

## **ARTICLE XVII GENERAL PROVISIONS**

### **SECTION 1700. Parks.**

Except as otherwise provided elsewhere in this Charter, the public parks of the City shall be inalienable unless otherwise authorized by the affirmative votes of the majority of the electors voting on such a proposition in each case; provided and excepting, however, that the same or any interest therein, or any concessions or privileges therein or in any building or structure situate therein, may be leased by the Council, or the Council may grant permits or licenses for the same, without any vote of any electors, if the term of each such lease or permit does not exceed three (3) years. As used herein “public parks” means any and all lands of the City which have been or are dedicated, improved and opened to the public for public park purposes.

### **SECTION 1700.1. Council Authority to Enter into Long Term Agreements**

The City Council may enter into long term leases, concessions, permits or other agreements (“Agreements”) with individuals or non-City entities, to allow use of public parks for terms of up to 25 years at a time, without voter approval, if the Council determines that Agreement would benefit the community and that the following conditions have been met:

- (i) the Agreement would enhance the designated recreational purposes for the public park;
- (ii) the public park subject to the Agreement is more than 5 acres in size and has at least 1 Community Serving Amenity, as defined below;
- (iii) the Agreement complies with an adopted City Council policy for Long Term Agreements in Parks, which defines community outreach standards, requirements for affordable access to the public park, periodic performance reviews, and early termination rights among other things; and
- (iv) any funds received by the City from the Agreement shall be used for recreational purposes.

A “Community Serving Amenity” is defined as one of the following: Pool, Community Center or Reservable Sports Field or similar recreational improvements in a park and that is described in the City's approved master strategic plan for parks and community facilities. Nothing herein is intended to limit City Council's authority to enter into other long term agreements on parks which have been approved by the voters.

*Added at election November 4, 2008*

### **SECTION 1701. Underground Parking Stations in Parks.**

Whenever the Council finds with respect to any public park, plaza, or square that the construction, when completed, in the sub-surface space thereunder of a public parking station (including all entrance and exit approaches, openings, and ramps, ventilators, elevator shafts and other appurtenances to such parking station) and/or the operation in the subsurface space thereunder of a public parking station (including services incidental to such operations such as sale of gasoline, oil and accessories and lubrication and oiling of vehicles) will not be in any material respect or degree detrimental to public park, plaza or square purposes or in contravention of any conditions under which such public park, plaza or square was received, the City, without the affirmative vote of any electors, may construct and/or operate such public parking station in the sub-surface space under such public park, plaza or square, or said Council may lease to the highest responsible bidder for a term not to exceed fifty (50) years, and upon such other terms and conditions as it may determine, sub-surface space under such public park, plaza or square for the purpose of constructing and/or operating therein such public automobile parking station. Nothing contained in this Section shall be deemed to deprive the City or its Council of any powers, nor limit or restrict any powers which the City or its Council may have, with respect to public parks, under or by virtue of other provisions of this Charter.

### **SECTION 1702. Streets in Parks.**

The Council, by ordinance, without the affirmative vote of any electors, may authorize the opening, establishment and/or maintenance of streets or other public ways in or through any of the public parks, public places or other public property of the City. Nothing contained in this Section shall be deemed to deprive the City or its Council of any powers, nor limit or restrict any powers which the City or the Council may have, with respect to public parks, under or by virtue of other provisions of this Charter.

### **SECTION 1703. Validity of Charter; Severability.**

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

### **SECTION 1704. Definitions.**

Unless the provisions of the context otherwise require, as used in this Charter:

- (a) "Shall" is mandatory and "may" is permissive;
- (b) "City" is the City of San José and "department," "board," "commission," "agency," "officer," or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of San José;
- (c) "Council" is the Council of the City of San José;

- (d) A “member of the Council” means any one of the members of the Council, including the Mayor;
- (e) “County” is the County of Santa Clara;
- (f) “State” is the State of California;
- (g) “Newspaper of general circulation within the City” is defined by Section 6000 of the Government Code of the State of California;
- (h) The masculine gender includes the feminine and neuter.
- (i) “Council Appointees” are the City Manager, the City Attorney, the City Clerk, the Independent Police Auditor and the City Auditor

*Amended at election November 4, 1980*

*Amended at election November 4, 1986*

*Amended at election November 3, 1992*

*Amended at election November 5, 1996*

**SECTION 1705. Effective Date.**

This Charter shall be effective from the time of its approval by the State legislature.

**ARTICLE XVIII  
TRANSITIONAL PROVISIONS**

**SECTION 1800. Existing Laws, Ordinances, Regulations, Etc.**

All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes effective are repealed to the extent that they conflict or are inconsistent with, or interfere with the effective operation of, this Charter or of any ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution of the State of California permits, all State laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes effective are superseded to the extent that they conflict or are inconsistent with, or interfere with the operation of, this Charter or of ordinances or resolutions adopted pursuant thereto.

All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes effective, if and to the extent that they are not repealed by the provisions of the immediately preceding paragraph, shall remain in full force and effect until amended or repealed pursuant to the provisions of this Charter.

Without limitation of the general operation of the above provisions of this Section, or of the number or nature of the provisions to which it applies, the Council is hereby empowered to