



CHARTER
of the
CITY OF DINUBA
CALIFORNIA

**AS ADOPTED BY THE ELECTORATE OF THE CITY OF DINUBA AT THE
GENERAL MUNICIPAL ELECTION HELD JUNE 7, 1994.**

AND

**AS CHARTERED BY THE SECRETARY OF THE STATE FOR THE STATE
OF CALIFORNIA ON JULY 7, 1994.**

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**Charter Chapter 6 - County of Tulare
CHARTER OF THE CITY OF DINUBA, CALIFORNIA
January 11, 1994
(Filed with Secretary of State July 7, 1994)**

Preamble:

The citizens of the City of Dinuba do enact and establish this Charter in order to form a better City government for all citizens of the City, to provide for the public health, safety, welfare and morals, and to preserve and enhance the quality of life for the citizens of Dinuba, their children, their neighbors, their businesses and future citizens and businesses.

Boundaries of City:

The boundaries of the City of Dinuba shall be as now established and as may be changed in the future as provided by law by this Charter, or by ordinance.

ARTICLE I

POWERS AND DUTIES OF THE CITY

Section 1.01. Powers of the City:

The City shall have all powers possible for a city to have under the Constitutions of the United States and of the State of California and all applicable State laws as fully and as completely as though they were specifically enumerated in this Charter.

A. **General Law Powers.** Nothing in this Charter shall be construed to prevent or restrict the City from exercising or consenting to, and the City is hereby authorized any and all rights, powers and privileges heretofore or hereafter granted or prescribed by general laws of the State.

B. **Municipal Affairs.** The City may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in this Charter and applicable State Constitutional provisions and decisions of courts with compe-

facilities to provide equitably for the quality of life for all economic, social, ethnic and age groups and geographical areas within the City.

B. Community Development. The City Council shall require the preparation of and shall adopt, comply with and enforce development standards, codes and ordinances which shall apply and be applied uniformly to each and all of public and private properties, which standards shall provide for a well-balanced community, both physically and economically.

C. Housing. The City shall make an annual review and study regarding adequate housing for all economic levels and needs of the community, and shall facilitate a balanced housing program, which shall include housing code enforcement.

ARTICLE II

MAYOR AND CITY COUNCIL

Section 2.01. City Council:

There shall be a City Council of five members. One Councilmember shall be elected by the voters in each of five council districts.

A. Registered Voters Eligible. No person shall be eligible to hold the office of Councilmember unless he/she is a legally registered voter and resident of the Council district for which election is sought at the time nomination papers are issued.

B. Regular Election. The regular election of Councilmembers shall be held on the first Tuesday after the first Monday of November in even-numbered years, in the manner provided by law.

C. Who Elected. The winner in each district is determined by the highest number of votes, whether majority or plurality.

D. Procedure for Holding Elections. Unless otherwise provided by ordinance, all City elections shall be held in accordance with the provisions of the California Elections Code insofar as such Code is not in conflict with this Charter or an ordinance adopted pursuant to this Charter.

preceding Committee, and consider the appropriateness of previously considered issues.

Section 2.03. General Powers of the City Council:

All powers of the City shall be vested in the City Council, except as otherwise provided by this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by this Charter and by law.

A. **Duties of the City Council:** The Council shall make policy for the City and, additionally, shall be responsible to the people of Dinuba for, but not limited to the following duties and responsibilities:

1. Considering ordinances and resolutions and adopting those which it determines to be necessary for the governance, proper administration and adequate financing of the City.
2. Providing oversight of the City Manager and all municipal activities under his/her purview.
3. Carrying out all provisions of this Charter, ordinances and applicable State and federal laws.
4. Conducting such reviews and taking such actions as may be required for the effective governance and financing of the City.
5. Performing such other duties as may by State law, ordinance or resolution be assigned to the City Council, but in no way conflict with the duties of the City Manager as set out in this Charter.

