfeit his office, and be forever after debarred and disqualified from being elected, appointed, or employed in the service of said city; and all such contracts shall be void, and shall not be enforceable against said city.

Gratuities to procure an office prohibited.

Sec. 4. No officer or employee of said city shall give, or promise to give, to any other person, any portion of his compensation, or any money, or valuable thing, in consideration of having been, or of being nominated, appointed, voted for, or elected to any office or employment; and if any such promise or gift be made, the person making such gift or promise shall forfeit his office and employment, and be forever debarred and disqualified from being elected, appointed, or employed in the service of said city.

Sec. 5. Any officer of said city who shall, while in office, accept any donation or gratuity in money or other valuable thing, either directly or indirectly, from any subordinate or employee, or from any candidate or applicant for any position as employee or subordinate under him, shall forfeit his office.

Offices, when vacant.

Sec. 6. An office becomes vacant when the incumbent thereof dies, resigns, is adjudged insane, convicted of felony, or of an offense involving a violation of his official duties, or is removed from office, or ceases to be a resident of said city, or neglects to qualify within the time prescribed by law, or within twenty days after his election or appointment, or shall have been absent from the State without leave for more than thirty consecutive days. The Common Council must not grant leave of absence to any officer (except for the purpose of attending to official business), for a longer time than thirty days.

Filling Vacancies.

Sec. 7. When a vacancy occurs in any office, and provision is not otherwise made in this charter or by law for filling the same, the Mayor shall appoint a suitable person to fill said vacancy, who shall hold office for the remainder of the unexpired term; provided, that in case of a vacancy in either Board of the Common Council, it shall be filled by such Board until the next general city election.

Administering Oaths.

Sec. 8. Every officer authorized by law or ordinance to allow, audit, or certify demands upon the treasury, or to make an official investigation, shall have power to administer oaths and affirmations, and take and hear testimony concerning any matter or thing relating thereto.

Sec. 9. Every officer who shall approve, allow or pay any demand on the treasury not authorized by law, ordi-

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nance, or this charter, shall be liable to the city individually, and on his official bond, for the amount of the demand so illegally approved, allowed or paid.

Illegal claims.

Sec. 10. All books and records of every office and department shall be open to the inspection of any citizen at any time during business hours. Copies or extracts from said books and records, duly certified, shall be given by the officer having the same in custody to any person demanding the same, and paying or tendering ten cents per folio of one hundred words for such copies or extracts.

Inspection of Books.

Certified copies of records.

Sec. 11. The Treasurer shall keep his office open for business every day, except legal holidays, from nine o'clock in the forenoon until four o'clock in the afternoon. Except where otherwise provided for by law or this charter, all other public offices shall be kept open for business every day, except legal holidays, from half past eight o'clock in the forenoon until five o'clock in the afternoon.

Office Hours.

Sec. 12. In the month of January of each year the several Boards, officers, and other heads of departments shall report to the Mayor the condition of their respective offices and departments during the preceding fiscal year, embracing all their operations, receipts, and expenditures; and the Mayor shall embody such reports, or the substance of them, in an annual communication to the Common Council.

Report upon condition of offices.

Sec. 13. Except as otherwise provided in this charter, all moneys, assessments, and taxes belonging to or collected for the use of the city, coming into the hands of any officer of the city, shall immediately be deposited with the Treasurer for the benefit of the funds to which they respectively belong. If such officer for twenty-four hours after receiving the same, shall delay or neglect to make such deposit, he shall be deemed guilty of misconduct in office, and may be suspended or removed.

Depositing moneys.

Sec. 14. When any officer, Board, or department provided for in this charter shall require additional deputies, clerks, or employees, application shall be made to the Mayor therefor, and upon such application it shall be the duty of the Mayor to make investigation as to the necessity for such additional assistance, and if he find the same necessary, he may recommend to the Common Council to authorize the appointment of such additional assistance; and thereupon the Common Council, by an affirmative vote of two-thirds of all the members of each Board, may authorize such appointment and provide for the compensation of such appointee, subject to the limitations of this charter.

Additional Deputies and Clerks.

Sec. 15. No privilege shall be granted that suspends or violates any ordinance, except by the affirmative vote of two-thirds of all the members of each Board.

Suspension of ordinances.

Removal of
Clerks, etc.

Sec. 16. Unless otherwise provided by law or this charter, any officer, Board, or department authorized to appoint any deputy, clerk, assistant, or employee, shall have the right to remove any person so appointed.

Appoint-
ments to be
in writing.

Sec. 17. All appointments of officers, deputies, and clerks to be made under any provision of this charter must be made in writing and in duplicate, authenticated by the person or persons, Board or officer making the same. One of said duplicates must be filed with the City Clerk, the other with the Auditor.