Section 2.04. Mayor:

There is hereby created the office of Mayor. Only a member of the City Council shall be eligible to hold the office of Mayor. The Council shall select the Mayor, who shall serve as Mayor at the pleasure of the Council.

Section 2.05. Duties of Mayor:

The duties of the Mayor shall be assigned by the Council by ordinance, which shall include but not be limited to the duties listed in this Section.

The Mayor shall be the chief representative of the City and shall:

Section 2.07. City Council Compensation and Expenses:

The City Council may determine the salary and compensation of the Mayor, Vice Mayor, and Councilmembers by ordinance, but no ordinance increasing such salary shall become effective until the commencement of the terms of Councilmembers elected at the next regular Council election.

A. **Expense Reimbursement.** The Mayor, Vice Mayor and Councilmembers shall receive reimbursement for their actual and necessary expenses incurred in the performance of their duties of office, such reimbursement to be made pursuant to a schedule of expenses adopted by the Council by resolution, which schedule shall be applicable uniformly to the Council and all City employees and officers.

Section 2.08. Prohibitions on City Council:

No Councilmember shall hold any other City office or City employment during the term for which elected or appointed to the Council or for two years afterwards.

Nothing in this Section shall be construed to prohibit the Council from selecting any current or former Councilmember to represent the City on the governing board of any regional or intergovernmental agency.

A. **Restriction on Personnel Powers.** Neither the Council nor any of its members may in any manner control or demand the appointment or removal of any City department head or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint. But the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such department heads and employees.

B. **Restriction on Interference With City Manager.** Neither the Mayor nor any Councilmember shall interfere with the execution of the powers and duties of the City Manager. Except for purposes of inquiry, the Mayor and Councilmembers shall deal with the administrative service solely through the City Manager, and neither the Mayor nor any Councilmember shall give orders to, discipline

and place of regular meetings, the method of calling meetings, the rules of order for the conduct of proceedings by the Council, and the selection of Vice Mayor in the event of a vacancy in that office shall be as established by ordinance.

Section 2.11. Independent Audit:

The City Council shall provide for an independent annual audit of all City financial accounts and documents and may provide for more frequent or more specialized audits as it deems necessary.

A. **Auditor Limitations.** All audits shall be made by a certified public accountant firm experienced in city auditing, which audit firm may not provide services to the City other than audit and allied financial reporting services for a period of five years after the conduct of any such annual audit.

B. **Designation of Auditor.** The Council shall select such audit firm for a period not exceeding five years, but the designation for any particular fiscal year shall be made no later than 60 days before the end of the first fiscal year to be audited. The selected firm may not succeed itself as City auditor, but may serve for five one year terms, or any combination not exceeding a total of five years.

C. **Comprehensive Audit and Evaluation.** The annual audit shall be comprehensive of all City departments, funds, agencies and accounts, and shall include an evaluation of the City budgeting and accounting system as to compliance with generally accepted accounting principles and modern practices for an integrated and computerized city financial management system utilizing all possible advanced data handling, accounting and control techniques and procedures.

D. **Records Review.** The audit also shall include an evaluation of the maintenance and retention integrity and safety of all City records and documents of all departments.

E. **Treasury Review.** The audit also shall include an evaluation of the safety, security, integrity and collateralization of all City deposits, investments and financial obligations, including a review of the solvency and safety of all City depositories.

F. **Audit Submitted at Special Council Meeting.** The annual audit and written report attendant thereto shall be submitted by the

brief summary thereof, within 20 days following such adoption, in a newspaper of general circulation in the City or, if there is no newspaper of general circulation in the City, by posting in three public places.

Section 2.13. Emergency Ordinances:

To meet a public emergency affecting life, health, public welfare, property or the public peace, the City Council may adopt emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money except as provided herein for emergency appropriations.

A. Form and Manner of Emergency Ordinance. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances herein, except that it plainly shall be designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms.

B. Required Vote. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least four Councilmembers if the Council consists of five members, three Councilmembers if the Council consists of only four members, and all three members if the Council consists of only three members shall be required for adoption.

C. Publication of Emergency Ordinance. After adoption, an emergency ordinance shall be published or posted in full text as prescribed for other adopted ordinances. An emergency ordinance shall become effective upon adoption or at such later time as it may specify.

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Charter and an ordinance establishing a merit system of appointment and employment.

B. Delegation of Authority. Delegate the appointment, removal and discipline of subordinate employees to the department heads to which those employees are assigned, but shall approve, modify or disapprove all recommendations for such appointment, removal, and disciplinary actions to be taken against employees by department heads or other employees of the City, pursuant to the terms of this Charter and the City Personnel Ordinance.

C. Supervision of Departments. Direct and supervise the administration of all departments, offices and agencies of the City;

D. Annual Budget. Prepare annually, submit, and administer the budget, capital improvement plan and other plans and programs of the City as required by and set out in this Charter;

E. Keeping Council Informed. Keep the Council advised of the financial condition, current and future needs of the City, and make such recommendations to the Council concerning the affairs of the City as he/ she shall deem necessary or desirable;

F. Enforcing Laws and Contracts. Provide for enforcement and faithful execution of all laws, regulations and rules of the City, all Charter provisions, all acts of the Council, and administration of all contracts to which the City is a party;

G. Annual Report Submission. Submit to the Council and make available to the public a comprehensive annual financial and administrative report on the finances and activities of all City departments and agencies. The report also shall contain appropriate data and analyses to make an functional, evaluative and comparative appraisal of the City's finances, management and operations relative to other California cities with similar demographics and characteristics.

H. Making of Quarterly Reports. After the end of each quarter of the fiscal year, submit to the Council a financial and management report showing the relation between budgeted and actual revenues and appropriations, expenditures and encumbrances to date.

I. Initiating Reports. Make such other reports to the Council as it may require or the City Manager may desire, concerning the

ARTICLE IV

DEPARTMENTS, AGENCIES AND EMPLOYEES

Section 4.01. Departments and Department Heads:

The City Manager shall recommend and the City Council shall by ordinance create, reorganize and abolish departments and divisions thereof as necessary for the effective management of the City, in addition to those created by this Charter.

A. **Department Head Appointments.** The City Manager shall appoint a head of each department, which person shall be qualified in the field of expertise encompassed within the department of assignment.

B. **Department Head Removal.** All department heads shall serve at the pleasure of the City Manager and be subject to his/her direction and supervision.

C. **Requirements.** All department heads shall be City employees for the purposes of powers and duties, and be provided employment agreements by the City Manager setting out the terms and conditions of employment, pay, benefits, goals and objectives, a requirement for periodic and regular performance evaluations, obligations, and termination. Such agreements shall include a one year probationary period, may not exceed four years and shall be a public record.

D. **Restrictions.** No department head may engage in any incompatible business, occupation or activity.

Section 4.02. City Clerk:

The office of City Clerk is hereby created. The City Clerk shall be a department head and may be either full or part time.

A. **Duties of City Clerk.** The duties of the City Clerk shall be to act as Clerk to the City Council and all other City agencies and authorities, to fulfill all duties thereof enumerated in this Charter, to maintain the integrity of and to provide for public access to, safety of, and inspection of all City public records, and to perform all duties required of a City Clerk by State law.

A. **Personnel System Components.** An integrated classification and pay plan, selection processes, force reduction, working conditions, provisional and exempt appointments, discipline and dismissal, in-service training, grievances, relationships with employee organizations, regular and periodic employee performance evaluations, and incentive plans.

B. **Employee Selection.** Open, publicly posted, and competitive employee selection processes utilizing, where and when feasible, validated examinations at entry level and objective evaluative processes for all other classifications.

C. **Fair Employment Practices.** The City personnel system shall in all manner and respects comply fully with all federal and State laws governing fair employment practices and prohibiting discrimination in all forms and, further, may extend fair employment practices into such areas beyond federal and State law as deemed to be legal and appropriate to the end that a liberal interpretation of the terms "fair employment" and "non-discrimination" in personnel matters shall be applied by the City, and by courts of competent jurisdiction to the City.