Classifica-
tion of
Board
members.

Sec. 18. Wherever it is provided in this charter that the members of any Board, Department, or Commission shall so classify themselves by lot that their terms of office shall expire at different times, such members shall, on the day of making such classification, cause the same to be entered in the records of their proceedings, and a copy thereof, certified by the Secretary thereof and signed by all of said members, shall be filed with the City Clerk.

Old
franchises
forfeited.

Sec. 19. All franchises and privileges heretofore granted by said city, which are not in actual use or enjoyment, or which the grantees thereof have not in good faith commenced to exercise, are hereby declared forfeited and of no validity unless said grantees or their assigns shall within three months after this charter takes effect, in good faith commence the exercise and enjoyment of such privilege and franchise.

Sec. 20. All ordinances or resolutions for the improvement of any street, for which no contract shall have been entered into at the time this charter goes into effect, are hereby repealed.

Subdivisions.

Sec. 21. All maps of tracts of land subdivided into blocks and lots with streets, by any owner of said lands, shall be submitted to the Board of Public Works, and in case such subdivision shall be found by said Board to conform to the surrounding surveys the said map shall be adopted by the Common Council, and said subdivision allowed; but no subdivision of any such tract shall be permitted that does not conform to the surrounding and general survey of the city.

Surveys.

Sec. 22. All officers of the City of San Diego in office when this charter is approved by the Legislature, shall continue to hold and exercise their respective offices under and in accordance with the terms and provisions and obligations of the present charter until the officers provided for in this charter have been elected and qualified.

Successors
in office.

Sec. 23. All officers of the City of San Diego having custody of papers, books, documents, maps, records, archives, or other property of the city, of whatsoever kind, shall turn over to their successors designated in this charter, or by ordinance of the Common Council, all such papers,

Records, etc.
to be turned
over.

books, maps, documents, records, archives, or other property in their custody or under their control respectively, or belonging to their respective offices or departments; and the respective officers or Boards, to whom the same shall be delivered, must give therefor two duplicate certificates, one of which shall be immediately filed in the office of the Auditor.

Sec. 24. All ordinances, orders and resolutions of the City of San Diego in force at the time this charter takes effect, and not inconsistent therewith, shall continue in force until amended or repealed.

Ordinances
to continue
in force.

Sec. 25. The Common Council shall, at least once in two years, cause to be printed and published in book form all ordinances of the City of a general nature in force at the time of such publication. The title page of such book shall contain the words, "Published by authority of the Common Council of the City of San Diego;" and when so published all ordinances therein contained shall be received in all Courts as prima facie evidence of the due passage and publication of such ordinances, without further proof.

Printing
ordinances
in book
form.

ARTICLE XI.

CIVIL SERVICE.

Section 1. The Mayor, with the approval of the Common Council, shall appoint three electors of the city as members of the Civil Service Commission, one to serve for two years, one for four years, and one for six years. The first commission hereunder shall be appointed and take office on the third day of May, 1915. Thereafter members of the Civil Service Commission shall be appointed to serve for six years and until their successors have been appointed and have qualified. The commission shall elect one of its members president. Any vacancy shall be filled by the Mayor with the approval of the Common Council for the unexpired term. No member of the Commission shall hold any other municipal office. The Mayor, with the approval of four-fifths of the Common Council, or the Common Council by unanimous vote, may remove a member of the Commission during his term of office, but only by stating in writing the reasons for such removal, and allowing him an opportunity to be publicly heard in his own defense. Members of the Commission shall be subject to recall in like manner as provided herein for the recall of elective officers.

Civil
Service
Commission.

Term of
Office.

Vacancies.

Removals.

Members
subject to
recall.

Sec. 2. The Commission shall appoint and fix the compensation of a chief examiner, who shall also act as secretary. The Commission may appoint and fix the compensation of such other subordinates as may be necessary.

Chief
Examiner.
Other
employees.

Sec. 3. For the support of the work of the Commission the Common Council shall appropriate annually not less than forty-five hundred dollars, which fund shall be placed

Annual ap-
propriation.

in the City Treasury and be available for no other purpose. Any part of said fund not expended during any fiscal year, or required to defray expenses incurred during such year, shall be placed in the General Fund of the City.

Sec. 4. Civil service of the City is hereby divided into the unclassified and classified service.

The unclassified service shall comprise:
All officers elected by the people.

Unclassified
Service.

All officers, members of appointive boards and commissions, and other persons serving the City without compensation.

The Secretary of the Civil Service Commission.

The Chief of Police.

The City Attorney and his deputies.

The City Clerk.

The City Engineer and Chief Assistant.

The Hydraulic Engineer.

The City Librarian.

The Chief Deputy of the City Treasurer.

The City Auditor and City Assessor.

The Chief Deputy of the City Auditor and the Chief Deputy of the City Assessor.

The Secretary of the Mayor.

The Manager or Superintendent of each administrative department, and one assistant of each such manager or superintendent.

Superintendents, principals and teachers in the school system.

Classified
Service.

The Classified service shall include all other positions now existing or hereafter created.

Rules.

Sec. 5. The Commission shall prescribe, amend and enforce rules for the Classified service, which shall have the force and effect of law; shall keep minutes of its proceedings and records of its examinations, and shall, as a board or through a single commissioner, make investigations concerning the enforcement and effect of this Article and of the rules and efficiency of the service. It shall make an annual report to the Mayor in January for transmission to the Common Council. The Mayor may require a special report from said Commission at any time. The rules shall provide:

Investigations.

Report to
Mayor.

For the classification of all positions in the classified service.

What rules
shall
provide.

For open, competitive examinations to test the relative fitness of applicants for such positions.

For public advertisement of all examinations.

For the creation of eligible lists upon which shall be entered the names of successful candidates in the order of their standing in examination. Such lists shall remain in force not longer than two years.

For the rejection of candidates or eligibles who fail to comply with the reasonable requirements of the Commission in regard to age, residence, sex, physical condition or who have been guilty of crime or of infamous or disgraceful conduct, or who have attempted any deception or fraud in connection with an examination.

For the appointment of one of the three persons standing highest on the appropriate list.

For non-competitive examinations for minor positions in the employment of the city when competition is found to be impracticable.

For temporary employment of persons on the eligible list until the list of the class covering the temporary employment is exhausted; and in cases of emergency for temporary employment without examination, with the consent of the Commission, after the eligible list has been exhausted. But no such temporary employment shall continue longer than sixty days, nor shall successive temporary appointments be allowed. Nor shall the acceptance or refusal to accept such temporary appointment on the part of a person on the eligible list be a bar to appointment to a permanent position from said eligible list.

Temporary
Employ-
ments.

For transfer from one position to a similar position in the same class and grade and for reinstatement within one year of persons who without fault or delinquency on their part are separated from the service or reduced.

Transfers.

For promotion based on competitive examination and records of efficiency, character, conduct and seniority. Lists shall be created and promotions made therefrom in the same manner as prescribed for original appointment. An advancement in rank or an increase in salary beyond the limit fixed for the grade by the rules shall constitute promotion. Whenever practicable vacancies shall be filled by promotion.

Promotions.

For suspensions for not longer than thirty days and for leaves of absence.

Suspensions.

For the appointment of unskilled laborers and such skilled laborers as the Commission may determine in the order of priority of application after such tests of fitness as the Commission may prescribe.

Unskilled
labor.

For the adoption and amendment of rules only after public notice and hearing.

The Commission shall adopt such other rules, not inconsistent with the foregoing provisions of this section, as may be necessary and proper for the enforcement of this Article.

Sec. 6. The Commission shall ascertain and record comparative efficiency of employees of the Classified service, and shall have power after hearing to dismiss from the

Inefficiency
Record.

service those who fall below the standard of efficiency established.

Transfer on account of age, etc.

Sec. 7. When a civil service employee, other than a member of the Police Department, who has served three years in his position, has become incapable through age, accident or other disability, of satisfactorily performing the duties of the positions covered by the class in which he has qualified, the Civil Service Commission may, in its discretion, authorize his transfer to another class, and upon the request of the appointing power therein, whose duties are within his capacity, and may, by a unanimous vote, order that he be preferred for appointment to a designated position; but such position shall be one having a smaller compensation than the position from which he may be transferred, and the compensation shall not be increased subsequent to his appointment thereto.

Suspension of Competitive Examinations.

Sec. 8. In case of a vacancy in a position requiring peculiar and exceptional qualifications of a scientific, professional or expert character, upon satisfactory evidence that competition is impracticable, and that the position can best be filled by the selection of some designated person of recognized attainments, the Commission may, after public hearing, and by the affirmative vote of all three members of the Commission, suspend competition, but no such suspension shall be general in its application to such positions, and all such cases of suspension shall be reported, together with the reason therefor, in the annual reports of the Commission.

Exemptions.

Sec. 9. Any of the following persons may be exempted from the provisions of this Article, upon the request of the head of the department in which they are employed, by order of the Board of Civil Service Commissioners after public hearing approved by the Council by resolution passed by the vote of two-thirds of all its members, to-wit:

- (a) The first and second deputies in any department, or either of such deputies where not exempt, as herein provided;
- (b) Unskilled laborers, including drivers;
- (c) Persons employed on the construction of public works, improvements or buildings;
- (d) Persons employed to render professional, scientific, technical or expert service of an occasional and exceptional character.