Section 4.05. Planning Commission:

There shall be a Planning Commission of five members, with one appointed from each Council district, and resident of that district, each of whom must be a registered voter of the City. The powers, duties, qualifications, removal, and compensation, if any, of the Commission shall be set by ordinance.

Section 4.06. Boards, Commissions and Committees:

The City Council may by resolution or ordinance create other boards, commissions and committees and prescribe their powers and duties, determine the number and qualification of the members, their method of selection, term of office and removal, and fix their compensation, if any.

A. **Limitation.** All boards and commissions only shall be advisory to the Council, and may not exercise any administrative or management powers.

charges, and assessments, and comply with the judicially-determined requirements, definitions and intent of California Constitution Articles XIII A and XIII B.

A. **Tax Limit.** No City tax shall be imposed or increased in rate by the City Council without an affirming vote of a majority of the voters.

B. **Adjustment to Tax Limit.** The City Council shall have the authority to increase taxes without the affirming vote set out in subsection A hereof to raise revenues to the level that City revenues existed in fiscal year 1988-1989 but which, during or subsequent to such year, were removed from the City by action of the State or federal governments; provided, however, that should the State or federal governments reinstate such previous City revenues then, to the extent of the reinstatement, City taxes shall be reduced.

C. **Adjustment for Mandates.** No affirming vote as set out in subsection A hereof shall be required for any tax increase in amount sufficient to meet the official estimate of cost for any State or federal service mandate for which no State or federal revenue or grant has been provided, for which neither of a fee or charge may be collected in amount adequate to meet the financial requirements of the mandate.

D. **Adjustment for Court-Ordered Judgements.** No affirming vote as set out in subsection A hereof shall be required for any tax increase in amount sufficient to meet the payment terms of any court judgement, order or court-ordered payment to be made by the City, provided, however, that any tax imposed or increased to fund any such court judgement or order shall be discontinued when such judgement or order is satisfied in full.

E. **Adjustment for Inflation and Deflation.** For computational purposes of this Section, tax rates and revenue amounts shall be adjusted annually, starting with fiscal year 1988-1989, by the California Constitution Article XIII B and Proposition 111 annual percentage increase in appropriation limitation applicable to the City.

Section 5.03. Special Funds:

The City Council shall by ordinance provide, and the annual

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contracts for amounts of \$25,000 or less, annually adjusted in amount as set out herein in Subsection C;

1. Delegation of responsibility by the City Manager to any appointed subordinate;

2. A requirement that should contracts or purchases in amount of \$25,000 or less be awarded to any one vendor or contractor cumulatively totalling \$75,000 in any three year period then, in that event, the competitive process set out herein shall be followed prior to the award of subsequent contracts should such process otherwise be required;

3. An informal bid solicitation process for purchases and contracts in amount between \$25,001 and \$74,999;

B. Award of Contracts and Purchases. Award of contracts and purchases to the lowest responsible bidder or vendor meeting specifications, except as provided herein and in the ordinance;

C. Sealed Competitive Bids. Sealed bids for competitive purchases involving the expenditure of \$75,000 or more, but this amount and all dollar amounts set out in this Section shall be revised by the Council annually as part of the annual budget by a revision factor determined by utilizing published reliable indicators or indices of price changes;

D. Waiver of Bids. Waiver of competitive bidding for purchase of non-competitive items and contracting for services, in emergencies, for copyrighted and patented items and services, and for professional or specialized services for which a written finding is filed with the City Clerk regarding the reason for non-competitive, emergency or sole source acquisition;

E. Prohibition. Prohibition of splitting contracts or purchases to avoid dollar limits;

F. Rejections. Rejection by the Council of any and all bids;

G. Bid Bonds. Requirement of a bid bond or cashiers check for all sealed bids;

H. Public Notification. Full public notification of all calls for sealed bids by provision of ten (10) days notice through appropriate publications;

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4. Anticipated income, expense, balances and reserves, and the purpose of said reserves, for each utility, enterprise, reserve and internal service fund;

E. Budget Adoption. The Council shall adopt the annual budget by affirmative vote of a majority of its members, on or before the last working day of the last month of the current fiscal year. If it fails to adopt the budget by this date the budget proposed by the City Manager shall be deemed adopted;

F. Supplemental Appropriations. Prior to the City Council making any supplemental appropriation the City Manager shall certify that monies in excess of those estimated in the budget are available for appropriation;

G. Emergency Appropriations. The City Council may, by the affirmative vote of at least four Council members if the Council consists of five members, three Councilmembers if the Council consists of only four members, and all three members if the Council consists of only three members shall be required to make appropriations to respond to a public emergency affecting life, health, public welfare, property or the public peace. Emergencies defined by State law shall be excluded from this restriction;

H. Overexpenditures Prohibited. The total of proposed expenditures shall not exceed the total of estimated revenues plus carried forward fund balance, exclusive of reserves, for any fund, and in any event the status of the City budget and finances shall in all respects at all times be in compliance with State Constitution Article XVI, Section 18.

I. Appropriations Reductions. Appropriations shall be reduced during the fiscal year by the Council or City Manager if it appears probable to either that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized. When appropriations are reduced the City Manager shall report to the next Council meeting the estimated amount of the deficit, any remedial actions taken, and recommendations as to any other steps to be taken;

J. Budgetary Transfers. The City Manager may transfer monies between departments, divisions, programs and accounts

ment public records, and shall be made available to the public for inspection and review.

O. **Public Hearing Required.** Each of the annual budget and the capital improvement plan shall be the subject of a City Council public hearing. Ten days posted notice shall be provided for said hearings.

Section 5.07. Debt:

The City by ordinance or resolution may issue all manner of securities and incur all manner of indebtedness, but within the following limits:

A. **General Obligation Bond Limit.** Indebtedness of the City as evidenced by issued general obligation bonds shall at no time exceed ten percent of the assessed valuation of all property taxable by the City;

B. **Other Debt Limit.** Indebtedness of the City, other than voted general obligation bonds and securities having a dedicated utility, enterprise or special agency or authority revenue source or pledge, shall at no time exceed ten percent of the assessed valuation of all taxable property within the City.

C. **Definition and Exemption.** The term "indebtedness" as used in subsections A and B of this Section shall not include bonds or other obligations denoting indebtedness issued for the purpose of financing or refinancing the acquisition, construction, or completion of public improvements, the payment of which is not a general obligation of the City, and which is secured by a lien upon or levy of a special tax or assessment on property within an identified geographic area or district.

Section 5.08. Depositories and Investments:

The Finance Department shall receive and account for all revenues, monies and assets received by the City or any of its agencies from any and all sources.

A. **Custody of Monies.** The Finance Department shall have custody of all City monies and investments and shall deposit all monies and investments in such depository or depositories as may

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and other appropriate and necessary financial procedures, which procedures shall comply with State law unless the ordinance specifies otherwise:

- A. **Petty Cash.** The creation and administration of petty cash accounts;
- B. **Claims and Demands.** Claims and demands against the City;
- C. **Warrants and Checks.** Issuance and redemption of warrants and checks drawn on the City treasury, and;
- D. **Actions.** Actions against the City.

ARTICLE VI

ELECTIONS

Section 6.01. Election Procedures:

Unless otherwise provided by ordinance, all elections shall be held in accordance with the provisions of the State Elections Code for the holding of municipal elections, so far as the same are not in conflict with this Charter.

A. **Special Elections.** The Council may call special elections for such purposes as the Council may prescribe. A special election may be held on any date specified by the Council.

B. **Initiative, Referendum and Recall.** The electors of the City reserve to themselves the powers of initiative and referendum and the recall of elective officers, to be exercised in the manner prescribed by State law.