Any exemption thus made may be terminated at any time by resolution of the Board of Civil Service Commissioners.

Examinations.

Sec. 10. When oral tests are used, a record of the examination, showing basis of rating, shall be made. Examinations shall be in charge of a chief examiner, except when members of the Commission act as examiners. The Com-

mission may call on other persons to draw up, conduct or mark examinations, and when such persons are connected with the city service it shall be deemed to be a part of their official duties to act as examiners, without extra compensation.

Employees in service six months not disturbed.

Sec. 11. All persons in the city service, holding positions in the Classified service, as established by this Article, at the time it takes effect, whether holding by election or by appointment, and who shall have been in such service for the six months next preceding, shall hold their positions until discharged, reduced, promoted or transferred in accordance with the provisions of this Article. The Commission shall maintain a civil list of all persons in the city service, showing in connection with each name the position held, the date and character of every appointment, and of every subsequent change in status. Each appointing officer shall promptly transmit to the Commission all information required for the establishment and maintenance of said civil list.

Civil List.

Sec. 12. The Auditor shall not approve any salary or compensation for services to any person holding or performing the duties of a position in the Classified service unless the payroll or account for such salary or compensation shall bear the certificate of the Commission, by its chairman and secretary, that the persons named therein have been appointed or employed, and are performing service in accordance with the provisions of this Article, and of the rules established thereunder.

Pay-rolls to be inspected.

Sec. 13. In any investigation conducted by the Commission, it shall have the power to subpoena and require the attendance of witnesses and the production thereby of books and papers pertinent to the investigation, and each commissioner shall have power to administer oaths to such witness.

Investigations by Commission.

Sec. 14. No officer or employee of the city, in the classified service, shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution for any political party, or political purpose whatever. No person shall, orally, or by letter, solicit, or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or purpose whatever, from any person holding a position in the Classified service.

Soliciting Assessments Prohibited.

Sec. 15. No person holding a position in the Classified service shall take any part in political management or affairs, or in political campaigns further than to cast his vote and to express privately his opinions.

Political Activity Prohibited.

Sec. 16. Any person wilfully violating any of the provisions of this Article, or of the rules established thereunder, shall be guilty of a misdemeanor.

Violation of Rules.

Discharges.

Sec. 17. The Commission shall have the right to discharge from the employment of the city, after public hearing, any person found guilty of a wilful violation of any of the foregoing provisions, or of the rules established thereunder. Such decision and action by the Commission shall be final.

Power to Remove or suspend.

Sec. 18. Any board, commission or officer having the power of appointment or removal of officers, members and employees in any department of the government of the city, shall have the power to remove, discharge or suspend any officer, member or employee of such department, as provided elsewhere in this charter, irrespective of the fact that such officer, member or employee may be included in the Classified civil service list.

Fire Dept. exempt.

Sec. 19. The provisions of the foregoing Article shall not apply to the Fire Department of the City of San Diego, or any of its employees.

SCHEDULE.

Section 1. For the sole purpose of the election of the officers directed by this charter to be elected by the people, the said charter shall take effect immediately after its approval by the Legislature; and the election of such officers shall be managed, conducted, and controlled in all respects, in accordance with the then existing laws in relation to elections in said city. For all other purposes the said charter shall take effect on the first Monday in May, eighteen hundred and eighty-nine.

Sec. 2. The City Council of the present city, shall provide for the holding of the first election of officers under this charter, and shall canvass the votes and declare the result.

Be it known:

That the City of San Diego, containing a population of more than ten thousand and less than one hundred thousand inhabitants, on the fifth day of December, eighteen hundred and eighty-eight, at a special election held under and in accordance with the provisions of section eight of article eleven of the Constitution of this State, did elect the undersigned, a Board of Fifteen Freeholders, to prepare and propose a charter for said city, and we, the members of said Board, in pursuance of said provision of the Constitution and within a period of ninety days after such election, have prepared and do propose the foregoing, signed by us in duplicate, as and for the charter of the said City of San Diego.

In witness whereof, we have hereunto set our hands this tenth day of January, A. D. eighteen hundred and eighty-nine.

Done in Duplicate.

DOUGLAS GUNN, President.
E. PARKER,
WM. A. BEGOLE,
GEO. B. HENSLEY,
R. M. POWERS,
CHAS. HUBBELL,
E. W. MORSE,
G. W. JORRES,
H. T. CHRISTIAN,
GEO. M. DANNALS,
M. A. LUCE,
N. H. CONKLIN,
PHILIP MORSE,
D. CAVE,
C. M. FENN.

Attest: OTIS BRENDEN, Secretary.

Now therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring (a majority of all the members elected to each house voting for and concurring herein), That said charter be and the same is hereby approved as a whole for and as the charter of said City of San Diego.

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