ARTICLE VII

GENERAL PROVISIONS

Section 7.01. Conflicts of Interest:

The use of public office for private gain is prohibited. The City Council shall implement this prohibition by ordinance adopting and assuring compliance with the laws of the State of California regard-

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Constitution, the Constitution or laws of the United States, or final decisions of courts of competent jurisdiction.

Nothing in this subsection B shall be construed to limit the ability of the City to seek, to accept and to grant easements for specific purposes over specific parcels of public property for limited purposes.

C. Franchise Term. No franchise shall be granted for a period of longer than 25 years unless there be reserved to the City the right to take over at any time the works, plant and property constructed under the grant at their depreciated physical valuation and without compensation for franchise or goodwill.

D. Acquisition of Properties. No franchise shall in any way or to any extent impair or affect the right of the City to acquire the property of the possessor thereof by purchase or condemnation, and nothing therein shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to the property of the possessor of any franchise.

E. Franchise Condition. Every franchise granted by the City is granted upon the condition, whether expressed in the grant or not, that such franchise shall not be given any value before any court or other public authority in any proceeding of any character in excess of any amount actually paid by the grantee to the City at the time of the grant.

F. Resolution of Intent. Before granting any franchise, the Council shall adopt a resolution declaring its intention to grant same and stating the name of the proposed grantee, the character of the proposed franchise, and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix the day, hour and place when and where any person having an interest in or objecting to the granting of such franchise may appear before the Council to be heard thereon. Said resolution shall be published at least once, not less than ten days prior to said hearing, in the official newspaper.

G. Franchise Adoption. After hearing all persons desiring to be heard, the Council may deny or, by ordinance may grant the franchise on the terms and conditions specified in the resolution. No

ARTICLE VIII

CHARTER AMENDMENT

Section 8.01. Charter Amendment:

Amendments to this Charter shall be approved by a majority of the voters of the City at a regular election as set by State law, or by this Charter.

A. **How Amended.** An amendment to this Charter may be framed and proposed in any manner provided by law, or by any of:

1. An ordinance of the City Council containing the full text of the proposed amendment;
2. A report with specific full text as prepared by a duly elected Charter Commission as created pursuant to State law;
3. An initiative by the voters of the City.

B. **Amendment Election.** If a majority of the registered voters of the City voting upon a proposed Charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment, but if no time is therein fixed, at the time the approved amendment is filed with the Secretary of State by the City Clerk and chaptered by the State. The City Clerk shall file the results of a Charter amendment election with the Secretary of State within forty-five days following the election.

ARTICLE IX

TRANSITION/SEVERABILITY

Section 9.01. Transition/Severability Provision:

All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes effective shall remain in effect until repealed, except to the extent that they are inconsistent, disagree in any respect with, or interfere with the effective operation of this Charter or of ordinances adopted pursuant hereto.

A. **Severability of Provisions.** If any provision of this Charter is held to be invalid the other provisions of the Charter shall not be

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**PROPOSED AND SUBMITTED BY THE CITY COUNCIL OF
THE CITY OF DINUBA, CALIFORNIA FOR VOTER APPROVAL
on this 11th day of January, 1994.**

Raymond K. Millard, Mayor

Barbra Lankford, Vice Mayor

John de la Montanya, Councilmember

Rachel Morales, Councilmember

Gene Gomez, Councilmember

CHARTER

STAFF TO DINUBA CHARTER COMMISSION, DINUBA CITY COUNCIL, AND DINUBA CITIZENS CHARTER ADVISORY COMMITTEE:

J. Edward Todd, City Manager

Evelyn Zerger, Deputy City Clerk

Dan McCloskey, City Attorney

Douglas W. Ayres, Executive Director
Dinuba Charter Commission
Dinuba Citizens Charter Advisory Committee

Pamela S. Swift, Deputy Executive Director and Secretary
Dinuba Charter Commission
Dinuba Citizens Charter Advisory Committee

